



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

Date: Monday, 23 November 2015

Committee:
South Planning Committee

Date: Tuesday, 1 December 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

David Evans (Chairman)
Stuart West (Vice Chairman)
Andy Boddington
Nigel Hartin
Richard Huffer
John Hurst-Knight
Cecilia Motley
Madge Shingleton
Robert Tindall
David Turner
Tina Woodward

Substitute Members of the Committee

Charlotte Barnes
Gwilym Butler
Lee Chapman
Heather Kidd
Christian Lea
William Parr
Vivienne Parry
Malcolm Pate
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 257716
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 3 November 2015.

Contact Linda Jeavons (01743) 252738.

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 Development Site Adjacent Stone Lee, Calcutts Road, Jackfield, Shropshire, TF8 7LG (14/03009/FUL) (Pages 7 - 38)

Erection of five dwellings and construction of new vehicular access (redesign to previously approved application ref 10/04658/FUL).

6 Overdale, Clive Avenue, Church Stretton, Shropshire, SY6 7BL (15/00561/FUL) (Pages 39 - 60)

Erection of dwelling and formation of vehicular access.

7 Land Adjacent To The Apartment Block, The Woodlands, Jackfield, Shropshire (15/00614/FUL) (Pages 61 - 86)

Erection of one block of six apartments.

8 Land To The Rear Of 41 Furlongs Road, Cleobury Mortimer, Shropshire, DY14 8AR (15/01919/FUL) (Pages 87 - 132)

Erection of residential development 12No dwellings, garages and roads design.

9 Weavers Cottage, Buttonoak, Kinlet, Bewdley, Shropshire, DY12 3AG (15/03558/FUL) (Pages 133 - 144)

Erection of a single storey rear extension.

10 The Fish Shop, High Street, Broseley, Shropshire, TF12 5ET (15/03822/VAR) (Pages 145 - 158)

Application under Section 73a of the Town and Country Planning Act 1990 for the Variation of Condition Nos. 2 and 4 and Removal of Condition Nos. 3, 5 and 7 attached to Planning Permission 09/03161/FUL dated 4th February 2010 for the rebuilding of fish and chip shop (Retrospective).

11 Wheathill Touring Park Caravan Site, Wheathill, Shropshire, WV16 6QT (15/04281/FUL) (Pages 159 - 188)

Change of use of agricultural land to facilitate extension to existing touring park, 25 all-weather touring pitches; estate road and services; erection of toilet block; landscaping scheme.

12 Agricultural Building At Mill Farm, Bitterley (15/04792/PMBPA) (Pages 189 - 200)

Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use.

13 Schedule of Appeals and Appeal Decisions (Pages 201 - 236)

14 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 5 January 2016, in the Shrewsbury Room, Shirehall.

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Committee and Date

South Planning Committee

1 December 2015

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 3 November 2015

2.00 - 5.05 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

Present

Councillor David Evans (Chairman)

Councillors Stuart West (Vice Chairman), Andy Boddington, Nigel Hartin, Richard Huffer, Cecilia Motley, Madge Shingleton, Robert Tindall, David Turner, Tina Woodward and Gwilym Butler (Substitute) (substitute for John Hurst-Knight)

74 Apologies for Absence

An apology for absence was received from Councillor John Hurst-Knight (Sub: Gwilym Butler).

75 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 6 October 2015 be approved as a correct record and signed by the Chairman, subject to the amendment as set out in the Schedule of Additional Letters.

76 Public Question Time

There were no public questions, statements or petitions received.

77 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.

With reference to planning application 15/01171/FUL, Councillor Nigel Hartin declared that he was a tenant of South Shropshire Housing Association and would take no part in the consideration of, or voting on, this application.

Councillor Cecilia Motley declared that she was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

Councillor David Turner declared that he was a member of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

78 Land North West Of Meadowley Upton Cressett Bridgnorth WV16 6UQ (14/03933/FUL)

The Technical Specialist Planning Officer introduced the application and with reference to the drawings and photomontages displayed, he drew Members' attention to the location, layout, elevations, bridleway diversion, landscape designations, heritage assets and access routes. He confirmed that Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding area. He further drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated the previous day and particularly drew attention to the Planning Officer's comments on page 3 of the Further Schedule of Additional Letters circulated prior to the meeting with regard to heritage assets, listed buildings and their settings pointing out the special regard to be had in relation to heritage assets.

Mr W Cash, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from members of the Committee.

Mr S Newell, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees and responded to questions from members of the Committee.

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

- He had two potential concerns both of which he considered had been addressed. Firstly, with regard to the proximity of Upton Cressett Hall, he expressed his satisfaction with the view of Historic England that the Hall would not be affected by this proposal; and
- Secondly, he referred to the consequences of taking best and most versatile land out of production but acknowledged that the applicant had endeavoured to use only grade 3b land and drew the meeting's attention to paragraph 6.2.9 of the report.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to questions from Members, the Technical Specialist Planning Officer clarified that the Tasley Farm application had been refused because of its impact on heritage assets and not on the use/loss of agricultural land; and, although a proportion of the Meadowley site comprised best and most versatile land, Planning Officers had been satisfied that the applicant had submitted sufficient evidence to justify the use of such land. Members acknowledged that there had been much support for this application, noted and had special regard to the heritage settings, and noted that there were unlikely to be other preferable sites within a 3km radius of the proposed connection point. In order to minimise the

impact on public rights of way, a Member requested that any gaps in the hedgerow be planted expeditiously and prior to any installation of solar panels.

RESOLVED:

That, subject to the conditions set out in Appendix 1 to the report, planning permission be granted as per the Officer's recommendation.

79 Land north and east of Cwms Lane, Church Stretton, Shropshire (14/04374/OUT)

The Chairman informed the meeting that this item had been withdrawn by the applicant.

80 The Sidings, Snailbeach, Shrewsbury, SY5 0LT (14/05151/OUT)

The Principal Planner introduced the application and with reference to the drawings and photographs displayed, he drew Members' attention to the location. He confirmed that Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Heather Kidd, as local Member, made a statement in support of the proposal and reiterated that Worthen with Shelve Parish Council and the Shropshire Hills AONB had raised no objections. She took no part in the debate and did not vote on this item.

Mr P Middleton, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members acknowledged that building on this site would be challenging; expressed concerns regarding the future maintenance and stability of the boundary wall; suggested that a timescale for the completion of the dwelling should be submitted and agreed upon; and reiterated that the scale, design and materials used should reflect and be in keeping with the street scene.

RESOLVED:

That, contrary to the Officer's recommendation, planning permission be granted, subject to:

- Any subsequent application for reserved matters to be considered by this Committee; and
- That officers be given delegated authority to issue the outline decision with the following provisions to also be included on the decision notice:
 - i. A Construction Method Statement to be submitted prior to any works taking place setting out the timescale for the construction of the dwelling;

- ii. A stability report regarding the boundary wall to be submitted prior to any works taking place; and
- iii. An informative note be included advising on the need for the design of the proposed building to respect its setting in terms of scale and design.

(At this juncture, the meeting adjourned at 3:42 pm and reconvened at 3:58 pm.)

81 10 Clayton Close, Knowbury, Ludlow, Shropshire, SY8 3JA (15/01171/FUL)

In accordance with his declaration at Minute No. 77, Councillor Nigel Hartin took no part in the debate and did not vote on this item.

The Principal Planner introduced the application and with reference to the drawings and photographs displayed, he drew Members' attention to the location and the proposed and existing elevations. He confirmed that Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding area.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Richard Huffer, as local Ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement, he commented that appropriate conditions attached to any permission would address concerns.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members particularly expressed concern regarding the impact of the balcony on neighbouring properties and requested a condition be attached to any permission to restrict the use of the garage as habitable accommodation in the future.

RESOLVED:

That planning permission be granted as per the Officer's recommendation, subject to:

- The conditions set out in Appendix 1 to the report;
- An additional condition to ensure the garage shall not be used as additional habitable/living accommodation; and
- In order to preserve the privacy of neighbouring properties, Planning Officers be granted delegated authority to approve the materials and finishing of the balcony.

82 Land To The Rear Of 41 Furlongs Road, Cleobury Mortimer, Shropshire, DY14 8AR (15/01919/FUL)

The Principal Planner introduced the application and with reference to the drawings and photographs displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding

area. He drew Members' attention to a recent communication from the Shropshire Council Highway Officer which set out in more detail a breakdown of the £20,000 highways contribution and confirmed that any works would be undertaken in consultation with the local Members.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

Councillor Mrs B Davies, representing Cleobury Mortimer Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Madge Shingleton, 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:

- The Parish Plan indicated that more affordable housing was required and smaller properties for the older generation who wished to downsize. Only 12% said more family housing was needed;
- The proposal would be contrary to Core Strategy Policies CS11 and CS10, would not be sustainable and would have a detrimental impact on neighbouring dwellings; and
- The development, along with outstanding planning permissions, would have a major incremental impact on the local road infrastructure and there was nothing that could be done to improve the footpath/pedestrian/cycle routes.

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

- He concurred with the comments of both Councillor Madge Shingleton and the Parish Council;
- The SAMDev Plan developed in consultation with the community had reached the same conclusion as the Parish Plan;
- Over 300 homes, including executive homes in Tenbury Road, had been permitted in the last 10 years;
- Many older people wanted to downsize and remain in Cleobury Mortimer; and
- A diversity of the type of homes was required.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members particularly expressed concern with regard to the access, the incremental impact of the development on the road network; and the high number and type of dwellings proposed which would be contrary to the Parish Plan.

RESOLVED:

That consideration of this application be deferred to the next meeting, with Members minded to refuse the application on the basis that the proposal:

- Will be detrimental to the residential amenities of neighbouring residents;
- No such need for this type of dwelling has been identified; and
- The proposal will result in an unacceptable incremental impact on the local road infrastructure.

The proposals would therefore fail to comply with Core Strategy Policies CS3, CS6, CS7 and CS8 and Cleobury Mortimer Parish Plan. Given the position and weight that can now be afforded to the emerging SAMDev Plan, the development of the site will also be contrary to emerging Policies MD1, MD2 and MD3 of the SAMDev Plan.

(At this juncture, Councillor Nigel Hartin left the meeting and did not return.)

83 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 3 November 2015 be noted.

84 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 1 December 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement in respect of the affordable housing contribution and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The background to this application is that in 2006 planning permission was granted for a development of five dwellings and construction of a new vehicular access on land which includes the current application site. (ref 06/0149). Some drainage works were carried out which sought to implement that consent, but it was established that these works were not sufficient to constitute a material start on the development under Section 56 of the Town and Country Planning Act 1990 as they were remote from where the foundations of the buildings would be and no works had commenced for the foundations. Consequently a new application was made for the same scheme in 2011 (ref 10/04658/FUL), which was approved by the South Planning Committee at the May 2011 following a Committee site visit. The decision to grant consent was subject to the completion of a Section 106 Agreement to secure a contribution to affordable housing and public open space under the policies applicable at that time. However the Section 106 Agreement has not been completed due, it is understood, to one party with an interest in part of that application site having not yet agreed to sign and application 10/04658/FUL therefore still remains 'on the books'. This current proposal is for a different scheme on land which excludes the section of land in which the party who has not agreed to sign the Section 106 Agreement for 10/04658/FUL has an interest.
- 1.2 This application as originally submitted proposed the construction of a gated cul-de-sac. On the south western side of the road there would have been 90° parking in the form of 7 parking spaces, interspersed with two landscape planting areas. On the north eastern side there were two detached dwellings featuring tandem parking next to them. At the head of the cul-de-sac there would have been a semi-detached pair and a detached dwelling, with the latter having use of a tandem parking area immediately in front of it. The front elevations of the dwellings were positioned close to the edge of the cul-de-sac road, with planting beds and narrow hardstanding areas immediately in front of them. There were small private rear garden areas adjacent on the north eastern and south eastern site boundaries.
- 1.3 The dwelling designs as originally proposed featured second floor accommodation in their roof spaces, lit by small triangular shaped dormers and small gable end windows. The two detached dwellings on the north eastern side of the road had chimneys, a gable peak feature to the principal bedroom windows on their front elevations and different designs of canopy porches. The larger 4 bedroomed dwelling had facing brick to the external walls, with the smaller 3 bedroomed unit rendered with a brick plinth. The roof tiles were small plain tiles, with a horizontal banding pattern in the manner in which they would be laid. The detached 4 bedroomed dwelling on plot three had short projecting front and rear two storey gables and a mix of rendered and brick external finishes. The semi-detached pair of three bedroomed dwellings had two storey front projection, roofed by a double gable arrangement with a valley. This element would have had a rendered finish,

with the remainder of the dwellings in brick. Small plain roof tiles matching those of the detached dwellings would be used.

- 1.4 It was considered that the fenestration of the proposed dwellings, the triangular dormer features and the inclusion of rendered elevations (The appropriateness of which has been queried by Historic England) and the free standing form of closely spaced detached dwellings would be out of keeping with this Conservation Area and World Heritage Site location. The proposed positioning of upper floor windows on the north elevation of plot 3 was also considered to impact adversely on the amenities of the adjacent dwelling. Following discussions the designs of the proposed dwellings have been amended.
- 1.5 The proposed external elevations to the dwellings would now be wholly brick with small plain roof tiles. The triangular shaped dormers have been deleted from the front and rear elevations and the bedroom accommodation in the roof spaces would be lit by conventional rooflights on the rear elevation roof slopes. There would be curved brick headers to the four bay casement windows on the front elevations and stone cills to the windows throughout the scheme. The layout of the accommodation has been adjusted to remove the need for first floor window openings on the north facing elevation of plot 3 and part of plot 2 in order to safeguard neighbour privacy. To achieve a more cohesive development the dwellings on plots 1 and 2 would be linked by a dual pitched roof canopy over part of the tandem parking area to plot 2. Plots 1 and 2 would retain their substantial chimneys. Plots 2 and 3 would now be linked by garage accommodation with a bedroom over and plots 3 and 4 linked to form a terrace with a pedestrian passageway to a rear garden under part of the bedroom accommodation in unit 4. The result of these changes is that plots 2 to 5 would form an 'L' shaped built form which incorporates variations to the ridge height where the two limbs of the L' would intercept, giving interest to the roofscape. This configuration would have similarities to that in application 10/04658/FUL. The resulting dwelling mix would be three 4 bedroomed dwellings and two 3 bedroomed dwellings. The size of the proposed rear garden areas have not been changed by the revisions. However the layout of the shared drive and parking area has been altered by the deletion of gates, the provision of a turning head within the site, the provision of a bin store enclosure enclosed by 1.5m high hit and miss fencing with gated access close to the entrance and additional parking spaces so that there would be two per dwelling plus two additional parking spaces. A band of tree planting is shown on the proposed site plan adjacent to Calcutts Road and on either side of the proposed access.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is within the Severn Gorge Conservation Area and the World Heritage Site. It is located on the south-east side of Coalport Road in between land associated with the bungalow Stone-Lee and a development known as 'The Woodlands', on the site of a former concrete works, which wraps around the northern and eastern sides of the site and comprises of 17 dwellings in the form of houses and a block of apartments. There are self-set trees within the application site and remnants of structures showing former industrial use of the land. The general location of the site is an area of varied modern and historic housing development disposed in a

haphazard manner along Calcutts Road and a network of narrow lanes off it.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council has submitted a view contrary to the Officer recommendation. The Area Planning Manager, in consultation with the Principal Planning Officer and Committee Chairman, consider that the application raises planning issues that would warrant determination by the South Planning Committee.

4.0 Community Representations

(Please note that where consultees have made several comments the latest comments are listed first, as these record the outcome of discussions and demonstrate whether any concerns raised earlier have been addressed).

- Consultee Comments

- 4.1 Broseley Town Council (28-09-15) – Object:
None of the changes had addressed the previous concerns and the Council's previous objection still stands.

Broseley Town Council (02-09-14) – Object:

-The Town Council endorse the comments made by English Heritage (Michael Taylor letter dated 24/11/10) with regard to the previous application, which were still valid for the current application: "specifically the access design does not contribute positively to the conservation area and does not relate with the area's inherent rural character."

-The design and high density were out of character for a sensitive area and were inappropriate for the site's location within a World Heritage Site. A much higher standard of design had been applied to the neighbouring development.

- 4.2 SC Highways Development Control – Verbal No Objection.

- 4.3 SC Public Protection – No Objection:
Having considered past use of the proposed site as a brick and tile manufacturer amongst other activities I recommend that full contaminated land conditions are placed should this application be granted approval:

Contaminated land

a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure

that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

I would also ask the case officer to consider noise from surrounding activities. I am unfamiliar with the area however I am aware that there are industrial units in the area. If the case officer is of the opinion that these units may have an impact on the proposed dwellings I would recommend that a noise assessment is prepared and submitted prior to a decision on this application

4.4 SC Ecology (15-07-15) – No Objection on the basis of there being no mature tree removal or existing building modifications:

Bats

There is a known bat roost within close proximity to the site. In order to enhance the site for bats the following conditions and informatives should be on the decision notice.

1. A minimum of 2 integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. The bat bricks should be shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

2. 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.

Informative

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

Nesting Birds

The site has the potential to support nesting birds. The following condition and informative should be on the decision notice.

1. A minimum of 2 artificial bird nests suitable for small birds such as swifts, swallow, house martins swallow shall be erected/integrated on the site prior to first occupation of the buildings hereby permitted. The enhancements for nesting birds should be shown on a site plan.

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

Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Badgers

The following informatives should be on the decision notice to ensure protection of badgers.

Informative

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open

overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Informative

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

Landscape

Existing trees should be retained and protected during and post construction (as per SC Tree Teams comments). The site has the potential to be enhanced for biodiversity with the planting of native, locally found species.

An appropriate landscaping scheme should be conditioned on the decision notice.

SC Ecology (19/11/14)- Comment:

Additional Information required relating to ecology, bats, reptiles and badgers, in the absence of which refusal is recommended since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Ecological Assessment

A planning application on this site must be accompanied by an Ecological Assessment of the land surrounding the proposed development and a discussion of issues relating to protected species which might be present in the area.

The Ecological Assessment should include an extended phase 1 habitat survey of the site, a habitat map and target notes for sensitive ecological features. The Ecological Assessment should also include consideration of any European or UK protected species which might be present in the area and could potentially be negatively impacted by the proposed development. The Ecological Assessment should also include a desk study of historical protected species records and the presence of any designated sites within 1km of the proposed development.

The Ecological Assessment should be carried out by a qualified and experienced ecologist with the relevant protected species licenses. The Ecological Assessment should be submitted to the Local Planning Authority prior to a planning decision being made.

Bats

This application site meets the trigger point for requiring a bat survey since it may involve development close to, or felling or lopping of mature trees, or removal of hedgerows. Trees should be assessed in line with The Bat Conservation Trust's *Bat Surveys – Good Practice*

Guidelines by a licensed bat ecologist and if deemed necessary activity surveys should be undertaken.

The bat survey should be as follows:

1. Trees to be removed should be assessed for potential bat roost habitat as described in The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2nd Edition 2012).
2. Transect surveys should be carried out in line with the Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2nd Edition 2012) particularly focussing effort on any hedgerows to be lost.

All bat surveys should be carried out by an experienced, licensed ecologist and in accordance with The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2nd Edition 2012). Mitigation should be designed in line with the Natural England *Bat Mitigation Guidelines*. Mitigation should also be proposed for any loss of bird nesting sites, particularly for barn owls.

Any deviation from the methods, level or timing of surveys set out in the Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* (2nd Edition 2012) should be accompanied by a reasoned evidence statement from the licensed ecologist carrying out the survey clarifying how the sub-optimal survey is ecologically valid.

Reptiles

The site appears to contain suitable features for widespread reptiles. An assessment should be made of the potential for reptiles to be present and in areas of moderate and high potential a reptile survey should be carried out by an experienced ecologist using the methods set out in the Herpetofauna Workers' Manual (JNCC 2003). Where reptiles are confirmed to be present a mitigation strategy and precautionary method statement should be provided in support of the planning application.

Badger

There is potential for badger setts to be present on or close to the development site. Works up to 30m from a badger sett may require a Badger Disturbance Licence from Natural England under the Protection of Badgers Act (1992). A badger survey should be carried out and impacts assessed as set out in the Natural England Standing Advice.

Trees

If there are trees and/or hedgerows in or adjacent to the proposed planning site a tree survey and an arboricultural impact assessment in accordance with British Standard 5837: 2012 – *Trees in relation to design demolition and construction* will be required to assess the significance of the trees and/or hedgerows and the potential effects of them upon the development and of the development upon them.

4.5 SC Drainage – No Objection:

The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

1. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

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

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

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

2. The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.
Reason: To minimise the risk of groundwater flooding.

3. Confirmation is required that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

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

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

Informative: The applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

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

4.6 SC Affordable Housing – Comment:

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

The current affordable housing contribution rate for this area is 20% and as such a proposal for 5 new open market dwelling would be liable to make a contribution of one affordable unit (1 x 20%). This dwelling will need to be rented tenure in accordance with the requirements of the SPD Type and Affordability of Housing.

4.7 SC Archaeology – No Objection:

The proposed development site is located within the known extent of a brick and tile works (PRN 07240) thought to have its origins in the 17th century. The proposed development site can therefore be deemed to have some archaeological potential. Previous archaeological evaluation in the immediate adjacent area concluded that due to the extensive and lengthy use of the site and its environs it is possible that remains beneath the present ground level would be fairly extensive. The site also lies within the extent of the inscribed World Heritage Site of Ironbridge. English Heritage has commented on previous applications for this site. The development site may have some archaeological potential.

In line with the National Planning Policy Framework (NPPF), I would recommend that a programme of archaeological work be made a condition of the planning permission for the proposed development. An appropriate condition of any such consent would be:

Suggested Conditions:

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

4.8 SC Trees (15-07-15) – No Objection:

I have visited the site and reviewed the information submitted in the Arboricultural Impact Assessment (Eden Arboriculture, 31 May 2015). I can report that I have no objection to the proposed development on arboricultural grounds, providing

appropriate measures are taken to protect retained trees during any approved development and that a comprehensive, high quality scheme of new planting is undertaken as appropriate to compensate for those trees to be lost to any approved development.

The proposals require the loss of a number of established trees, particularly along the road frontage to the site. Whilst en masse these trees are prominent and highly visible, individually they are not good specimens and I consider them to have a limited safe life expectancy; either for reasons of structural defects, and / or because of a drawn-up, unbalanced growth form due to suppression and a lack of previous management. Many of the trees pose, or will pose in the relatively near future, a heightened risk due to their overhang / lean over the road. Whilst the loss of the road front trees will have a high impact visually, in the long-run this could be mitigated by planting better suited trees as part of a landscaping scheme attached to the new development. On balance, therefore, I do not object to the proposed removal of these and other trees on the site.

I would therefore recommend attaching the following tree protection and planting conditions to any permission for this application:

Prior to commencement of development a final Tree Protection Plan shall be provided to the written satisfaction of the LPA, providing details of those trees to be felled and those to be retained and protected during implementation of the approved development. The tree protection measures shall be installed as specified on the plan to the written satisfaction of the LPA, prior to delivery of materials or access of construction vehicles onto the site. Thereafter they shall be maintained in a satisfactory condition throughout duration of the development.

Reason: to avoid causing damage or harm to significant retained trees during implementation of development.

Prior to commencement of development a final Arboricultural Method Statement shall be provided to the written satisfaction of the LPA, addressing the following items:

- i. Site construction access
- ii. The intensity and nature of construction activities.
- iii. Contractors car parking.
- iv. Phasing of on-site operations.
- v. Welfare facilities (requirement and siting)
- vi. Storage and mixing areas.
- vii. Specification of tree works.
- viii. Installation of structures within RPAs.
- ix. Root pruning.
- x. Tree Protection (barriers and ground protection)
- xi. Tree Protection Plan (final version)
- xii. Installation of specialist foundations if required.
- xiii. Removal of materials, facilities, and protective measures for the final phase
- xiv. Post construction tree works.
- xv. Monitoring

The tree works shall be carried out and the development shall be implemented

strictly in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

Reason: to avoid causing damage or harm to significant retained trees during implementation of development.

Prior to commencement of development, a planting plan shall be provided to the written satisfaction of the LPA. The plan shall include details of the species, numbers, location, planting specification and means of protection and support of the trees and shrubs to be planted in association with the development.

Reason: to ensure a satisfactory form of landscaping to the development.

Prior to occupation of the first dwelling, the approved planting plan shall be implemented in full, to the written satisfaction of the LPA. Any tree or shrub planted in accordance with the plan, or replacement thereof, which dies or becomes seriously diseased within a period of 5 years from planting, shall be replaced by another of similar specification, unless agreed otherwise with the LPA.

Reason: to ensure a satisfactory form of landscaping to the development.

SC Trees (05-12-14) – Comment:

I have visited the site and reviewed the information submitted with this application and can report that whilst I do not object to the principle of the proposed development, I consider that the proposed layout and design raise a number of arboricultural concerns that should be addressed prior to determination.

The access and parking arrangements and boundary details all have the potential to cause significant damage to retained trees (as shown on drawing Stonelee/01, June 2014). No information has been provided as to allow an evaluation of the impacts of the proposed development on existing trees and hedges, nor how retained / adjacent trees and hedges will be protected during any approved development.

In order to allow a proper assessment a tree survey and arboricultural impact assessment should be provided, in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. The survey should plot the location, size (height, canopy spread and stem diameter), condition and suitability for retention of the existing trees and hedges in and adjacent the site. The root protection areas should also be evaluated and shown on a scale plan.

The arboricultural assessment should take into account any trees to be removed as well as those to be retained and any new planting associated with the development.

A Tree Protection Plan will be required, describing and plotting the location and specification of the measures to be taken to protect retained / adjacent trees and hedges during implementation of any approved development.

Finally, an Arboricultural Method Statement will be required for any works proposed within the root protection area of retained / adjacent trees and hedges. The method

statement will show how such works are to be designed and implemented so as to avoid damaging retained trees and hedges and their roots.

4.9 SC Conservation – Comment on original scheme:

It is considered that the design of the proposed dwellings does not relate well to the traditional vernacular detail of the conservation area and the scheme should look to better reflect its local context by picking up on vernacular details and materials.

Whilst dormer windows are a detail that is seen elsewhere in the conservation area the use of triangular dormers as proposed rather than traditional gabled dormers is inappropriate. The window arrangement and proportions could also better reflect the style of traditional properties in the conservation area, simple flush fitting casements are common with windows to the first floor being smaller than those at ground floor mainly and brick cills and lintels are more common in the area. Other details to consider are porches, dentil courses and the use of appropriate brick and tiles to match to local materials.

It is suggested that the scheme be amended to better reflect the local context in terms of design and detail and further justification be provided in the design and access statement.

4.10 Historic England (12-08-15) – Comment on amended scheme:

-We are grateful that our earlier advice on the use of brick for all elevations has been followed.

-Conditions should be imposed requiring the Council's prior approval of all details, materials and finishes.

English Heritage (now Historic England) (03-03-15) – Comment on original plans:
Urge that the following issues be addressed:-

-It appears to us that the elevations would be more appropriate to the character of the area if they were entirely of local brick, rather than partially rendered.

-Conditions should be imposed requiring the Council's approval of all external details, materials and finishes, both of the buildings and of all external works.

-Public Comments

4.11 5 Objections to original plans:

-Plans do not achieve a semi-rural character.

-Site too small for 5 houses of the size proposed, not allowing for large gardens.

-Not sensitive to World Heritage Site and Conservation Area.

-Site better for two or three houses perhaps including bungalows to offset the higher position the site sits in comparison with the Woodlands, and that are in keeping with the surroundings.

-Maximum of three two storey houses or bungalows would seem more appropriate, to be consistent with adjacent Stone Lee and other properties on Coalport Road without detracting from the concept of The Woodlands.

-Woodlands was designed as a modern simulation of a Victorian industrial complex, with only one property featuring dormer windows and the other conservation roof lights; a development of 5 three storey houses with dormer

windows adjacent will impact on the effectiveness of that heritage concept.

- Overlooking of The Woodlands development from all rear windows..
- Plot 3 would be particularly close to no. 7 The Woodlands, with a cramped layout facing side of plot 2.

- Question adequacy of on-site parking provision and whether site can accommodate 13 spaces.

- Insufficient detail on site access and how it would function safely.

- Private Lane is not in applicant's ownership and access will be required directly onto Calcutts Road.

- Placing of refuse bins could cause an obstruction.

- Very little footpath coverage in area.

- Access statement out of date.

- Must be no connection to private sewer.

- Drawings do not show pedestrian walkways for garden access mentioned in application.

- Design and Access Statement bears no relationship to submitted scheme.

- Discrepancies on drawings.

- Site history indicates that there will be contamination requiring remediation and potential ground instability.

- Full tree and underbrush survey is needed prior to any further work including replacement for the mature trees and hedging removed.

- No details of the removal of trees or the final landscaping scheme.

- Site might merit inspection by SC Archaeology due to possible remains of old factories.

- Culverted watercourse discovered in preparation for Jackfield stabilisation project likely to be within 20m of site.

- Do not need more construction traffic on Calcutts Road at present with stabilisation project.

- Application 10/04658/FUL recommended for approval by South Planning Committee, but not aware it has been approved.

4.12 5 Objections to amended plans consultation 01-07-15:

- Not adverse to land being developed but object to this proposal.

- No response to legal points made in earlier letter; have not been consulted as owners of land required for access.

- Objections set out in original letters still stand.

- Parking inadequate with reliance on end to end parking; highway safety concerns with parked cars on road and access road currently serving three dwellings and a factory.

-No area for recycling bins.

-Design over crowded, denser occupation than 10/04658/FUL; out of keeping with Conservation Area and World Heritage site.

-Severely impacts upon the heritage concept of The Woodlands development as a modern simulation of a Victorian industrial complex with buildings representing a factory, workers terraced housing and a Master's grand house.

-Little space for landscaping; loss of valuable green space in this sensitive area; tree survey report recommends removal of trees from front of site.

-Maximum of three 2 storey houses or bungalows more appropriate for the site.

-Question whether there is space for plots 1 and 2 and the proposed trees between the parking space and Calcutts Road..

-Still discrepancies on drawings.

-No dimensions on drawings.

-Intrusive overlooking from top floor rear elevation windows.

-Plot 3 is particularly close to no.7 The Woodlands.

-No pre-application engagement with the local community to resolve issues at pre-application stage.

-No record of 10/04658/FUL was approved.

-Serious concerns about impact on services – private sewer to which applicant has no right to connect; foul connection cannot be made to their private sewer without consultation and a legal agreement; water supply to their property would have to be maintained at all times

4.13 Group letter in response to further amended plans consultation of 01-09-15 with request that it be treated as a collation of 11 Objections:

-Unnecessary overcrowding with houses designed to accommodate even more people than the original application on a significantly smaller site.

-Third storey windows would encroach on the privacy of existing neighbouring houses and apartments, from a raised site.

-Conflicts with surrounding properties and would damage character of Conservation Area and World Heritage site.

-Incomprehensible errors, inconsistencies and incomplete documents.

-Bin storage area unsightly and post and rail fence bordering Calcutts Road would further damage local character with none elsewhere along the road.

-Design and Access Statement does not deal with the recommendations of the contaminated and ground issues documentation.

-Differences between the tree protection plan of 31/05/15 and the new drawing Stonelee 05 amended August 2015.

- Still no details regarding access to services including sewage.
- Access to site is over a private drive not under the ownership of the applicant.
- Has not been amended to reflect local context in terms of design as requested by Conservation Officer.
- Statements in the Design and Access Statement incorrect and misleading. (Examples listed in letter which can be viewed on the Council's web-site).
- Seek a scheme more appropriate to the neighbourhood.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structures
Landscaping and Ecology
Residential Amenity
Highway Safety
Drainage and Services
Affordable Housing
Archaeology
Contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The principle of residential development on this site in the current Development Plan context has been accepted with the resolution to grant planning permission for the scheme contained in planning application 10/04658/FUL, subject to the completion of the appropriate legal agreement. The Broseley Town Plan 2013-2026, although not part of the statutory Development Plan, is a material planning consideration which is referenced in the emerging Site Allocations and Management of Development (SAMDev) Plan, and this plan includes the application site within the development boundary for Broseley and Jackfield. The SAMDev Plan has now reached its final stage prior to adoption with the Final Report on the examination into that Plan having been received from The Planning Inspectorate. Considerable weight may now be given to the SAMDev Plan, which is likely to be formally adopted by the Council by the end of 2015. The Inspector's Final Report makes no changes to the Broseley Development boundary within which the application site is situated. Broseley is identified by Core Strategy policy CS3 as a settlement where housing development of an appropriate scale and design which respects the town's character may take place on appropriate sites. It would constitute a 'windfall' site which is allowed for under SAMDev Plan policy S4 for the Broseley area, and would be a re-use of previously developed land which is one of the core planning principles at paragraph 14 of the National Planning Policy Framework (NPPF). Therefore, it is considered that there is no in principle planning policy objection to residential development on the application site in the new Development Plan context. Whether or not the proposed scheme is acceptable

therefore depend upon the assessment of the detailed matters set out below.

6.2 Siting, scale and design of structures

- 6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. It cautions at paragraph 60 that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds however that it is proper to seek to promote or reinforce local distinctiveness. The themes of the NPPF are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev policy MD2 (Sustainable Design) and MD12 (The Natural Environment) develop further the matters to be considered in relation to policies CS6 and CS17..
- 6.2.2 There is a requirement under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in the carrying out of statutory functions
- 6.2.3 It is considered that the proposed built form, as amended, would complement the adjacent 'Woodlands' development in the streetscene. The dwellings would incorporate vernacular details with respect to the verge and eaves detailing, the treatment of window heads, proportions of windows, rooflight form, porches and chimneys on two units. The proportions of the proposed dwellings, with 45° pitched roofs facilitating the use of small plain tiles, ridge heights of approximately 9 metres to the tallest elements, reducing to some 7.1 to 8 metres for lower sections of the narrower building elements, and eaves heights of around 5.4 metres, result in gable spans and proportions that would give a traditional, vertical emphasis to the buildings. These features, in combination with the 'L' shaped overall footprint of the linked brick faced dwellings, would create a bespoke development without the suburban appearance that can often be created by detached, standardised house types. The proposed built form would not detract from the character or appearance of the conservation area and world heritage site location. The precise facing materials, door and window joinery details and rooflights would be the subject of conditions requiring their approval by the local planning authority on any planning permission issued.
- 6.2.4 The layout of the parking and turning area would complement the proposed built form, with the dwellings set back from the edge of this access and parking area by small areas of paving and planting. Indicative planting is shown around the turning head and the bin store area, and full details of the planting, surfacing and boundary treatments would require approval through conditions on any approval issued. It is considered however that sufficient information has been supplied to demonstrate that the layout of these areas would not detract from the character or appearance of the conservation area and world heritage site.

6.3 Landscaping and Ecology

6.3.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. SAMDev policies MD2 and MD12 supplement these policies. The initial comments of the Council's Planning Ecologist resulted in the submission of a phase 1 and phase 2 Environmental Survey and Protected Species Report. An Arboricultural Impact Assessment, dated May 2015 was also subsequently submitted. While the Protected Species report was dated August 2011 this information in conjunction with the present condition of the site, was sufficient for the Council's Ecology Team to conclude that ecological interests could be safeguarded adequately by planning conditions relating to bat bricks/boxes, external lighting, artificial nests and landscaping. Informatives on any consent would relate to bats, nesting birds and badgers.

6.3.2 Core Strategy policies CS6 and CS17 also seek to protect and enhance those features which contribute to local character, which includes trees in this locality. The 26 trees on the site are a predominantly birch, goat willow and poplar, with single specimens of ash, hawthorn, pine, sycamore and whitebeam. The County Arboriculturalist had a number of concerns about the initial application submission here and these are set out at section 4.8 of this report above. In response an Arboricultural Impact Assessment has been submitted, which addresses the concerns raised. The County Arboriculturalist acknowledges that the proposals would require the removal of a number of established trees, particularly along the road frontage to the site. He comments:

"Whilst en masse these trees are prominent and highly visible, individually they are not good specimens and I consider them to have limited safe life expectancy; either for reasons of structural defects, and/or because of a drawn-up, unbalanced growth form due to suppression and a lack of previous management. Many of the trees pose, or will pose in the relatively near future, a heightened risk due to their overhang/lean over the road. Whilst the loss of the road front trees will have a high impact visually, in the long-run this could be mitigated by planting better suited trees as part of a landscaping scheme attached to new development. On balance, therefore, I do not object to the proposed removal of these and other trees on the site."

The application drawings show the intention to retain birch and goat willow trees close the north eastern site boundary and trees along the road frontage on either side of the proposed vehicular access. It is considered that the above approach to the trees recommended by the County Arboriculturalist can be supported to ensure the long term presence of trees in this location as a positive contribution to the Conservation Area and World Heritage site street scene. Planning conditions on any approval would require the submission of a final tree protection plan for approval, giving details of trees to be felled, those to be retained and protected during implementation. In addition further conditions would relate to the new planting scheme to be approved and implemented, and the approval of an arboricultural method statement.

6.3.3 It is considered therefore, for the reasons explained in Section 6.2 of this report and paragraphs 6.3.1 and 6.3.2 above, that the revised details for this development

would be appropriate in scale, density, pattern and design as required by Core Strategy policy CS6 and would not detract from the quality of the built environment and landscape setting to this part of Jackfield and the Severn Gorge Conservation Area and World Heritage Site, satisfying also Core Strategy policy CS17, SAMDev policies MD2, MD12, MD13 and the design principles and environment policies set out in the Broseley Town Plan.

6.4 Residential Amenity

- 6.4.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The nearest existing residential properties to the site are those at 'The Woodlands' to the north east and south east of the application site. The closest of these properties is no.7 The Woodlands, which is a three storey detached with detached garage immediately adjacent to the north eastern site boundary. The north eastern rear corner of the proposed dwelling on plot 3 would be some 7 metres from the south western rear corner of 7 The Woodlands. The depth of the side garden to plot 3 at this point would be some 4 metres, increasing to some 6.5 metres at the rear of the attached garage to number 7. It is acknowledged that the presence of the proposed dwellings on plots 2 and 3 would have an effect on afternoon light to the rear of 7 The Woodlands, but this already occurs to some extent due to trees, and would not be to an extent that would warrant refusal of the application. The alignment of the proposed dwellings on plots 2 and 3 angles away from the boundary with no. 7, with their garden depths increasing in a north westerly direction. The proportions of the proposed buildings, coupled with their alignment, are considered sufficient to ensure no undue adverse overbearing impacts. The privacy of no.7 has been adequately addressed by there being no windows above ground level in the north east elevation of plot 3 and to the same elevation of a bedroom to plot 2 over an integral garage. Permitted development rights would be withdrawn on any planning permission issued, to ensure no new openings/ additions are formed/added to these elevations. While the tandem parking area to plot 3, which includes an integral garage, would include a vehicle space abutting the north eastern site boundary, with would be at a point to the rear of the detached garage to no. 7 The Woodlands and would not impact significantly on the amenity of the latter's garden area.
- 6.4.2 The south east facing rear elevations to plots 3-5 would face onto their rear garden areas, which would be some 5.5 to 8 metres deep, and would have views over the access road, a parking area, and open grassed areas within The Woodlands development. Their juxtaposition with the 2.5 storey apartment block (8-17 The Woodlands) to the south would not result in any significant mutual loss of privacy. The separation distances between the proposed development, existing dwellings to the south west of the site and on the opposite side of Calcutts Road would ensure no adverse impacts upon residential amenity.
- 6.4.3 There would be no residential amenity conflicts in terms of unacceptable overbearing or privacy impacts within the development itself with the revised proposals.
- 6.4.4 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue has been addressed by a condition on the outline permission restricting hours of working to 07.30 to 18.00 hours Monday to Friday;

08.00 to 13.00 hours Saturdays and not on Sundays, Public or Bank Holidays to mitigate the temporary impact. A construction management plan would also be a condition on any consent to ensure that there are measures in place to address matters such as noise, dust, deliveries and road cleanliness during the construction period in order to mitigate these potential temporary impacts.

6.5 Highway Safety

6.5.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:

“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and saved Bridgnorth District Local Plan policy D6 states that development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

6.5.2 With the resolution to grant planning permission 10/04658/FUL for five dwellings on, which includes an access in a similar position to the current proposal, it has previously been accepted that the local highway network is capable of accommodating safely the type and scale of traffic likely to be generated by this number of dwellings. There would be adequate space for vehicles to turn within the site and the amount of parking proposed would comply with the parking standards of the former Bridgnorth District Council which remain in force in south east Shropshire.

6.5.3 The issue of whether the access could be formed in the position proposed without first gaining the consent of another party was put to the agent. He has replied that his client considers that he has a right of access to the existing road to his dwelling at Stonelee which allows him to form the access for the proposed dwellings. For the purposes of the planning application the proposed access would be practical, directly abutting the existing hard surface and the details of its construction and surfacing would be conditioned as part of any grant of planning permission. Any dispute over the rights to form an access at this point would be a private matter between the parties involved and would not be a reason for withholding planning permission.

6.6 Drainage and Services

6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The Council's Drainage Team have assessed the proposal and are content that the technical drainage matters could be addressed through conditions on any planning permission that is issued.

6.6.2 The manner in which connections would be achieved to the foul sewer and to other services would be a matter for a developer to negotiate with the relevant statutory undertakers and any third parties who may be involved.

6.7 Affordable Housing

6.7.1 Core Strategy policy CS9 (Infrastructure Contributions) highlights the importance of affordable housing as 'infrastructure' and indicates the priority to be attached to contributions towards the provision from all residential development. With regard to provision linked to open market housing development, Core Strategy policy CS11 (Type and Affordability of Housing) sets out an approach that is realistic, with regard to economic viability, but flexible to variations between sites and changes in market conditions over the plan period. In this particular case the applicants are prepared to deliver affordable housing at the 15% prevailing rate applicable to Broseley.

6.8 Archaeology

6.8.1 Core Strategy policies CS6 and CS17 seek to protect the historic environment, which includes areas of archaeological interest. The Council's Archaeological Team are content that, from previous archaeological evaluations in the locality and their knowledge of this site, that archaeological interests can be adequately safeguarded by a condition requiring a programme of archaeological work in this case.

6.9 Contamination

6.9.1 Core Strategy policy CS6 seeks to secure safe developments. The NPPF at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/or landowner. It continues at paragraph 121 that in making decisions there should be adequate site investigation information presented, prepared by a competent person. The ground investigation/contamination desk study provided with the 2010 application has been re-submitted. The Council's Public Protection Team concur with the conclusions of that study that further investigation of the risk and to appraise any necessary remedial options is required, and this can be achieved by the condition set out at section 4.3 of this report.

7.0 CONCLUSION

7.1 The principle of residential development on land which includes the current application site has previously been accepted by the Council. The site falls within the Development Boundary for Broseley and Jackfield in the soon to be adopted SAMDev Plan, to which substantial weight may be attached at this final stage prior to adoption, and is also within the Development Boundary shown in the Broseley Town Plan 2013-2026. It would be a 'windfall' site contributing to the supply of housing land and the re-use of previously developed land. It is considered that on balance the proposed development, as amended, would not detract from the character or appearance of the Severn Gorge Conservation Area and World Heritage Site. The impact of the proposed development upon the residential amenities of adjacent properties would not be sufficient to warrant a refusal of this application. The proposals would not be detrimental to highway safety. Ecological and archaeological interests can be safeguarded by planning conditions, as can the measures to address on-site contamination and details of the foul and surface

water drainage arrangements. A Section 106 Agreement would secure the affordable housing contribution required under Core Strategy policies CS9 and CS11.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy and saved Local Plan policies:

CS3 The Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
D6 Access and parking

SAMDev Plan:

MD2 Sustainable Design
MD3 Managing Housing Development
MD12 The Natural Environment
MD13 The Historic Environment

Broseley Town Plan 2013-2026

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

10/04658/FUL Erection of five dwellings and construction of new vehicular access. PDE
BR/APP/FUL/04/0499 Erection of three dwellings and alteration to access REFUSE 22nd July
2004
BR/APP/FUL/06/0149 Erection of five dwellings and construction of new vehicular access
GRANT 25th May 2006
BR/APP/FUL/05/0464 Erection of two detached dwellings with garages, a two storey block of
four self-contained flats and construction of new vehicular access WDN 3rd August 2005

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p> <ul style="list-style-type: none"> Design and Access Statement Environmental Survey Ground Investigation Report Arboricultural Impact Assessment
<p>Cabinet Member (Portfolio Holder)</p> <p>Cllr M. Price</p>
<p>Local Member</p> <p>Cllr Dr Jean Jones</p>
<p>Appendices</p> <p>APPENDIX 1 - Conditions</p>

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. Prior to the above ground works commencing samples and/or details of the roofing materials, the materials to be used in the construction of the external walls and hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory, in the interests of the visual amenities of the area.
4. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings and depths of external reveals. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the character and appearance of the conservation area and world heritage site.
5. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the character and appearance of the conservation area and world heritage site.
6. Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority: Foundation design and finished floor levels in relation to existing site ground levels. The work shall be carried out in accordance with such details as may be approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding the amenity and privacy of the occupiers of adjacent property.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A, B or C shall be erected, constructed or carried out.

Reason: To safeguard the residential amenities of adjacent property.

8. Before the dwellings are first occupied details of all boundary fences/walls to the application site and individual curtilages within it, showing their appearance, materials and positioning, shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the conservation area and world heritage site and to safeguard neighbour privacy.

9. Before any of the dwellings is first occupied, the access, driveway and parking spaces that would serve that property shall be constructed, surfaced and drained in accordance with details which have first been approved by the Local Planning Authority. The parking spaces and turning head shall thereafter be maintained and kept available for the parking and turning of vehicles.

Reason: In the interest of highway safety and to ensure that adequate parking facilities are available to serve the development.

10. The gradient of the access from the edge of the highway carriageway shall not exceed 1 in 24 for a distance of 5.0 metres and thereafter the gradient shall not exceed 1 in 10.

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

11. Any gates provided to close the proposed access shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: In the interests of highway safety.

12. Prior to commencement of development a final Tree Protection Plan shall be submitted to the Local Planning Authority, providing details of those trees to be felled and those to be retained and protected during implementation of the approved development. The tree protection measures shall be installed as specified on the plan approved in writing by the Local Planning Authority, prior to delivery of materials or access of construction vehicles onto the site. Thereafter they shall be maintained in a satisfactory condition throughout duration of the development.

Reason: These details are required before the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

13. Prior to commencement of development a final Arboricultural Method Statement shall be submitted to and approved by the Local Planning Authority, addressing the following items:

- i. Site construction access
- ii. The intensity and nature of construction activities.
- iii. Contractors car parking.
- iv. Phasing of on-site operations.
- v. Welfare facilities (requirement and siting)
- vi. Storage and mixing areas.
- vii. Specification of tree works.
- viii. Installation of structures within RPAs.
- ix. Root pruning.
- x. Tree Protection (barriers and ground protection)
- xi. Tree Protection Plan (final version)
- xii. Installation of specialist foundations if required.
- xiii. Removal of materials, facilities, and protective measures for the final phase
- xiv. Post construction tree works.
- xv. Monitoring

The tree works shall be carried out and the development shall be implemented strictly in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

Reason: This information is required prior to the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

14. Prior to commencement of development, a planting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the species, numbers, location, planting specification and means of protection and support of the trees and shrubs to be planted in association with the development.

Reason: This information is required prior to commencement to ensure a satisfactory form of landscaping to the development.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out the first planting and seeding seasons following the first occupation of a dwelling within the development, and any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years from planting shall be replaced by another of similar specification, unless the Local Planning Authority gives written consent to any variation.

Reason; To ensure a satisfactory form of landscaping to the development.

16. Prior to the commencement of development, drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

17. No development approved by this permission shall commence until a programme of archaeological work has been secured based on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.

Reason: The site is known to hold archaeological interest and as such the information is required prior to commencement to ensure that any archaeology is recorded and taken into account in the development of the site.

18. Contaminated land

a) No development shall take place until a Site Investigation Report assessing the nature and extent of any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b) In the event of the Site Investigation Report finding the site to be contaminated no development shall take place until a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The works detailed as being necessary to make safe the contamination shall be carried out in complete accordance with the approved Remediation Strategy.

c) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

d) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: This condition is a pre-commencement condition to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

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

Reason; To protect the health and wellbeing of residents in the area.

20. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

21. A minimum of 2 integrated bat bricks or boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site in locations which have been approved in writing by the Local Planning Authority prior to first occupation of the dwellings hereby permitted. All bat bricks/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

22. 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.

23. A minimum of 2 artificial bird nests suitable for small birds such as swifts, swallow, house martins swallow shall be erected/integrated on the site prior to first occupation of the buildings hereby permitted. The enhancements for nesting birds should be shown on a site plan which has been approved in writing by the Local Planning Authority.

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

Informatives

1. 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.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
5. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

7. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

8. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
9. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

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Committee and date

South Planning Committee

1 December 2015

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/00561/FUL	Parish: Church Stretton
Proposal: Erection of dwelling and formation of vehicular access	
Site Address: Overdale Clive Avenue Church Stretton Shropshire SY6 7BL	
Applicant: Mr & Mrs M. Nicholas	
Case Officer: Trystan Williams	email: planningdmsw@shropshire.gov.uk

Grid Ref: 345636 - 293094



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Recommendation: Grant permission subject to the conditions set out in Appendix 1, and to prior completion of a Section 106 agreement to secure the requisite affordable housing contribution.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission to erect a 1^{1/2}-storey open-market house within the curtilage of the above existing dwelling.

2.0 SITE LOCATION/DESCRIPTION

2.1 Overdale is a large detached house on the lower slopes of Ragleth Hill in Church Stretton's southeast suburbs, with spectacular views across the valley to the west. It dates from the Edwardian era when the town was a fashionable resort, and although unlisted was described by architectural historian Sir Nikolaus Pevsner as "the epitome of Church Stretton's red brick and half-timbered idiom at its most ebullient". Its symmetrical Arts and Crafts design was complimented by a formal Italianate terraced garden culminating in a level platform edged with a semi-circular pergola. This part, fenced off and in deteriorating condition, comprises the application site, and whilst the terraces above have recently been restored the wider gardens on either side have been developed with housing originally approved on appeal in 2007 (ref. SS/1/05/17466/O). At a lower level to the northwest are further relatively modern properties on 'backland' plots off Watling Street South/Jane Wood Drive, the closest of which is Brereton House. The whole area is within the town's recently enlarged conservation area and the wider Shropshire Hills Area of Outstanding Natural Beauty (AONB).

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council's objection is contrary to officers' recommendation of approval, and Shropshire Council's local member/planning committee chair feels the application raises significant material considerations. Accordingly, and in line with the adopted Scheme of Delegation, the application is referred to the committee for determination.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Shropshire Council Flood and Water Management – comment:

Full details of the proposed surface water soakaways, to include percolation test results, sizing calculations and a layout plan, should be submitted for approval. A silt trap or catch pit should be installed upstream of the drainage field. If soakaways are unfeasible details of an appropriately designed attenuation system should be submitted instead, and in either case the incorporation of other sustainable drainage systems (SuDS) should be encouraged.

4.1.2 Regarding foul drainage, any new connection to mains sewerage would require consent from the utility provider.

4.1.3 All of these details could be secured by condition.

- 4.1.4 Shropshire Council Affordable Housing – no objection:
The affordable housing pro-forma accompanying the application indicates the correct level of contribution towards affordable housing provision off-site, thereby satisfying the Council's Supplementary Planning Document (SPD) on the Type and Affordability of Housing.
- 4.1.5 Shropshire Hills AONB Partnership – comment:
The local planning authority has a statutory duty to take into account the AONB designation, and National Planning Policy Framework (NPPF) policies give the highest level of protection to AONBs. The application also needs to conform to the Council's own Core Strategy policies and emerging Site Allocations and Management of Development (SAMDev) plan, whilst the Shropshire Hills AONB Management Plan is a further material consideration. The lack of detailed comments by the Partnership should not be interpreted as suggesting that the application raises no landscape issues.
- 4.1.6 Shropshire Council Historic Environment (Archaeology) – no objection:
No comments in respect of archaeological matters.
- 4.1.7 Church Stretton Town Council – objection:
Public consultation during preparation of the Church Stretton Town Design Statement identified Overdale as one of the most valued and important properties in the town. Built in 1903 it is a landmark building in a fine Italianate garden. Little of the garden now remains, with four large houses built during the past few years having altered the outlook from this iconic property and changed the street scene. These dwellings were approved on appeal despite substantial public opposition. Nevertheless the garden still retains some of its original symmetry and splendour.
- 4.1.8 Since the appeal decision the town conservation area has been extended to include Clive Avenue and its surrounds. It is therefore recognised as an area of special architectural or historic interest whose character or appearance it is desirable to protect or enhance. Future planning decisions should reflect this and further garden infill should be resisted, particularly in view of the fact that the conservation area also lies within the AONB.
- 4.1.9 Shropshire Council's Core Strategy Policy CS6 requires all development to protect, restore, conserve and enhance the natural, built and historic environment, and to be of an appropriate scale, density, pattern and design taking into account the local context and character. In the case of Overdale the immediate local character has now been set by the surrounding garden infill. This is totally incongruous with the original Edwardian layout of Clive Avenue, the new houses being ultra-modern and partially subterranean. The design of the additional dwelling now proposed would neither fit with these other modern houses nor complement Overdale itself.
- 4.1.10 Regarding garden infill the NPPF says "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area". The Town Council believes further garden infill on the hillsides to the west and east of Church Stretton should be avoided, especially in the conservation area. This additional dwelling would have the potential to contribute to overdevelopment within

the curtilage of Overdale.

4.1.11 There are also concerns that:

- Altering the existing entrance by widening the driveway and moving the gates would encroach into the rooting area of protected trees.
- The steep new driveway would increase surface water run-off, affecting the development itself as well as Brereton House and other neighbouring dwellings. Already there is extensive hard surfacing at Overdale, and in the past run-off from the Clive Avenue area has affected properties along Watling Street South.
- Access for refuse collection and emergency vehicles would be difficult.
- The Edwardian pergola and its extraordinary wisteria could be damaged or destroyed.
- The new driveway would destroy the original symmetrical design of the garden, which adds greatly to appreciation of Overdale itself.

4.1.12 Severn Trent Water – comment:

No objection subject to a standard condition requiring prior approval of surface water and foul drainage systems.

4.1.13 Shropshire Council Conservation Officer – objection:

The large Edwardian villa of Overdale was once extremely prominent in the locality. It has lost some of its prestige as a result of the subdivision of its grounds and the encroachment of large dwellings on either side. However, it does lie within the recently extended conservation area, whose appraisal states:

- Overdale is one of the best Church Stretton mansions, with plenty of architectural bravura and extensive formal gardens.
- Clive Avenue is a wide road by Church Stretton standards with little contrast in its sense of enclosure. At the top of the street the architecture is quite ordinary but there is a sense of openness with striking views to the northwest. At the junction of Kenyon Road the feel is one of enclosure although the houses are actually more widely spaced here.
- Most of the rest of the conservation area is characterised by high status suburban developments of the early 20th Century, or at least evidence of planning for such development. Some properties are arranged along previously existing roads such as Watling Street and Hazler Road, whilst others were developed off new roads including Clive Avenue. In all cases the variety of the plot sizes, the imagination of the architects, the topography and the sheer practicality and economics of building on some of the plots resulted in an enormous variety of houses.

4.1.14 The 1937 Ordnance Survey map shows the house prior to any development within its immediate grounds, thus revealing the original extent of the formal gardens. Despite the site having now been carved up the property still retains a large formal garden which is considered equal in stature to the building itself, albeit diminished. Aerial views and GIS mapping clearly portray the prominence of the gardens and their importance within this historic landscape.

4.1.15 At the pre-application stage the Historic Environment Team expressed grave concerns regarding loss of the formal gardens and overdevelopment of the site.

Despite the principle having been established already by other 'backland' development it was argued that the site is extremely sensitive. It was suggested that further development would destroy a surviving physical reference to the building's identity, former glory and presence in the town, and that it would put too much pressure on the area's peaceful rural character.

- 4.1.16 The final proposals are similar in principle to those submitted at the pre-application stage. The new dwelling does sit far lower than 'Overdale' and would be contained within the bottom section of its garden, allowing the majority to be retained with Overdale itself. This positioning means that the impact on the conservation area as perceived from the road would be fairly minimal, although in the wider context it is felt that the pressure of development in this area would be detrimental to the character and appearance Church Stretton. It is suggested that further advice should be sought in relation to landscape impact.
- 4.1.17 Shropshire Council Tree and Woodland Amenity Protection – comment:
A number of public comments express reservations over possible impacts on the two protected trees (pine and Douglas fir) alongside the site entrance off Clive Avenue. Having visited the site and discussed this issue with the applicant the Tree Officer understands that the first set of gateposts would not be moved and that the driveway would not be widened at this point. Consequently there should be no disturbance to these trees, although this would require monitoring. Additionally any amendments to or variation of the plans should be subject to further assessment/ approval, to be secured by condition.
- 4.1.18 Concerns have also been raised in relation to a Monterrey cypress at one of the neighbouring properties, Caradoc. On paper these concerns were shared, but during the site visit it was noted that the proposed parking area for the new dwelling is at least a metre above Caradoc's garden and separated by a retaining wall. It is therefore unlikely that the roots of the cypress would be affected significantly by minor surface changes. That said, the root protection areas of this and other trees on the boundary with Brereton House may well extend into the northern section of the building plot, in which case a construction exclusion zone would need to be identified. A tree protection plan should therefore be required by condition, as should confirmation that the protective measures have been established.
- 4.1.19 A magnificent wisteria grows along the pergola defining the western boundary of the site. This adds maturity and character to the amenity of the conservation area, and would provide a significant screen for inward views from the wider town and hills. Since the wisteria is a vine and not a tree it cannot be protected with a preservation order, although it is suggested that its retention is included as part of an approved landscaping plan.
- 4.1.20 Whilst it is not necessarily the role of the Tree Service to comment on landscape character, the AONB management plan and Town Design Statement have identified the importance of sustainable landscaping in Church Stretton and the Tree Service has an interest in the perpetuation of tree cover. With this in mind it is pleasing to note that the agent's Design and Access Statement expounds the importance of protecting, conserving, restoring and enhancing the natural, built and historic environment.

4.1.21 Section 19 of the Statement refers directly to appropriate and heavy landscaping with careful selection of trees, whilst the conclusion states that the proposal fully reflects the aims and objectives of Core Strategy Policy CS6 in that the design and landscaping will enhance the conservation area's character and appearance. As yet this has not been substantiated with firm landscaping proposals, and the site has only limited space for effective long-term structural landscaping. In light of this landscape mitigation/improvement needs to be considered and designed by a competent person, although it is also noted that the developer owns adjoining land which could provide space for landscaping. Conditions should be used to secure details before development commences and to ensure implementation prior to occupation. From an arboricultural perspective the details of any proposed tree planting should reflect good practice as set out in BS 4585.

4.1.22 Shropshire Council Ecology – no objection:

The application includes an ecological assessment which describes ponds at and close to the site. These are considered unsuitable for great crested newt breeding and there are walled barriers to newt movement. However, since the site itself does have good potential terrestrial habitat an informative regarding the legal status of the species should be included as a precaution.

4.1.23 Because perimeter trees are likely to be used by bats for foraging and commuting external lighting should be controlled by condition. Additionally shrubs at the site could be used by nesting birds, and so artificial nests should be secured through a further condition.

4.2 **Public comments**

4.2.1 Objections from sixteen separate households raise the following concerns:

- The NPPF discourages garden infill where it would harm the local area.
- Given Overdale's significant local historic and architectural importance and the number of large properties constructed already in its grounds, the current proposal is a step too far in terms of housing density and overdevelopment.
- Recent building projects have already compromised the character of Clive Avenue.
- Overdale was one of the first properties to be constructed during the planned Edwardian expansion of Church Stretton. The historic and amenity value of both the house and its garden is referenced specifically in the town design statement, whose Policy A3G2 states "any further development proposals relating to Overdale should respect the character and its setting within an Italianate garden".
- Clive Avenue was laid out by the Church Stretton Land Company who it seems recommended the eminent Shropshire architect A. E. Lloyd Oswell to their clients. Overdale is very much a characteristic product of his office, and its symmetrical design anchors the formal garden. This was laid out at a turning point in English garden history when there was a revival of 'Old English' gardens of the type associated with Elizabethan and Jacobean houses. These combined naturalistic planting with geometric design and hard landscaping and complemented many Arts and Crafts style properties. Overdale is one such house, whose not irretrievably modified frontage still overlooks the substantial

remains of its formal garden. Shropshire has few other Arts and Crafts gardens still attached to their original house, and in view of this Overdale should be listed and its garden registered as being of special historic interest.

- The appeal decision relating to the previous development within the grounds of Overdale recognised that its formal front gardens were the most significant and assumed that these would be retained. Only the absence of a conservation area designation at the time made it difficult to object to that development on heritage grounds. This application now proposes to remove a considerable portion of the surviving garden, and the recent expansion of the conservation area should be sufficient grounds for refusal.
- Historic photos show the pond, rose garden and pergola forming the main focus of the lower gardens. Whilst the garden has been allowed to deteriorate during the course of the adjacent development this makes it all the more important to retain what survives. The development could damage the roots of the wisteria (which should be safeguarded with a tree preservation order) and there is no clear indication of the intention for the pergola itself.
- The scheme would affect several protected trees, including a Monterrey cypress in the neighbouring property Caradoc and a large oak alongside the site entrance. The former's roots are likely to spread under the site of the proposed house, whilst the latter's would be affected by the need to widen the access.
- Overdale and its garden provide a focal point to views across the town, including from the top of a small landscaped park above The Old Rectory which is attributed to 'Capability' Brown. The proposed house would detract from these views by reducing the area of garden closest to the town and obscuring other parts, whilst its driveway would spoil the symmetry of the area retained by Overdale itself by truncating its terraces and yew hedges.
- By disrupting these longer-range views, as well as outward views from Overdale itself, the development would detract from the Shropshire Hills AONB of which Church Stretton lies at the heart.
- The balcony of the proposed dwelling would directly overlook Brereton House's rear and side gardens, attic bedroom, rear rooms and lounge windows, although retention of the pergola and supplementary planting would go some way to address this.
- The additional plan submitted in July in an attempt to address overlooking concerns is inaccurate in that it shows the boundary fence higher in relation to the bay window of Brereton House than it actually is. This suggests the level of Brereton House itself is misrepresented, bringing into question the accuracy of the earlier plans as well. A topographical survey is necessary to establish the actual impact of the development and what level of screening would be needed.
- The development would restrict views from and overlook the new properties west and north of Overdale.
- The long access drive would pass close to four other properties, including the garden to be retained by Overdale. Vehicle noise, fumes and headlight glare would increase significantly, particularly since the driveway would be enclosed by stone walls.
- Contrary to the submitted plans, the bottom stretch of the boundary with neighbouring Caradoc is marked by a low wooden fence rather than a solid wall. This would worsen the impact of the parking area, rendering Caradoc's

garden unusable.

- Residential amenity in Overdale itself would be adversely affected, and this may not be tolerated by future owners/occupants.
- The proposed driveway may be too narrow and steep for access by the emergency services, contrary to Core Strategy Policy CS6.
- The narrow carriageway and lack of a footpath at the lower end of Clive Avenue make it unsuitable for any further traffic.
- Surface water from at least one of the houses built recently drains into a narrow pipe running down to Watling Street South. During heavy or prolonged rainfall the water overflows onto Jane Wood Drive. In this case similar problems should be avoided by securing appropriate details upfront or by condition, and ensuring that the system is installed correctly.
- Other neighbouring gardens are frequently waterlogged and further hard surfacing would worsen the situation.
- Foul drainage may be difficult as the site is well below the level of the mains sewer along Clive Avenue.
- The site is only four metres from ponds in the garden of neighbouring Caradoc. These contain great crested newts, which may use the application site as a feeding/semi-hibernation area.
- Unsympathetic development such as this will reduce the town's tourist appeal.
- Some of the support comments may have been canvassed by the applicant.

4.2.2 Two neutral responses, including one from the Clive Avenue Residents' Association, make the following comments:

- The proposed house would not be seen from Clive Avenue and so would have no visual impact on the street scene.
- Only a fragment of Overdale's original garden remains, and this generally has insufficient merit to warrant preservation. However, the stone pergola and wisteria around the perimeter should be retained as the principal feature of the new house's grounds, particularly since they would provide immediate maturity to views from some of the neighbouring properties.
- Construction should be managed to ensure all materials, contractors' vehicles and building equipment are stored inside the boundary of Overdale, ensure toilet facilities are provided for the workforce, avoid burning or burying of waste material on site, and control working hours and timing of deliveries.
- Adequate soakaways and other measures (e.g. permeable surfacing of the access drive, rainwater harvesting and grey water recycling) should be used to mitigate drainage problems for properties below.

4.2.3 Six separate households support the scheme for the following reasons:

- The scheme is well conceived. The house design would complement the surrounding architecture and the property would sit low down so that it would not be visible from Clive Avenue. The impact on the character and appearance of the conservation area would therefore be minimal.
- The comparatively low ground level also means the development would avoid encroaching significantly on views from across the valley.
- Overdale still stands in 1j acres of land, an area in which two dwellings could hardly be classed as overdevelopment.
- The plot is of comparable size to those approved previously within the former

grounds of Overdale.

- The conservation area designation does not rule out sympathetic development, and imaginative infill schemes such as this are preferable to further “boxes in fields”.
- Whilst many people would wish to turn back the clock and recreate Overdale’s beautiful Italianate gardens set in thirty-plus acres, the fact is these gardens have not existed for many years, having fallen into disrepair long before the recent infill development began.
- Although Overdale is a lovely Edwardian house it does not have sufficient architectural merit to warrant listing, and according to the Planning Inspector who allowed the previous development English Heritage [now Historic England] had little interest in preserving the original Italianate garden even at that time.
- A 2012 planning permission for a large orangery and underground swimming pool directly in front of Overdale (ref. 11/05318/FUL) effectively supplanted any concerns over keeping what was left of the formal gardens.
- The development would allow the restoration of the surrounding gardens to be completed and effectively ensure no further development could take place within the curtilage of Overdale.
- It is understood that the wisteria tree would in fact be retained.
- The development would be almost hidden by its position and would not obstruct views from Overdale itself or other neighbouring houses.
- Clive Avenue actually has a very low volume of traffic.
- Drainage is not an issue unique to this particular development, as the site is roughly midway between Clive Avenue and Watling Street South with houses both above and below. If there are wider problems these should be addressed accordingly, but the impact of the current proposal would be marginal.
- The context of this application differs from that of the previous scheme for the new dwellings on either side of Overdale in that it is made by the homeowner rather than by an external developer.
- Further family homes are needed in this area.
- Given the planning history it is perhaps mention of the name ‘Overdale’ which clouds people’s judgement and prevents objective consideration of the proposals.
- Many of the objectors do not live in the vicinity of the site.

5.0 THE MAIN ISSUES

- Principle of development/affordable housing
- Layout, scale and design/impact on historic environment
- Impact on AONB
- Residential amenity
- Access and highway safety
- Drainage
- Ecology
- Other matters raised in representations

6.0 OFFICER APPRAISAL**6.1 Principle of development/affordable housing**

- 6.1.1 The site is located in an established suburb inside the development boundary of Church Stretton, which is one of south Shropshire's larger, 'sustainable' settlements. In principle, therefore, new open-market residential development is acceptable subject to the requisite affordable housing payment (see Paragraph 4.1.4).
- 6.1.2 Officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) which advised against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of appeal cases, although the Council contended those decisions did not set a binding precedent since the evidence underpinning its adopted Core Strategy Policy CS11 had not been considered fully as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution should continue to be sought in all cases in accordance with Policy CS11 and the Housing SPD.
- 6.1.3 Here the applicant has indicated a willingness to enter into a legal agreement to secure the contribution. Planning permission would only be granted once this agreement has been signed.

6.2 Layout, scale and design/impact on historic environment

- 6.2.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places on local planning authorities a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by Part 12 of the NPPF, which states that great weight should be given to conserving designated heritage assets. Paragraph 133 sets out the exceptional circumstances in which substantial harm to or total loss of a designated heritage asset might be acceptable, whilst Paragraph 134 explains that less than substantial harm should be weighed against the proposal's public benefits, including securing the site's optimum viable use. Paragraph 138 confirms that the loss of a building or other element which makes a positive contribution to a conservation area should be treated as either substantial harm under Paragraph 133 or less than substantial harm under Paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the area's significance as a whole. Similarly the Council's Core Strategy Policies CS6 and CS17 require development to protect, restore, conserve and enhance the historic environment, taking into account the local context and character and those features which contribute to it.
- 6.2.2 Overdale's history and significance are described in some detail in the Heritage Statement which accompanies the application, and also in an appraisal prepared by an architectural and garden historian on behalf of several of the objectors. Officers acknowledge that the property is an exemplar of Edwardian architecture, is of considerable local historic interest and is still fairly prominently sited within the wider townscape. It therefore contributes significantly to the character of Church Stretton as a whole. On the other hand the Department for Culture, Media and

Sport has in the past determined that the house lacks sufficient merit to justify designation as a listed building, and nor are its gardens included in Historic England's Register of Parks and Gardens of Special Historic Interest. In considering the previous appeal case the Planning Inspector did suggest that a conservation area designation might have allowed more weight to be given to retaining the former gardens under erstwhile South Shropshire Local Plan Policy E1, which referred specifically to protecting the district's historic parks and gardens and not just those which are registered. However, whilst Overdale is now included in the enlarged conservation area Policy E1 has been superseded, the extent of the garden is already much reduced and it is far less prominent than it once was, particularly from Clive Avenue.

- 6.2.3 Planning case law has established that in order to demonstrate a material effect on a conservation area's character and appearance there has to be some consideration of visibility, or lack of it. In this instance the level of the proposed house means that it would be barely visible, if at all, from Clive Avenue, and hence would have no significant impact on the street scene or on public perceptions of spaciousness and housing density in this part of the conservation area. Similarly it would not impinge to any significant degree on views from across the valley, being set well below the level of Overdale with its iconic half-timbering, and partially screened by the wisteria-cloaked pergola around the site's northwest perimeter (additional plans now show this retained). There would be some further disruption to the layout and symmetry of the retained part of the garden, but this would be to a lesser extent than would have been caused by the orangery/swimming pool extension approved in 2012 and would not be readily apparent in the distant public views. Meanwhile the historic semi-circular boundary of the formal gardens would remain discernible in aerial photographs and mapping and is reflected in the design of the proposed house, and thus the Conservation Officer's objection is not considered to be particularly convincing.
- 6.2.4 With reference to the Church Stretton Town Design Statement, which was endorsed by South Shropshire District Council and is a material consideration, Design Guideline A3G2 does not rule out further development at Overdale but, as noted by objectors, requires it to respect the character and setting of the house. For the reasons explained above officers are reasonably satisfied that the proposed scheme would achieve this aspiration.
- 6.2.5 The design combines vernacular and contemporary elements reasonably successfully. It uses symmetrical projecting gables and contrasting materials to break up the bulk and massing and reflect Overdale itself whilst also appearing subservient. High quality finishes, joinery and other aspects of detail could be controlled by condition.
- 6.2.6 Potentially the conservation area could be harmed by the premature loss of significant trees as a result of development encroaching into their root protection areas. However, as summarised above the Tree and Woodland Amenity Protection Officer considers that the adjacent trees subject to preservation orders could be safeguarded satisfactorily through a tree protection plan. The wisteria is not a tree but the stated intention to retain it could be reinforced as part of a landscaping condition. It is, however, acknowledged that there would in fact be little space for

supplementary planting.

6.2.7 Clearly Overdale and its gardens are held in high public esteem, and officers concede that the case is finely balanced. However, given the difficulty in substantiating demonstrable harm to the character and appearance of the conservation area as perceived from public viewpoints, and the lack of any designation specific to Overdale itself, it is suggested that the impact on the historic environment would not be so severe as to outweigh the planning benefits in terms of increasing housing supply and focussing new development in sustainable locations.

6.3 **Impact on AONB**

6.3.1 The NPPF indicates that great weight should be given to conserving landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in this regard.

6.3.2 In considering the previous appeal case the Planning Inspector noted that when travelling along Clive Avenue the impression of the area is one of a residential suburb. He also observed that, when seen from the town centre and other viewpoints across the valley, the wooded hillside is clearly interlaced with the urban fabric of the town and that this is a key aspect of the area's scenic beauty. Nevertheless he concluded that the new houses on either side of Overdale would in fact be seen against a backdrop of built development and would not result in any significant loss of tree cover. For the reasons discussed in Section 6.2, officers consider the same would be true of the current proposal. Meanwhile the outward vista framed by the pergola is a largely private view as opposed to one appreciable from public vantage points.

6.4 **Residential amenity**

6.4.1 In response to comments regarding overlooking of Brereton House, the closest of the neighbouring properties, the applicant's agent submitted further plans and sectional drawings. These indicated retention of the pergola and wisteria, sightlines from the proposed dwelling's balcony, and the presence of various trees and shrubs inside the neighbour's boundary. The neighbour remained concerned and questioned the accuracy of the levels shown, whilst officers felt that the vegetation might provide a less effective screen during the winter.

6.4.2 Subsequently the developer erected a scaffold representing the height of the balcony, from which officers were able to assess the relationship more accurately. It was confirmed that the angles of view would be largely as indicated on the agent's plans, with the wisteria providing a very effective screen when in leaf and also likely to filter winter views (when the balcony would also see less frequent use). However, in recognition of the fact that a quantity of the established vegetation would need to be removed to facilitate repairs to the pergola, it was suggested that lattice panels could be erected in the gap between it and the top of the boundary fence, as shown on the latest amended plans. It has also been confirmed by an arborist that wisteria responds well to pruning, which should in time thicken the vegetation at the top of the pergola. Thus, subject to a landscaping condition requiring a precise specification for the restoration and management of the pergola and wisteria, along with details of any supplementary planting, the

impact on Brereton House is, on balance, considered acceptable.

6.4.3 Rearwards and sideways views towards Overdale and the adjacent dwellings would be limited, with only a few high-level windows facing these directions. Additionally the new house would be 47 metres from Overdale, and any views of the adjacent properties would be oblique.

6.4.4 Neighbours would be able to hear cars travelling along the proposed driveway and may occasionally be aware of headlights. However, this is unlikely to amount to anything like a statutory nuisance or render adjacent gardens unusable, whilst fumes from low volumes of traffic would also be unlikely to have any significant impact. That said, in order to minimise noise and disruption during the construction phase it would be reasonable to require a construction management plan by condition.

6.4.5 In terms of amenity for prospective occupants, the plot would be smaller than those immediately adjacent but larger than many others along Watling Street and further afield. There would be sufficient space for on-site parking and refuse storage.

6.5 **Access and highway safety**

6.5.1 Since refuse would presumably be collected from the roadside there should be no requirement for direct access by collection vehicles. Access for the emergency services would be addressed under the Building Regulations.

6.5.2 With regard to highway safety along Clive Avenue, it is appreciated that traffic will have increased as a result of several other developments in the vicinity. However, officers' observations suggest the overall volume of traffic is still relatively low, and it is not considered that this proposal for one further dwelling would have any material effect.

6.6 **Drainage**

6.6.1 As noted above neither Severn Trent Water nor the Council's Flood and Water Management Team has any objection provided precise drainage details are secured by condition. The purpose of incorporating SuDS would be to mimic or improve current run-off rates to avoid exacerbating flooding elsewhere. However, this reasonably modest development cannot be held responsible for resolving existing problems in the wider area.

6.7 **Ecology**

6.7.1 The public comments regarding possible impacts on great crested newts have been reviewed by the Council's Ecologists, who maintain that the submitted ecological assessment is sufficiently comprehensive and that the existing boundary walls represent a barrier to any newt movement towards the site. The comments regarding bats and nesting birds are addressed by the suggested conditions 9 and 10.

6.8 **Other matters raised in representations**

6.8.1 Notwithstanding the location within the AONB, it is unlikely that this development would have any significant or demonstrable impact on tourism.

6.8.2 The Council has no means of verifying the origin or authenticity of the public representations, although it is noted that the application has attracted comments both for and against from within the local community and further afield. Ultimately it is the issues raised which are important.

6.8.3 Finally, the developer's motives are not a material planning consideration and should be given no weight.

7.0 CONCLUSION

7.1 The scheme is acceptable in principle since the site is in an established residential area within the development boundary of a sustainable settlement. With regard to the historic environment, Overdale is undoubtedly of local historic and architectural interest and the development would have some impact on its surviving formal gardens and therefore setting. However, the effect on the character and appearance of the conservation area and wider AONB as perceived from public vantage points would in fact be fairly minimal, and certainly "less than substantial". Meanwhile initial reservations regarding residential amenity have now been addressed to officers' satisfaction, and there are no undue or insurmountable concerns in respect of highway safety, drainage or ecology. On balance, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to a legal agreement to secure the requisite affordable housing contribution and to conditions to reinforce the other critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

8.1.1 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

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

8.3 **Equalities**

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

10.0 **BACKGROUND**

Relevant Planning Policies:

National Planning Policy Framework:

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS1: Strategic Approach

CS3: The Market Towns and Other Key Centres

CS6: Sustainable Design and Development Principles

CS11: Type and Affordability of Housing

CS17: Environmental Networks

CS18: Sustainable Water Management

Supplementary Planning Documents:

Type and Affordability of Housing

'Saved' South Shropshire Local Plan Policies:

SDS3: Settlement Strategy

S1: Housing Development

Emerging SAMDev Policies:

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development
 MD12: Natural Environment
 MD13: Historic Environment
 S5: Church Stretton Area Settlement Policy

Relevant Planning History:

SS/1/05/17466/O – Erection of four dwellings and formation of two vehicular accesses (refused October 2005; appeal allowed January 2007)

SS/1/07/19441/RM – Erection of four dwellings and formation of two vehicular accesses (permitted May 2007)

SS/1/07/19961/F – Erection of four dwellings (amendments to previously approved scheme) (permitted October 2007)

10/00931/AMP Non-material amendments to planning permission SS/1/07/19961/F (part approved; part refused, June 2010)

10/04147/FUL – Erection of detached dwelling (amendment to house type approved previously (permitted November 2010)

10/04504/FUL – Conversion of existing coach house into separate dwelling; erection of extensions and alterations (permitted December 2010)

11/05318/FUL – Erection of two-storey rear extension following demolition of existing conservatory; erection of attached garage (permitted January 2012)

11/05467/FUL – Conversion of existing coach house into separate dwelling; erection of extensions and alterations (amended scheme) (permitted January 2012)

13/02305/FUL – Erection of detached garage; erection of single-storey extension to side elevation; alterations to existing conservatory; formation of outdoor swimming pool (permitted July 2013)

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NJBBLZTDIB100>

List of Background Papers: Application documents available on Council website
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Members: Cllr Lee Chapman Cllr David Evans
Appendices: Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. No development shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details and thereafter maintained in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

4. No development shall commence until samples/details of the roofing materials and finishes, to include tiles, ridge tiles and detailing of eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and maintained thereafter in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the external appearance of the development is satisfactory and safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

5. No development shall commence until precise details/samples of all windows, doors, roof lights and other external joinery, to include details of window styles, glazing bars, mullions and sill mouldings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved

details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

6. No development shall commence 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, and shall include provision 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
 - iv. the erection and maintenance of security fencing/hoardings
 - v. wheel washing facilities
 - vi. control of dust, dirt and noise emissions during construction
 - vii. timing of construction works and associated activities
 - viii. recycling/disposal of waste resulting from demolition and construction works

Reason: To safeguard the residential amenities of the area, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

7. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
- Identification of existing trees, shrubs and hedgerows which are to be retained
 - A tree protection plan in accordance with BS 5837:2012, and which includes identification of an appropriate construction exclusion zone and tree protection fencing
 - Provision for notifying the local planning authority of the establishment of the agreed tree protection measures
 - A detailed specification for works to restore the existing pergola shown to be retained on the approved plans, and for the management/protection of the wisteria which grows along it.
 - Details/schedules of proposed planting
 - Details of the type/construction and positions of all walls, fences, trellises, retaining structures and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation

The landscaping works shall be completed in accordance with the approved details. Thereafter, all fences, trellises, walls, hardstandings and other hard landscaping features shall be maintained in accordance with the approved details in the absence of any further specific permission in writing from the local planning authority, whilst any

trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, to preserve the character and appearance of the Church Stretton Conservation Area, and in the interests of residential amenity, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

8. No development shall commence until precise details of drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
- Percolation test results and sizing calculations for the proposed surface water soakaways, to accord with BRE Digest 365
 - Provision for installation of a silt trap or catch pit upstream of the drainage field
 - Details of other Sustainable Drainage Systems (SuDS) to be incorporated
 - Details of the means of foul drainage
 - A drainage layout plan

The approved scheme(s) shall be implemented in full prior to the first use/occupation of the development, and shall thereafter be maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the development is provided with satisfactory means of drainage and avoid causing or exacerbating flooding or pollution on the site or elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Prior to the first use/occupation of any part of the development hereby permitted, two Woodcrete (or direct equivalent) artificial nests suitable for use by small wild bird species shall be installed at the site in accordance with the manufacturer's instructions. These shall be maintained thereafter for the lifetime of the development, in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To compensate for the potential loss of nesting opportunities for wild birds as a result of the development, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

10. No external lighting shall be installed or provided on the site other than in strict accordance with a detailed scheme which shall first be submitted to and approved in writing by the local planning authority. This shall be designed so as to take into account the guidance contained in the Bat Conservation Trust document 'Bats and Lighting in the UK'.

Reason: To minimise potential disturbance to commuting and foraging bats, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 21 of the Town and Country Planning (Development Management Procedure) Order 2015 a fee (currently £97) is payable to the Local Planning Authority for each request to discharge pre-start conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. This consent should be read in conjunction with the legal agreement under Section 106 of the Town and Country Planning Act 1990 which refers specifically to the development.
3. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
4. Before any connection to the public foul sewer is made, consent from the service provider must be obtained.
5. Great Crested Newts are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a great crested newt be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
6. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
7. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.

8. 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.

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Committee and date

South Planning Committee

1 December 2015

Development Management Report

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

Summary of Application

Application Number: 15/00614/FUL	Parish:	Broseley
Proposal: Erection of one block of six apartments		
Site Address: Land Adjacent To The Apartment Block The Woodlands Jackfield Shropshire		
Applicant: Kaw Projects Ltd		
Case Officer: Thomas Cannaby	email: planningdmse@shropshire.gov.uk	

Grid Ref: 368452 - 302833

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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and subject to a S.106 agreement being entered into to secure the management of the dwellings as affordable units in perpetuity.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is for the erection of a block of six apartments to be provide affordable housing on the southern side of the existing housing development at the Woodlands. The proposed building has been amended since the original submission, with the proposal now being for a building of similar scale and design to that of the existing apartment building which it would be located next to, albeit with a deeper span and some different detailing in the fenestration. Each of the six apartments would contain two bedrooms, a bathroom, kitchen and a lounge/dining room, and all would be accessed from a central stairway. The accommodation would be over three storeys, with two apartmernts per floor, with the second floor contained predominantly in the roof space lit by roof lights and, in the case of one apartment, a window in a west facing gable. The main dual pitched roof ridge would run 'north east – south west' parallel with that of the existing apartments to the north. At the southern end of the proposed building a gable feature to the fron and rear elevations would align the ridge of this section at 90° to the main roof area, with a sloping roof plane rather than a full gable end being a feature of the south elevation.
- 1.2 The development would include 9 parking spaces to the front of the site, and retaining walls at the side and rear to accommodate changes in ground levels. A number of trees along the side and front boundaries would be removed as part of the development.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located the development boundary as shown on the Broseley area inserts of the SAMDev plan, and also located within the Severn Gorge conservation area and world heritage site buffer zone.
- 2.2 The site is accessed through the existing housing development at the Woodlands, with the building being located towards the south of this development, and with residential development to the west and south with individual dwellings bordering the site in these directions, and with the land rising towards the east to a wooded area running behind the Woodlands development.
- 2.3 The site of the building is an area of uneven land, currently unkept and covered in vegetation, with the land rising sharply towards the south and east of the site. The construction of a building on this land would require cutting into this land and construction of retaining walls to provide a level area to build on.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application is referred to committed following objections from the Town Council and at the request of the Local Ward Member.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Broseley Town Council - 20th April 2015

Object for the following reasons:

- a. The design is inappropriate in the World Heritage Site. Reference is made to a previous application for the site, number 04/0915/FUL, in particular the comments made about design requirements and the high standards applied.
- b. Little attempt appears to have been made to harmonise this proposal with the existing apartment block and the design detracts from the character of the existing development.
- c. The parking proposed in the amended application (6 places for six two bedroom apartments) is inadequate and fails to conform to Shropshire Council Saved Local Parking Standards Supplementary Planning Guidance 2004 (1.5 spaces in communal parking situations). It is not clear whether the reduction in the parking area made by the amended plan still allows the required 6m aisle width.
- d. Councillors are concerned that inadequate investigations have been carried out into ground stability and possible ground contamination.
- e. Adverse arboricultural impact.
- f. The scale of the development is too high density.
- g. The application fails to satisfy condition H7 in the Broseley Town Plan relating to affordable housing: "Proposed sites must be easily accessible to the main services in the town centre." The site is not close to shops and services and there is no continuous pavement to the nearest facilities.
- h. Comment: no discussions seem to have been held with the management company responsible for the private access roads in The Woodlands.

6th May 2015:

Councillors maintained their objections to this development.

- a. The design was an improvement on the previous version and was more sympathetic to the neighbouring block. However, the proposed development was still too high density for this site.
- b. Councillors were pleased that additional parking had been provided but questioned the feasibility of the layout.
- c. Councillors echoed the concerns of Mr Plant regarding the safety and structural stability of the retaining wall.
- d. The applicant's assertion that there was a bus to Broseley and Telford every 15 minutes was incorrect. Buses ran only once per hour with no service on Sundays.

6th August 2015:

Reiterated comments made on 6th May.

4.1.2 SC Drainage –

The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

1. Drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.
Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.
2. A plan should be submitted for approval showing exceedance flow routes to ensure that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.
Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.
3. If non permeable surfacing is used on the driveways and parking areas or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.
Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.
4. The use of large diameter pipes and crate storage together with a large number of chambers is likely to prove to be an expensive solution in terms of both construction and maintenance. The sites topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable.
Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.
5. On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level.
Reason: To minimise the risk of surface water flooding.

Informative

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

4.1.3 SC Archaeology –

The proposed development site is located within the known extent of a brick

and tile works (PRN 07240) thought to have its origins in the 17th century. Previous archaeological evaluation for earlier phases of the development concluded that due to the extensive and lengthy use of the site and its environs it is possible that remains beneath the present ground level would be fairly extensive. The site also lies within the extent of the inscribed World Heritage Site of Ironbridge.

The proposed development site can therefore be deemed to have some archaeological potential.

RECOMMENDATION:

In view of the above and in accordance with the National Planning Policy Framework (NPPF) Section 141, it is recommended that a programme of archaeological work, to comprise a watching brief during any ground works associated with the proposed development, be made a condition of any planning permission for the proposed development. An appropriate condition of any such

consent would be:

Suggested Conditions:

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

4.1.4 SC Conservation –

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable. Conditions should include samples of external materials, joinery details, roof details, conservation rooflights, metal rainwater goods and a detailed landscaping and tree planting scheme.

4.1.5 SC Housing –

There is a need for 2 bedroomed accommodation for rent within the area, we note that the properties will be for social (or affordable rent) which we can support and will be subject to a Section 106 Agreement

4.1.6 SC Ecology –

I have read the above application and the supporting documents including the Ecological Site Assessment conducted by Arbtech (November 2015).

Recommendation:

Please include the conditions and informatives below on the decision notice.

Reptiles

Due to the size of the development area SC Ecology recommends that a Reptile method statement is conditioned on the decision notice and that works are carried out as approved. The following condition and informative should be on the decision notice;

Condition

No development, demolition or site clearance procedures on the site to which this permission applies shall commence until a report has been submitted to, and approved in writing by, the local planning authority detailing how the development, demolition or site clearance procedures will incorporate reasonable avoidance measures that minimise the risk of injury or death of slow worms, common lizards, grass snakes and/or adders.

Reason: To ensure compliance with the legislation pertaining to widespread reptiles.

Informative

The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

Site workers should be made aware that any deliberate or reckless harm to reptiles is illegal. Careful site clearance can minimize the risk to these species.

Informative

If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.

Nesting Birds

The site has the potential to support nesting birds. The following condition and informative should be on the decision notice.

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

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

Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of

bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Bats

The site has the potential to supporting foraging and commuting bats. The following condition an informative should be on the decision notice.

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.

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

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

Badgers

No evidence of badgers has been recorded within 30m of the proposed development site. The following informative should be on the decision notice.

Informative

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

4.1.7 SC Trees –

I have reviewed the revised plans and tree report and I can confirm that they satisfactorily address the outstanding concerns raised in my previous consultation response, in that the ownership of trees T14, T15, T16 and groups G1 and G2 and the intentions towards them has been clarified.

I consider the loss of trees T14 and T15 and group G1 to be acceptable, provided suitable and appropriate replacement planting is undertaken to compensate for their loss, should permission for this development be granted.

Parts of the root protection areas (RPAs of offsite tree T16 and group G2 project into the site; however, I consider that the degree of incursion into those RPAs will be small enough so as not to cause long-term damage or harm to those affected trees, providing any approved development is implemented in accordance with the approved drawings (KAW/PL/2015/001 Rev G).

Unfortunately, before I am in a position to recommend approval in accordance with the revised tree report (Access 2 Trees, 28th October 2015 [revised from 6th May 2015]), it still needs further amendments, as follows: The plan showing trees to be removed with red arrows (p18) needs amending to include trees T14, T15 and G1; and the plan showing the site after the removal of the trees (p19) needs amending to show those trees as having gone and a suitable tree protection barrier to be installed along the site boundary to protect the RPAs of offsite tree T16 and group G1. It is important that these revisions are made because these will be the tree protection details with which any approved development should be carried out.

Once the plan has been satisfactorily revised, I would be happy to provide recommended tree protection and planting conditions to be attached to any approval.

4.1.8 Coal Authority – no objection, but raised material considerations detailed in section 6.8 below.

4.1.9 Historic England –

Thank you for your letter of 15 April 2015 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

1. Your council should ensure that the proposal complies with your Council's policies for The Ironbridge Gorge World Heritage Site
2. Conditions should be imposed requiring your Council's prior approval of all external details, materials and finishes.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.2 - Public Comments (Summary of issues, full comments viewable on Council's website)

23 Objections:

- Building works will cause disruption to area.
- Will impede natural light to nearby properties.
- Overbearing impact on nearby properties.
- Potential overlooking of nearby properties.
- Increased traffic on the estate.
- Limited parking already, will make situation worse. No space for visitor parking within the site.
- Access onto Woodlands is not adopted road.
- Public transport in area not of a high standard of provision for new

- housing development to use.
- Loss of important trees on side and front boundary of site.
 - Detrimental impact on appearance of area.
 - Cramped, overdevelopment of site.
 - Building's details and design do not match the development on the Woodlands.
 - Design not in keeping with the original concept of the Woodlands development.
 - Not appropriate development for the Conservation area or World Heritage site.
 - Inadequate waste storage for bins.
 - Loss of greenspace
 - Concerns over land stability and historic mining in the area.
 - Large amount of excavation necessary to construct building, with large retaining wall required.
 - Full details of retaining walls should be provided.
 - Large concrete slab present in ground at rear of site, would require extensive works to excavate, with associated disturbance.
 - Concerns over run off from site to surrounding land.
 - Whilst affordable housing, this concentrates affordable dwellings into a block rather than integrates into the area.
 - Electric car charging points not compatible with affordable dwelling status.
 - Impacts on the ecological value of the site.
 - Existing Woodlands development not carried out to approved standards, concerns that this would be the case should this application be granted.
 - Inadequate landscaped buffer around site.
 - Previous schemes have been refused on the site for new build, and also a balcony on adjacent building for being an "intrusive feature".
 - Plans may be inaccurate and scheme is not commercially viable.
 - No details of service connections provided.
 - Questions accuracy of ground level details and levels shown on drawings.
 - Not previously developed land, as structures have blended into the landscape in the process of time.
 - Questions over land ownership, and ability to provide car parking spaces and tree protection measures at front of site.
 - Proposed dwellings are of a small scale and unduly cramped.
 - No amenity space provided for dwellings.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Landscaping and ecology
- Impact on heritage assets and archaeology
- Impact on residential amenity
- Highway safety

- Drainage and services
- Land stability
- Contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The Broseley Town Plan 2013-2026, although not part of the statutory Development Plan, is a material planning consideration which is referenced in the emerging Site Allocations and Management of Development (SAMDev) Plan, and this plan includes the application site within the development boundary for Broseley and Jackfield. The SAMDev Plan has now reached its final stage prior to adoption with the Final Report on the examination into that Plan having been received from The Planning Inspectorate. Considerable weight may now be given to the SAMDev Plan, which is likely to be formally adopted by the Council by the end of 2015. The Inspector's Final Report makes no changes to the Broseley Development boundary within which the application site is situated. Broseley is identified by Core Strategy policy CS3 as a settlement where housing development of an appropriate scale and design which respects the town's character may take place on appropriate sites. It would constitute a 'windfall' site which is allowed for under SAMDev Plan policy S4 for the Broseley area, and would be a re-use of previously developed land, albeit land which has not been in recent use and where previous development has been overgrown, which is one of the core planning principles at paragraph 14 of the National Planning Policy Framework (NPPF). Therefore, it is considered that there is no in principle planning policy objection to residential development on the application site in the new Development Plan context.

6.1.2 This application is for a development of affordable housing, which if permitted would be subject to a legal agreement to control this through a registered social landlord or housing association. Policy H7 of the Broseley Town Plan states that development of 100% affordable housing schemes will be supported outside the development boundary where the amenity loss is acceptable, the site is easily accessible to the town centre and where existing infrastructure can meet the needs of the development. H6 of the Broseley Town Plan states that inside the development boundary development should meet a minimum of 15% affordable housing (by financial contribution where less than whole dwellings) in line with Core Strategy policies CS9 and CS11. This development, by providing 100% affordable housing would meet the aims and objectives of these policies in the Broseley Town Plan in principle.

6.1.3 Whether or not the proposed scheme is acceptable therefore depends upon the assessment of the detailed matters set out below.

6.2 Siting, scale and design of structures

6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. It cautions at paragraph 60 that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds however that it is proper to seek to promote or reinforce

local distinctiveness. The themes of the NPPF are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also sees to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev policy MD2 (Sustainable Design) and MD12 (The Natural Environment) develop further the matters to be considered in relation to policies CS6 and CS17

- 6.2.2 There is a requirement under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in the carrying out of statutory functions. The Council's conservation officer advises that the amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable, and English Heritage have been consulted and have not raised any objection to the design of the development.
- 6.2.3 The proposed building makes reference to the existing apartment building on the site, to which it would be located adjacent to. The building would have similar proportions in terms of height (to ridge and eaves) as well as the overall footprint of the building being similar, although the proposed building would have a greater depth and project a small distance to the rear of the existing apartment building. Fenestration details are similar in style, but with a great number on the proposed building, and rooflights are set lower on the building on the front, side and rear elevations.
- 6.2.4 Whilst the design of the building does not entirely match that of the existing development, this is not considered to be a reason to refuse consent. The building clearly takes its design inspiration from the existing development and reflects the key architectural features and proportions of the building adjacent to the site and the materials used in external elevations can be controlled to ensure the development harmonises with the existing properties.
- 6.2.5 In terms of impact on the appearance of the Woodlands as whole, the building's proportions are in keeping with the adjacent block of apartments, with the development infilling a gap in the site, which whilst it provides an open area, this is currently overgrown, partially fenced off with a stark wooden fence and steeply slopes across the site and so has little value as amenity space other than by virtue of its openness. The proposed development would retain an open area to the side, to separate it from the site boundary, and retain a similar gap at the front and rear. The proposal would require extensive ground level alterations, and installation of retaining walls, however these would be mainly to the rear, away from any public elevation and close to the building where their impact would be less apparent from most distant views of the site. The retaining wall across the car park area would be of a modest height and would result in the end view of the road access being a brick wall as opposed to the current wooden fence, which is likely to be an improvement if appropriate facing bricks are used, which can be controlled by condition.

6.3 Landscaping and ecology

- 6.3.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. SAMDev policies MD2 and MD12 supplement these policies. Core Strategy policies CS6 and CS17 also seek to protect and enhance those features which contribute to local character, which includes trees in this locality.
- 6.3.2 The applicant has submitted an ecological appraisal of the site, on which the Council's ecologist has based their comments. The ecological site assessment determined that the site has potential for use as a habitat for reptile species, and therefore due to the size of the development area the Council's ecologist recommends that a Reptile method statement is conditioned on the decision notice and that works are carried out as approved. In addition to this the site has potential to support nesting birds and foraging and commuting of bats, and conditions can be attached to any consent to secure mitigation and enhancement measure to compensate for the impact of the development with regards to these issues.
- 6.3.3 The Council's arboricultural officers have reviewed the amended tree report (access2trees, 6th May 2015, amended version registered 24th July 2015 and updated 6th November 2015). The most recent proposal (to remove the majority of the existing trees within the applicants ownership and replant with a quality landscaping scheme of more appropriate species) to be a better solution arboriculturally than the originally proposed retention of existing trees.
- 6.3.4 As the tree report shows, the majority of the existing trees are in poor condition and, given the severe level changes within the site, they would have an overbearing presence on the proposed development, were they to be retained. In the opinion of the Council's arborist these circumstances would create an unsustainable juxtaposition of trees and building, leading to pressure for excessive pruning and ultimately removal of the trees.
- 6.3.5 The sycamore tree (T9), in the ownership of the neighbouring property Innisfree, can be successfully retained during the proposed development, which is located well beyond its Root Protection Area (RPA). Appropriate tree protection measures should be adopted during any approved development.
- 6.3.6 The Council's arborist's latest comments relate to the most recent update to the tree survey submitted, along with copies of the land registry plans showing the applicant's ownership of the site. These comments confirm that the tree survey as amended satisfactorily address the outstanding concerns raised in previous consultation responses, in that the ownership of trees T14, T15, T16 and groups G1 and G2 and the intentions towards them has been clarified. The loss of trees T14 and T15 and group G1 is considered to be acceptable, provided suitable and appropriate replacement planting is undertaken to compensate for their loss, should permission for this development be granted.
- 6.3.7 Parts of the root protection areas (RPAs) of offsite tree T16 and group G2 project into the site; however, it is considered that the degree of incursion into those RPAs will be small enough so as not to cause long-term damage or harm to those affected trees, providing any approved development is implemented in accordance

with the approved drawings (KAW/PL/2015/001 Rev G).

6.3.8 The consultation response from the Council's arborist makes the comments that the tree survey requires updating as follows:

"The plan showing trees to be removed with red arrows (p18) needs amending to include trees T14, T15 and G1; and the plan showing the site after the removal of the trees (p19) needs amending to show those trees as having gone and a suitable tree protection barrier to be installed along the site boundary to protect the RPAs of offsite tree T16 and group G1. It is important that these revisions are made because these will be the tree protection details with which any approved development should be carried out."

6.3.9 It is considered that these matters can be dealt with by conditions requiring submission of a consolidated and updated arboricultural survey, method statement and landscaping scheme being attached to any consent granted. The matters outstanding are not ones of principle or on the approach taken, but rather of providing details of how works would be carried out. These details can be secured by condition, and so this matter would not prevent a consent being issued on this basis.

6.4 Impact on heritage assets and Archaeology

6.4.1 In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS6 Sustainable Design and development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

6.4.2 The Council's conservation officer advises that the amended plans reflect the design style and form of the existing apartments on the site and are considered acceptable. Conditions should include samples of external materials, joinery details, roof details, conservation rooflights, metal rainwater goods and a detailed landscaping and tree planting scheme.

6.4.3 Historic England have considered the application and have submitted the following advice :

1. Your Council should ensure that the proposal complies with your policies for The Ironbridge Gorge World Heritage Site
2. Conditions should be imposed requiring your Council's prior approval of all external details, materials and finishes.

Historic England would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

6.4.4 The proposed development site is located within the known extent of a brick and tile works (PRN 07240) thought to have its origins in the 17th century. Previous archaeological evaluation for earlier phases of the development concluded that due to the extensive and lengthy use of the site and its environs it is possible that

remains beneath the present ground level would be fairly extensive. The site also lies within the extent of the inscribed World Heritage Site of Ironbridge. The proposed development site can therefore be deemed to have some archaeological potential.

6.4.5 In view of this and in accordance with the National Planning Policy Framework (NPPF) Section 141, the Council's archaeologist recommends that a programme of archaeological work, to comprise a watching brief during any ground works associated with the proposed development, be made a condition of any planning permission for the proposed development.

6.5 Impact on residential amenity

6.5.1 Core Strategy policy CS6 seeks to safeguard residential amenity. Given the orientation and siting of the building and location to the building in line with the elevations of the existing apartment block (with a slight projection past the rear elevation), the proposal would not have any significant impact on residential amenity of the apartment block to the north. There would be a degree of overlooking between the rear of the properties, however this would be no greater than between existing apartments, and no more than can be reasonably expected for domestic properties in most residential areas.

6.5.2 Being located north of the residential property to the south (Innisfree), the proposed development would not have any direct impact through loss of light on this property. Given the separation distances and the lack of side elevation windows, there would be no overlooking or loss of privacy. There are two rooflights shown in the hipped roof facing Innisfree, to serve a bedroom and kitchen area, but due to the height in the rooms are unlikely to allow any direct overlooking, and in any case a condition could be attached to any consent to ensure these rooflights are obscure glazed and fixed shut to a height of a 1.7m above floor level of the rooms they serve to ensure no direct overlooking.

6.5.3 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue has been addressed by a condition on the outline permission restricting hours of working to 07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays, Public or Bank Holidays to mitigate the temporary impact. A construction management plan would also be a condition on any consent to ensure that there are measures in place to address matters such as noise, dust, deliveries and road cleanliness during the construction period in order to mitigate these potential temporary impacts. An example construction management plan has been submitted for this application which details how the construction works would be carried out, this can be made a condition of consent that a construction plan be formally approved prior to commencement.

6.5.4 Whilst there is a limited amount of usable amenity land in the application, this has to taken in context of the type of development proposed and the scale of the units of accommodation, and is considered to be acceptable in this case.

6.6 Highway safety

6.6.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it

states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:

“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and saved Bridgnorth District Local Plan policy D6 states that development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

6.6.2 The site is accessed via the existing gated development of the Woodlands, with a surfaced area up to the site boundary. Concerns have been raised with regards to this access across the Woodlands site, however the access across the Woodlands would remain unchanged and the amount of traffic movements in relation to the occupation of the dwellings is unlikely to be of a level which would result in a significant impact on highway safety of vehicles crossing through the existing development, nor exiting onto the highway. A construction management plan, to be required by condition, can control vehicle movements during the construction phase of any development granted consent to minimise the impacts of this, however any construction project will generate additional traffic, but the impacts of this are temporary.

6.6.3 The proposed plans show 9 car parking spaces to serve 6 apartments. Whilst higher parking levels are desirable, the apartments proposed are of a modest size and would be 100% affordable housing and so a ratio of 1.5 spaces per dwelling is considered adequate, and in accordance with the parking standards of the former Bridgnorth District Council which remain in force in this area of Shropshire. Third party comments have questioned whether the car parking spaces adjacent to the front boundary are capable of construction within the applicant's ownership, however the applicant has supplied land registry plans showing this land is under their control. Layout and surfacing of car parking spaces can be conditioned as prior to occupation of the units to ensure delivery.

6.7 Drainage and Services

6.7.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The Council's Drainage Team have assessed the proposal and are content that the technical drainage matters could be addressed through conditions on any planning permission that is issued.

6.7.2 The manner in which connections would be achieved to the foul sewer and to other services would be a matter for a developer to negotiate with the relevant statutory undertakers and any third parties who may be involved.

6.8 Land stability

- 6.8.1 The Coal Authority have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
- 6.8.2 The applicant has obtained appropriate and up-to-date coal mining information for the proposed development site and has used this information to inform the Ground Investigation Report (undated), which accompanies this planning application.
- 6.8.3 The Report correctly identifies that the application site has been subject to past coal mining activity. The Report covers a wider site, much of which has been developed previously. The previous intrusive site investigation in the form of boreholes does not appear to include any that were specifically located on this latest application site. The Report in paragraph 5.2.1 identified that there is insufficient rock cover above the coal workings. It went on to recommend in 5.2.2 that mitigation in the form of grouting should be undertaken.
- 6.8.4 The Coal Authority concurs with the recommendations of the Ground Investigation Report; that coal mining legacy potentially poses a risk to the proposed development. Therefore The Coal Authority considers that further intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on this specific part of the site.
- 6.8.5 The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.
- 6.8.6 In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development. On the basis of such conditions being attached to any consent, the Coal Authority have confirmed they would have no objection to the proposed development.

6.9 Contamination.

- 6.9.1 Core Strategy policy CS6 seeks to secure safe developments. The NPPF at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing safe development rests with the developer and/or landowner. It continues at paragraph 121 that in making decisions there should be adequate site investigation information presented, prepared by a competent person. A Ground Investigation Report has been submitted. Given the historic use of the proposed site for industrial activities, along with known contamination issues on adjoining sites as well as reported issues with the original development of the Woodlands, it is recommend that full contaminated land conditions are imposed should this application be granted approval in order to ensure this matter is adequately addressed in the implementation of the

development.

7.0 CONCLUSION

7.1 The principle of residential development on land which includes the current application site has previously been accepted by the Council. The site falls within the Development Boundary for Broseley and Jackfield in the soon to be adopted SAMDev Plan, to which substantial weight may be attached at this final stage prior to adoption, and is also within the Development Boundary shown in the Broseley Town Plan 2013-2026. It would be a 'windfall' site contributing to the supply of housing land and the provision of 6 affordable dwellings adjacent to an existing residential development, on land which has had previous, albeit more recently abandoned, industrial use. The nature of the site means that there is limited amenity space for the new dwellings, but it is considered adequate for the nature of the accommodation proposed. It is acknowledged that the space within the application site to manoeuvre vehicles into and out of the parking spaces immediately adjacent to the west site boundary would be restricted, but a turning area would be available.

It is considered that on balance the proposed development, as amended, would not detract from the character or appearance of the Severn Gorge Conservation Area and World Heritage Site. The impact of the proposed development upon the residential amenities of adjacent properties is not considered to be to a degree that would warrant refusal. The proposals would not be detrimental to highway safety. Ecological and archaeological interests can be safeguarded by planning conditions, as can the measures to address on-site contamination and details of the foul and surface water drainage arrangements. A Section 106 Agreement would secure the management of the units as affordable housing in line with Core Strategy policies CS9 and CS11.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

Shropshire Core Strategy and saved Local Plan policies:

- CS3 Market Towns and other Key Centres
- CS5 Countryside and Green Belt
- CS6 Sustainable Design and Development Principles
- CS9 Infrastructure Contributions
- CS11 Type and Affordability of Housing

- CS17 Environmental Networks
- CS18 Sustainable Water Management
- D6 Access and parking

SAMDev Plan:

- MD2 Sustainable Design
- MD3 Managing Housing Development
- MD12 The Natural Environment
- MD13 The Historic Environment

Supplementary Planning Documents:

- SPD on the Type and Affordability of Housing

Other material considerations:

- Broseley Town Plan 2013-2026

11. Additional Information

View details online:

<http://new.shropshire.gov.uk/planning>

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

Ground Investigation Report
 Design and Access Statement
 Tree Report
 Ecological Site Assessment

Cabinet Member (Portfolio Holder)
 Cllr M. Price

Local Member - Cllr Dr Jean Jones

Appendices
 APPENDIX 1 – Conditions

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to the above ground works commencing samples and/or details of the roofing materials, the materials to be used in the construction of the external walls and hard surfacing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory, in the interests of the visual amenities of the area.

4. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings and depths of external reveals. All doors and windows shall be carried out in complete accordance with the agreed details

Reason: To safeguard the character and appearance of the conservation area and world heritage site.

5. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the character and appearance of the conservation area and world heritage site.

6. Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority: Foundation design and finished floor levels in relation to existing site ground levels. The work shall be carried out in accordance with such details as may be approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding the amenity and privacy of the occupiers of adjacent property.

7. Before development commences, details of all fences/walls to the application site and within or around individual curtilages within it, showing their appearance, materials and positioning, along with full engineering details and specifications of any retaining walls shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the visual amenities of the conservation area and world heritage site and to safeguard neighbour privacy and to ensure any retaining walls are of an adequate standard to perform their function.

8. Prior to commencement of development a final Tree Protection Plan shall be submitted to the Local Planning Authority, providing details of those trees to be felled and those to be retained and protected during implementation of the approved development. The tree protection measures shall be installed as specified on the plan approved in writing by the Local Planning Authority, prior to delivery of materials or access of construction vehicles onto the site. Thereafter they shall be maintained in a satisfactory condition throughout duration of the development.

Reason: These details are required before the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

9. Prior to commencement of development a final Arboricultural Method Statement shall be submitted to and approved by the Local Planning Authority, addressing the following items:
 - i. Site construction access
 - ii. The intensity and nature of construction activities.
 - iii. Contractors car parking.
 - iv. Phasing of on-site operations.
 - v. Welfare facilities (requirement and siting)
 - vi. Storage and mixing areas.
 - vii. Specification of tree works.
 - viii. Installation of structures within RPAs.
 - ix. Root pruning.
 - x. Tree Protection (barriers and ground protection)
 - xi. Tree Protection Plan (final version)
 - xii. Installation of specialist foundations if required.
 - xiii. Removal of materials, facilities, and protective measures for the final phase
 - xiv. Post construction tree works.
 - xv. Monitoring

The tree works shall be carried out and the development shall be implemented strictly in accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

Reason: This information is required prior to the commencement of development to avoid causing damage or harm to significant retained trees during implementation of development.

10. Prior to commencement of development, a planting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the species, numbers, location, planting specification and means of protection and support of the trees and shrubs to be planted in association with the development.

Reason: This information is required prior to commencement to ensure a satisfactory form of landscaping to the development.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out the first planting and seeding seasons following the first occupation of a dwelling within the development, and any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years from planting shall be replaced by another of similar specification, unless the Local Planning Authority gives written consent to any variation.

Reason; To ensure a satisfactory form of landscaping to the development.

12. Prior to the commencement of development, drainage details for the disposal of surface water and foul sewage shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

13. No development approved by this permission shall commence until a programme of archaeological work has been secured based on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.

Reason: The site is known to hold archaeological interest and as such the information is required prior to commencement to ensure that any archaeology is recorded and taken into account in the development of the site.

14. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

15. Contaminated land

a) No development shall take place until a Site Investigation Report assessing the nature and extent of any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

b) In the event of the Site Investigation Report finding the site to be contaminated no development shall take place until a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The works detailed as being necessary to make safe the contamination shall be carried out in complete accordance with the approved Remediation Strategy.

c) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

d) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: This condition is a pre-commencement condition to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

16. No development, demolition or site clearance procedures on the site to which this permission applies shall commence until a report has been submitted to, and approved in writing by, the local planning authority detailing how the development, demolition or site clearance procedures will incorporate reasonable avoidance measures that minimise the risk of injury or death of slow worms, common lizards, grass snakes and/or adders.

Reason: To ensure compliance with the legislation pertaining to widespread reptiles.

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

17. Before any of the dwellings is first occupied, the access, driveway and parking spaces that would serve that property shall be constructed, surfaced and drained in accordance with details which have first been approved by the Local Planning Authority. The parking spaces and turning head shall thereafter be maintained and kept available for the parking and turning of vehicles.

Reason: In the interests of highway safety and to ensure that adequate parking facilities are available to serve the development.

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

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

19. 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.

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

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

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

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

Reason; To protect the health and wellbeing of residents in the area.

22. The rooflights in the south facing side roofslope of the building shall be obscure glazed and non-opening unless the parts of the window which can be opened or is clear glazed are more than 1.7m above the floor of the room in which the window is installed, and shall be maintained as such in perpetuity.

Reason: To protect the amenities of neighbouring residential properties.

Informatives

1. 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.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
3. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
4. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
5. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy and saved Local Plan policies:
CS3 The Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
D6 Access and parking

SAMDev Plan:

MD2 Sustainable Design
MD3 Managing Housing Development
MD12 The Natural Environment
MD13 The Historic Environment

Broseley Town Plan 2013-2026

SPD on the Type and Affordability of Housing

6. The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

Site workers should be made aware that any deliberate or reckless harm to reptiles is illegal. Careful site clearance can minimize the risk to these species.

7. If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.
8. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive.

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

9. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).



<u>Committee and date</u>
South Planning Committee
1 December 2015

Development Management Report

Summary of Application

Summary of Application

<u>Application Number:</u> 15/01919/FUL	<u>Parish:</u>	Cleobury Mortimer
<u>Proposal:</u> Erection of residential development 12No dwellings, garages and roads design		
<u>Site Address:</u> Land To The Rear Of 41 Furlongs Road Cleobury Mortimer Shropshire DY14 8AR		
<u>Applicant:</u> Percy Cox Properties Ltd		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmsw@shropshire.gov.uk	

Recommendation: If following reassessment of the application Members are still minded to refuse permission as per the decision at the 3rd November Planning Committee then permission is REFUSED for the following reasons:

1. The proposal will be detrimental to the residential amenities of neighbouring residents by virtue of vehicle movements to and from the development through the existing narrow approach routes to the site and will result in an unacceptable incremental impact on the local road infrastructure. The applicant has not demonstrated that these impacts are capable of being adequately mitigated. The proposals therefore fail to comply with Core Strategy Policy CS3, CS6, CS7, CS8 and emerging Policies MD1, MD2 (particularly point 6), MD3, MD8 (particularly point 1) and S6 (particularly point 4) of the SAMDev Plan which has been found to be sound following a Public Inquiry.
2. No specific local community need for this type of dwelling has been demonstrated by the applicant or identified in the emerging Cleobury Mortimer Place Plan. The proposals therefore fail to comply with Core Strategy Policy CS3, CS6, CS7 and emerging Policies MD2 (particularly point 1), MD3 (particularly point 1.i and 1.iii) of the SAMDev Plan which has been found to be sound following a Public Inquiry.

REPORT

1.0 BACKGROUND TO THE REPORT

- 1.1 This application was reported to the committee on 3rd November 2015. The original officer report recommending approval is attached as Annexe 1. Members resolved to

defer the application after hearing from speakers against the proposals. The wording of the resolution was as follows:

Consideration DEFERRED to the next meeting, with MEMBERS MINDED TO REFUSE the application on the basis that the proposal:

- Will be detrimental to the residential amenities of neighbouring residents;
- No such need for this type of dwelling has been identified; and
- The proposal will result in an unacceptable incremental impact on the local road infrastructure.

The proposals would therefore fail to comply with Core Strategy Policies CS3, CS6, CS7 and CS8 and Cleobury Mortimer Parish Plan. Given the position and weight that can now be afforded to the emerging SAMDev Plan, the development of the site will also be contrary to emerging Policies MD1, MD2 and MD3 of the SAMDev Plan.

- 1.2 This report assesses the recommended reasons for refusal against relevant policies and recommends some changes to the refusal reasons if Members are still minded to refuse the application.

2. CONSIDERATION OF THE RECOMMENDED REFUSAL REASONS

- 2.1 Two separate reasons were listed by the committee, namely:

- Highways: Concerns about the limitations of the approach routes to the site and the adverse impact of traffic travelling to and from the development on the amenity of existing residential properties fronting these routes;
- Residential amenity: Concerns that the proposals would have an adverse impact on the amenity of local residents surrounding the site.
- Housing type: Concerns that the generally large 3-4 bedroom houses proposed by the development are not aligned with the communities housing needs as stated in the Cleobury Mortimer Parish Plan.

These reasons are assessed below:

3. Highways

- 3.1 Highway refusal reasons can be broken down into 1) concerns about the physical ability of the local highway to accommodate the level of additional traffic proposed by a development (transport) and 2) concerns about the effects of new traffic from a proposed development on the amenities of nearby residents (highway amenity).
- 3.2 Transport: The NPPF advises that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe' (para 32). Whilst the limitations of the approach routes to the site are noted, the Highways officer advises that the residual cumulative impacts of the development

would not be sufficiently severe as to meet the stringent refusal criteria set out in the NPPF.

- 3.3 The proposed 12 house development is located within the development boundary of Cleobury Mortimer where existing and emerging planning policy accepts the principle of additional housing development. There is easy pedestrian access to the town centre and its range of key services. The Highways (Development Control) officer had not objected, but has recommended appropriate conditions and a legal agreement to provide off-site pedestrian / cycling improvements.
- 3.4 Details of what could be achieved through the recommended financial contribution have not been clarified and would need to be subject to community consultation. Planning legal agreements for highway / pedestrian funding often specify a contribution level without stipulating the exact nature of the works. This provides flexibility and offers scope for the Highway Authority to consult with the local community. The level of funding specified by the highways officer is considered to be proportionate to the scale and nature of the application.
- 3.5 The highways officer advises that the pre-existing transport issues at Cleobury Mortimer would not be made significantly worse, and that the recommended conditions and legal agreement would provide appropriate mitigation. The proposals would generate CIL revenues which could in principle be used for highway improvements. Bids can also be made by local communities of Town Councils for funding from Shropshire Council's highways budget to address issues of concern. It is not considered that a transport based refusal reason would be justified in these circumstances.
- 3.6 Highway and amenity: Whilst the Highway Officer does not support refusal on transport grounds the Development Plan also requires development to meet high standards of sustainability and to deliver environmental improvements where appropriate. This includes with respect to highway and amenity considerations. Where a proposal would potentially exacerbate rather than mitigate pre-existing environmental or amenity problems then refusal on grounds of lack of sustainability may be appropriate, including where a highway capacity refusal reason could not be justified.
- 3.7 Members viewed the narrow nature of the local streets at the site visit. At the committee they heard of local community concerns about highway and pedestrian safety, including problems with on street parking and refuse lorry manoeuvring. The Committee concluded that the current proposals had the potential to exacerbate these existing problems. They did not consider that the measures recommended by the Highways officer and / or put forward by the applicant provided sufficient reassurance regarding the ability to mitigate such issues. They questioned whether there could be any meaningful mitigation in practice given the limitations of the local highway system. Accordingly the committee considered that the proposals were unsustainable in terms of their amenity impact on local residents.
- 3.8 It should however be noted that Inspectors have dismissed other recent appeals where similar refusal reasons have been cited. For example, the Council won a recent appeal at Hints, Coreley near Clee Hill (APP/L3245/A/14/2220418 – officer

delegated refusal). However, there was a partial award of costs against the Council linked to the use of a highway refusal reason which the Inspector did not support. With respect to 2 recent appeals in Bishop's Castle (APP/L3245/W/14/3001829: Land west of Lavender Bank and APP/L3245/W/14/3001799: Land south of Woodbatch Road) the Inspector considered the locations for these appeal sites to be sustainable and did not support the council's highways amenity refusal reasons. These sites were beyond the development boundary and over 800m from the town centre. In contrast, the current site is within the development boundary and adjacent to the town centre. The Planning Inspectorate has so far not responded to the Council's request to review these decisions (based on 5 year housing supply as opposed to highway issues).

- 3.9 An appeal decision dated 16th November 2015 relating to a proposal for 2 one bedroom flats at 7 Steeple Close, Cleobury Mortimer (APP/L3245/A/14/2227555) also has relevance. The Inspector made the following conclusion in response to concerns about parking provision. 'The Increased competition may lead to a degree of inconvenience in situations where residents cannot park directly outside their own home but I am satisfied that it would not lead to harm in terms of highway safety. Thus, whilst the lack of parking is not a positive factor in favour of the proposal it would not justify the refusal of planning permission, of itself'.
- 3.10 In conclusion, the highway amenity refusal reason included in the recommendation could be employed if Members still wish to refuse the application. However, similar reasons have not been supported at some recent appeals and officers have very strong reservations as to whether the highway reason could be sustained at appeal. Whilst it is now possible to cite relevant SAMDev policies in support of highway amenity refusal reasons, these essentially duplicate the requirements of equivalent Core Strategy Policies (i.e. CS3, CS6) rather than strengthening the justification for such a refusal reason.
4. Residential amenity:
- 4.1 Those elements of residential amenity associated with traffic movements are covered by the first refusal reason. With respect to other aspects of residential amenity, the scheme has been amended to swap the positions of the garage and house in the most north-westerly plot (plot 12) providing improved separation to the nearest existing property. The spacing between properties was referred to in detail in the original officer report and is considered acceptable in amenity and privacy terms. Members did not express any specific concerns in relation to plot separation or privacy at the previous committee meeting.
- 4.2 The applicant has put forward some further minor amendments to the scheme under the 'Wheatcroft Principle' and these are referred to below.
- 4.3 The officer would strongly advise against the use of any refusal reason referring specifically to residential amenity issues such as overlooking or loss of privacy in the detailed circumstances of the site.

5. Housing type:

- 5.1 The development plan requires that proposals for new housing should have regard to the wishes of local communities. Relevant Core Strategy Policies covering new development and community needs are discussed below:
- 5.2 Core Strategy Policy CS3 (Market Towns) advises that the market towns will maintain and enhance their roles in providing facilities and services, including by promoting balanced housing and employment development within the towns' development boundaries, of an appropriate scale and design and which is supported by improvements in infrastructure. Policy CS6: (Sustainable Design and Development) promotes high quality sustainable design which amongst other matters reduces the need for private car transport and ensures that there is capacity and availability of infrastructure to serve any new development. Policy CS7: (Communications and Transport) promotes a range of opportunities for communication and transport which meet social, economic and environmental objectives including by reducing the impacts of transport.
- 5.3 Policy CS8 (Facilities, services and infrastructure provision) promotes sustainable places with safe and healthy communities where residents enjoy a high quality of life. This includes by facilitating the timely provision of additional facilities, services and infrastructure to meet identified needs. Policy CS11 (Type and affordability of housing) seeks to create mixed, balanced and inclusive communities by adopting an integrated and balanced approach with regard to existing and new housing, including type, size, tenure and affordability. The associated supplementary planning guidance document details the provisions requiring affordable housing contributions to be made on all new open market housing. This ensures that all types of housing development make an appropriate contribution towards increased levels of affordable housing in the county, including schemes involving some larger homes such as the proposed development.
- 5.4 Core Strategy Policies do not specifically require development proposals to conform to community aspirations with respect to housing types. Significant weight can however now also be placed on the SAMDev which has been found to be sound following a Public Inquiry. Policy MD2 (Sustainable Design) requires proposals amongst other matters to 'respond positively to local design aspirations wherever possible, both in terms of visual appearance and how a place functions, as set out in Community Led Plans, Town or Village Design Statements, Neighbourhood Plans and Place Plans...' In addition, SAMDev policy MD3 (Managing Housing Development) requires that residential proposals on sites of five or more dwellings should include '*a mix and type of housing that has regard to local evidence and community consultation*'. Therefore, policies MD2 and MD3 of the SAMDev require housing development proposals to take appropriate account of local community consultations. This does not however indicate that all new housing development should comply exactly with community wishes, although appropriate account should be taken of this in the design process.
- 5.5 Key mechanisms for identifying local community wishes are Parish Plans and Place Plans. Cleobury Mortimer does not have a Parish Plan but one is under preparation. Public exhibition comments in connection with the 'Cleobury Mortimer Community

Led Plan' have referred to the need for bungalows / smaller houses, affordable homes and the fact that there are many empty properties. Discussions linked to the Local Joint Committee refer to housing needs as one of the priorities.

- 5.6 The draft Cleobury Mortimer Place Plan includes strategic objectives 'to improve the quality of life for the community' and 'to protect and enhance the environment and the heritage of the area', including by undertaking a traffic management plan. Identified infrastructure and investment priorities in the draft Place Plan include affordable housing, housing for vulnerable people, public open space, improving the cycling and pedestrian network, local highway improvements, traffic management, parking provision and speed and safety enhancements. The draft Place Plan advises that the town supports higher than average numbers of managers, senior officials and those in professional occupations and has a comparatively low job seekers allowance claimant rate. Almost twice as many Cleobury Mortimer residents travel out of the town to go to work, than travel into the town for employment.
- 5.7 Therefore the emerging Parish Plan and Place Plan for Cleobury Mortimer place a high emphasis on affordable housing, protecting the quality of life of residents and improving pedestrian, cycling, parking and highway provision. However, these plans are not adopted and there is no specific reference to the need for bungalows or smaller properties in these emerging plans. It cannot therefore be said that the current proposals are in clear contravention of an adopted Place Plan or Parish Plan with respect to the housing type. Conversely however it cannot be said that the proposals have taken a detailed account of community consultations in the design of the scheme. A clear preference has been expressed for smaller properties and bungalows by residents responding to planning consultations on the current application.
- 5.8 Accordingly, it could be argued that the applicant has not demonstrated that the proposals conform with SAMDev policies MD2 and MD3 in terms of the proposed housing types. However, in the absence of an adopted Place Plan or Parish Plan for Cleobury Mortimer it is not possible to give significant weight to this consideration. It is therefore necessary to assess whether the proposals are compliant with the Development Plan as a whole.
- 5.9 The officer maintains that in all other respects the proposals are sustainable insofar as they are located in a sustainable location within the development boundary, they respect the Conservation Area setting, they incorporate highway mitigation measures and do not give rise to other environmental impacts as advised by technical planning consultees. The NPPF advises that all housing delivers intrinsic social benefits. The officer considers that whilst the development does not deliver the specific types of housing which the local community is expressing a preference for in the emerging Cleobury Mortimer Place Plan it is nonetheless sustainable and compliant with the Development Plan overall. It should be noted that the scheme will also generate an affordable housing contribution and CIL revenues which add to the overall sustainability of the proposals.
- 5.10 It is accepted that this conclusion is dependent upon the relative weight to be given to emerging SAMDev policies MD2 and MD3 regarding local community aspirations for housing types and these policies are as of yet untested by appeal. However, the

officers would advise that any refusal reason based on housing types not complying with community aspirations may be open to challenge in the absence of an adopted Parish Plan, Place Plan or Neighbourhood Plan which specifically expresses a preference for particular housing types.

6. DISCUSSIONS WITH APPLICANT

6.1 Following the November 2015 committee meeting the officer has met with the agent to discuss the proposals. Arising from this meeting the agent has requested that some minor amendments and further clarifications are made to the scheme seeking to address the concerns raised by the Committee. The changes and clarifications are as follows:

- Plot 3, formerly a single detached 4 bedroom plot at the south west corner of the site (house type C) will be substituted with two semi-detached 3 bed houses (house type F) in order to provide a more balanced housing mix with 4 'intermediate' type 3 bedroom semi-detached homes. This would increase the total number of houses from 12 to 13.
- Three full 2 storey houses at the northern end of the site (Housing types H and G on plots 9, 10 and 12) are substituted for 1½ half height houses (housing type B) with a shallower roof pitch of 35 degrees. This would provide a 1m height reduction and less prominent north-facing upstairs windows relative to the original scheme. This would further reduce the potential for any residual overlooking or shading issues for the properties in elevated locations on the south side of Furlongs Road, though it is emphasised that the spatial separation distances are considered to be acceptable without this amendment.
- The applicant intends to allocate a triangle of land between the public footpath and the proposed entrance into the site as community open space with a low maintenance surfacing and some tree planting. This area was previously intended for inclusion into the garden of plot 1.
- The applicant has provided details of reports by two property surveyors which support the conclusion that bungalows would not be feasible in this location.
- The applicant has provided information in support of the conclusion that the proposed site would be located too far from the main centre of service delivery for the site to be optimal for a retirement home / old people's development.
- The applicant has provided further information of the intention for the site to comply with the industry 'gold standard' for design sustainability.

A letter from the applicant confirming this has been received and is reproduced below as Annex 2.

6.2 The officer has reviewed these changes and considers that they are not fundamental to the nature of the application. The building footprints would remain the same and the additional semi-detached property should not add materially to the level of vehicle movements relative to the single larger property it replaces. The officer is satisfied that the amendment can therefore be accommodated as part of the application under the 'Wheatcroft Principle'. An updated layout plan has been uploaded to the Council's online planning register.

7. CONCLUSION

- 7.1 At the November meeting the Committee was minded to refuse the application based on concerns about highway issues, residential amenity and housing type. Officers have reviewed this resolution in the context of relevant policies and would maintain that the proposals are compliant with the Development Plan as a whole.
- 7.2 Officers would therefore advise that there are significant risks with a refusal on the grounds identified, given in particular:
- The absence of objection from the Council's Highways Development Management section and the location of the site within the development boundary;
 - The absence of an adopted Parish Plan and/or Place Plan for Cleobury Mortimer giving clear expression to community preferences on housing types and thereby adding further weight to the emerging SAMDev policies MD2 and MD3.
- 7.3 Nevertheless, if members are still minded to refuse the application, in order to optimise the defence at appeal, the reasons should be worded as recommended at the beginning of this report.

8. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NNMTA3TDK5800>

List of Background Papers: Planning application reference 15/01919/FUL and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member: Cllr Gwilym Butler (Cleobury Mortimer)

Appendices: Annex 1 – Report to South Planning Committee on 3 November 2015

ANNEX 1

REPORT TO SOUTH PLANNING COMMITTEE ON 3 NOVEMBER 2015

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Summary of Application

<u>Application Number:</u> 15/01919/FUL	<u>Parish:</u>	Cleobury Mortimer
<u>Proposal:</u> Erection of residential development 12No dwellings, garages and roads design		
<u>Site Address:</u> Land To The Rear Of 41 Furlongs Road Cleobury Mortimer Shropshire DY14 8AR		
<u>Applicant:</u> Percy Cox Properties Ltd		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmsw@shropshire.gov.uk	



Recommendation: Grant Permission subject to the conditions and informatives set out in Appendix 1, and subject to a Section 106 legal agreement to secure the following matters:

1. Payment of an affordable housing financial contribution, in accordance with the Council's affordable housing policy.
2. Payment of a highway contribution of £20,000 to improve pedestrian and cycle links within the vicinity of the development in order to further promote sustainable travel and undertake localised highway improvements to formalise parking arrangements within the vicinity of the site. The Highway Contribution should be deposited prior to commencement of the development and returned to the developer within 5 years if remained unspent.

REPORT

1.0 THE PROPOSAL

- 1.1 Full permission is sought for the erection of 12 detached and semi-detached houses including garages and roads on land at Furlongs Road, Cleobury Mortimer for 'open market' sale. The plots are proposed to be family sized homes of generally modest accommodation.
- 1.2 It is proposed to extend Furlongs Road into the site as a shared surface. The development is an extension of the cul-de-sac arm of Furlongs Road, which is a conventional street consisting of 4.8m wide carriageway with 1.8m footpaths each side, which connects to the main town high street via New Road to the east.
- 1.3 The site has a fall of 6m from west to east. Houses would step down the contours in order to follow the existing ground levels. Granite paving would mark the edge of the adoptable highway and clearly demarcate private and public space. Walls would screen rear gardens from the street, providing private rear garden areas.



- 1.4 All public areas would be overlooked, providing natural surveillance throughout the scheme. Special corner designs ensure there are no negative, blank gables with houses providing attractive elevations to all streets. The use of dwarf walls to the front of plots 2, 4 and 11 reinforce the conservation setting, providing a design enclosure within the heart of the development.
- 1.5 The use of large single (6m x 3m) or double garages for 7 of the houses (as recommended in Manual for Streets) provide for both car and cycle storage. Properties without a garage will be provided with a lockable garden shed for use as a cycle store. Refuse bins will be stored on plot in rear gardens on a paved area with a level path from the storage area to the roadside collection point. All properties will have a dedicated refuse bin storage area, away from the street, and convenient to each property.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site comprises an area of vacant land with brambles and some trees and a fall from west to east which is located in the Cleobury Mortimer conservation area to the north of the High Street (A4117). To the south are the rear gardens of period houses fronting the A4117 and the Grade 2 listed Old Lion Public House. To the north is more recent housing whilst to the west is a single dwelling known as the Old Bakery.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application has been referred to the committee by the local member and this decision has been ratified by the Development Manager in accordance with the Council's adopted Scheme of Delegation.

4.0 COMMUNITY REPRESENTATIONS

4.1ai. Cleobury Mortimer Town Council (9/07/15) – Objection for the following reasons:

- Consistency with the development plan for the area
 - Traffic and Highway issues
 - Overlooking, loss of privacy
 - Design, appearance, layout.
 - Noise, disturbance
 - Local knowledge of drainage and sewage.
 - Impact on surroundings.
- ii. Inadequate plot: Cleobury Mortimer is a dispersed settlement where development proposals should be considered very carefully. Firstly we consider this plot to be a tandem development and as such are inadequate in the context of the surrounding development. It would be discordant with the character of the surrounding properties and the prevailing densities in the area. As such the proposal is considered to fail to have due regard to the local character and to safeguard residential amenity and as such it is contrary and conflicts with, the aims and objectives contained in the National Planning Policy Framework of sustainable development, core planning principles, as well as the Council's adopted Core Strategy and in particular conflict with policy CS6 and CS3. This is also supported in the SAMDev report and our Community led Parish Plan 2014. On page 57 of the Core Strategy item 4.52, it also states that in 2001 Census 77% of houses were owner occupied, 14.4% private rented and 8.6% social rented and to date we still need a balance, which we feel is not being looked at. Also that paragraph raises the concerns of Wastewater and gives clear instructions, which needs to be looked at as another major concern of the council.
- iii. Community needs: As stated in our Parish Plan 2014, p11, planning permission for developments must see the wider picture of community needs and the current infrastructure capacity is inadequate for the growing population, rising 25% from 2001 to over 3,000. The Cleobury Mortimer neighbourhood Plan developed in consultation with the community and Shropshire Council and Policy SD7 states that beyond market housing provision made in the districts site allocations development plan document only proposals for affordable housing for local people are supported. Looking at eS4 this application goes against the development plan for Cleobury Mortimer.
- iv. Public house: When looking at the proposed rear entrance for the Public house which backs onto the development, it is a great concern that it may promote criminal activity and anti social behaviour from patrons leaving the establishment at the rear, which cannot be guaranteed will not happen eS6 Item 4.79. It will also be access for deliveries causing more Lorries and large vehicles to use the already congested New Road and the Furlongs.
- v. Commuter pressure: Pressure for development in the village is considerable, mainly for housing city commuters and seems to be a growing theme which needs to be resisted.
- vi. Access: The reasons for rejecting such schemes include the inadequacy of access, increased traffic, adding to increased congestion to already problem areas which

would suffer to cope with even small increases in traffic. The creation of the access by the demolition of the one property raises concerns of the entrance, causing issues for emergency, refuse vehicles and also Highway safety.

- vii. Natural environment: This development would add to an already substantial concern that the overall proposal is uncharacteristic of the area and conflicts with Policy eS6, with regard to its requirements to protect the natural environment, respect local context and safeguard residential amenity and living conditions of surrounding residents.
 - viii. Parking: Parking of visitors to residents by the proposed entrance would also add to the congestion. If allowed this would generate significant levels of traffic in an already congested area via New Road and Ronhill and we consider that the development is not appropriate for its surroundings as there is not enough room for vehicular access especially of waste and emergency vehicles. Developments should try and minimise the impact of traffic in communities and for 41 car parking spaces indicates the level of traffic, goes against eS7 item 4.89 of the Core Strategy 2011. It also refers to safer roads and public footpaths, which if the development goes ahead, will make it worse for residents and especially children's safety.
 - vii. Setting: When considering, note should be taken of Paragraph 4.81 in policy CS6 of the Shropshire Core Strategy 2011 states that: "The quality and local distinctiveness of Shropshire's townscapes and landscapes are important assets. The Council will ensure new development complements and relates to its surroundings, not only in terms of how it looks, but the way it functions, to maintain and enhance the quality of Shropshire's environment as an attractive, safe, accessible and sustainable place in which to live and work. This is also echoed in paragraph 56 of the NPPF. The proposed siting of the two storey development is particularly ill-considered: as building such a development would both diminish the view and will be prominent from outward angles of the village. The design is out of keeping with the village's strong historic character and Policy eS3 and eS6.
 - viii. Housing type: As stated in eS4 we have identified in our local plan and SAMDev a need for more retirement homes as there are too many developments with high class homes and there needs to be a balance as referred to in eS1 and more especially Affordable housing as stated in eS11 which seems to be diminishing for local people. Previous plans were noted as favourable but changed from bungalows to houses for financial reasons, and this is a not a Brownfield site, which also needs to be noted. Furthermore there is no need for more of this kind of open market housing in the village. In the opinion of the Parish Council, Cleobury Mortimer has more than the five years supply of housing land to meet the requirements of the emerging SAMDev policy to take it to 2026. CS4 confirms that Shropshire Council will work with communities with a "Bottom up approach" so we urge the Council to take our views into consideration when looking at this application.
- 4.1ai. Cleobury Mortimer Town Council (8/10/15 – following re-consultation on further information) – Objection. All of the objections in the previous letter dated 9th July 2015 still stand as the points addressed as amendments have not addressed the Points of Principal and are therefore not fundamental changes.

1. The legal obligation to only allow access to the rear of the Old Lion by the owners only, is not a Fundamental change as it would be down to individuals to police. Like having double yellow lines does not prevent anyone parking if they wish to ignore the rules.
2. Pedestrian linkage issue to suggest that better well lit routes are available again is not a fundamental change, just a suggestion.
3. Refuse collection and changing kerbing again does not alter the fact that access to the site will be an issue, as large vehicles still go over kerbs when they need to.
4. Internal parking issue has still the same houses with spaces and will also have a visitor which in turn, increases the traffic and parking.

It is a fact that new road is already a daily issue with access for small vehicles let alone emergency vehicles, would compound an already bad situation for the area. Site vehicles would cause very stressful situations for local residents and again access to the site is a major issue. The Parish Council wish that its objections stated previously and now are once again strongly noted that there have been no fundamental changes and the points of principal have not been addressed.

4.2 SC Public Protection - Specialist – No comments received.

4.3 SC Affordable Homes: - No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.4i. SC Archaeology (Historic Environment): - No objection. The proposed development site lies within the historic medieval core of the town of Cleobury Mortimer (PRN 05478) as defined by the Central Marches Historic Towns Survey, within a group of tenement plots, north of Lower Street (PRN 05475), close to a Medieval burgage plot, Lower Street (PRN 05467) and is circumscribed on all sides by parts of the medieval street system (PRN 05477). A tentatively defined Saxon minster enclosure (PRN 05468) lies immediately to the south west. Evaluation excavations undertaken in 1993 at Lacon Childe School 150m to the south west, revealed archaeological remains dating from late Neolithic/Early Bronze Age through Roman occupation to the Medieval period.

ii. An archaeological desk based assessment has been submitted in support of the application. This assessment concludes that there is a low possibility of prehistoric or Roman remains being present on the proposed development site and a moderate potential for significant archaeological deposits of medieval to post-medieval date being present. The assessment recommends that further field evaluation in the form of trial excavation be carried out in order to assess the survival, nature, and significance of these remains, and to formulate any mitigation strategy. We concur with these findings.

iii. In view of the archaeological potential of the proposed development site, and in line with Paragraph 141 of the NPPF, we recommend that a programme of archaeological work be made a condition of any planning permission. This should comprise an initial field evaluation comprising trial trenching followed by further mitigation as appropriate

- 4.5i. SC Historic Environment (Conservation): - No objection. The application proposes the erection of 12 residential dwellings on this site to the rear of 41 Furlongs Road. The site lies within the Cleobury Mortimer Conservation Area and nearby to a number of listed buildings. Pre application advice was provided on a previous scheme for bungalows at the site and was generally supportive at that time. This scheme is for two storey dwellings on the site. A previous scheme for 19 dwellings on the site was dismissed at appeal for reasons including the impact upon the conservation area. The appeal inspector considered that the development would not incorporate variations in roof heights, plots widths, positioning of window openings or use of materials and felt that it would therefore not reflect the varied character of the conservation area. It was acknowledged that the site itself does not in its current form particularly contribute to the character of the conservation area and that development on the site is not precluded by the conservation area status. The proposed development seeks permission for 12 residential units at two storey in height. The scheme uses the change in levels on the site to step down the roof heights of the dwellings and there is some variation in roof form to break up the street scene. The proposed scheme has sought to reflect the character and design elements of the historic core of the town and provided details of how this will be achieved within the Design and Access Statement i.e. design cues, informal layout etc.
- ii. An Archaeological Assessment has been provided in support of the application which has assessed the impact of the proposed development upon the setting of heritage assets and concludes the proposed development would have a low adverse impact on the setting of some of the Grade II Listed Buildings on Lower Street and The Hurst. This assessment has suggested that the significance of the effect of this impact would be minor to negligible. Mitigation in the form of design and screening would further reduce the effect of any impact here. It is considered that these findings are accurate. This assessment hasn't gone into detail about the potential impacts of the development upon the conservation area, however there is a clear analysis of the site and area in the Design and Access Statement which takes the conservation area into account. As noted above, reference is made within the supporting information to local design references, choice of materials, the informal layout and varied roof pitches and these aspects of the proposed development are considered appropriate and supported. The half dormer windows shown on plots 4 and 11 seem unnecessary and would be preferred to be removed or should be more substantial as shown on plot 2. Details of tree planting and landscaping will be important to ensure effective screening and softening of the development and should be conditioned.
- iii. Overall if the above advice is taken into account it is considered that the proposed development will preserve the character of the conservation area and setting of listed buildings in line with policies, guidance and legislation as outlined above.
Suggested Conditions: Joinery (the window detail proposed is not appropriate for the conservation area), materials, landscaping.
- 4.6 SC Drainage: - No objection subject to conditions covering surface drainage (included in Appendix 1).
- 4.7 SC Highways DC: – Verbal comments - No objection subject to conditions and legal agreement covering highway improvements. The following comments are made:

- i. Principle of Development: Shropshire Council as Highway Authority has no objection in principle to a residential development at the proposed location; it is considered that the site is located within a sustainable location, in close proximity to Cleobury Mortimer Town Centre and within the existing development boundary. However, the Highway Authority would raise concerns with regard to the proposed scale of the development and access to the site, in terms of restricted carriageway width along Furlongs Road and the proposed access to the Old Lion Public House.
- ii. Policy Considerations: CS6: Sustainable Design and Development Principles: 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; The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:
“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
- iii. Access: Access to the proposed development is via Furlongs Road, which has a carriageway width of approximately 4.25metres wide. Previous submitted applications have been refused on highway safety grounds relating to the restricted access to site, and previous inspector decisions have recommended that a maximum total of 25 dwellings should be accessed off Furlongs Road. However, the application under consideration also proposes that a vehicular access is provided to the Old Lion Public House. Whilst it has been demonstrated that there is sufficient swept path refuse vehicles to manoeuvre into the site, and hence also dray lorry deliveries, it is considered that Furlongs Road does have restricted carriageway width and is a residential area. Therefore whilst there would be a benefit to removing parking of delivery vehicles along the A4117 it is unclear from the information submitted the number of proposed deliveries to the public house and how access to Old Lion Public House should be restricted.
- iv. Impact on Highway: The proposed development site is located within an accessible location and in accordance with Policy CS6 there are opportunities for the need for car based travel to be reduced. Whilst it is acknowledged that there will be an increase in vehicle movements associated with the proposed development, in view of the location of the development it is unlikely that it could be demonstrated that the impact of the development will be severe and in accordance with revised policy guidance a highways objection could be sustained in an appeal situation.
- v. Recommendation: Despite the above, it is recommended that the proposal to provide vehicular access to the Old Lion Public House is removed or restricted to ensure the likely impact is minimised. It is also recommended that a Travel Plan is submitted prior to commencement of the development and Implemented within one month of the first occupation of the residential development, In order to minimise the use of the private car and promote the use of sustainable modes of transport. In addition to the above, it is recommended that a highway contribution of £20,000 is secured through a Section 106 Agreement to improve pedestrian and cycle links within the

vicinity of the development in order to further promote sustainable travel and undertake localised highway improvements to formalise parking arrangements within the vicinity of the site. The Highway Contribution should be deposited prior to commencement of the development and returned to the developer within 5 years if remained unspent. Conditions covering these matters have been recommended and are included in Appendix 1.

- 4.8 SC Ecology: – No objection. Conditions and informatives advised.
- 4.9 SC Trees: No objection - The proposed plans have very little arboricultural impact, but the long-term sustainable integration of this development into the landscape and conservation area would benefit from the creation of space to include a number of feature trees. On a site like this the use of well positioned fastigiated cultivars would not cause conflict between residents and the trees as they matured but would add to the character and amenity of the area.
- 4.10 SC Rights of Way: - No objection. Public Footpath 65, Cleobury Mortimer runs off Furlongs Road adjacent to the proposed new access to the proposed development and then turns westerly towards The Hurst as correctly acknowledged within the design and access statement. It is noted that No 41 furlongs Road will be demolished to allow construction of the new access to the proposed development and access to the footpath must remain open and available at all times during the demolition of the property and construction of the access route. If the footpath cannot be safely open during any stage of the development, the applicants will need to apply to the Mapping and Enforcement Team for a temporary closure of the route. Informative advised:

Public Comments

- 4.11 The application has been advertised in accordance with statutory provisions and the nearest residential properties have been individually notified. Objections have been received from 11 individuals. The main issues are as follows:
- i. Pub delivery disruption: Concern about access to the Old Lion pub and the likely disruption this will bring with heavy goods deliveries to the rear, and the likelihood of the road becoming an unofficial pub car park if public access is obtained. It is understood that the above application is for domestic dwellings and not for business or commercial purposes. Therefore why does the proposal include for gated access to the rear of "the lion public house" will this be for delivery purposes? If so egress and access through a "solely" residential area is unacceptable and should not be permitted. The noise levels alone of dray lorry deliveries over traffic calming measures will be a constant nuisance.
 - ii. Pedestrian disturbance / safety: Concern about the proposed narrowing of the pavement on the existing cul-de-sac, which will disadvantage pedestrians and those who currently use the pavement on mobility scooters. The proposed access from the development to the Old Lion Public House in Lower Street could provide a location for anti-social elements to gather along with the attendant problems; discarded food containers, noise, dog fouling etc. Amending carriageway aspect to suit new access is unsafe as pedestrians will lose the use of pavement currently used by school children and disabled/local residents, to "The Hurst".

- iii. Questioning housing type: We are surprised that the applicant has changed the plans from the pre-application for 12 bungalows to 12 full-sized houses. Full-size two-story houses will block the beautiful views over to Mawley Hall from the top of the cul-de-sac and from the public footpath heading east down from The Hurst. The applicant's argument that bungalows are not cost effective is clearly nonsense and is designed to maximise company profits at the expense of the quality of life of those currently living in the area. A development containing more bungalows would mitigate 'some' of the concerns outlined by current residents. The views of existing residents would be blocked. This would not be so bad if bungalows were built. The size of the proposed dwellings (within the application-4 bedroom detached) is not in keeping with character or size of dwellings in the surrounding and adjacent areas (predominantly 3 bedroom semi-detached).
- iv. Concerns specific to 43 Furlongs Rd: Plot 1 which is unacceptably close to the garden of 43 Furlongs Rd. The proposed house at plot 1 will considerably block the light, and directly overlooks our garden. At the very least we want the position of the garage and house on this position swapped so that we are not overlooked and do not lose considerable light resources. There is a large area of undefined white space opposite our house, to the east of the current footpath. We seek information on the planned use of this space as our house directly looks out onto this area at the front. We bought number 43 as the final property in a quiet, small cul-de-sac. We currently have zero traffic outside our house and I can play football with my daughter safely in the street. Under the new proposals we will be sited in the middle of a longer road, with a far greater degree of traffic. The application for planning suggests that parking spaces for a 41 cars will be built on the new estate. The slim entrance at the head of the Furlongs cul-de-sac will not bear this amount of traffic, and our quality of life will be degraded by the change. We also have concerns about safety and driver sightlines at the tight turn at the top of the cul-de-sac into the new development.
- v. Objecting to principle of housing development. We are pleased that the dilapidated building at number 41 has been knocked down. Ideally we would like this plot to be rebuilt as a family house, with the land behind being re-purchased by the council for public use as allotments / a park / a nature reserve rather than used to build 12 further houses. There has already been planning permission given for a large number of houses on the current 'box-factory' site just to the north-east. This part of Cleobury doesn't need any further construction. If the re-purchase of the land is unfeasible, we suggest that planning permission be given for 8 bungalows maximum to minimise impact on current residents. This small parcel of land is the last remaining green space in the whole of Cleobury Mortimer , we need it for wild life and children to play, it should have been developed as a town park for everyone to enjoy. It has been left in this mess to make people think its a tip but it could easily be put back with the help of the councils and local business.
- vi. Loss of privacy / light: The drawings do not show Lower Street in its entirety. The area of concern is the junction of New Road and Lower Street. This is because the bedrooms to our cottage have Velux roof lights and we believe that any nearby dwellings will intrude on our privacy as the proposed development is at a higher level. The dwelling (plot no.12 is too large and will affect "right to light" to the rear aspect of

my property, to obscurity of the rear aspect consideration should be given to a "bungalow" type dwellings.

- vii. Construction disturbance: The access to the site via New Road to Furlongs Road during construction and subsequently could cause congestion problems with regard to commercial delivery vehicles, refuse collection vehicles and emergency vehicles. The pinch point being New Road. Where will the "contractors compound" be located? What are anticipated hours for deliveries of building materials etc.? Who will clean and maintain "furlongs road" during the construction phase. No construction traffic should be allowed to park on "Furlongs Road "at any time during the construction phase.
- viii. Sewerage capacity: We understand the foul and storm water discharge from the site will enter the town's system at the junction of New Road and Lower Street. This junction has proved problematical in the past and more development will only add to a system which is at best barely adequate.
- ix. Traffic / access: The width of the road/carrigeway 4.25m .not wide enough to sustain volume of projected traffic flow. Egress and access via "new road" is currently an issue as there is no "off road parking" this will be made even more acute when the houses on "the box factory" site are built and if the proposed development goes ahead. - the existing surface water drainage system does not have the additional capacity for the proposed development. The use of soakaways to resolve this issue will be inadequate. The "flood risk" to the lower areas of the site and adjoining areas will be greatly increased. The condition of the road / tarmacadam / surface water drainage system etc. In "Furlongs Road" will decline as it was not designed originally for heavy duty traffic flows. I object to the building of this development on the grounds that the roads surrounding are already too busy. This development would bring in up to an extra 25 or so cars. The roads on the estate are already full of parked cars on pavements and the road up to the cul de sac where 41 Furlongs Road is being demolished is narrower as it is a cul de sac not a through road. The road leading up to 41 Furlongs Road will be blocked if heavy vehicles are accessing the building site, it would be difficult for a fire engine to get up the road at times because of parking on the pavement/road. I also worry about more traffic using this route when complete by parking at the rear of the Lion. New Road which is the access from the Furlongs to the main road is already over congested.
- x. Wildlife: Existing wildlife will loose their habitat. When the land was purchased , the new owners cut down ancient fruit trees and ripped up the grassland so as to destroy the rich natural habitat. I asked natural England to step in and save it but was ignored. The Bat roost was in the old pear tree and it was cut down and burnt. It is home to a whole wildlife eco system even now ,which we would only miss once the damage was done ,birds would disappear from your bird tables once their nesting sites have vanished under block paving.

5.0 THE MAIN ISSUES

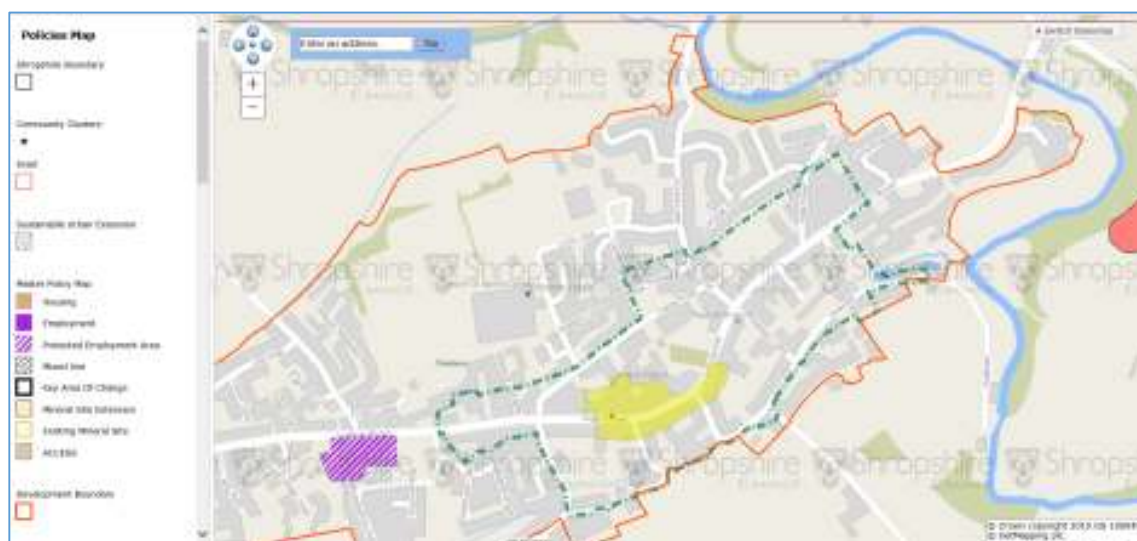
- Policy context and principle of the proposed development;
- Design and layout of the development;
- Environmental impacts of the proposals – traffic, drainage, sewerage, ecology, visual impact;

- Social impact – residential amenity, public safety, footpath;
- Economic impact;
- Overall level of sustainability of the proposals.

6.0 OFFICER APPRAISAL

6.1 Policy Context and principle of the development:

- 6.1.1 The Council's Core Strategy identifies Cleobury Mortimer as a main market town suitable for further residential development that balances environmental constraints with meeting local needs. Policy CS3 – "Market Towns and Other Key Centres" requires market towns such as Cleobury Mortimer to accommodate balanced housing and employment development within their development boundaries and on sites allocated for development. Development must be of a scale and design that respects the town's distinctive character and must be supported by improvements in infrastructure.
- 6.1.2 Policy s6 of the emerging SAMDev advsies that 'as a key centre, Cleobury Mortimer will continue to provide facilities and services for its rural hinterland. To support this role, around 350 additional dwellings and a minimum of 0.7 hectares of employment land will be delivered over the Plan period 2006-2026. New housing development will be delivered on two allocated housing sites off Tenbury Road set out in schedule S6.1a, and identified on the Policies Map, alongside additional infill and windfall development within the town's development boundary. Key planning issues include the need to retain Cleobury's character as a small market town, to provide more affordable housing and a mix of open market housing types, and to retain a balance between housing and employment. Policy SDS3 and policy S1 of the South Shropshire Local Plan relating to settlement strategy are "saved" and as such are also applicable. These also identify Cleobury Mortimer as a key centre.
- 6.1.3 Whilst the site is not specifically allocated for housing development in current saved and / or emerging policy it is located within the development boundary of Cleobury Mortimer where the principle of housing development is accepted. This is supported by the NPPF and the Council's adopted Core Strategy.



Plan 2 – SAMDev plan. Cleobury Mortimer

6.1.4 The main issue to address is whether the particular development proposed would result in any unacceptable impacts on surrounding properties, amenities, the environment, infrastructure, economy or the local community. This includes potential effects on the Conservation Area and the amenity of the nearest residential properties. If so, then are these impacts capable of being mitigated such that the proposals would be sustainable? If the proposals can be accepted as sustainable then the presumption in favour of sustainable development set out in the NPPF would apply. Sustainable proposals would also be expected to be compliant with relevant development plan policies including Core Strategy Policies CS5, CS6 and CS17.

6.2 Design and layout of the development

6.2.1 Whilst the policy principle of residential development at the site can be accepted the proposals must also comply with relevant design policies and criteria. This is particularly important in view of the location of the site within a Conservation Area, on sloping land and adjacent to existing residential property. The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. It advises at paragraph 60 that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds however that it is proper to seek to promote or reinforce local distinctiveness.

6.2.2 The key development plan policy relevant to design and layout is Core Strategy Policy CS6. This aims to create sustainable places by ensuring development is designed to a high quality using sustainable design principles, 'to achieve an inclusive and accessible environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change'. The policy requires that 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'. Development should also contribute 'to the health and wellbeing of communities, including safeguarding residential and local amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities'. It should be 'designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision.' Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.2.3 The Town Council considers that the development would be discordant with the character of the surrounding properties. However, the site has a plot density which is average for the surrounding area (see succeeding section) and is in a transitional area between the residential area to the north and the high street with associated listed buildings to the south. The development needs therefore to comply with particular design criteria in order to respect the privacy of the residential properties to the north, respect the setting of the listed buildings at the core of the Conservation Area to the south and also to achieve an economically feasible scheme for the developer.

- 6.2.4 It is considered that the design of the properties would be appropriate for this location. The predominant use of brick and tile would reflect features found in this local area. The inclusion of short projecting bay windows and dormers to some dwellings, and chimneys on plots at focal points within the development would add variety and interest to the street scene. Lean-to roofs to ground floor projections and changes in ridge heights would also add to the variation within the development. In addition, there would be variations in the positioning of dwellings, including a significant set back from the properties adjoining the A4117. The shared surface road areas with curving road sections, granite setts and different treatment of public and private surfaces would also enhance the street scene. The 2 storey properties would be seen in the context of single storey brick and tile detached garages which would add variety to the roofscape. The density of the plot allows for sufficient privacy within the site and in relation to neighbouring properties whilst respecting the integrity of the heritage area to the south. It should be noted that the Council's Conservation section has not objected to the scheme. It is considered that a denser development would not respect the setting of the conservation area and a denser scheme for 19 properties was refused for this reason in 2001.
- 6.2.5 Spatial separation: Shropshire does not have formally adopted design criteria. Therefore, the spatial acceptability of each proposal must be judged on its own merits. It is however generally accepted good practice that there should be a minimum stand-off distance of 20m between the principal windows of existing and proposed properties. Account needs also to be taken of the slope of the ground and the type and orientation of existing and proposed properties. When this criterion is applied the site is seen to have a satisfactory relationship with existing housing on the southern boundary with separation distances of 30-45m between principal windows. The proposed houses would be approximately 1m higher than existing properties to the south. On the west boundary there is only one property, Honeysuckle House. This would have a separation distance of 25.5m from the nearest plot (plot 2) and principal windows would be at right angles. This relationship is considered acceptable.



- 6.2.6 On the eastern side of the northern boundary the separation distance between plot 9 and properties to the north (26m) is considered acceptable. On the western side of the northern boundary the separation distance between plot 12 (a 2-storey property 8.2m to the ridge) and the nearest properties to the north (37 and 39 Furlong Road) was originally 14-15m. These existing properties currently have a south facing open aspect. However, following discussions with Officers the agent has agreed to relocate the property 2.5m further to the south (by substituting its position with the proposed garage) and to set the building line back 2m further to the east. This increases the separation distance between the properties to 18m, preserves a more open southerly aspect and lowers the slab level relative to the existing situation. It is considered that this amendment now achieves an acceptable spatial relationship between the properties.
- 6.2.7 The eastern edge of the proposed development achieves separation distances of 15.3 and 14.5m between existing and proposed properties. However, principal windows are at right angles and the new properties are not located to the south of the nearest existing properties. Hence, there should be no loss of natural light. On balance therefore, it is considered that the proposals with the amended layout to Plot 12 can be accepted in relation to spatial amenity considerations.
- 6.2.8 Housing density: The town council considers that the proposals to be discordant with the character of the surrounding properties and the prevailing densities in the area. This is not accepted. The application involves the provision of 12 detached and semi-detached houses on a plot of just under 0.5 hectares. This equates to a plot density of just over 24 houses per hectare. An assessment of plot density in adjoining residential areas yields an average plot density of 24 houses per hectare to the south, 20 houses per hectare to the west, 27 houses per hectare to the east and 30 houses per hectare to the north. The site is therefore surrounded by areas of varying plot

density but is similar to or slightly below the average for the general area. It is considered that this density is acceptable and allows a layout which respects the setting of the site and the Conservation Area, allowing appropriate space for structural landscaping and site drainage and respects the privacy of existing residential properties. A higher density scheme for 19 houses was refused in 2001 and a lower density scheme for 9 houses was refused in 2002.

6.2.9 Privacy: Some local residents adjoining the site have objected on the grounds of loss of privacy as a consequence of the proximity of new housing. It is perhaps understandable that some existing residents who currently overlook an open plot would express this concern. It is considered however that the amended scheme succeeds in preserving the privacy of existing and proposed properties.

6.3 Environmental Considerations

6.3.1 Traffic: An appeal on refusal of a 21 house scheme was rejected in 2003 on the basis of access concerns. The current proposals relate to a reduced scheme of 12 houses. The Town Council has expressed concerns that the development and the proposed access would exacerbate existing traffic capacity issues. Local residents have expressed concerns that the proposals would allow pub vehicles to deliver via the proposed access, leading to additional disruption.

6.3.2 Highway officers have not objected to the proposals but have recommended the following measures in order to address these concerns and minimise the highway impact of the development. Conditions covering relevant matters have been included in Appendix 1:

- Removal or restriction of the proposal to provide vehicular access to the Old Lion Public House to ensure the likely impact is minimised.
- Submission of a travel plan prior to commencement of the development, In order to minimise the use of the private car and promote the use of sustainable modes of transport.
- Recommended that a highway contribution of £20,000 is secured through a Section 106 Agreement to improve pedestrian and cycle links within the vicinity of the development in order to further promote sustainable travel and undertake localised highway improvements to formalise parking arrangements within the vicinity of the site.

6.3.3 The Council's waste management team has advised on the need to ensure that the proposed development is suitable for refuse vehicles to access and turn around in. Local residents refer to problems caused for refuse vehicles by on street parking in Furlongs Road. In response to officer discussions the applicant has provided a swept path plan which confirms the ability of refuse vehicles to turn acceptably within the site. One kerbed area has been realigned in order to enhance accessibility. The proposals provide a better solution for turning than the existing cul-de-sac at the end of Furlongs Road as there is a greater depth for reversing and improved off-site parking relative to the existing situation.

6.3.4 The site is within a sustainable settlement where the principle of residential development is accepted by planning policies. The applicant has provided access

and layout plans which indicate that a safe access compliant with relevant highway visibility standards is capable of being achieved. The proposals would yield CIL money for investment on local infrastructure. If the density of the development was greater, as advocated by the Town Council, then the level of traffic generated by the development would be greater. It is considered that the proposals can be accepted in highway and access terms subject to the recommended conditions and legal agreement. (Structure Plan Policy CS7).

- 6.3.5 Parking: The Town Council expresses concerns about the adequacy of parking provision. The applicant has however provided plans which confirm that each property would be have 2 full parking spaces and this complies with the Council's adopted parking standards. Additional parking would be provided for 7 properties in private garages. The site is within easy pedestrian reach of the range of services available at the centre of Cleobury Mortimer and this should reduce the requirement for private car movements. If the development was denser, as advocated by the Town Council then there would be greater potential pressure on local parking provision.
- 6.3.6 Pedestrian access: There is a narrow gated access at the side of 33 Lower Street which currently is reported as being a public access to the site. Concern has also been expressed that this pedestrian access could be used as a short cut to the Old Lion Public House, leading to potential anti-social behaviour. The applicant has however confirmed that this would not be a public access. It has however been agreed that a private gated access would be being provided to the rear gardens of 31, 32 and 33 Lower Street.
- 6.3.7 Drainage / Flooding: Objectors have raised concerns that the proposals could make existing local flooding problems worse. References to local drainage problems have been made by some objectors. A sustainable drainage system (SuDs) would be adopted. Surface water from roofs would be taken to suitably sized soakaways and would comply fully with BRE 365. This would ensure that drainage from the site is attenuated to greenfield rates. The council's land drainage section has not objected subject to imposition of appropriate drainage conditions which are included in Appendix 1. The Environment Agency Flood Map indicates that the development is not within an area that is at risk of fluvial flooding. It is not considered that the proposals would result in an unsustainable increase in local drainage levels provided appropriate measures are employed as per the recommended conditions. It is considered that the proposals are capable of complying in principle with Core Strategy Policy CS18 relating to drainage.
- 6.3.8 Sewerage: The applicant is proposing that foul water from the proposed dwellings would be taken to the existing foul sewer that runs nearby to the site. If the applicant achieved an agreement to link to the mains sewer then Severn Trent Water would be statutorily obliged to ensure that the sewerage system has sufficient capacity to accommodate the development. There is no reason to suspect that such an agreement would not be forthcoming. (Core Strategy Policy CS8, CS18)
- 6.3.9 Visual amenity: The proposed site is located on rising ground within and on the northern margin of the Cleobury Mortimer Conservation Area. It is enclosed by existing housing and views towards the site from publicly accessible areas in the surrounding area are limited. The main views afforded towards the site are from

existing residential properties surrounding the site. There would be some local loss of views to the nearest residents but planning caselaw establishes that there is no right to a view. It is not considered that there would be any unacceptable visual impacts. Following amendment to the layout of plot 12 the spatial relationships between existing and proposed properties are considered acceptable in terms of maintaining privacy and natural light.

- 6.3.10 Heritage: The principal heritage interest in the Conservation Area rests with the frontage of the A4117 Lower Street to the south and The Hurst to the west and associated listed buildings. The Conservation Area boundary has been drawn widely in order to protect the setting of these listed buildings. It is considered that the proposals respect the setting of the listed buildings by preserving an appropriate stand-off. The design of the proposed buildings is also considered generally acceptable. Conservation officers have not objected subject to the imposition of a condition requiring approval of detailed specifications for materials and surface treatments including the design of the windows. An archaeological investigation condition has been recommended and is included in appendix 1. Subject to this it is considered that the proposals can be accepted in relation to relevant heritage policies and guidance.
- 6.3.11 Construction: A condition requiring submission of a Construction Management Plan has been recommended. This would control matters such as hours of working and management of construction traffic including ensuring that construction workers vehicles are parked on site at all times.
- 6.3.12 Ecology: An ecological survey confirms that the site has limited habitat interest. The council's ecologist has not objected. Appropriate ecological conditions and informative notes have been recommended in Appendix 1. It is considered that the proposals comply with Core Strategy Policy CS17.
- 6.3.13 Conclusion on environmental effects: The proposals would result in some disturbance to local amenities during the construction phase and there would be a change to some local views. There would also be an additional pressure on the public highway and on local sewerage services and a need for archaeological evaluation. However, it is not considered that there is any evidence that there would be any unacceptably adverse environmental effects which would justify refusal when available mitigation measures and recommended conditions are taken into account. The proposals are considered therefore to meet the environmental sustainability test set out in the NPPF.
- 6.4 Economic sustainability:
- 6.4.1 All housing schemes have some benefits to the local economy from building employment and investment in local construction services. The occupants of such properties would also spend money on local goods and services, thereby supporting the vitality of the local community. In addition, the proposals would generate an affordable housing contribution, CIL funding and community charge revenue which would also give rise to some economic benefits. Inappropriate development can potentially have adverse impacts on other economic interests such as existing businesses and property values.

6.4.2 In this particular case however it is not considered that there would be any obvious adverse economic impacts. There are no leisure or tourism facilities in the immediate vicinity which would be adversely affected. No public footpaths would be affected. It is not considered that there would be any material impact on property values provided a sensitive design and landscaping are applied at the reserved matters stage. It is considered overall therefore that the economic effects of the proposals would be positive and that the economic sustainability test set out in the NPPF is therefore met. (Core Strategy Policy CS5, CS13)

6.5 Social sustainability:

6.5.1 The Town Council has objected that the type of property proposed does not meet identified social needs and that smaller more affordable homes should be provided instead. These concerns are noted. However, the provision of smaller homes would potentially result in a denser layout which may be less sympathetic to the setting of this site within the Conservation Area. There would also be added pressure on parking and traffic in this end of cul-de sac plot. It is considered that the allocated sites at Cleobury Mortimer and other windfall development within the town have the potential to deliver a range of housing to supply market needs. Members considered one such scheme for a change of use of a former store at the September committee.

6.5.2 Some residents have also advocated the provision of bungalows instead of 2 storey homes. The applicant has advised that unfortunately this does not prove cost effective to develop, and as a result the proposals have changed to two storey housing.

6.5.3 The Town Council also considers that the town has sufficient housing to meet policy / SAMDev requirements. However, the site falls within the development boundary of Cleobury Mortimer which is identified in relevant saved and emerging policies as a location suitable for residential development. There are no indications that there is an oversupply of housing within the town and the applicant advises that there is a strong demand for properties of the type proposed. (Core Strategy Policy CS6, CS11).

6.5.4 The proposed site is located close to key community facilities and would be linked to them by a pedestrian footpath. The indicative layout plan also shows the proposed properties as all possessing generous garden space and a communal green area. There would also be good levels of natural light given the unshaded aspect of the plot. It is considered that these factors increase the overall the level of social sustainability of the proposals. It is concluded that the social sustainability test set out by the NPPF is also met on balance.

6.6 Affordable Housing

6.6.1 LDF Policy CS11 seeks to meet the diverse housing needs of Shropshire residents now and in the future and to create, mixed, balanced and inclusive communities by securing a financial contribution from residential unit proposals to provide for affordable housing within the Shropshire Council jurisdiction. Accordingly an affordable housing contribution will be required.

6.6.2 The Government has withdrawn a Ministerial Statement and associated PPG following a successful High Court challenge (as of the 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD.

7.0 CONCLUSION

7.1 The proposed site is situated in a sustainable location within the development boundary of Cleobury Mortimer where the principle of housing development can be accepted. Earlier schemes for denser and less dense housing were rejected in 2002 and 2003. The current proposals have attracted objections from the Town Council and some local residents but there have not been objections from technical consultees.

7.2 The scheme has been amended and further clarification has been provided in order to address issues identified during the planning consultation process. It is considered that the proposals would not have an unacceptable impact on the amenities of the nearby existing properties of the character of the Conservation Area. The proposals are considered to represent an acceptable balance in terms of the type, design and density of proposed housing.

7.3 It is considered on balance that the proposals are sustainable in environmental, social and economic terms and are compliant with the NPPF and Core Strategy Policy CS6. Permission is therefore recommended, subject to appropriate conditions and a legal agreement to deliver an affordable housing contribution.

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. If 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 intervene where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds for making the claim first arose. Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights: Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning History:

RELEVANT PLANNING HISTORY:

- PREAPP/12/00261 Erection of 12 detached and semi-detached bunalows including all necessary road and sewer works. Demilition of 41 Furlongs Road in order to provide vehicular access. PREAIP 24th August 2012
- 15/01919/FUL Erection of residential development 12No dwellings, garages and roads design PDE
- SS/1983/308/P/ Conversion of redundant telephone exchange to a dwelling. REFUSE 28th July 1983
- SS/1/02/13701/CA Erection of 9 no. dwellings, construction of estate roads and formation of vehicular and pedestrian access. Works to include demolition of (existing) dwelling and buildings. REFUSE 19th September 2002
- SS/1/02/13700/F Erection of 9 no. dwellings, construction of estate roads and formation of vehicular and pedestrian access. Works to include demolition of (existing) dwelling and buildings. REFUSE 19th September 2002
- SS/1/01/12755/CA Erection of 19 no. dwellings, formation of estate roads and vehicular and pedestrian access, to include demolition of (existing) dwellings and buildings. (re-advertised - amended scheme) REFUSE 11th January 2002
- SS/1/01/12754/F Erection of 19 no. dwellings, formation of estate roads and vehicular and pedestrian access, to include demolition of (existing) dwellings and buildings. (re-advertised - amended scheme) REFUSE 11th January 2002

Relevant Planning Policies:

Central Government Guidance:

10.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

10.1.1 The National Planning Policy Framework (NPPF) The NPPF emphasizes sustainable development and planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

10.2.1 The Shropshire Core Strategy was adopted in February 2011 and sets out strategic objectives including amongst other matters:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

10.2.2 Core Strategy policies of relevance to the current proposals include:

i. CS6: Sustainable Design and Development Principles:

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness and which mitigates and adapts to climate change. This will be achieved by: Requiring all development proposals, including changes to existing buildings, to achieve criteria set out in the sustainability checklist. This will ensure that sustainable design and construction principles are incorporated within new development, and that resource and energy efficiency and renewable energy generation are adequately addressed and improved where possible. The checklist will be developed as part of a Sustainable Design SPD;

Requiring 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; And ensuring that all development: Is designed to be adaptable, safe and accessible to all, to respond to the challenge of climate change and, in relation to housing, adapt to changing lifestyle needs over the lifetime of the development in accordance with the objectives of Policy CS11 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; Contributes to the health and wellbeing of communities, including safeguarding residential and local amenity and the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Is designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision and taking account of site characteristics such as land stability and ground contamination; Makes the most effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water; Ensures that there is capacity and availability of infrastructure to serve any new development in accordance with the objectives of Policy CS8. Proposals resulting in the loss of existing facilities, services or amenities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility, service or amenity is not viable over the long term.

v. CS17: Environmental Networks

Development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development: Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. Further guidance will be provided in SPDs concerning the natural and built environment; Contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets, such as the Shropshire Hills AONB, the Meres and Mosses and the World Heritage Sites at Pontcysyllte Aqueduct and Canal and Ironbridge Gorge does not have a significant adverse impact on Shropshire's environmental assets and does not create barriers or sever links between dependant sites; Secures financial contributions, in accordance with Policy CS8, towards the creation of new, and improvement to existing, environmental sites and corridors, the removal of barriers between sites, and provision for long term management and maintenance. Sites and corridors are identified in the LDF evidence base and will be regularly monitored and updated.

vii. Other relevant policies:

- CS4 - Community hubs and community clusters
- Policy CS5: Countryside and Green Belt;
- Policy CS7: Communications and Transport;

- Policy CS8: Facilities, services and infrastructure provision.
- CS11 - Type and affordability of housing;

10.2.3 Saved Policies – South Shropshire Local Plan

Policy E4 Development in Conservation Areas

Development in conservation areas will be required to be complementary to the scale, design and materials of adjacent buildings and preserve or enhance the character and appearance of the area. Conservation area consent for the demolition of buildings in conservation areas will only be granted in conjunction with proposals for replacement buildings or remedial works. In determining applications for proposals to which this policy applies, the Council will have regard to:

- any conservation area statement, village design statement or other supplementary planning guidance for the area;
- the quality of the design and the appropriateness of the proposed use;
- the appropriateness of materials and building techniques.

Supplementary Planning Guidance: Type and affordability of housing (March 2011)

10.3 Emerging Planning Guidance

10.3.1 SAMDev:

i. MD1 – Scale and Distribution of Development

Further to the policies of the Core Strategy:

1. Overall, sufficient land will be made available during the remainder of the plan period up to 2026 to enable the delivery of the development planned in the Core Strategy, including the amount of housing and employment land in Policies CS1 and CS2;
2. Specifically, sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres, and the Community Hubs and Community Cluster settlements identified in Schedule MD1.1, having regard to Policies CS2, CS3 and CS4 respectively and to the principles and development guidelines set out in Settlement Policies S1-S18 and Policies MD3 and MD4;
3. Additional Community Hubs and Community Cluster settlements, with associated settlement policies, may be proposed by Parish Councils following formal preparation or review of a Community-led Plan or a Neighbourhood Plan and agreed by resolution by Shropshire Council.

ii. MD2 – Sustainable Design

Further to Policy CS6, for a development proposal to be considered acceptable it is required to:

1. Achieve local aspirations for design, wherever possible, both in terms of visual appearance and how a place functions, as set out in Community Led Plans, Town or Village Design Statements, Neighbourhood Plans and Place Plans.
2. Contribute to and respect locally distinctive or valued character and existing amenity value by:
 - i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and

- ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
 - iii. Respecting, enhancing or restoring the historic context, such as the significance and character of any heritage assets, in accordance with MD13; and
 - iv. Enhancing, incorporating or recreating natural assets in accordance with MD12.
3. Embrace opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoid reproducing these characteristics in an incoherent and detrimental style; 4. Incorporate Sustainable Drainage techniques, in accordance with Policy CS18, as an integral part of design and apply the requirements of the SuDS handbook as set out in the Water Management SPD 5. Consider design of landscaping and open space holistically as part of the whole development to provide safe, useable and well-connected outdoor spaces which respond to and reinforce the character and context within which it is set, in accordance with Policy CS17 and MD12 and MD13, including;
- i. Natural and semi-natural features, such as, trees, hedges, woodlands, ponds, wetlands, and watercourses, as well as existing landscape character, geological and heritage assets and;
 - ii. providing adequate open space of at least 30sqm per person that meets local needs in terms of function and quality and contributes to wider policy objectives such as surface water drainage and the provision and enhancement of semi natural landscape features. For developments of 20 dwellings or more, this should comprise an area of functional recreational space for play and recreation uses;
 - iii. ensuring that ongoing needs for access to manage open space have been provided and arrangements are in place for it to be adequately maintained in perpetuity.
6. Ensure development demonstrates there is sufficient existing infrastructure capacity, in accordance with MD8, and should wherever possible actively seek opportunities to help alleviate infrastructure constraints, as identified with the Place Plans, through appropriate design; 7. Demonstrate how good standards of sustainable design and construction have been employed as required by Core Strategy Policy CS6 and the Sustainable Design SPD.

iii. MD3 - Managing Housing Development

Delivering housing:

1. Residential proposals should be sustainable development that:
 - i. meets the design requirements of relevant Local Plan policies; and
 - ii. for allocated sites, reflects any development guidelines set out in the relevant settlement policy; and
 - iii. on sites of five or more dwellings, includes a mix and type of housing that has regard to local evidence and community consultation.

Renewing permission:

2. When the proposals are for a renewal of planning consent, evidence will be required of the intention that the development will be delivered within three years.

Matching the settlement housing guideline:

3. The settlement housing guideline is a significant policy consideration. Where development would result in the number of completions plus outstanding permissions exceeding the guideline, decisions on whether to exceed the guideline will have regard to:

- ii. The likelihood of delivery of the outstanding permissions; and
 - iii. Evidence of community support; and
 - iv. The benefits arising from the development; and
 - v. The presumption in favour of sustainable development.
4. Where a settlement housing guideline appears unlikely to be met by the end of the plan period, additional sites beyond the development boundary that accord with the settlement policy may be acceptable subject to the criteria in paragraph 3 above.

iv. MD7a – Managing Housing Development in the Countryside

1. Further to Core Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs, other relevant policy requirements and , in the case of market residential conversions, a scheme provides an appropriate mechanism for the re-use and retention of buildings which are heritage assets. In order to protect the long term affordability of affordable exception dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions;
2. Dwellings to house essential rural workers will be permitted if:-
 - a. there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural enterprise; and,
 - b. in the case of a primary dwelling to serve an enterprise without existing permanent residential accommodation, relevant financial and functional tests are met and it is demonstrated that the business is viable in the long term and that the cost of the dwelling can be funded by the business. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, a financial contribution to the provision of affordable housing will be required, calculated in accordance with the current prevailing target rate and related to the floorspace of the dwelling; or,
 - c. in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the business for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be demonstrated that it would not be suitable. Where unsuitability is demonstrated, a financial contribution to the provision of affordable housing, equivalent to 50% of the difference in the value between the affordable and market dwelling will be required.
3. Such dwellings will be subject to occupancy conditions. Any existing dwellings associated with the rural enterprise may also be subject to occupancy restrictions, where appropriate. For primary and additional rural workers' dwellings permitted prior to the adoption of the Core Strategy in March 2011, where occupancy restrictions are agreed to be removed, an affordable housing

contribution will be required in accordance with Policy CS11 at the current prevailing target rate and related to the floorspace of the dwelling.

4. In addition to the general criteria above, replacement dwelling houses will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. Replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling had been previously extended or a larger replacement is approved, permitted development rights will normally be removed;
5. The use of existing holiday let properties as permanently occupied residential dwellings will only be supported if:
 - a. the buildings are of permanent construction and have acceptable residential amenity standards for full time occupation; and,
 - b. the dwellings are restricted as affordable housing for local people; or,
 - c. the use will preserve heritage assets that meet the criteria in Policy CS5 in relation to conversions and an affordable housing contribution is made in line with the requirements set out in Core Strategy Policy CS11.

vi. MD8 –Infrastructure Provision

Existing Infrastructure

1. Development should only take place where there is sufficient existing infrastructure capacity or where the development includes measures to address a specific capacity shortfall which it has created or which is identified in the LDF Implementation Plan or Place Plans. Where a critical infrastructure shortfall is identified, appropriate phasing will be considered in order to make development acceptable;
2. Development will be expected to demonstrate that existing operational infrastructure will be safeguarded so that its continued operation and potential expansion would not be undermined by the encroachment of incompatible uses on adjacent land....

vii. MD12: The Natural Environment

In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the conservation, enhancement and restoration of Shropshire's natural assets will be achieved by:

1. Ensuring that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets where proposals are likely to have an unavoidable significant adverse effect, directly, indirectly or cumulatively, on any of the following:
 - i. the special qualities of the Shropshire Hills AONB;
 - ii. locally designated biodiversity and geological sites;
 - iii. priority species;
 - iv. priority habitats
 - v. important woodlands, trees and hedges;
 - vi. ecological networks
 - vii. geological assets;
 - viii. visual amenity;

ix. landscape character and local distinctiveness.

In these circumstances a hierarchy of mitigation then compensation measures will be sought.

2. Encouraging development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition.
3. Supporting proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB, Nature Improvement Areas, Priority Areas for Action or areas and sites where development affects biodiversity or geodiversity interests at a landscape scale, including across administrative boundaries.

viii. S6: Cleobury Mortimer Area

S6.1: Cleobury Mortimer strategy

1. As a key centre, Cleobury Mortimer will continue to provide facilities and services for its rural hinterland. To support this role, around 350 additional dwellings and a minimum of 0.7 hectares of employment land will be delivered over the Plan period 2006-2026.
2. New housing development will be delivered on two allocated housing sites off Tenbury Road set out in schedule S6.1a, and identified on the Policies Map, alongside additional infill and windfall development within the town's development boundary.
3. To foster economic development and to help deliver a balance between new housing and local employment opportunities, a specific site allocation for new employment land at New House Farm, adjacent to the existing industrial estate on Tenbury Road, is set out in Schedule S6.1b and identified on the Policies Map. Other appropriate brownfield opportunities for employment use within the town will also be supported. Existing employment areas are safeguarded for employment use in accordance with Policy MD9.
4. New development will take account of known infrastructure constraints and requirements identified in the LDF Implementation Plan, Place Plan and any additional infrastructure capacity assessments recognising the impacts of incremental growth, and will support the delivery of local infrastructure improvements in line with Core Strategy policies CS8 and CS9, including through appropriate financial contributions.
5. To support Cleobury Mortimer's role as a District Centre new main town centre uses will be focussed within the defined town centre area identified on the Policies Map, and will be subject to Policies CS15 and MD10.

There are 2 housing allocations: Tenbury Road (CMO002) and Land at New House Farm (CMO005)

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NNMTA3TDK5800>

List of Background Papers: Planning application reference 15/01919/FUL and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member(s):
Cllr Gwilym Butler
Cllr Madge Shineton

Appendices: Appendix 1 – Conditions

APPENDIX 1

Legal Agreement

1. Affordable housing contribution;

Planning Conditions

STANDARD CONDITIONS:

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 numbers NO56.1.1.03 Rev A and NO56.1.1.04 Rev B.

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

3. The new dwelling(s) hereby permitted shall be constructed to a minimum of an equivalent to the Code for Sustainable Homes level 3, for energy and water efficiency.

Reason: To ensure the dwelling is constructed with a view to reducing its carbon footprint.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES:

Drainage

4. No development shall take place until plans for the disposal of foul sewage have been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and before the development is first occupied.

Reason: To ensure satisfactory measures for the disposal of foul sewage from the site.

- 5a. The development hereby approved shall not commence unless details of the proposed surface water soakaways have been submitted to and approved in writing by the County Planning Authority. Percolation tests and the sizing of the soakaways shall comply with BRE Digest 365 and shall cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. The details shall include calculations and dimensions for the soakaways and confirmation of the location for the percolation tests.

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

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

- 6a. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant shall submit for approval a drainage system to intercept water prior to flowing on to the public highway.
- b. If it is proposed to employ highway gullies for the disposal of the surface water runoff from the proposed highway within the site, the developer shall submit a highway water runoff disposal scheme for the approval of the Local Planning Authority prior to the commencement of the development. This shall confirm that the proposed gullies will be able to convey the 100 year plus 30% storm to the soakaway system. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12. This requires that exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. The exceedance flow path should be detailed to ensure that any such flows are capable of being satisfactorily managed on site.

Reason: To comply with the Flood and Water Management Act 2010 and ensure that no surface water runoff from the new access runs onto the highway.

Archaeology

7. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest

Construction

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;
- ensuring that construction workers vehicles are parked on site at all times;
- ensuring that smaller vehicles are used whenever possible.

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

9. Hours of working for the construction phase shall be restricted to 07.30 to 18.00 hours Monday to Friday and 08.00 to 13.00 hours on Saturdays. There shall be no construction work on Sundays, Public or Bank Holidays.

Reason: To protect the amenities of the nearest residential properties during the construction phase.

10. Prior to the commencement of development full engineering details of the new access roads, footways, parking areas, highway surface water drainage, street lighting and carriageway markings/signs shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details with the estate roads, footways, vehicle manoeuvring and turning areas completed to at least base course macadam level and made available for use before the dwellings they serve are first occupied.

Reason: To ensure a satisfactory access to the site and dwellings, in the interests of highway safety.

11. Prior to the commencement of development a travel plan shall be submitted. The submitted travel plan shall be implemented within one month of the first occupation of the residential development. The travel plan measures shall relate to the entirety of the residential development, and reflect the phasing of occupation as appropriate.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with guidance in Planning Policy Guidance Note 13.

Materials and surfacing

12. Notwithstanding the details submitted in support of the application no above ground development shall commence until exact details of all external materials, including hard surfacing and fenestration, 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.

13. Notwithstanding the details submitted in support of the application a scheme to prevent or appropriately restrict vehicular access from the development site to the car park of the Old Lion Public House shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of residential amenity and highway safety.

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

Parking provision

14. The dwellings hereby approved shall not be first occupied until the car parking areas shown on approved plan have been constructed and surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and the parking spaces thereafter shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles, associated with the development, off the highway in the interests of highway safety.

Landscaping

- 15a. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- i. Means of enclosure
 - ii. Hard surfacing materials
 - iii. Planting plans
 - iv. Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - v. Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
 - vi. Implementation timetables
- b. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

Lighting

16. 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, which are a European Protected Species (and in accordance with Policy CS17 of the Shropshire Core Strategy).

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT:Ecology

- 17a. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.
- b. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

Informatives:Ecology:

- i. *All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.*
- ii. *The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

- iii. *If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.*
- iv. *Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*

Drainage

- v. *The surface water drainage strategy of the proposed site should be designed to treat and control of runoff as near to the source as possible. It should seek to protect downstream habitats, further enhancing the amenity value of the site and aiming to incrementally reduce pollution, flow rates and volumes of storm water discharging from the site. SuDS should link with the individuals plot structure, planting, public open space requirements and amenity areas, gaining multiple benefits from a limited area of land. Opportunities for permeable paving, swales, filter strips and rain garden for the highway within the development site should be explored to make the drainage system more sustainable.*
- vi. *Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:*

Residential Dwellings per hectare Change allowance % of impermeable area:

- *Less than 25 - 10*
 - *30 - 8*
 - *35 - 6*
 - *45 - 4*
 - *More than 50 - 2*
 - *Flats & apartments - 0*
- vii. *The applicant should consider employing measures such as the following:*
 - *Attenuation*
 - *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access road, driveway, parking area/ paved area*
 - *Greywater recycling system*
 - *Green roofs*
 - viii. *Consent is required from the service provider to connect into the foul main sewer.*

Other matters:

- ix. *An independent 32 amp radial circuit isolation switch should be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building. Paragraph 35 of the NPPF states in this respect that "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."*
- x. *Public Footpath 65, Cleobury Mortimer runs off Furlongs Road adjacent to the proposed new access to the proposed development and then turns westerly towards The Hurst. The Council's Rights of Way service has advised as follows:*
- *The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.*
 - *Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.*
 - *Building materials, debris, etc must not be stored or deposited on the right of way.*
 - *There must be no reduction of the width of the right of way.*
 - *The alignment of the right of way must not be altered.*
 - *The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.*
 - *No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.*

**Statement of Compliance with Article 31 of the Town and Country
Development Management Procedure Order 2012**

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Government's Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. Further information has been provided by the applicant on indicative design, layout and housing need. The submitted scheme has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended planning conditions.

ANNEX 2

LETTER FROM AGENT TO PLANNING OFFICER DATED 20th DECEMBER 2015 RESPONDING TO PREVIOUS COMMITTEE RESOLUTION

Dear Mr French

**Re: Furlongs Road, Cleobury Mortimer.
Application number 15/01919/FUL**

Following the Planning Committee decision on the 3rd Nov 2015 to defer the above application with a mindful to refuse and following our meeting on the 18th Nov 2015, I am writing to express our concern at the suggested reasons for refusal, which were fully discussed and explored at our meeting.

Whilst we fully recognise that the final decision rest with the Planning Committee, we consider that in this instance the reasons proposed for refusal are all fully satisfied within the application as follows:

Core Strategy Plan

CS3 – The Market Towns & other key centres

- 1-0 The proposal is of an appropriate scale and design that respects the existing distinctive character of Cleobury Mortimer, respecting the conservation area and the existing surrounding 2 storey properties.
- 2-0 The site is within the Cleobury Mortimer development boundary.
- 3-0 The site has been identified on the Shropshire Strategic housing land availability assessment plan for Cleobury Mortimer since 2008-9 as ACCEPTED for 12 houses.
- 4-0 Cleobury Mortimer is identified for housing developments of 200-5000 homes between 2006 and 2026.
- 5-0 Development in market towns and key centres provides a robust basis for meeting the future needs of Shropshire.

CS6 – Sustainable design and Development Principles

- 6-0 The design makes use of the Government Building for life questionnaire and achieves the highest design standard allowing the development to apply for the **GOLD** design award.
- 7-0 Houses designed to complement the conservation area and local vernacular.
- 8-0 The design makes the most effective use of the land within a residential area of the town.

CS7 – Communication and Transportation

- 9-0 The site abuts an existing public footpath with easy access to the town centre, avoiding the reliance on the car.
- 10-0 Existing footpaths provide easy access to public transport.
- 11-0 Development makes a financial contribution to highway improvements.

Continued.....

– 2 –

CS8 – Facilities, Services and Infrastructure Provision

- 12-0 Improvements to Furlongs Road turning head will provide a continuous footpath connection between Furlongs Road and the Hurst, improving safety.
- 13-0 The access road (Furlongs Road) meets current Government design requirements and was considered appropriate, by a previous planning inspector at appeal, to accommodate 12 additional houses.
- 14-0 Rural road networks must be retained as part of the character of Cleobury Mortimer which is fully recognised the Governments Design Manual for Street 2, item 2.8 Rural Areas.
- 15-0 The plans have been fully examined by the Council Highways department who have raised no objection to this scheme.

In addition to the above the Parish Council have suggested there may be a need for retirement homes/old people's development within Cleobury Mortimer. This may be desirable; however we do not consider this site appropriate for this type of development, which should be located much closer to the existing facilities within the town.

A bungalow feasibility scheme was prepared on this site a few years ago and submitted to two local selling agents, who both concluded that this site was inappropriate for bungalows and would be best suited for family houses. Therefore for commercial reasons and based on the advice of two local selling agents the bungalow scheme was not pursued.

Following our meeting and discussion I have as requested looked again at the development and although I do not consider it necessary I have agreed to make the following minor revisions:

- 16-0 Plot 3 a previously single detached 4 bedroom house is substituted with a pair of semi detached 3 bedroom F type houses. This provides a more balanced site mix of 6 number 3 bedroom houses and 7 number 4 bedroom houses.
- 17-0 House type G on plots 10 & 11 (previously plots 9 & 10) are substituted for House type B with a reduced ridge height of approx 1 metre.
- 18-0 The roof pitch of plot 13 (previously plot 12) amended reducing the ridge height by approx 1 metre.
- 19-0 Subject to discussion with Highways a triangle of land at the entrance will be hard landscaped and planted with a tree or trees.

I trust that these minor revisions will be presented to the committee under the 'Wheatcroft Principle' and that the committee will reconsider their decision.

In conclusion we therefore consider that the proposed scheme meets the Council objective of meeting housing requirements in rural towns, meets current Government Highway standards and is designed to meet the GOLD standards as identified in the Building for Life 12 with regard to:

- Integrating into the neighbourhood
- Creating a place
- Streets and Homes.

Regards

Gerard Abbiss M.A. S.A.I.
Design Consultant.



Committee and date

South Planning Committee

1 December 2015

Development Management Report

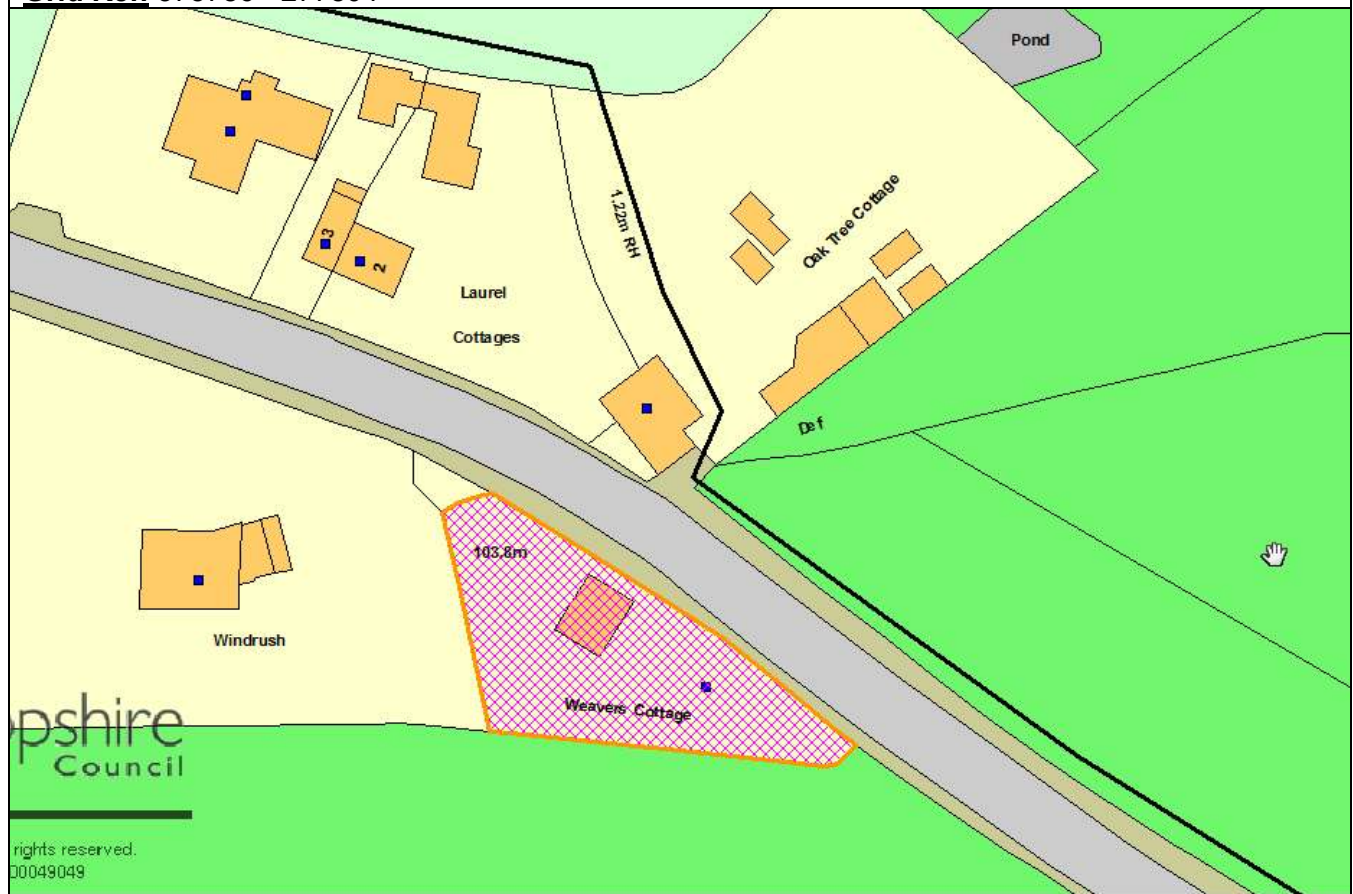
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/03558/FUL	Parish:	Kinlet
Proposal: Erection of a single storey rear extension		
Site Address: Weavers Cottage Buttonoak Kinlet Bewdley Shropshire		
Applicant: Mr Colin Haywood		
Case Officer: Elizabeth Davies	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 375786 - 277804



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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 to erect a single storey rear extension on the southwest elevation to provide a lobby, kitchen and additional bedroom, this additional living space is required to enable the applicant and his partner with their new baby, and desire to have another baby next year, to stay in Buttonoak where the applicant has lived for approximately 20 years and support the local school.
- 1.2 The extension is proposed to be constructed from painted render walls, sitting on a reclaimed brick plinth under a clay tiled roof with timber windows and doors.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The dwelling is situated at the eastern end of Button Oak, on the inside of a bend on the B1494 Kinlet to Bewdley Road and shares a vehicular access with the neighbouring property known as Windrush which is approximately 36m to the west of the dwelling.
- 2.2 The dwelling is considered to be a 'non-designated heritage asset', these are structures that normally pre-date 1950; comprise of traditional materials and building methods; are of permanent and substantial construction; are of local significance and add value to the landscape.
- 2.3 The single storey dwelling accommodation comprises of a small stone building and an extension to two sides of the building. The stone element provides double bedroom while the extension contains a shower room, a kitchen and a conservatory. There is a large external decking area which is accessed from the dwelling along with its own parking/ turning area. The dwelling sits within a large residential curtilage.
- 2.4 The application site is located north of the Wyre Forest SSSI and Ancient Woodland and has been subject to 2 previous planning permissions:
- 12/04835/VAR - Removal of Condition No.6 attached to Planning Permission 04/1048 dated 6th January 2005 to remove reference to requirement for cottage to be used solely for holiday use granted August 2013
- BR/APP/FUL/04/1048 - Conversion and extension of building to form a holiday cottage and formation of new vehicular access granted January 2005

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have made a comment that would be contrary to the Officers recommendation.

3.2 The Local Members have requested that the application be presented to the Planning Committee for consideration given the objection from the Parish Council and in discussion with the Chair of the Planning Committee it has agreed that the issues raised are material and should be discussed at committee.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Kinlet Parish Council – Objection

It was a majority decision to recommend refusal of this application as the property has already been extended several times and it was considered that this further proposal was not subservient or in keeping with the original cottage.

4.1.2 Shropshire Council Drainage – Comments

Informative: The applicant should consider employing measures such as the following:

- Surface water soakaways
- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new driveway, parking area/ paved area
- Attenuation
- Greywater recycling system
- Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the extension is undertaken in a sustainable manner

4.1.3 Natural England - No objection

4.1.4 Shropshire Council Trees – Comments

I have reviewed the information submitted in association with this application and wish to make the following comments as regards arboriculture issues. Had the application been to construct a new dwelling I would have had concerns regarding the proximity to the adjacent mature woodland, in the overbearing presence the trees would have had on the dwelling and future occupants. Doubtless this would have led to pressure for excessive pruning or removal of the trees.

However, since this is an extension to the existing dwelling, I consider the current occupants are aware of the issue and happy to proceed with the proposed development. I therefore have no objection on arboriculture grounds, providing suitable measures are taken as described in the submitted tree report (Old Oak Tree Care, OOTC/PC15/58, 4th August 2015) to protect adjacent trees from damage during implementation of any approved development.

Because the adjacent woodland is designated ancient woodland, the Forestry Commission should be consulted on the proposed development.

I would recommend attaching the following condition to any approval for this application:

Prior to commencement of development, tree protection measures shall be installed to the written satisfaction of the LPA, in accordance with and as specified in, Section 9 and Appendices B (Tree Protection Plan) and D (Fence Specification) of the approved Arboricultural Report (Old Oak Tree Care, OOTC/PC15/58, 4th August 2015). Thereafter the tree protection measures shall be maintained in a satisfactory condition until completion of the development and shall not be moved or removed until all equipment, machinery and surplus materials have been removed from the site. Any area of land fenced off in accordance with this condition shall be treated as a construction exclusion zone, within which there shall be no storage of materials or construction activities of any kind, nor excavations or alterations of soil levels, without the prior written consent of the LPA.

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

4.1.5 Shropshire Council Ecology – Comments

Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Informative

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

4.1.6 Shropshire Council Conservation – Objection

From a conservation perspective the proposed extension would be considered to be an overdevelopment of the site and would not be in keeping with the scale of the original property. The proposal is not supported from a conservation perspective.

Additional Comments Received 12.11.15

In considering the proposal due regard to the following local and national policies, guidance and legislation has been taken; CS5 Countryside and Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, Planning Practice Guidance and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

The application proposes the erection of a single storey rear extension to this property known as Weavers Cottage, Buttonoak. The property is not listed or within the conservation area however it is considered to be a non designated heritage asset which was a reason for its initial conversion to residential accommodation in order to preserve the asset for the future. The building sits close to the road and is relatively visible in the area. The interest of this building as a heritage asset lies in its original form and materials and as a small vernacular building type. The single storey dwelling accommodation comprises of a small stone building and an extension to two sides of the building. The original stone portion of the building is of a small scale which is part of its character and heritage interest, the existing conversion and extensions have enabled the use of the building as a small residential unit and were therefore considered acceptable. However the current proposal will extend the building further almost doubling the existing accommodation which is considered to be an overdevelopment of the original structure and it is considered the additional extensions will detract from the character of the original building and are not necessary for its residential use. The conversion of traditional buildings to preserve them for the future can be appropriate but must respect the character and form of the original building and not require substantial rebuilding or extension. From a conservation perspective the proposal is not considered to preserve the character of this non designated heritage asset and in my view would not be in accordance with policies, guidance and legislation as outlined above.

4.1.7 Forestry Commission – No Comments received.

4.2 Public Comments

4.2.1 No public comments have been received.

5.0 THE MAIN ISSUES

- . Principle of development
- . Siting, scale and design of structure
- . Visual impact and neighbouring amenity.

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Shropshire Council Core Strategy CS6, seeks to ensure any development protects, restores, conserves or enhances the existing environment, whether that is the natural, built or historic environment. Policy CS6 of the Strategy also puts forward

a presumption in favour of extensions to dwellings, provided that the scale, siting and design do not overwhelm or dominate the appearance of the original dwelling and does not have any detrimental impact on the level of residential amenity or harm visual amenity.

- 6.1.2 Policy CS5: Countryside and Green Belt of the Shropshire Core require that the openness, permanence and visual amenity of the land within its boundaries are preserved and that the extension or alteration of a building does not result in disproportionate additions over and above the size of the original dwelling.
- 6.1.3 Section 7 of the National Planning Policy Framework also requires development to display favourable design attributes which contribute positively to making better for people, and which reinforces local distinctiveness
- 6.2 Siting, scale and design of structure
- 6.2.1 Paragraph 135 of the NPPF states that the Local Planning Authority has a duty to consider the effect of an application on the significance of a non-designated heritage asset and should ensure that a balanced judgement will be required regarding the scale of any harm or loss.
- 6.2.2 Kinlet Parish Council and Shropshire Council Conservation Officer have raised concerns over the issue that the property has already been extended and that the proposal is not in keeping or subservient with the scale of the original cottage. Previous planning history shows that the dwelling was subject to a previous planning permission BR/APP/FUL/04/1048 in January 2005 for the conversion and extension to a holiday dwelling (and this is the current footprint of the dwelling) along with planning permission 12/04835/VAR granted in August 2013 for removal of condition 6 restricting the use to a holiday let only. Some pre-application advice was sought by the applicant on the possibility of extending this dwelling. The initial submission contained no drawings and the advice given by the Officer was that it was doubtful whether a further extension could be designed which would retain the character and appearance of the original building. However in May 2015 drawings were submitted for an extension to provide a kitchen and second bedroom in the form that is proposed in this application. The informal Officer opinion given was that this configuration was of a scale and design which could be supported.
- 6.2.3 The proposed extension would join the existing dwelling on the southwest elevation where it will meet with the existing gable end of the current conservatory. It would be rectangular in shape and measure approximately 7.3m in width, 4m in depth with an eaves height of 2.5m and a ridge height of 4.4m and be set some 1.2m below the existing dwelling. It would be constructed from rendered walls which will complement the existing stone walls and the soft weatherboarding on the northwest elevation of the existing dwelling. It would have a clay tiled roof with timber windows to match the existing dwelling. A new timber door on the south west elevation would lead out onto the garden while new steps leading down to the garden would be created each side of the southwest elevation thus creating a balanced effect. The proposed development, taking into account the proposed scale of the extension and that it would be at a lower level (approx. 1.2m) to the original dwelling it therefore would not conceal the scale and character of the original building and would ensure that the character of the original building is

preserved for the future.

- 6.2.4 The proposal would appear subservient and in keeping with the scale, mass, character and appearance of the original dwelling house due to the positioning of the proposal at a slightly lower ground level compared to the original dwelling. All materials will be reinforced by condition on any approval issued to ensure that the materials used will complement those of the existing dwelling.

6.3 Visual impact and neighbouring amenity

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.3.2 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the high quality and local character of Shropshire built and historic environmental and that it should not adversely affect the visual or heritage values and functions of these assets. This is reiterated in policy 12 'Conserving and Enhancing the Historic Environment' of the National Planning Policy Framework which supports the desirability of sustaining and enhancing the significance of heritage assets and putting them to a viable uses consistent with their conservation.
- 6.3.3 The dwelling is not in a conservation area but is a non designated heritage asset as the dwelling is an old building and not listed or in a conservation area but still has local historical importance, the proposal does not intend to alter or demolish the current stone walls of the dwelling and proposes to simply enlarge to create additional living space. These new walls would be rendered with a reclaimed brick plinth below and will complement the existing stone walls and weatherboarding on the northwest elevation.
- 6.3.4 When viewed from the highway the proposal will be set some 1.2m below the existing and therefore will mainly be shielded from view by the existing dwelling and by the land falling steeply to the south. It is intended not to alter the dwelling on the roadside elevation thus ensuring minimal impact on this aspect.
- 6.3.5 The submitted designs are considered to have made attempts to mitigate against the potential of the proposed extension adding excessively to the overall bulk and massing of the dwelling; in light of this it is not considered that the proposal is of a harmful nature to the visual amenity and openness of the land, and thus supports Shropshire Core Strategy Policy CS5.
- 6.3.6 The nearest neighbouring properties (Oak Tree Cottage and Windrush) are located approximately 18m to the north and 33m to the west, in view of this and that the

land falls steeply to the south it is considered that the proposal would not create an over bearing impact or result in loss of light or privacy sufficiently to unduly harm the residential amenity of the occupiers of these neighbouring properties, in light of this and with regard to CS6 of the Shropshire Core Strategy and Section 7 of the National Planning Policy Framework, it is not considered that the proposal is of a harmful nature and will not unacceptably impact on the amenity rightfully expected to be enjoyed by the occupiers of the neighbouring properties.

- 6.3.7 As the site is within close proximity to a Site of Special Scientific Interest, Wyre Forest SSSI and suitable measures have been submitted tree report (Old Oak Tree Care, OOTC/PC15/58, 4th August 2015) to protect adjacent trees from damage during implementation of any approved development.
- 6.3.8 The proposed scale, design and appearance of the proposal would respect the existing character of the dwelling and would not result in any adverse visual impact in the locality, and as such it is considered that the proposal would not detract from the visual amenity of the site and surrounding area and would accord with policy CS6 and CS17 of the Shropshire Core Strategy Framework and Section 7 of the National Planning Policy Framework.

7.0 CONCLUSION

The proposal would result in a modest single storey dwelling with two bedrooms, kitchen, living area, lobby, utility and bathroom, in a settlement which is part of a Community Cluster in the soon to be adopted SAMDev Plan. The proposed extension is judged by Planning Officers to be in scale and character with the original dwelling and its setting, and would result in of no demonstrable harm in terms of residential amenity, and would have no adverse impact on ecological interests. The application is considered to accord with the principle determining criteria of the relevant development plan policies and approval is recommended.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or

perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Shropshire Core Strategy:

CS06 Sustainable Design and Development Principles
 CS05 Open Countryside and Greenbelt
 SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

12/04835/VAR Removal of Condition No.6 attached to Planning Permission 04/1048 dated 6th January 2005 to remove reference to requirement for cottage to be used solely for holiday use
 GRANT 20th August 2013

BR/APP/FUL/04/1048 Conversion and extension of building to form a holiday cottage and formation of new vehicular access GRANT 6th January 2005

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage&searchType=Application>

List of Background Papers 15/03558/FUL: Application documents can be viewed on the Shropshire Council Planning Website.

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member Cllr Gwilym Butler Cllr Madge Shineton

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. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. Prior to commencement of development, tree protection measures shall be installed to the written satisfaction of the LPA, in accordance with and as specified in, Section 9 and Appendices B (Tree Protection Plan) and D (Fence Specification) of the approved Arboricultural Report (Old Oak Tree Care, OOTC/PC15/58, 4th August 2015). Thereafter the tree protection measures shall be maintained in a satisfactory condition until completion of the development and shall not be moved or removed until all equipment, machinery and surplus materials have been removed from the site. Any area of land fenced off in accordance with this condition shall be treated as a construction exclusion zone, within which there shall be no storage of materials or construction activities of any kind, nor excavations or alterations of soil levels, without the prior written consent of the LPA.

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

Informatives

1. 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.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy:
CS06 Sustainable Design and Development Principles
CS05 Open Countryside and Greenbelt
SPD Type and Affordability of Housing

3. Informative: The applicant should consider employing measures such as the following:

- o Surface water soakaways
- o Water Butts
- o Rainwater harvesting system
- o Permeable surfacing on any new driveway, parking area/ paved area
- o Attenuation
- o Greywater recycling system
- o Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the extension is undertaken in a sustainable manner

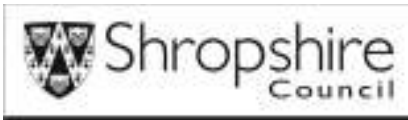
4. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

5. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.



Committee and date

South Planning Committee

1 December 2015

Development Management Report

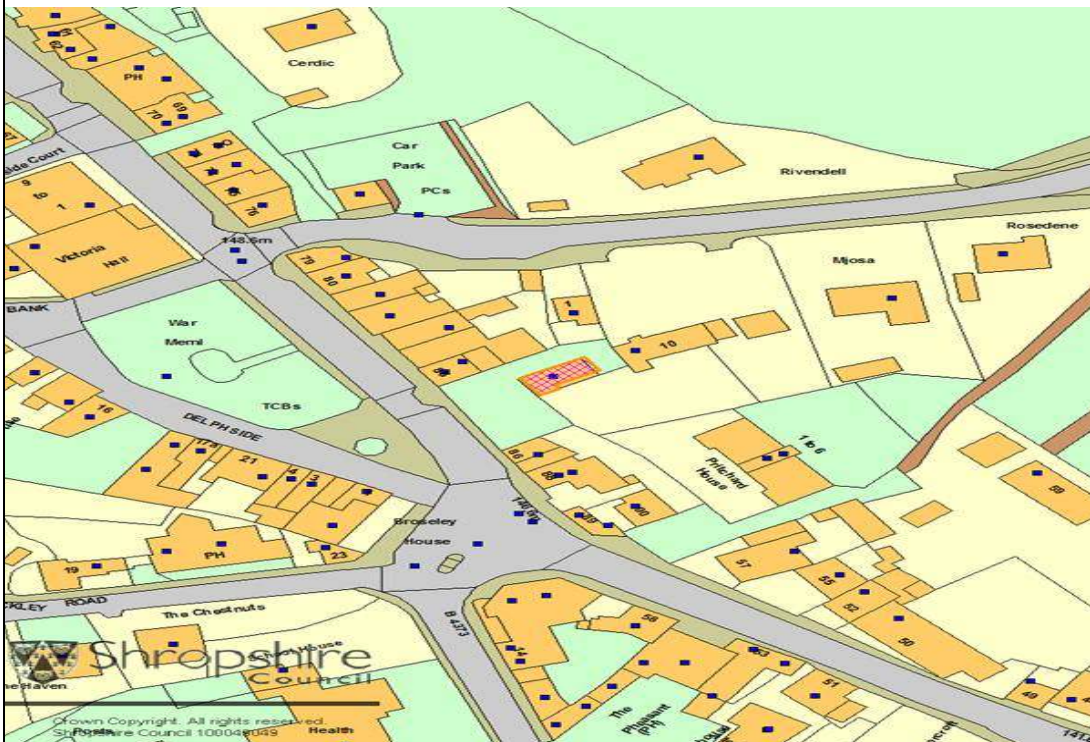
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/03822/VAR	Parish: Broseley
Proposal: Application under Section 73a of the Town and Country Planning Act 1990 for the Variation of Condition Nos. 2 and 4 and Removal of Condition Nos. 3, 5 and 7 attached to Planning Permission 09/03161/FUL dated 4th February 2010 for the rebuilding of fish and chip shop (Retrospective)	
Site Address: The Fish Shop High Street Broseley Shropshire TF12 5ET	
Applicant: Mr Parminda Sandhu	
Case Officer: Thomas Cannaby	email: planningdmse@shropshire.gov.uk

Grid Ref: 367510 - 301724



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Recommendation: Permit, subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application is submitted under Section 73A of the Town and Country Planning Act 1990 in order to seek to resolve outstanding amendments to and details required by conditions on Planning Permission Ref: 09/03161/FUL for 'Rebuilding of fish and chip shop', granted on 5th February 2010. Officers have been through a long process with the applicants and their agent in order to overcome the unauthorised planning matters which have arisen. An application to vary and remove a number of conditions on the original Planning Permission is considered to be the most effective way of resolving the issues.

1.2 A recent application (14/03594/VAR) was considered by the Committee, however that application was refused consent. The current application is submitted in an attempt to address the issues raised by the Committee in their consideration of the previous application. Therefore this application is for the variation of condition nos. 2 and 4, and removal of condition nos. 3, 5 and 7 applied to Planning Permission Ref: 09/03161/FUL, details as follows:

1.3 Condition No. 2:

The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan numbers B171/SK1 Revision F received on 25th January 2009.

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

The original drawings indicated the land as flat whereas it slopes from front to rear, resulting in more brickwork to the rear as built to accommodate the slope. Other existing alterations in the design, and as are proposed to conclude the build are:

As per the previous application which was refused:

- o Removal of the 2 ground floor windows in the north east facing rear elevation.
- o Installation of 2 rooflights in the mono pitch roof over the single story rear element of the building.
- o Increase in the rear element to make it the full width of the building rather than stepped in from the south east facing side.
- o More detailed eaves and chimney.
- o Alterations to internal room divisions

Alterations new to this application:

- o Installation of internal steps at side entrance door, and change in floor levels internally for the shop area to remove need for access ramp and external steps which were shown on previous application.
- o Relocation of external flue into the chimney.
- o Staining of bricks in order to alter the colour.

The variation of this condition involves substituting the amended and additional drawings and documents submitted with this application which demonstrate the above amendments.

1.4 Condition no. 3

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

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

As there has been a change in specification to some of the materials used, the removal of this condition will demonstrate agreement with details of the materials submitted in support of this application. This condition can be replaced with an amended version instead of total removal if necessary.

1.5 Condition No. 4

Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority; joinery design, materials and finish of windows, external doors and shopfront; design, materials and finish of rooflights; treatment of eaves and gable verges; location of waste storage; kitchen odour extraction system.

Reason: In the interests of visual amenity and public health.

Amended joinery details have been submitted relating to the doors and windows and to the timber shop front to replace the aluminium one installed. Slightly more ornate than approved eaves and verge details of the roof have also been submitted, rooflight colour specified and flue included on the elevation drawings. The location of the waste storage was agreed to be acceptable as part of the information submitted to discharge the conditions under Planning Permission Ref: 09/03161/FUL.

Rather than being varied, it is suggested that if all the details submitted are found to be acceptable, then this condition should also be removed as there would no requirement to vary it.

1.6 Condition No. 5

The rear elevation windows shown on the approved drawing shall be replaced with rooflights in the rear roof slope, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of safeguarding the privacy of adjacent property.

This condition is proposed to be removed as the work described to remove the windows and install rooflights has now been carried out.

1.7 Condition No. 7

The building shall not be occupied until the remedial measures recommended in the report by Spilman Associates have been fully complied with in particular by stabilisation of the working by drilling and grouting.

Reason: In the interests of public safety.

This condition is proposed to be removed as design calculations and sketches for the raft foundation works undertaken have been submitted for consideration.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site falls within the Market Town of Broseley and is included in Broseley Conservation Area and the Shopping Centre designations. It is accessed directly from the High Street to the south west via a small car parking area which also provides vehicular and pedestrian access on the northern side of the site to residential properties beyond. The building is located towards the south eastern end of the High Street in between, but set over 10m back from, the line of shops and other commercial premises along the street frontage. The properties adjacent to the north west are 3 storey Georgian brick buildings, and those on the other side to the south east are rendered and brick properties of cottage character and scale. Opposite the site and beyond another parking forecourt are more modern, single storey, flat roofed commercial units.

2.2 The erection of a new chip shop building as approved under Planning Permission Ref: 09/03161/FUL is virtually completed, however work has ceased pending the decision of this application. For this reason, the visual appearance of the building is unfinished within the street scene and not truly represented.

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.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Broseley Town Council – Comment:

- I. It was not clear how the front entrance was to be accessed as the doorway was higher than the forecourt.
- II. The statement that the bricks were to be treated did not specify what was intended by this.
- III. Councillors welcomed the introduction of a chimney to enclose the flue and the arrangements for bringing the side steps inside the building.

4.1.2 SC Public Protection – Having considered the extraction systems [public protection] consider that this would be beneficial and as a result noise and odour are not likely to have a detrimental impact on the amenity of the area.

4.1.3 SC Conservation – No objections to the variation of conditions.

4.1.4 SC Archaeology - No comments to make on this application with respect to archaeological matters.

SC Highways – No comments to make on this application.

4.2 - Public Comments

4.2.1 Comments objecting to application: 4

- ☒ Building out of character with conservation area.
- ☒ Building higher than originally proposed.
- ☒ Changes to ground floor require provision of new access ramp. No steps should be allowed outside the building to encroach of right of way.
- ☒ External materials make building visually prominent.
- ☒ Chimney of insufficient size to accommodate flue.
- ☒ Shop front window differs from approved scheme.
- ☒ Roof tiles not in accordance with standards for conservation area.
- ☒ Shed erected on land not shown on original permission.
- ☒ Is brick treatment permanent or will it require upkeep? Shortcuts in application should not be permitted.
- ☒ Colour treatment an improvement, but variations in bricks should be highlighted. Mortar never included lime. Darker treatment should highlight cills, heads, plinths and corbling.
- ☒ Roof tiles still in appropriate, should be reclaimed tiles.
- ☒ Wooden joinery is an improvement over aluminium as is chimney in flue, but rainwater goods hang over neighbouring property.
- ☒ Block pavements should be reinstated.

Comments in support of application: 1

- ☒ Building should be allowed to open and contribute a business to the high street, creating jobs and contributing to local economy.
- ☒ Building in keeping with surrounding properties.
- ☒ Appearance of building will weather over time.
- ☒ Area in front of building not used by any lorries, but people using nearby shops.

5.0 THE MAIN ISSUES

- o Principle of development
- o Scale/height
- o Materials/finish
- o Odour extraction system
- o Land stabilisation
- o Access

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Matters considered under Planning Permission Ref: 09/03161/FUL relating to the erection of this building are not being re-considered here. The consideration here is whether the various unauthorised amendments which have taken place and the

further details required in fulfilment of conditions applied to Planning Permission Ref: 09/03161/FUL, are acceptable, and if the proposed alterations submitted as part of this application address the Committee's reasons for refusing the previous application: These reasons were:

The building as constructed and as proposed to be completed would detract from the character and appearance of the Broseley Conservation Area due to the combined effect of the following changes in design relative to the permitted scheme:

- i. Changes to the ground floor level of the building necessitate the provision of an access ramp and steps at the entrances.*
- ii. The external facing materials used are more visually prominent and discordant in the street scene compared to those previously approved.*
- iii. The external flue would be visually prominent, detracting from the appearance of the building and streetscene.*
- iv. A step in the floor plan to the south elevation of the permitted scheme has been omitted, with a consequent adverse impact upon the proportions of the side elevation and rear component of the building.*
- v. The proportions of the proposed shop front window differ from the approved scheme, providing the single pane with a row of more heavily framed top hung lights above door head height.*

The proposed variation of conditions 2 and 4, and removal of conditions 3, 5 and 7 on planning permission 09/03161/FUL would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17; policies DS1, DS2, DS5 and DS8 of the Broseley Town Plan 2013-2026 and paragraphs 56-58, 60, 64 and 137 of the National Planning Policy Framework.

- 6.1.2 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. . It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets.

6.2 Scale/height

- 6.2.1 The proportions of the building were considered and approved under Planning Permission Ref: 09/03161/FUL and have not been significantly digressed from. It is understood that additional brickwork has been included in order to compensate for the slope of the land, however, any impact from this is considered to be minimal. As the building is set back over 10m from the High Street with 3 storey properties grouped together in a mass adjacent to the north west, it is not dominant. Additionally, the building's height is considered to be a natural visual step between the higher properties to the north west and the adjacent cottage style buildings to the south and east.

- 6.2.2 The plans submitted as part of this application show the removal of the access ramp to the front and the external steps at the side which were shown on the previous application documents and considered inappropriate by the committee. The current application proposed no built development outside the footprint of the building, with any alterations necessary to accommodate changes in ground levels being accommodated within the footprint of the building, it is understood that the front door was installed 3 brick courses higher than intended, and this will be corrected with the new shop front, removing the large step up from the external ground level to the doorway. Therefore point i. of the Committee's refusal reason of the previous submission is considered to be addressed.
- 6.2.3 The plans show the retention of the footprint of building as per the previous scheme, with the stagger in the southern elevation not being reinstated. Point iv. of the refusal of the previous consent therefore still remains, however a previous non-material amendment application (13/04809/AMP) has granted consent for this aspect independantly, although this is contingent on the consent it amends having been carried out in accordance with the approved details.

6.3 Materials/finish

- 6.3.1 It is indicated on the submitted plans that the shop front will be reconstructed in a white painted timber frame of traditional appearance also using the submitted joinery details that have been found acceptable by SC Conservation. It is considered that the amended shop front will protect and enhance the surrounding Conservation Area and contribute more positively to it than some of the existing shop fronts adjacent along the High Street and which are in more prominent positions within the Conservation Area. It is the front elevation of The Fish Shop which is the main aspect within the Conservation Area.

The plans submitted as part of this application show the shop front having the same general design as that of the previous application, with the top lights being replaced by louvered tilting glazed lights rather than the plain glazing shown on the previous scheme. Whilst this does not re-instate the design of the original shopfront shown on the original permission, the changes to the building during construction have resulted in a space between the top of the door and the lower edge of the fascia sign which was not present on the original drawings. It is considered that the proposed shopfront would address this issue, whilst still being in keeping with the character of the conservation area. The Committee will have to give consideration to whether this proposed design is acceptable, with regards to point v. of the refusal of the previous consent. A previous discharge of condition application (10/01259/DIS) granted approval for a shop front design which is similar to that proposed as part of this application, which had the same general design but with a slightly shallower louvre area above the shop door and windows.

- 6.3.2 Other elevations of the building are far less prominent than the frontage, however issues have been raised over the choice of brickwork employed and in considering the previous application the Committee considered the bricks used to be inappropriate in the conservation area. The application therefore proposed staining the bricks a darker shade in order to mitigate the impact of the bricks used in the construction of the building and if this is considered acceptable a condition could be worded to ensure that this is maintained. There is a notable variety of brickwork

present within the High Street, ranging from decorative Victorian work further to the south, the facings on the Georgian buildings adjacent to the north west which differ from each other, and the more utilitarian brickwork of their rears. Many of the cottages and modern buildings present in the Conservation Area are additionally rendered in a range of muted colours. Whilst the brickwork used to build The Fish Shop was not considered to be in keeping with the Conservation Area setting of the property, the proposed stain would address this and alter the appearance of the property to one which would not stand out and draw undue attention in the street scene.

- 6.3.3 The proposed plans submitted with this variation show the external flue being removed and re-located inside the chimney of the property. Design Principle DS.6 of the Broseley Town Plan relates to chimneys, stating that:

'Existing chimneys must be preserved. The inclusion of functioning, brick built chimneys in design proposals will be supported'.

The chimney at The Fish Shop is therefore a feature which is in accordance with the design ethos of the Broseley Town Plan and the removal of the external flue would remove this unsightly and inappropriate feature from the street scene in line with point iii. of the Committee's refusal of the previous application.

6.4 Odour extraction system

- 6.4.1 In respect of condition no. 4, details of the flue were submitted as part of its discharge under Planning Permission Ref: 09/03161/FUL. The matter remained unresolved in relation to the use of masking agents discharging to the atmosphere via a high velocity terminal which raised concerns from SC Public Protection (Environmental Health) that this could cause a problem if the flue did not extend at least 1m from the highest part of the roof. Correspondence submitted through the process of the previous application has resolved this matter, as it has been demonstrated that the height of discharge from the flue will not cause a nuisance from odour emission. SC Public Protection are satisfied that this will also be the case with regards to the functional chimney now proposed and that, the extraction systems would be beneficial and as a result noise and odour are not likely to have a detrimental impact on the amenity of the area.

6.5 Land stabilisation

- 6.5.1 Design calculations and sketches for the raft foundation works undertaken have been submitted for consideration. These details demonstrate that construction has taken place in accordance with the stabilisation of the workings by drilling and grouting recommended as Option 1 in the report by Spilman Associates.

6.6 Access

- 6.6.1 It is noted that the drawings include steps to the side elevation entrance, accommodated within the footprint of the property, and the plans show the removal of the access ramp shown on the previous plans at the front of the site. Any alterations necessary to accommodate differences in floor levels will be accommodated within the building, with no encroachment onto the access at the side of the building, nor onto the area of pavements in front of the building. The agent has stated that the doorway has been built 3 brick courses higher than intended,

and this will be corrected as part of the works to implement this proposal is consent if granted, removing the need for a step up from the pavement area.

7.0 CONCLUSION

7.1 In considering this proposal the Committee should have regards to their decision on the previous application, and the extent to which the current application addresses the reasons for refusal. As set out above it is considered that points i. ii. and iii. of the Committee's refusal have been addressed, point v. has been partially addressed and point iv. has not as the stagger in the southern elevation has not been reinstated. It is considered, however, that the south side elevation of the building is not unduly prominent in the Conservation Area street scene, and it should be noted that an application for a non-material amendment (13/04809/AMP) has been granted previously for this aspect of the development, which removed the step (stagger) in the floor plan.

7.2 The Committee should consider if whether the alterations made as part of this application would change the balance of considerations from their previous refusal to one of permitting the application. Regard should be had to the practicalities of altering the building as constructed in order to bring the development to a standard considered acceptable. Whilst it is regrettable that the building as constructed does not comply with the original consent, a reasonable and proportional approach must be taken in seeking to achieve an acceptable solution. (The National Planning Policy Framework, at paragraph 207, advises that local planning authorities should act proportionately in responding to breaches of planning control).

7.3 For the reasons given above, this application is not considered contrary to adopted policy. Condition nos. 3, 4, 5 and 7 attached to Planning Permission Ref 09/03161/FUL can be removed as the information required by these has been submitted and found acceptable. Condition no. 2 can be varied to refer to the amended plans submitted with this application.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

LDF Core Strategy Policies:

CS6 Sustainable Design and Development Principles

CS17 Environmental Networks

Broseley Town Plan 2013-2026

RELEVANT PLANNING HISTORY:

09/01496/FUL Erection of a two storey building for use as A5 hot food takeaway and associated works; following demolition of existing fish and chip shop (as hot food takeaway) WDN 21st September 2009

09/03161/FUL Rebuilding of fish and chip shop GRANT 5th February 2010

10/01259/DIS Discharge of conditions 3, 4 and 5 attached to planning permission

09/03161/FUL DISPAR 11th May 2010

13/04809/AMP Non-material amendment relating to planning permission 09/03161/FUL - Rebuilding of fish and chip shop GRANT 8th January 2014

14/03594/VAR Application under Section 73a of the Town and Country Planning Act 1990 for the Variation of Condition Nos. 2 and 4 and removal of Condition Nos. 3, 5 and 7 attached to Planning Permission 09/03161/FUL dated 4th February 2010 for the rebuilding of fish and chip shop (Retrospective) REFUSE 17th July 2015

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/> using reference 15/03822/VAR

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 Dr Jean Jones
Appendices APPENDIX 1 - Conditions

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

1. The development shall be carried out strictly in accordance with the deposited documents, plans and drawing nos. AS9 REV D (as built plans and elevations), SFD12 (joinery details), D175/7 (eaves and verge details), SFD11 Rev b (shop front details), and the Finishes Schedule received on 22nd September 2015.

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 building operations hereby permitted shall be removed and all equipment and materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

- i. within 1 month of the date of this decision a scheme for works to be undertaken to stain the building the approved colour (Brown Darkening Stain by Brick Doctor Ltd, as per sample panel on site) and implement the works approved by this permission shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

- ii. if within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii. if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

- iv. the approved scheme shall have been carried out and completed in accordance with the approved timetable.

The development shall be maintained in accordance with the approved details, including the continued maintenance of the brick stain, for the lifetime of the development.

Reason: To ensure the external appearance of the development is in keeping with the character and appearance of the conservation area, and so that the building harmonises with the street scene.

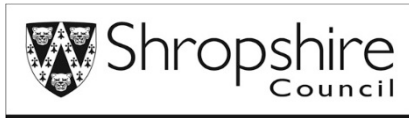
3. The premises shall be used for the preparation and sale of hot food to take away and for no other purpose (including any other use within the same use class as defined in the Town and Country Planning (Use Classes) Order 1987).

Reason: To define the permission in the interests of safeguarding the amenity of the area.

Informatives

1. 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.

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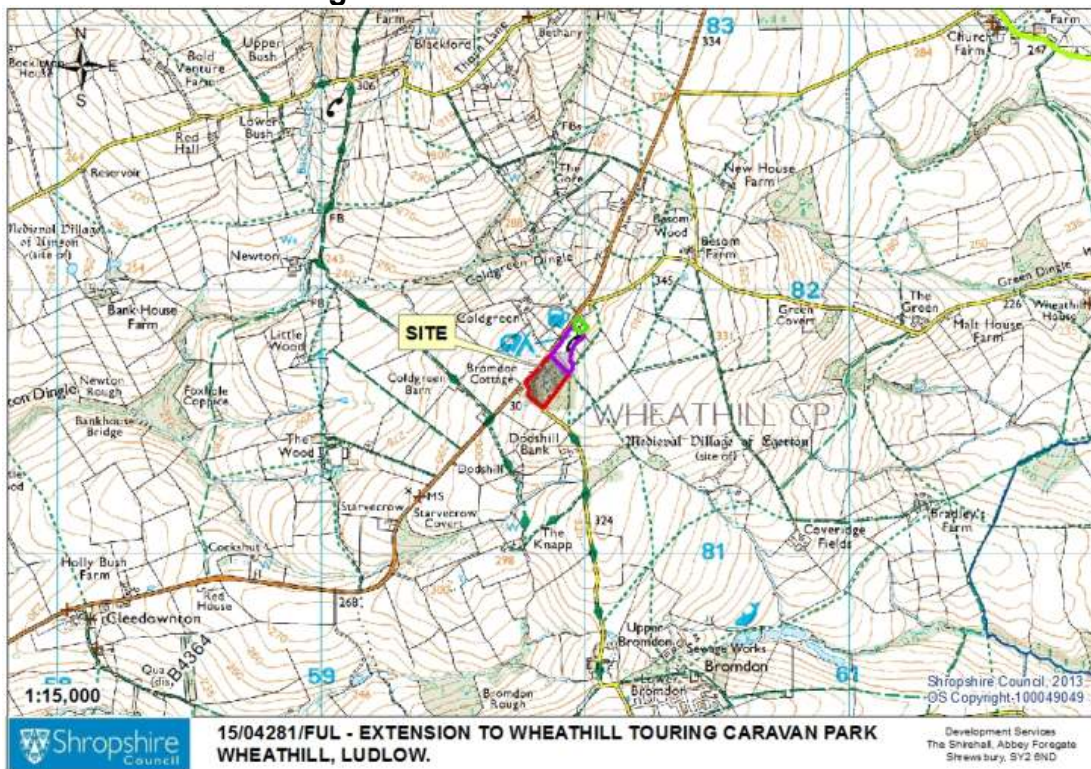
Committee and date
 South Planning Committee
 1 December 2015

Development Management Report

Summary of Application

Application Number: 15/04281/FUL	Parish: Wheathill
Proposal: Change of use of agricultural land to facilitate extension to existing touring park, 25 all-weather touring pitches; estate road and services; erection of toilet block; landscaping scheme	
Site Address: Wheathill Touring Park Caravan Site, Wheathill, Shropshire, WV16 6QT	
Applicant: Wheathill Touring Park	
Case Officer: Grahame French	email: planningdmc@shropshire.gov.uk

Recommendation:- Approve subject to the conditions set out in Appendix 1 and to legal agreement committing the applicant not to seek any further extensions to the area of the Wheathill Touring Park site.



REPORT

1.0 THE PROPOSAL

- 1.1 It is proposed to change the use of a pasture field in order to extend the existing touring caravan park at Wheathill and to construct associated works including a toilet/shower facility.
- 1.2 The existing site area (0.9ha) accommodates 25 touring caravans, the site office and visitor parking. The proposed (area 1.4ha) would accommodate 25 pitches with a density which is intentionally significantly less than that of the existing site. This is to facilitate landscaping and to give the customers increased privacy. The layout has been designed to take account of the topography. The hard surfaces would all be porous.
- 1.3 The existing access off the B4364 Ludlow to Bridgnorth road would be used with vehicles passing through the existing site. Access through the proposed extension would be by means of a one way circular route. The development would provide full-time employment for two people
- 1.4 An extensive landscaping scheme is proposed both within the site and in surrounding areas owned by the applicant as part of a strategic masterplan. Planting would be extended around the site margins and between the plots. The lower area, closest to the neighbouring property would be kept free of development and would be landscaped with woodland, a wild flower meadow and a small wetland.
- 1.5 The toilet block (6.2m x 4.7m x 3.3m high) would be a wood clad structure with a dual pitch roof and including a disability access ramp. It would be located at the north end of the site adjacent to the highway boundary hedge. The proposed waste water treatment plant would be similar width and height but approximately twice the length and would be located to the south of the toilet block. Both these structures would be screened by existing and proposed vegetation.
- 1.6 The existing stiles (two in total) on the applicant's site that connect with public footpaths are to be replaced with kissing-gates to facilitate easier access.



2.0 SITE LOCATION / DESCRIPTION

- 2.1 The site comprises a rectangular plot of land to the immediate south of the existing touring park and public house and east of the B4364 Ludlow to Bridgnorth road. The total area 1.4ha incorporates approximately 0.5ha of hard surfaces with the remainder being proposed for grassed and landscaped areas. The site is located within the Shropshire Hills Area of Outstanding Natural Beauty and some 7 miles north east of Ludlow. The existing touring park has planning permission for 25 caravan/motorhome pitches.
- 2.2 There is a direct footpath link from the site to the Public House. The site also affords access to a wide range of public footpaths in the local area. The private residential property known as Bromden Cottage, is located to the immediate south west.

3.0 REASONS FOR COMMITTEE DECISION

- 3.1 Due to the locally sensitive nature of the application, the Parish Council's objection and call in request from one of the two Local Members for this Ward, the Chairman of the South Planning Committee has requested that the application is considered at Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 Wheathill Parish Council: Objection for the following reasons:
- i. Major Development within An Area of Outstanding Natural Beauty: The area covered by the current application is 1.5 hectares. The existing development, to which this application is latest phase to be added, is of a similar size. So, if allowed, the total area will be 3 hectares-7 acres plus. The National Planning Policy Framework (116) forbids 'Major Developments' in an Area of Outstanding Beauty. If permitted the developed Park will be three times the recognised criterion which is, inter alia, one

- hectare. It must be judged as a whole not its constituent parts. Same owner, same site entrance, same shared facilities. Also consider your own Core Strategy Policy CS16 Tourism (6.32) “It is vital this (tourism) is achieved without detracting from the intrinsic beauty and tranquillity which Shropshire is renowned for” and (6.33) “... highlights how it is important to protect existing assets...”
- ii. Parish Council Policy on Development in Wheathill: The Parish Council SAMDev response dated 6 August 2011 states “Development of small employment opportunities would be welcomed, however over development of existing sites would not be in keeping in an area associated with an Area of Outstanding Natural Beauty”. This policy was publically endorsed as recent as May 2015 in our Annual Parish Report 2015, delivered to every household in the Parish, which stated “Tourism is welcome but as always there has to be a balance if we are not to spoil the very thing people come to enjoy”. If this application is permitted that balance has been broken.
 - iii. Visual Impact: Planning is very much about visual impact and this site is very visible from higher ground. At the last Planning Committee site visit the Chairman said they were looking at the visual impact this site was having. At the subsequent Planning Committee hearing some eight members commented about its harshness in the landscape. If this application is permitted it will be twice the size as previous.
 - iv. Planning history: There is concern within the Parish about the number of applications on this site (12 to date-some retrospective) and the progressive nature of the development. By permitting this application some 3 hectares will have been developed out of a total site capacity of circa eleven hectares. We are very concerned about the possible future expansion of this site.
 - v. Localism/Parish Plan: Our Parish Plan was adopted a year ago following a survey with a c70% response rate. Whilst there was some support for tourism the overwhelming view was that the area must be protected. If permitted the ratio of caravans to dwellings in the Parish will be 2:1
 - vi. Bromdon Cottage: In the public session concern was expressed by the owner of Bromdon Cottage about the aggravated drainage problem on her land which lies directly downhill from the existing development. Increasing the site density to fall nearer her property can only exacerbate the problem. This matter ought to be investigated by the Planners, irrespective of the decision about this application. Clearly there is something wrong.
 - vii. In Conclusion: Given the history of applications on this site, the opposition of Wheathill Parish Council to its progressive development, we would strongly request this application is debated and the decision taken in the public forum of a Planning Committee hearing.
- 4.2 AONB Partnership: Objection.
- i. The AONB Partnership supports sustainable tourism in the AONB, and believes that economic benefits can be gained through tourism activities which are sympathetic to the high quality landscape, which is the key asset on which tourism in the area depends long term. Development which is not in keeping can undermine the economic value of the landscape, as well as its intrinsic qualities, and the scale of

development is a crucial factor in this, as recognised in policies outlined below. We note the history of creeping development on this site, and that this current application represents a major increase, doubling the existing site's footprint. We consider this development to be of inappropriate scale at this location within the AONB. Indeed the Council should consider whether this constitutes major development and the additional relevant policies of the National Planning Policy Framework apply. We recognise and welcome the applicant's proposed intention to reduce the impact of the development through landscaping of a more natural style appropriate to the rural setting than previously used. However we do not consider this to be sufficient to mitigate against the scale of the development at this location. We would like to draw your attention to the following national and local policies which support our assertion that this application should be refused:

- ii. Para 14 of the National Planning Policy Framework (as quoted by the applicant's agent) on the 'golden thread' of sustainable development, highlights AONBs through footnote 9 as an exception to a presumption in favour of development, as one of a few types of special area where "specific policies in this Framework indicate development should be restricted." Para 115 of the National Planning Policy Framework states that: 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads. Shropshire Core Strategy Policy CS16: Tourism, Culture and Leisure (extract) states: To deliver high quality, sustainable tourism, and cultural and leisure development, which enhances the vital role that these sectors play for the local economy, benefits local communities and visitors, and is sensitive to Shropshire's intrinsic natural and built environment qualities, emphasis will be placed on:
 - Supporting new and extended tourism development, and cultural and leisure facilities, that are appropriate to their location, and enhance and protect the existing offer within Shropshire. (emphasis added) Shropshire Core Strategy Policy CS17: Environmental Networks states: Development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all development:
 - Protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. Further guidance will be provided in SPDs concerning the natural and built environment;
 - Contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets, such as the Shropshire Hills AONB, the Meres and Mosses and the World Heritage Sites at Pontcysyllte Aqueduct and Canal and Ironbridge Gorge.
- iii. Shropshire Council SAMDev Policy MD11 - Tourism facilities and visitor accommodation states:
 1. Tourism, leisure and recreation development proposals that require a countryside location will be permitted where the proposal complements the character and

qualities of the site's immediate surroundings, and meets the requirements in Policies CS5, CS16, MD7, MD12, MD13 and relevant local and national guidance;

2. All proposals should to be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design, and landscaping and planting schemes where appropriate. Proposals within and adjoining the Shropshire Hills AONB should pay particular regard to landscape impact and mitigation.

Explanations (extract).

4.108 In areas of recognised scenic and environmental value proposals must pay particular regard to the qualities of the area and the reasons for designation in line with Policies CS6 and CS17, MD12, MD13 and the NPPF. Within and adjoining the Shropshire Hills Area of Outstanding Natural Beauty applicants should also have regard to guidance in the Shropshire Hills AONB Management Plan. Sustainable tourism development plays a vital role in supporting the local economy but must be sensitive to the inherent qualities that the AONB is designated for.

- iv. Shropshire Council SAMDev Policy MD12: The Natural Environment states: In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the conservation, enhancement and restoration of Shropshire's natural assets will be achieved by:
 1. Ensuring that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets where proposals are likely to have an unavoidable significant adverse effect, directly, indirectly or cumulatively, on any of the following:
 - i. the special qualities of the Shropshire Hills AONB;
 - ii. locally designated biodiversity and geological sites;
 - iii. priority species;
 - iv. priority habitats
 - v. important woodlands, trees and hedges;
 - vi. ecological networks
 - vii. geological assets;
 - viii. visual amenity;
 - ix. landscape character and local distinctiveness.
- v. AONB Management Plan Policy for Supporting Enjoyment and a Visitor Economy in Harmony with the AONB approved by Shropshire Council states: Tourism and recreation development and infrastructure. The siting, design and specification of new developments for tourism and recreation should be to high standards of environmental sensitivity and sustainability. The following guidelines are recommended:
 - Single developments of more than around 10 accommodation units are less likely to be supported in small settlements and open countryside.
 - Large parks of static caravans, cabins or chalets are likely to be intrusive. Smaller sites with good landscaping are preferable, as are facilities for touring caravans and camping which generally have a low impact by virtue of fewer permanent structures.
 - Built facilities for recreation should only be allowed where their location and the activities they support are compatible with the special qualities of the AONB.

Smaller, low-key tourism developments designed in sympathy with local character will blend better into the area and spread economic benefits more widely than larger facilities.

- vi. The Shropshire Hills and Ludlow Sustainable Tourism Strategy 2011-16, approved by Shropshire Council, sets out a clear approach for sustainable tourism in the area, and states as Action 2.1: Give priority to maintaining a high quality landscape and environment as a primary resource of sustainable tourism.
- 4.3 SC Public Protection: No objection. The applicant should ensure that they make the licensing authority aware of any changes and carry out any necessary work to ensure the site is licensed appropriately where required.
- 4.4 SC Trees: No comments received.
- 4.5 SC Rights Of Way: No objection. No rights of way affected
- 4.6 SC Highways DC: No objection. The application under consideration is an extension to the existing with access on the B4364. Shropshire Council as Highway Authority would raise no objection to the granting of consent.
- 4.7 SC Drainage: No objection. The surface water run-off from the solar panels is unlikely to alter the greenfield run-off characteristics of the site therefore the proposals are acceptable. An informative note on drainage is recommended.
- 4.8 SC Ecologist: No objection subject to informative notes. From the Landscape Plan it appears the toilet block and waste treatment plant are proposed close to mature trees. Please can the relative positions of the trees and buildings be indicated on plans so it is clear that no development is proposed within the root protection zone of these trees? If any mature trees are proposed for felling at any stage then they should be assessed for bat roosting potential by a suitably experienced ecologist and their advice followed. The hedgerows and trees bordering the site have potential to support nesting birds. The vegetation removal should take place outside of the bird nesting season. Star Ecology report no evidence of badgers on the site but consider it possible that they could be in the wider area and therefore propose measures to prevent harm to badgers during construction works. Informatives are recommended. Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.
- 4.9 SC Conservation: No objection.
- 4.10 SC Archaeology: No objection:
- 4.11 Councillors Gwilym Butler and Madge Shineton (Cleobury Mortimer) have been informed of the proposals.

Public Comments

- 4.12 The application has attracted 42 public representations, 32 in support and 10 objections. Of the support letters it is understood that 4 are from local properties / businesses with the majority being from customers of the site. Supporters raise the following points:
- i. Supporting need: More and more people are holidaying in the UK and caravans / motor homes are on the increase. This does of course mean a demand for additional touring pitches. There is an increase in touring caravans in general with people choosing to holiday in the UK and often sites are full and booked way in advance. For some of us this is the only way that we can spend some quality time in our beautiful countryside. I think the park and adjacent buildings have been vastly improved. It's the type of site we would use ourselves and it would be good to know other caravanners can enjoy the beautiful scenery that we are lucky to have on our doorstep.
 - ii. Economic benefits: So much of our traditional countryside is falling by the wayside and our traditional Inns and small local shops are closing. Even farms are now opening to the public to help fund a declining industry. Tourism is the way forward bringing money to the area and this can only help the local population? Whilst I appreciate the comments from local people with regards to not wanting their beautiful land changed, unfortunately the country is changing. Where agriculture is not what it was, some of these smaller villages need tourism to keep them alive. For example, the Three Horseshoes would have undoubtedly have closed if it wasn't for Mr Partridge and the tourists that visit the area. We believe that the new development at Wheathill will not only bring more spend per head to the area, as touring customers will be spending money on essentials and luxuries alike in the area, but also it will attract more people to the area to begin with - Wheathill being a small village, sure this is a good thing for all that reside there? We have used the Three Horseshoes on a number of occasions and have witnessed the economic benefits this kind of development can bring and does bring not only to this pub but to other pubs on the B4364. Even farms are now opening to the public to help fund a declining industry. I support the application at the touring park and having lived in Wheathill all my life. Being a local businessman I realise that a healthy economy is vitally important for everyone and its not just about profit for the individual. What the planned scheme will bring to the area is new money from all areas of the country for years to come. People who currently bring their caravans to this site come to eat, drink, purchase goods, fuel and visit local attractions, this being both summer and more importantly winter. More visitors to this site will mean local businesses will benefit directly and we all know this is badly needed. The park as it is has brought added custom to the pub along with the local shop, and other hostelryes along the road. It has served the Ludlow food festival, Burwarton Show, and the Bridgnorth Walk, all of which add to the current economic climate of today. The touring park already exists and with very little disturbance required to facilitate the extra 25 units, this would make the whole project sustainable and viable. I'm also of the belief that it would also create 2 extra jobs for local people to work on the site and who would occupy the recently renovated house/sheds which has already enhanced the visual appearance of its surrounding area. As a local business we fully support this application at Wheathill Touring Park. This extension will benefit many small businesses in the area, both directly through the development and indirectly through additional tourists. As still relatively new proprietors of Cleobury North Village Stores, we are acutely aware of the need to

build and support the local economy... We have worked well with nearby pubs and a B & B , stables and of course Burwarton and District Agricultural Show , both to grow trade and to offer a comprehensive range of services to our customers... Since our arrival two summers' ago we have been extremely well supported by staff and visitors alike from Wheathill Touring Park and we quickly established a mutually beneficial exchange of customers, which is so important in a rural location such as this.

- iii. Quality of design: I am sure that any additions to Wheathill will be completed in a very professional manner and with minimal impact to the local environment as has previously been done. I know that Mr Partridge will do all that he can to landscape the extension and keep the beauty of the area. His park is one of the best I have ever visited. I fully support his application. I have passed this park every day of my working life and seen an absolute eye sore turned into something that is now very tidy and extremely well kept. From the pub frontage to the entrance of the touring park there has been a very smart refurbishment of what was once falling down barns that were very unsightly. This kind of work can only enhance the area. I am very fussy, and as caravan sites go, this site is top notch. It has excellent facilities, all weather pitches and the attention paid to the environment is impressive. I find that the best sites focus on the environment, as it tends to be important to caravanners, as they usually enjoy countryside pursuits such as walking. Over the years they have bought thousands of trees and shrubs from our nursery, to provide screening, hedging and general enhancement to the parks. This has also been to the benefit of the local wildlife habitats, and natural beauty of the area.
 - iv. Visually acceptable: It has no visual impact from the main road. I cannot see that this would have any detrimental effect to the area. As someone who appreciates the Shropshire AONB very much, I don't wish it to be blighted. However, I appreciate that a fine balance needs to be struck. The plans include landscaping, sensitive screening and improvements to the hedging etc. All this should help to mitigate the impact of the site and improve the area overall - which will encourage a few more discerning visitors to this part of the world. In a response to a letter submitted by Mr Derek Bromley.. I fail to see how people can see over a hill!
 - v. Other: The path between the park and the pub is a very generous one, reading one of the comments that it is a dangerous walk makes me think the writer has never made this walk herself.
- 4.13 Salop leisure: We write in support of the above application to provide an additional 25 quality pitches at this location. These additional pitches will help serve the strong demand for such accommodation in this part of Shropshire where visitors from urban areas are able to enjoy a high quality rural landscape. Salop Leisure is a major supplier of touring caravans and motor homes and the popularity of caravanning shows no sign of diminishing. The National Caravan Council reports a rise in production of both touring caravans and motorhomes. Many Manufacturers have sold out of particular models and are unable meet demand from dealerships such as ours. These indicators supports the need for additional high quality pitches, especially on popular sites such as Wheathill. The importance of tourism to the local economy cannot be under-estimated and the additional income these 25 pitches create will boost support for local businesses. With Wheathill open for 10 months of

the year, income will be generated and distributed outside the main busy summer season, an important factor in this rural location. In addition, local businesses will benefit from the establishment of the infrastructure and employment opportunities are also being created on the Park. We have known and done business with the Partridge family for over 40 years, first and second generation and in every venture they undertake they always strive to attain the highest quality standards and facilities. Having looked at this application we support it wholeheartedly and hope they are successful in their application.

4.13 The main issues of concerns of objectors can be summarised as follows:

- i. Traffic: There is already too much traffic on the narrow lanes. Our daughter has had 2 near misses from vehicles overtaking in the village and my wife now has to drive to visit our neighbours ruining what was a pleasant walk. As activities are now outside of the original summer only original plans these hazards will be increased with the shorter days / poor weather. The increase in non-resident traffic has increased the congestion down the lane, noise in the village and a litter problem that did not exist before. The owners of this site supported the Parish Council campaign to get a speed limit on the B4364 which runs past the entrance and stated that the road presented a danger to the site users as they walked a few yards to the next door pub. An increase in the size of the site will increase the traffic and vehicles pulling on and off the touring park and, thus, increase the danger on that stretch of road. We continue to be concerned about the impact of the additional traffic and hazards associated with slow moving cumbersome vehicles stopping to turn off the road and join the road on the only straight length of road for 5 miles which encourages people to speed in excess of the speed limit and conduct dangerous overtaking manoeuvres. Our daughter has had 2 near misses from vehicles overtaking in the village and my wife now has to drive to visit our neighbours ruining what was a pleasant walk. The caravan entrance is in a deep hollow which causes additional dangers. The speed limit in the village should be reduced to a maximum of 40mph to reduce the risk to the locals
- ii. Visual impact: It's spoiling the beautiful countryside as it's in full view from the Brown Clee. The continued detrimental visual impact of the site due to the uncontrolled landscaping / fencing and extension of the site for more caravans / storage causing a significant blight on this previously beautiful rural location. Expansion to the middle field rather than the bottom field would potentially result in better screening for the surrounding area. Careful consideration regarding the positioning of buildings in this application would be of great benefit to ensure that it does not become a sprawling and spreading eye-sore.
- iii. Overdevelopment: We already have to tolerate an ever expanding caravan park at Bromdon and if the one at Wheathill gets permission we are surrounded again spoiling the area that is our home. Is there any need for more? The caravan park at Bromdon is pushing 200 caravans and at Wheathill, 25 in the field and 30 in storage, which is more than enough for this small area of countryside. Wheathill is a very small village with a very low population density and a subsequent low level of infrastructure to support it. From a small "summer" operation which is how we were assured the new caravan development would be a couple of years ago it is now growing into a large scale operation and if this expansion is allowed will add

- significantly to the population without any additional support or benefit apart from to the owners of the business. Planners must realise that these will be supersized pitches ready to accommodate future static vans. There are enough caravan sites in the area without the need for anymore.
- iv. Questioning need: There is a lovely caravan site I believe in Ludlow so for the size of the area I do not think that the caravan site should be made any bigger.
- v. AONB objection: Two and a half hectares of caravans is classed a major development which is not allowed in areas of outstanding natural beauty. The loss of more agricultural land in an area of Outstanding Natural Beauty is to be deplored as many of the tourists who use local B and B accommodation come here because of the rural environment.
- vi. Drainage: It is obvious to see that there is going to be a flooding issue with the house on the Bromdon turn. We have already suffered flooding from the drainage ditch overflowing and the extensive hard landscaping being proposed uphill from us will only increase the risk of further problems in the future. There is already a problem with drainage from the fields, we would hope the council would address this if allowing further hard standing, which would increase the problem for everyone downhill from the site as well as further road hazard.
- vii. Other: Why would you change the use of agricultural land for something that doesn't even belong in the countryside? There is absolutely no need for this to go ahead. I don't understand why people that are not living in the area support this as it does not affect them. Some of the people that are supporting this are doing it to keep face and business. I have noticed a lot of the supporters are people who do not live locally. Therefore, this monstrosity will not affect them. The increase of tourists have a negative impact on the areas as well as the caravans: litter, eyesore, pollution, traffic and a conflict between farmers and tourists with gates being left the way they shouldn't and wildlife being disturbed. Will have a negative impact on our privacy. None of the local events held in the last 12 months has been supported by users of the existing site so the only economic benefit to the immediate locality is to the public house owned by the site owners. Previous pitches were put on this field without permission then granted on retrospective planning even though this was totally illegal especially being built on a public footpath which was then closed at a later date. The roads in the next field over were also constructed without permission then granted retrospective with stipulated condition they must stay absorbable surface but were then tarmaced.

5.0 THE MAIN ISSUES

- Policy context;
- Principle of the development;
- Justification for location;
- Landscape and Visual impact;
- Existing land use;
- Other environmental issues;
- Timescale / decommissioning.

6.0 OFFICER APPRAISAL

6.1 Principle of development:

6.1.1 The NPPF requires Local Planning Authorities to encourage economic development in rural areas through the support of sustainable growth and expansion of existing businesses. This includes support for sustainable tourism and leisure development that benefit businesses, communities and visitors. Such uses should however be in appropriate locations which respect the character of the countryside.

6.1.2 Shropshire Core Strategy Policy CS5. This seeks to retain and permit appropriate expansion of existing established business in the countryside provided they maintain and enhance countryside vitality and character. Policy CS13 supports rural enterprise provided schemes accord with Policy CS5. Policy CS16 (Tourism, Culture and Leisure) seeks to deliver 'high quality, sustainable tourism, and cultural and leisure development, which enhances the vital role that these sectors play for the local economy'. Amongst other matters the policy seeks to promote connections between visitors and Shropshire's natural, cultural and historic environment.

6.1.4 It is also necessary however to ensure that proposals comply with policy CS17 which requires that "developments identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources". SAMDev policy MD12 (The Natural Environment) also promotes the conservation, enhancement and restoration of Shropshire's natural assets including by ensuring that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets where proposals are likely to have an unavoidable significant adverse effect, directly, indirectly or cumulatively.

6.1.5 AONB Policy: The site is within the Shropshire Hills AONB and the development must therefore be consistent with the aim of protecting the character and natural beauty of this rural area. In the case of 'major development' the proposals should also meet the exceptional circumstance tests which are set out in NPPF paragraph 116:

116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

6.1.6 Whilst the site exceeds the 1ha threshold for 'major development'. The applicant's planning statement notes that the actual area of development to take place within

the 1.4ha the site is significantly less (approx. 0.5ha), with the greater majority of the area being occupied by amenity grassland and landscaping areas. Most of the developed area would relate to hard surfaces at ground level which are not in themselves visually intrusive. It is further stated that touring caravans do not normally exceed 3m in height and hence they will not be particularly visually intrusive.

6.1.7 The officer acknowledges that the proposals relate technically to 'major development'. However, the characteristics of the scheme would not result in the same level of visual impact as for instance a new agricultural building in an equivalent area. This must be taken into account in applying the NPPF exceptional circumstance tests.

6.2 Need for the development:

6.2.1 In terms of need, the applicant has provided occupancy figures for 2014 and the first half of 2015. This indicates that the site has achieved maximum occupancy in the period between April and September and in particular between July and September. The applicant has also provided details confirming that significant numbers of potential customers have had to be turned away between April and September during times of peak occupancy.

6.2.2 The applicant's planning statement advises that 'taking into account the relative newness of the business, trading from a standing-start, these figures are very impressive and go some considerable way to highlighting the demand for high quality adult-only touring caravan pitches in beautiful locations such as this'. It is also recognised that the development has the potential to benefit the local economy to a greater extent than the current operation as there would be twice the number of visitors during peak times who would need to utilise goods and services in the local area.

6.2.3 Relative to the current situation refusal would not be detrimental to the local economy. The applicant has however shown that the application is a response to demand rather than speculative and the ability to attract additional visitors and hence benefits to the local economy is a material consideration. Therefore, the officer considers that the first exceptional circumstance test in NPPF 116 is met.

6.3 Alternatives:

6.3.1 In terms of the second test set out in the NPPF, the planning statement advises that this is the only feasible site within the applicants' ownership. It is low lying, relatively level, affords good access to public transport and the site is well-screened with established planting. This adults only site benefits from proximity to a public house. It affords excellent access to the local landscape via an extensive public footpath network which passes by the site. It is also in a strategic location between the important tourism destinations of Ludlow and Bridgnorth.

6.3.2 This combination of circumstances facilitating local visitor enjoyment of the AONB provides added justification for the proposed extension and is considered to be compliant with the objectives of Core Strategy Policy CS16 and policies 26 and 41 of the AONB Management Plan.

6.3.3 Core Strategy Policy CS16 advises that <leisure> proposals must amongst other matters be close to or within settlements, or an established and viable tourism enterprise where accommodation is required. The proposal complies with this criterion as it relates to an extension to an existing leisure facility. If the extension was not to proceed then prospective visitors would have to find an alternative site and the area could lose visitor custom during peak times due to the absence of availability of suitable pitches.

6.3.4 The AONB Management Plan recognises the important role that tourism plays to the economy of the AONB, whilst emphasising that tourism ventures should be carefully designed to protect the landscape which visitors come to see. In the case of the current proposals, the application gives visitors an opportunity to stay in an attractive landscape within the AONB which would not otherwise be possible. This is one of the main attractions leading to the popularity of the site, as stated in supporting letters from customers. The suggestion that visitors could go elsewhere outside of the AONB is not considered to represent a viable alternative in these circumstances. The officer considers that the second test set out in NPPF116 is also met.

6.4 Environmental Impact:

6.4.1 The third test set out by paragraph 116 of the NPPF relates to the level of environmental impact of the proposal and the extent to which mitigation is possible. Only if the sensitive environment of the AONB can be adequately protected will the proposals meet this test and be compliant with the NPPF and the development plan overall. Environmental issues raised by the proposals are considered in succeeding sections:

6.4.2 Landscape and visual impact: The application is accompanied by a visual impact assessment which assesses 5 viewpoints in the area surrounding the site. This concludes that there would be no significant residual impacts after the proposed planting measures have been undertaken.



View 1. View east from Holly Cottage, Thorne Lane.



View 4. View north from Holly Cottage, Thorne Lane.



View 5. South from the Shropshire Way. The furthest part of the field would not be developed.

- 6.4.3 The assessment also includes a strategic landscape plan which proposes improvements within the applicant's wider land ownership. The objective is to provide locally enhanced landscape conditions. This is intended to provide increased levels of visual amenity for users of the site's public footpaths and the regionally important Shropshire Way. It is stated that the proposed reinstatement of existing hedgerows and creation of new ones will also locally improve ecological connectivity and result in overall higher levels of biodiversity.
- 6.4.4 The proposed extension is in a better screened location than the existing site. It is set down some 2-4m lower in the landscape and there is a greater degree of mature roadside vegetation than the existing site.
- 6.4.5 The more exposed nature of the existing site coupled with the light colour of the touring caravans means that there is currently some visibility of this area from elevated viewpoints to the south (i.e. view 5). However, there has already been significant planting on the existing site and, whilst this is relatively recent, it will over

time help to mitigate these adverse effects. It is not considered that the proposed extension would add materially to any existing visual impact given the greater degree of screening.

- 6.4.6 There may be some temporary visual impact during times of fuller occupancy whilst planting becomes established. However, allowing the roadside hedges to grow up as proposed will provide relatively quick improvements in containment for the existing and proposed sites. It is recognised that the visibility of the site will be greater in the winter, but levels of occupancy will be less and the site is closed in January and February. In the medium to longer term it is considered that the applicant's landscaping proposals would successfully mitigate any visual impacts and enhance overall levels of biodiversity in the area.
- 6.4.7 Additional visual mitigation measures have also been proposed by the applicant following discussions with officers and are described in Annex 1. If members are minded to approve the proposals then it is considered that a condition requiring the extension not to become operational until spring 2017 would allow additional time for roadside hedges to grow up and for other vegetation between the pitches to begin to establish. The Certificate of Lawfulness for the existing site restricts opening to 20th March to end September every calendar year. This was subsequently varied by permission reference 12/04317/VAR to allow pitches to be used up to 12 months per year for the existing site although the site is closed by the applicant in January and February. However, it is recommended that an equivalent condition restricting opening months for the extension is imposed on the current site. This will limit the potential for cumulative impact whilst allowing the applicant to utilise the additional pitches during the peak times.
- 6.4.8 In summary, the proposed extension would introduce new built development into the landscape in the form of the additional services roads, hardstanding pitches and a shower block building. However, the site is capable of being screened and it is considered that the proposed extension and its impact on the visual amenity of the area and the character and natural beauty of the AONB would on balance be acceptable. This is given the design and nature of the development, the proposed landscaping measures and the ability to control timescales for occupancy. The potential significant tourism / economic benefits of the scheme are also a material consideration to be weighed into the planning balance. (Core Strategy Policy CS5, CS6, CS17; NPPF s28, s98, s116)
- 6.4.9 Highway Safety: There are no changes proposed to the access which was improved under planning reference no. 11/05173/FUL. The applicant states that this will adequately accommodate any increase in traffic movement from the site. Whilst there was some considerable local concern regarding the use of this access there have been no reports of any incidents and/or accidents in the 18-months the site has been operational. The formal comments of the Council's Highway section will be reported verbally to the Committee.
- 6.4.10 Residential Amenity: The proposed scheme brings the touring park closer to the residential property known as Bromdon Cottage which adjoins the south west boundary of the site. This boundary comprises a belt of established trees in excess of 2.5 metres in height including a high proportion of coniferous species that will

continue to provide effective screening during the winter months. This planting would be widened and a significant stand-off would be retained between this property and the nearest pitches. The site operates as an 'adult-only' site and is marketed on this basis of its tranquillity and restfulness. The visitors to the site are therefore attracted to site for the peace and quiet it offers. It is not considered that there would be any residential amenity issues on this basis.

- 6.4.11 Biodiversity: An ecology report concludes that a nearby SSSI is of geological and not ecological importance and as a consequence will not be impacted upon by the proposed development. The Council's Ecologist has not objected. The applicant has confirmed that the detailed positioning of the toilet block would not affect any tree roots. The proposed landscaping scheme has the potential to enhance local biodiversity. Appropriate conditions have been recommended.
- 6.4.12 Drainage: The site is not located within a flood risk zone. All surfaces will be permeable, hence the existing green-field run-off rate will be maintained. A small wetland area proposed to enhance biodiversity and any excess waters they will be directed to this area. The Council's drainage team has confirmed that the surface water drainage proposal in the Flood Risk Assessment is acceptable. In relation to grey and brown waters these will be accommodated within the existing treatment plant approved under planning reference 12/02363/FUL. A Bio-Pure sewage treatment plant was at that time installed with sufficient capacity to take the loading implied by the development.
- 6.4.13 Light pollution: The applicant has confirmed that the site will have a low-energy and minimal low-level external lighting system designed taking into account the advice of the Bat Conservation Trust. Movement sensors to be aimed to pick up low objects only and lights would be on minimum time switch-off. All lights would be directed to illuminate the immediate areas only and positioned downwards with built-in louvres to prevent any light spillage.
- 6.4.14 There are no heritage assets in the immediate vicinity of the site. The closest Listed Building is some 590 metres south-west of the site. In addition there is a site of a Medieval Village known as Egerton which is some 730 metres south-east of the site; this does not have any statutory designation and amounts to a series of medieval earthworks. A Zone of Theoretical Visibility study confirms that the site is not visible from the proposed development. The Council's Historic Environment team has not objected.

6.5 Legal Agreement

- 6.5.1 The applicant is preparing a legal agreement providing a commitment not to seek any further extensions in area or plot number to the Touring Park if the current application is approved. This is in response to concerns from objectors regarding the incremental expansion of the current site. This is to be welcomed.

7.0 CONCLUSION

- 7.1 The proposed development will help to sustain and expand an existing successful touring caravan business and will therefore support the rural economy and local

tourism. There would be some short-term localised effects on the appearance of the location. These would however be mitigated by the proposed comprehensive landscaping works and the recommended conditions. Once landscaping becomes fully established it is considered that there would be an overall improvement in visual amenities and biodiversity. Overall, it is considered that the character and natural beauty of the Shropshire Hills AONB would be preserved.

7.2 No other unacceptably adverse environmental effects have been identified. Hence, it is considered that the proposals meet the test of environmental sustainability set out in NPPF paragraph 116 once the proposed mitigation and recommended conditions are taken into account. Therefore the proposal is considered to be compliant overall with the NPPF and policies CS5, CS6 and CS13 of the Shropshire Core Strategy and is therefore recommended for approval.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

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

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

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

8.2 Human Rights: Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

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

9.0 FINANCIAL IMPLICATIONS:

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

10.0 BACKGROUND:

10.1 Relevant guidance

National Planning Policy Framework (NPPF) (DCLG – July 2011)

10.1.1 The NPPF clearly states from the outset that there is a presumption in favour of sustainable development and that local plans should follow this approach so that development which is sustainable can be approved without delay. One of the core planning principles is to ‘support the transition to a low carbon future in a changing climate...and encourage the use of renewable resources (for example, by the development of renewable energy)’. The NPPF expands further on this principle in paragraph 97: “To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

- Have a positive strategy to promote energy from renewable and low carbon sources;
- Design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative and visual impacts;
- Consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;
- Support community-led initiatives for renewable and low carbon energy, including developments outside areas that are being taken forward through neighbourhood planning; and
- Identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 98 advises that when determining planning applications, local planning authorities should:

- Not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- Approve the application if its impacts are (or can be made) acceptable...”

11.1.5 Paragraph 115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which

have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.

Para 116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

11.1.5 Paragraph 117 of the NPPF sets out the general requirement to 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'. Section 126 states 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation'. Section 128 identifies the need to take the settings of listed buildings into account. Section 134 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

11.1.6 Paragraph 28 advises that 'planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas...;
- promote the development and diversification of agricultural and other land-based rural businesses;
- support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and
- promote the retention and development of local services and community facilities in villages...

10.2 Relevant planning policies:

10.2.1 The Shropshire Core Strategy (Adopted February 2011) sets out a Spatial Vision for Shropshire and the broad spatial strategy to guide future development and growth during the period to 2026. The strategy states, "Shropshire will be recognised as a leader in responding to climate change. The Core Strategy has 12 strategic objectives, the most relevant is Objective 9 which aims "to promote a low carbon Shropshire delivering development which mitigates, and adapts to, the effects of

climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management". Policies of relevance include:

Policy CS5 - Countryside and the Green Belt:

New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to:

- Small-scale new economic development diversifying the rural economy, including farm diversification schemes;
- Dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing/accommodation to meet a local need in accordance with national planning policies and Policies CS11 and CS12;

With regard to the above two types of development, applicants will be required to demonstrate the need and benefit for the development proposed.

Policy CS6 - Sustainable Design and Development Principles

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment, which respects and enhances local distinctiveness and which mitigates and adapts to climate change. And ensuring that all development:

- Is designed...to respond to the challenge of climate change
- 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
- Makes the most effective use of land and safeguards natural resources including high quality agricultural land.

Policy CS8 – Infrastructure provision positively encourages infrastructure, where this has no significant adverse impact on recognised environmental assets that mitigate and adapt to climate change, including decentralised, low carbon and renewable energy generation, and working with network providers to ensure provision of necessary energy distribution networks.

Policy CS13 Economic Development, Enterprise & Employment - recognises the importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular it focusses on areas of economic activity associated with agricultural and farm diversification.

Policy CS16: Tourism, Culture and Leisure - To deliver high quality, sustainable tourism, and cultural and leisure development, which enhances the vital role that these sectors play for the local economy, benefits local communities and visitors, and is sensitive to Shropshire's intrinsic natural and built environment qualities, emphasis will be placed on: Supporting new and extended tourism development, and cultural and leisure facilities, that are appropriate to their location, and enhance and protect the existing offer within Shropshire.

Policy CS17 - Environmental Networks seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets.

10.3 South Shropshire Local Plan - The site is not affected by any other specific designations in this Plan. Formerly relevant policies have been superseded by the Core Strategy.

10.4 Site Management and Allocation of Development Document (SAMDEV) – The site is not subject to any specific designations within the emerging SAMDEV. Relevant policies include:

MD11 - Tourism facilities and visitor accommodation

1. Tourism, leisure and recreation development proposals that require a countryside location will be permitted where the proposal complements the character and qualities of the site's immediate surroundings, and meets the requirements in Policies CS5, CS16, MD7, MD12, MD13 and relevant local and national guidance;
2. All proposals should to be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural on -site features, site layout and design, and landscaping and planting schemes where appropriate. Proposals within and adjoining the Shropshire Hills AONB should pay particular regard to landscape impact and mitigation. Canal side facilities and new marinas:
3. Proposals for canal side development that enhance the role of canal as a multifunctional resource and heritage asset will be supported;
4. New marinas should be located within or close to settlements. Applicants should demonstrate the capability of the canal network to accommodate the development;
5. The Policies Map identifies the canals and lines to be protected against other forms of development that conflict with their use as a multifunctional resource or potential for restoration or regeneration.

Visitor accommodation in rural areas:

6. Further to the requirements in Policy CS16, proposals for new and extended touring caravan and camping sites should have regard to the cumulative impact of visitor accommodation on the natural and historic assets of the area, road network, or over intensification of the site;
7. Static caravans, chalets and log cabins are recognised as having a greater impact on the countryside and in addition (to 6), schemes should be landscaped and designed to a high quality;
8. Holiday let development that does not conform to the legal definition of a caravan will be resisted in the countryside following the approach to open market residential development in the countryside under Policy CS5 and MD7;
9. For existing static caravan, chalet and log cabin sites in areas of high flood risk, positive consideration will be given to proposals for their relocation to areas of lower flood risk to ensure they are capable of being made safe for the lifetime of the development;
10. New sites for visitor accommodation and extensions to existing chalet and park home sites in the Severn Valley will be resisted due to the impact on the qualities of the area from existing sites;

11. To retain the economic benefit to the visitor economy, the Council will apply appropriate conditions to restrict applications for visitor accommodation to tourism uses. Proposals for the conversion of holiday lets to permanent residential use should demonstrate that their loss will not have a significant adverse impact on the visitor economy and meet the criteria relating to suitability for residential use in Policy MD7.

MD12: The Natural Environment

In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the conservation, enhancement and restoration of Shropshire's natural assets will be achieved by:

1. Ensuring that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets where proposals are likely to have an unavoidable significant adverse effect, directly, indirectly or cumulatively, on any of the following:
 - i. the special qualities of the Shropshire Hills AONB;
 - ii. locally designated biodiversity and geological sites;
 - iii. priority species;
 - iv. priority habitats
 - v. important woodlands, trees and hedges;
 - vi. ecological networks
 - vii. geological assets;
 - viii. visual amenity;
 - ix. landscape character and local distinctiveness.

In these circumstances a hierarchy of mitigation then compensation measures will be sought.
2. Encouraging development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being indoor condition.
3. Supporting proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB, Nature Improvement Areas, Priority Areas for Action or areas and sites where development affects biodiversity or geodiversity interests at a landscape scale, including across administrative boundaries.

10.5 Other relevant consideration:

10.5.1 Shropshire AONB Management Plan:

Policy 1: Organisations which regulate designated sites and features, environmental quality and amenity should make full use of available measures to ensure the highest standards appropriate to a nationally protected landscape are achieved in the AONB.

POLICY 2: Consideration of the purposes of designation in all decisions affecting the AONB should reflect sustainability and the full range of special qualities defined in the Management Plan as well as landscape character and visual amenity.

POLICY 9: Exceptionally where a significant adverse impact associated with development cannot be avoided, appropriate mitigation measures including habitat creation or community benefits, should be sought

POLICY 10: The siting, design and specification of new developments for tourism and recreation should be to high standards of environmental sensitivity and sustainability. The following guidelines are recommended:

- Single developments of more than around ten accommodation units are less likely to be supported in small settlements and open countryside.
- Large parks of static caravans, cabins or chalets are likely to be intrusive. Smaller sites with good landscaping are preferable, and facilities for touring caravans and camping generally have a low impact as there are fewer permanent structures.
- Built facilities for recreation should only be allowed where their location and the activities they support are compatible with the special qualities of the AONB.

POLICY 18: Tranquillity should be taken fully into account in both strategic and specific decisions. Proposals having a significant impact on tranquillity in the AONB should be prevented where possible.

POLICY 20: A principle of 'quiet enjoyment' should apply, and activities which are in keeping with this encouraged. Recreation activities which are inherently noisy or intrusive should be discouraged, and where possible prevented, e.g. facilities for such activities not allowed through the planning system.

POLICY 26: Countryside attractions and walks should be linked where possible to settlements where services and public transport facilities exist and can be promoted, helping to maximise economic benefits, especially from day visitors.

POLICY 41: Opportunities and promotion aimed at both visitors and the local community should encourage people to experience the AONB's countryside more fully in ways which are not damaging (e.g. through walks and activities away from cars and roads, through appreciating wildlife and heritage).

11.0 RELEVANT PLANNING HISTORY:

- PREAPP/11/00417 Use of land as a touring caravan park REC
- 11/00807/CPE Application for Certificate of Lawfulness to continue to use the land as a touring caravan park and camping site LA 7th June 2011
- 11/04196/FUL Application under Section 73a of the Town and Country Planning Act 1990 for erection of smoking shelter and change of use of land to provide extension to car park (retrospective) GRANT 13th March 2012
- 12/02363/FUL Application under Section 73a of the Town and Country Planning Act 1990 for the construction of roadways within the site; creation of three additional pitches for touring caravans; erection of site office with adjacent storage areas; installation of sewage treatment plant; change of use of adjacent agricultural land to provide ancillary dog walking area (part retrospective) GRANT 7th September 2012
- 12/02881/FUL Erection of timber shed for general storage GRANT 31st August 2012
- 15/04281/FUL Change of use of agricultural land to facilitate extension to existing touring park, 25 all-weather touring pitches; estate road and services; erection of

toilet block; landscaping scheme PDE

- SS/PREENQ/08/03117 Use of land as a caravan site REC
- SS/PREENQ/08/02979 Barn conversion REC
- SS/1989/355/O/ Erection of a dwelling and alteration to existing vehicular and pedestrian access. PERCON 8th September 1989
- SS/1986/708/A/ Display of fascia signs, lantern and refurbished pictorial sign. PERCON 10th February 1987
- SS/1982/16/P/ Erection of a kitchen extension. PERCON 5th March 1982
- SS/1982/-/A/218 Display of an internally illuminated projecting box sign. PERCON 8th June 1982
- SS/1981/-/A/204 Display of an illuminated projecting box petrol sign. REFUSE 4th December 1981
- PREAPP/15/00036 Change of Use of agricultural land to facilitate extension to existing touring park. 25 all-weather touring pitches, access road and services, supplementary toilet block and extensive landscaping. PREUDV 3rd June 2015
- 15/04281/FUL Change of use of agricultural land to facilitate extension to existing touring park, 25 all-weather touring pitches; estate road and services; erection of toilet block; landscaping scheme PDE

12.0 Additional Information

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NVJZDJTDIEZ00>

List of Background Papers: Planning application reference 15/04281/FUL and plans.

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Gwilym Butler, Cllr Madge Shineton (Cleobury Mortimer)

Appendices: Appendix 1 – Conditions.

APPENDIX 1**Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012**

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. The applicant has provided further clarification in response to issues raised during the planning consultation process. The submitted scheme, has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended conditions and legal agreement.

CONDITIONS**STANDARD CONDITIONS**

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 number.

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

3. No development approved by this permission shall commence until a scheme detailing the exact specifications for hard surfacing materials for the proposed pitches, road, toilet block and waste water plant has been submitted to and approved in writing by the local planning authority. Provision shall be made for use of 'permeable tarmac' for roads and local 'Dhustone' for the gravel pitches.

Reason: In the interest of protecting the amenity of the area and the Shropshire Hills AONB in accordance with Shropshire Council Core Strategy CS17

4. No development approved by this permission shall commence until a plan defining the exact dimensions and appearance of the proposed waste water treatment plant in accordance with the approved landscaping plan ref: WHEAT-LL-01 has been submitted to and approved in writing by the local planning authority.

Reason: In the interest of protecting the amenity of the area and the Shropshire Hills AONB in accordance with Shropshire Council Core Strategy CS17

5. No development approved by this permission shall commence until a detailed landscaping scheme in accordance with the approved landscaping plan ref: WHEAT-LL-01 has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:
- i. Ground levels of proposed plots;
 - ii. Profiles of the earth bunding;
 - iii. Planting Plans;
 - iv. Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - v. Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
 - vi. Implementation timetables.

The approved hard surfacing and landscaping scheme shall be carried out in full in accordance with the approved details and implementation timetable.

Reason: In the interest of protecting the amenity of the area and the Shropshire Hills AONB in accordance with Shropshire Council Core Strategy CS17

6. 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 in accordance with policy CS17 of the Core Strategy.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

7. The extension hereby approved shall not to become open to touring caravans until 20th March 2017.

Reason: To allow sufficient time for the roadside hedge to increase in height and for landscape planting works to become established in the interests of visual amenity.

8. The use of the application site as a touring caravan and camping site shall not take place other than between 20th March and 30th September in any calendar year. No storage of caravans shall take place at the site outside of this period.

Reason: To define the permission, and to coincide with the peak occupancy period.

9. The use of the application site as a touring caravan and camping site shall extend to 25 touring caravan pitches only. Not more than 25 touring caravan pitches shall be occupied

at any one time and these shall be used by touring vans, camper vans and motor homes only.

Reason: To minimise the visual impact of the development on the landscape of the Shropshire Hills Area of Outstanding Natural Beauty (and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy).

10. Any new hedging planted as part of the required hedge planting scheme which, during a period of five years following implementation of the planting scheme, is removed without the prior written approval of the Local Planning Authority or dies, becomes seriously diseased or is damaged, shall be replaced during the first available planting season with others of such species and size as the Authority may specify.

Reason: To ensure as far as possible that the new hedge planting scheme is fully effective (and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy).

11. The existing hedges and trees on the boundaries of the application site shall be retained in full and shall not be felled or removed.

Reason: To maintain the existing hedges and trees on account of their contribution to the appearance of the application site and the character of the local landscape (and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy).

12. The use of the application site as a touring caravan site shall be supervised and managed in conjunction with the adjacent public house known as the Three Horseshoes, Wheathill, and to this end the application site and the adjacent public house shall remain as one unit and shall not be sold one from another without the prior written consent of the Local Planning Authority.

Reason: To ensure that supervision and management of the touring caravan and camping site is undertaken in conjunction with the adjacent public house, in the interests of sustainable tourism development (and in accordance with Policies CS5 and CS16 of the Shropshire Core Strategy).

13. The area designated for dog walking within the application site shall be used only for the exercising of dogs by visitors to the adjacent touring caravan and camping site, and shall be used for no other purpose, and no caravans, tents or structures shall be placed on it at any time.

Reason: To ensure that the use of the designated dog walking area does not detract from the character and natural beauty of the Shropshire Hills AONB landscape (and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy).

Notes:

- i. *Bats: All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice. Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.*
- ii. *Nesting birds: The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*
- iii. *Badgers: Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*

APPENDIX 2

LETTER FROM AGENT TO PLANING OFFICER DATED 20TH NOVEMBER 2015

Further to your email dated the 13th November 2015 I can confirm the following:

1. My clients have instructed their solicitor Mr Ben Thistlethwaite of Emrys Jones Solicitors to prepare a Unilateral Undertaking to not make any further planning applications for touring caravan pitches on land wholly within their control at Wheathill; this should be with you shortly.
2. A topographical survey has been commissioned, however, it may not be prepared in time for the scheduled Committee meeting. However, this aspect of the scheme can be subject to a condition requiring confirmation of finished pitch levels prior to the commencement of works on site.
3. Planting between the end plots of the existing caravan site was always part of my clients landscaping plan but they were yet to implement the planting. This planting, as requested, has now been added to the revised Landscape Masterplan.
4. My clients are prepared to allow the roadside hedge to grow as high as required; this detail has also been added to the Landscape Masterplan.
5. Use of local Dhustone from Clee Hill Quarry is wholly acceptable.
6. My clients have agreed to attend to the mound.
7. The 'scrape' is effectively a catchment for any excess waters. I would also add that the proposed substantial tree planting in this area will also take water out of the soil - a mature oak tree will absorb 50 gallons of water in a day.
8. In relation to the wooden panelling immediately above the site entrance I understand from my clients that a bed has already been created and varieties of clematis have already been planted out; once established they will effectively cover the fence in greenery which will soften the hard lines of the fencing.
9. Within the proposed site the landscaping scheme has been amended to include 1.5m green coloured deer mesh enclosures for the planted areas. In addition some instant hedge planting can be accommodated in the more sensitive areas to have an immediate effect.

I trust the above addresses all the issues you have raised.

I note the AONB have provided a bespoke comment in connection with this application. It is disappointing that they do not appear to have acknowledged the significant biodiversity enhancements offered within the Landscape Masterplan.

Kind regards,

Dyanne Humphreys

Dyanne Humphreys

Chartered Town Planner

CERT H ED BRITISH VERNACULAR ARCHITECTURE

c.c. Cllr M Shingleton – Local Member; and

Cll G Butler – Local Member



Committee and date

South Planning Committee

1 December 2015

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04792/PMBPA	Parish:	Bitterley
Proposal: Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use		
Site Address: Agricultural Building At Mill Farm Bitterley Shropshire		
Applicant: Mr M Wiggin		
Case Officer: Helen Tipton	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 355941 - 277349



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Recommendation:- The conversion is permitted development in accordance with Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015. Prior Approval is required in terms of flooding risk. Approval is recommended subject to submission of a satisfactory flood risk assessment, no objection from the Environment Agency, Shropshire Council Drainage and subject to the conditions set out in Appendix 1.

REPORT**1.0 THE PROPOSAL**

- 1.1 The application seeks prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the conversion of an agricultural building to create a single dwelling.
- 1.2 The proposed development would see the removal of a lean-to type building, conversion of a steel, portal framed building and a single storey building converted to provide additional residential space, an attached garage and workshop.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Mill Farm lies adjacent to the classified road which leads from the A4117, Ludlow Road, towards Bitterley village due west of the site.
The appearance of the site is that of a traditional smallholding although it is recognised that the surrounding farmland extends to some 105 acres.
A long, private access track is situated to the rear of the farm buildings and serves the property known as 'Lowbridge'.
The associated farmhouse lies on the north east side of the buildings proposed for development and is separated from them by two unmetalled access tracks, one leading to the buildings and one leading to the farmhouse.
Bitterley Brook also runs close by, to the north side of the buildings whilst pasture stretches to the west and a band of mature trees align the dismantled railway line to the south of the site.
- 2.2 The largest building proposed for development is steel framed with two open bays at the east elevation. The walls are made up of corrugated, metal sheeting over pre-formed concrete with a corrugated, fibre cement roof.
The second building sits at a much lower level than the first with the walls also created from metal sheeting and concrete, although the roof is clad with corrugated metal sheets.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Council's Constitution states that all planning matters are delegated with the exception of, amongst others, applications made, by or on behalf of, or relating to the property of Members.
A Member currently holds a farm tenancy to the site and Shropshire Council Legal Services have concluded that, as tenant, the Member has the right to use the premises as their own. The application, therefore, relates to the property of a member and there is no power for an Officer to determine this matter as there is no delegation to do so by operation of the Council's Constitution.

4.0 Community Representations

- 4.1 Consultee Comments

- 4.1.1 Shropshire Council Public Protection –
Have considered the location and can confirm that public protection hold no information to suggest there may be contamination on the site requiring investigation. As a result they have no objection to this development and no conditions to recommend.
- 4.1.2 Shropshire Council Highways –
The 21 day consultation period will not expire until 3 December 2015 and no formal response has yet been received.
- 4.1.3 Shropshire Council Drainage -

The south facade of the main dwelling slightly encroaches into Flood Zone 2 and the north facade of the annex slightly encroaches into Flood Zone 3 and 2.

As this is a change of use, a simple Flood Risk Assessment Statement should be completed and submitted for approval and include:

- i. What is the flood level, if known
- ii. The existing ground levels and the finished floor levels
- iii. Extents of flooding on the site, details of any flood defences protecting the site and to what level, contingency and evacuation procedures in the event of a flood.
- iv. Consider using Flood Resistance measures:
 - Installation of specialist door mounted flood barriers or flood resistant external doors
 - Use of non-return valves on all ground floor discharge points from toilets, sinks and white goods
 - Sealing of all inlets, below the anticipated flood water level
- v. Consider using Flood Resilience measures:
 - Installation of solid flooring
 - Installation of internal doors and windows manufactured from synthetic material.
 - Installation of internal doors with specialist hinges that allow for the easy removal of doors
 - Installation of skirting boards and utility units/cupboards made of flood resilient material
 - Raising of electrical points above flood levels
 - Installation of water resistant plaster board

Conditions recommended for surface water drainage and informative recommended regarding use of mitigation measures in the sustainable urban drainage scheme, (SUDs).

4.2 - Public Comments

- 4.2.1 One neighbouring property has been consulted on 11 November 2015. The expiry date for neighbour consultations is the 2 December and, as yet, no representations have been received.

5.0 THE MAIN ISSUES

Whether the proposal is classified as 'permitted development'.

Whether prior approval is required in respect of the following:-

- A) The transport and highways impacts of the development.
 - B) Noise impact of the development
 - C) Contamination of the site
 - D) Flooding of the site
 - E) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use from agricultural use to a use falling within class C3 (dwellinghouses)
 - F) The design and external appearance of the building.
- Note: The provisions set out in paragraph W of the GPDO 2015 apply to this consideration.

6.0 OFFICER APPRAISAL

6.1 Whether the proposal is classified as 'permitted development'.

- 6.1.1 The Order specifies permitted development for Part 3, Class Q as being development consisting of:

- (a) a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

- 6.1.2 Development is not permitted under Class Q where:

- (a) the site was not used solely for an agricultural use, as part of an established agricultural unit—
 - (i) on 20th March 2013;
 - (ii) if the site was not in use on that date, when it was last in use; or
 - (iii) if the site was brought into use after that date, for ten years before the date the development begins;
- (b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;
- (c) the cumulative number of separate dwellinghouses developed within an established agricultural unit exceeds three;

- (d) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (e) less than one year before the date development begins—
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;
- (f) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013, or within 10 years before the date development under Class Q begins, whichever is the lesser;
- (g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- (h) the development (together with any previous development under Class Q / Class MB) would result in more than 450 square metres of floor space of building or buildings within an established agricultural unit;
- (i) the development under Class Q(b) would consist of building operations other than—
 - (i) the installation or replacement of—
 - (aa) windows, doors, roofs, or exterior walls, or
 - (ab) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);
- (j) the site is on article 2(3) land, (conservation areas, Areas of Outstanding Natural Beauty, National Parks, the Broads, World Heritage Sites);
- (k) the site is or forms part of—
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
- (l) the site is, or contains, a scheduled monument;
- (m) the building is a listed building.

6.1.3 The proposal is to convert a building previously used for agriculture into a single dwelling unit with ancillary accommodation and garage / workshop in close proximity to the larger building. The external dimensions of the building would not extend beyond the external dimensions of the existing buildings.

Policy guidance confirms that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. Whilst it recognises that, for the building to function as a dwelling, some building operations affecting the external appearance of the building, which would otherwise require planning permission, should be permitted. The right allows for the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations.

- 6.1.4 It is not the intention, however, of the permitted development right to include new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the load which comes with the external works to provide for residential use that the building would be considered to have the permitted development right. At the time of writing this report, a structural report was being prepared by the applicants agent to confirm that the works required to implement the conversion would not involve additional structural elements which could undermine the existing fabric of the building or be considered as building operations outside of permitted development. It is hoped that this structural report will be received prior to the planning committees consideration of this application.
- 6.1.5 In this case and from the evidence put forward, it would appear that, whilst the proposed openings are considered extensive, these works would fall within the range of operations set out in paragraph Q.1.(i).
- 6.1.6 The combined floor space of the buildings is 262 square metres with the area within the proposed curtilage being 205 square metres. There are no other dwellings which have been developed previously under Class Q, (or previous Class MB). The site does not form part of a Site of Special Scientific Interest, (SSSI), neither is it listed or curtilage listed.
- 6.1.7 Having assessed the application it is found to meet all of the above criteria and therefore is deemed to be 'Permitted Development'.
- 6.1.8 Having established that the conversion appears to satisfy the permitted development criteria, subject to a satisfactory structural report, it is now necessary to assess whether prior approval is required in respect to the points A to F referred to in the main issues at section 5 of this report. Should prior approval be required it is also necessary to consider whether the prior approval is granted or refused.
- 6.2 Transport and highways impacts of the development**
- 6.2.1 A separate access already exists which provides passage from the classified road to the buildings proposed for conversion. Comments from the Council's Highways Development Control team are awaited, however, the following can be noted. This lies immediately adjacent and parallel with the access to the associated farmhouse, divided only by post and rail fencing. There is sufficient space for vehicles to park without causing any highway safety issues on the public highway and the site is likely to generate less traffic to and from the highway as a result in the change of use from agricultural to residential.
- 6.3 Noise impact of the development**
- 6.3.1 The buildings sit opposite the unmetalled access to Mill Farmhouse and to a smaller outbuilding, which lies immediately south of the farmhouse. The proposal will lead to the largest group of buildings being taken out of agricultural production and so there will be no noise impact to future occupants of the buildings as a result of the proposals.

6.3.2 The buildings are sufficiently separated from the farmhouse and are a good distance away from the village, ensuring there will be no affect on neighbouring properties. The change of use would bring about a quieter environment without heavy vehicular traffic accessing the site.

6.4 **Contamination of the site**

6.4.1 The site is not located on any known historic landfill site, nor is it a known contamination site and consequently the Council's Public Protection Specialist is content that the site is unlikely to be contaminated.

6.5 **Flooding of the site**

6.5.1 The site lies close to Bitterley Brook and the fringes of the buildings subject to this application are within Flood zones 2 and 3, as defined by the Environment Agency. Shropshire Council Drainage has, therefore been consulted on the proposals as has the Environment Agency, whose response is awaited.

6.5.2 The Council's Drainage team have advised that, due to the partial siting within Flood Zones 2 and 3, a simple Flood Risk Assessment is required to establish that the development can be protected and would not exacerbate the risk of flooding. Prior approval is, therefore, required to obtain this additional information.

6.5.3 The information has been requested and it is hoped the detail will be submitted before this planning committee.

6.6 **Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use from agricultural use to a use falling within class C3 (dwellinghouses).**

6.6.1 As previously discussed in section 6.3, the buildings proposed for development are separated from the farmhouse and make up the largest part of the farm complex. The removal of these buildings from agricultural production will reduce any intensive commercial use at the site which could otherwise be of detriment to future occupiers. In addition, the usual permitted development rights for new agricultural buildings, (Part 6, Class A), are removed for a period of 10 years following a change of use under Class Q . Thus planning permission would be required for any new farm buildings, allowing the Council to retain control over the location and ensure protection of residential amenity. The location and siting of the building for residential use is, therefore, considered acceptable.

6.7 **The design and external appearance of the building**

6.7.1 The plans provided with the application indicate a single storey, 3 bedroomed dwellinghouse and a single storey garage and workshop, ancillary to the main house. The buildings are not a heritage asset and the structure proposed for conversion to the dwelling is a simple portal framed building. There are no features which require protection. The works proposed would result in a residential conversion of an unconventional appearance with a large, glazed area to the south east elevation. However, accommodation is proposed only to the ground floor

where any overlooking from the road is minimal. Although it is considered that the resultant scheme would not be unduly harmful to the visual amenity of the wider area, in any event, it is not deemed that prior approval is specifically required in respect of its design. Under Class Q it is necessary to retain the basic form and proportions of the building in order to meet the permitted development criteria and it is considered this scheme achieves this.

7.0 CONCLUSION

7.1.1 Based on the information provided with the application, it is considered the conversion of the building to residential use is permitted development in accordance with Class Q, subject to the Council being satisfied that no new structural elements are required to enable the conversion.

7.1.2 Prior approval is not considered necessary to adequately assess transport and highways, noise impacts, contamination risks, establishing whether the scheme is unpractical or undesirable or for the design or external appearance. However, prior approval is required to establish whether the scheme can be implemented without exacerbating flooding risks. Approval is recommended subject to submission of a satisfactory flood risk assessment, no objection from the Environment Agency, Shropshire Council Drainage and subject to the conditions set out in Appendix 1.

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:

Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015;

National Planning Practice Guidance;

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

None

11. **Additional Information**

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NXCL95TD07V00>

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Richard Huffer
Appendices APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development must be completed within a period of three years starting with the approval date.

Reason : In order to ensure the application complies with the criteria of Class Q Permitted Development of the Town and Country Planning (general permitted development) Order 2015.

2. The development shall be carried out in accordance with the details submitted with the notification.

Reason: To comply with the provisions of Paragraph W of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to commencement of development, details of the surface water drainage including calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval in writing by the Local Planning Authority.

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

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding. This is required prior to commencement of the works in general since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

Informatives

1. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
2. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive.

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of birds nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

3. Barn Owls are protected under the Wildlife & Countryside Act 1981 (as amended). It is an offence to disturb the active nests of Barn Owls, this includes when they are making a nest, occupying a nest or have chicks still dependent on the nest for survival. Barn Owls can breed at any time of the year in the UK. Any offence under the Wildlife & Countryside Act 1981 (as amended) is punishable by up to a £5000 fine per individual animal impacted and up to 6 months in prison.
4. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. On the site to which this consent applies the storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.
6. As part of the SuDS, the applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new access, driveway, parking/paved area

Attenuation

Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.



Committee and date

South Planning Committee

1 December 2015

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS As at 1st December 2015

LPA reference	14/03780/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	R G Heiron And Son
Proposal	Erection of dwelling
Location	Proposed Dwelling To The West Side Of B5477 All Stretton, Shropshire
Date of appeal	16.07.15
Appeal method	Written Representations
Date site visit	15.09.15
Date of appeal decision	26.10.15
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00467/FUL
Appeal against	Non determination
Committee or Del. Decision	N/A
Appellant	Mr Terry Gall
Proposal	Conversion of existing stables to a dwelling
Location	The Bungalow Shifnal Shropshire TF11 9NP
Date of appeal	23.10.15
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03279/FUL
Appeal against	Non Determination
Committee or Del. Decision	N/A
Appellant	Peter Gwilt
Proposal	Conversion of vacant units to 5no. self-contained flats
Location	Vacant Units Station Road Albrighton Wolverhampton Shropshire WV7 3QH
Date of appeal	15.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	02.11.2015
Costs awarded	
Appeal decision	Allowed

LPA reference	14/03768/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	D Doley
Proposal	Outline planning permission for residential development to include access
Location	Land South Of A458 Off Oldbury Road Bridgnorth
Date of appeal	15.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	03/11/2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/05209/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Paul Craven
Proposal	Proposed side kitchen extension
Location	Hazeck The Mines Benthall Broseley TF12 5QY
Date of appeal	4.11.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/01472/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Dr Alexander Arcache c/o Murrell Associates
Proposal	Formation of a solar farm comprising the installation of (circa) 22,000 ground mounted solar panels; 4 inverter buildings; one centre station comprising one transformer building, one gear building and one DNO cabinet; 21 x 3m high pole mounted CCTV cameras; 2m high security boundary fencing; landscaping scheme
Location	Proposed Solar Farm To The West Of Squirrel Lane, Ledwyche, Shropshire
Date of appeal	04.11.14
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/02642/FUL
Appeal against	Refusal
Committee or Del. Decision	Officer
Appellant	Mr and Mrs Scott & Sue Mitchell
Proposal	Proposed remodelling of the existing ground floor and first floor extension
Location	Batch End, 2 Yeld Bank Church Stretton, Shropshire SY6 6EZ
Date of appeal	5.11.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00795/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Redrow Homes
Proposal	Erection of seven dwellings; and formation of estate road
Location	Residential Development Land South Of A464 Wolverhampton Road Shifnal Shropshire
Date of appeal	10.11.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03704/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr R Bowsher
Proposal	Erection of agricultural building for plant and machinery
Location	The Knotches, Seifton Batch, Shropshire, SY7 9LQ
Date of appeal	16.07.2015
Appeal method	Written representation
Date site visit	03.11.2015
Date of appeal decision	16.11.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/02859/PMBPA
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Apley Estate
Proposal	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
Location	Barn At Allscott Farm Allscott Bridgnorth Shropshire
Date of appeal	16.11.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03472/FUL
Appeal against	Non-Determination
Committee or Del. Decision	Delegated
Appellant	Mr Paul Stokes
Proposal	Erection of 2No one bedroom flats
Location	Proposed Development Land Off Steeple Close, Cleobury Mortimer Shropshire
Date of appeal	04.03.2015
Appeal method	Hearing
Date site visit	01.07.15
Date of appeal decision	16.11.15
Costs awarded	No
Appeal decision	Dismissed

LPA reference	14/02226/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	M G Walker & Sons
Proposal	Outline application for the erection of one dwelling for a rural worker to include access
Location	Proposed Rural Workers Dwelling West Of Heathton Claverley Shropshire
Date of appeal	19.11.15
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04608/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Richborough Estates
Proposal	Outline application (access for approval) for mixed residential development comprising 137 dwellings; demolition of existing agricultural buildings; creation of vehicular access from the A49 Ludlow Bypass
Location	Proposed Residential Development Land At Foldgate Lane, Ludlow, Shropshire
Date of appeal	19.11.15
Appeal method	Inquiry
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04242/ENF
Appeal against	Enforcement Notice
Committee or Del. Decision	N/A
Appellant	Apley Estate
Proposal	Possible unauthorised change of use
Location	Outbuilding At Grindle House Farm Grindle Road Grindle Shifnal Shropshire TF11 9JR
Date of appeal	16.10.15
Appeal method	Hearing
Date site visit	
Date of appeal decision	20.11.15
Costs awarded	
Appeal decision	APPEAL WITHDRAWN

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Appeal Decision

Site visit made on 15 September 2015

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 26 October 2015

Appeal Ref: APP/L3245/W/15/3035974

Rowley, All Stretton, Church Stretton SY6 6HE

- 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 Mrs Ben Heiron (R G Heiron and Son) against the decision of Shropshire Council.
 - The application Ref 14/03780/FUL, dated 14 August 2014, was refused by notice dated 20 March 2015
 - The development proposed is the erection of one detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. An executed Unilateral Undertaking submitted under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which would secure an affordable housing contribution. I will consider the obligation in more detail later in my decision.

Main Issues

3. The main issues are (a) the effect of the proposal on the character and appearance of the area, having regard to the All Stretton Conservation Area and the Shropshire Hills Area of Outstanding Natural Beauty, and (b) affordable housing provision.

Reasons

Character and appearance

4. The appeal site comprises a roughly rectangular plot with a single garage which is accessed off the B4577 Shrewsbury Road in All Stretton. The site also includes a narrow strip of land comprising steps up a slope. By reason of the topography of the area, the land rises up the appeal site and the plot of the neighbouring property from the road. Within the appeal plot, there are a few trees but there is a substantial group of trees, subject to a Tree Preservation Order (TPO), adjoining and overhanging it. Opposite the site on the other side of the road, there is open countryside. The appeal plot is at the end of a row of residential properties that are set back from the road in spacious surroundings.

5. The appeal site lies within the All Stretton Conservation Area, which includes most of the village and extends 200 metres south of the appeal site along Shrewsbury Road. As such, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6. The appeal is part of a group of dwellings along Shrewsbury Road which vary in plot size, scale, age and design. However, the dwellings are set within spacious plots which are attractively landscaped and surrounded by trees and vegetation. Outside of this group of dwellings, dwellings within the core of the village are generally older but also mainly spacious in their surroundings. I therefore find that these spacious and verdant qualities are identifiable features which add positively to the character and appearance of the Conservation Area.
7. The proposal would result in a two-storey house partially set into the slope of the site at the ground floor. It would be set forward of the neighbouring dwelling at Rowley Cottage and behind the double garage of this property. However, there would be significant depth to the dwelling which would result in an extensive gable visible from the south above the front garden and garage of the neighbouring property. By reason of its siting, the dwelling would be closely sited to the south and west boundaries of the main part of the plot. The adjacent trees would overhang much of the garden area of the dwelling on the northern part of the plot. For these reasons, the dwelling would appear prominent and constrained within its plot adversely affecting the spacious character and appearance of the Conservation Area.
8. In his Arboricultural Report (AR) dated 7 August 2014, the appellant's arboriculturist is satisfied that the development will not cause foreseeable desires by the new occupiers to carry out tree work to the detriment of local amenity. In this regard, it is pointed out that most of the trees are unlikely to grow much further due to their maturity. However, although the Council would retain formal control over requests for tree works to the protected trees, in practice I consider that it is likely to be difficult to resist such pressure in the long term given that much of the garden would be overhung by tree branches. I appreciate future occupiers should be aware of the protected trees when deciding to purchase these properties and deciding for themselves whether the presence of them would be a problem. However, circumstances can change, especially when people live in a property, and therefore, this would not prevent requests from future occupiers.
9. The AR details that the proposal complies with BS5837:2012 Trees in relation to design, demolition and construction: Recommendations. In this regard, it has not been disputed that there would only be slight encroachment from the development into Root Protection Areas (RPAs). However, to ensure no encroachment during construction, the RPAs would need to be protected. There would be protective fencing. Nevertheless, the AR acknowledges that the development would take place in close proximity to the trees and that space is a limiting factor with little room for storage and parking on the site. As a consequence, the AR indicates material deliveries would need to be small and frequent with any storage to be outside of the RPA. This would require significant levels of planning and management. Given the practicalities of ensuring this throughout construction, I am not persuaded that this can be achieved without instances of some encroachment and possible undesirable

effects on trees, such as soil compaction. For these reasons, felling or cutting back of trees would be likely which would reduce the overall verdant qualities of the area. In summary, the proposal would fail to preserve the appearance and character of the Conservation Area by reason of the dwelling's prominence on a small and constrained site, and the significant possibility of harm to protected trees for the reasons stated.

10. Paragraph 134 of the National Planning Policy Framework (the Framework) states where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as a Conservation Area), this harm should be weighed against the public benefits of the proposal. The development would provide a self-build starter home dwelling for the appellant's own occupation, provide a dwelling to contribute to housing land supply, and would provide a contribution towards affordable housing provision. With respect to housing land supply, the appellant states it to be deficient. However, while the harm to the significance of the Conservation Area is less than substantial, the public benefits would not be sufficient to outweigh that harm.
11. The Council indicate that the appeal site also lies within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Within the surrounding area, there is a pleasant mixture of open fields, hills and uplands, with woodlands and dispersed groups of trees. The prominence of this development and the possibility of the felling or cutting back of trees would erode its landscape and scenic beauty to which the Framework places great weight upon in terms of conservation.
12. My attention is drawn to a proposal for a dwelling on the site which was dismissed at appeal¹. The Inspector found that insufficient details were before him to assess the scheme's impact on TPO'd trees and the character and appearance of the area. With the current proposal, an AR has been submitted and the dwelling is partly to be built into the slope of the site. Nevertheless, the current proposal would still be prominent in the street scene when viewed from the south, as it would be in an elevated position and would be set forward of other dwellings. Consequently, the current appeal scheme would not overcome the issues raised in this previous decision. In any case, the current proposal has been considered on its individual planning merits.
13. In conclusion, the development would harm the character and appearance of the area having regard to the All Stretton Conservation Area and the Shropshire Hills AONB for the reasons stated above. With regard to the Conservation Area, it would fail to preserve the character and appearance of it. Accordingly, the proposal would not comply with Policies CS6 and CS17 of the Shropshire Local Development Framework Core Strategy (CS) which collectively and amongst other matters, require proposals to protect, restore, conserve and enhance the natural, built and historic environment and those features which contribute to local character and distinctiveness.

Affordable Housing

14. Policy CS11 of the CS seeks to ensure that all new open market housing makes appropriate provision towards local needs affordable housing having regard to the current prevailing target. For a single open market dwelling proposal, the

¹ APP/L3245/A/13/2205751.

affordable housing provision is expected to be financial in accordance with a formula contained within the Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document (SPD) 2012. The appellant has submitted a legal undertaking to secure the payment of the requisite contribution which has been prepared in consultation with the Council.

15. The need for affordable housing and use of contributions is set out in the CS and the SPD. The SPD sets out a methodology for calculating the contributions allowing for scheme viability to be considered and explains how the monies collected would be spent. On this basis, I find the methodology robust and the approach taken reasonable. Thus, I find the contribution is necessary and meets the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). As the contribution would result in additional affordable housing provision, it is a benefit that would weigh in favour of the proposal.

Other matters

16. The dwelling would be a self-build for the appellant who is a young builder whose family have operated a building business in the settlement for a number of generations. Under the CIL regulations, he would commit to occupy the dwelling for a period of five years. However, no obligation has been put before me to ensure this and government advice discourages planning permissions granted with a personal planning condition restricting use to the applicant. In the absence of any planning mechanism to ensure that the dwelling would be a starter self-build home, little weight is given to this consideration.
17. The Council point to a five year housing land supply based on the Shropshire Council Site Allocations and Management of Development (SAMdev) Plan which has been at an Examination-in-Public stage of plan preparation. However, there is a dispute between the two parties over whether the modifications to be made will achieve a five year supply of deliverable housing land.
18. Nonetheless, even if the Council's housing land supply is deficient and housing land supply out of date, the contribution that this development would make towards an undersupply would be limited by reason of it being a single dwelling. Similarly, the affordable housing contribution arising from one dwelling would be limited. Consequently, these limited benefits would not outweigh the harm that the scheme would cause to the character and appearance of the area, including that of a Conservation Area and AONB. It is thus not the sustainable development for which there is a presumption in favour under the Framework.
19. In this regard, I have borne in mind two core planning principles at paragraph 17 of the Framework, which require that planning conserves heritage assets in a manner appropriate to their significance and contributes to the conserving and enhancing of the natural environment, which this proposal would fail to achieve for the reasons indicated.

Conclusion

20. The proposal would harm the character and appearance of the area and thus would conflict with Policies CS6 and CS17 of the CS. Such a conflict would not be outweighed by the proposal's compliance with Policy CS11 of the CS and SPD because I consider the harm to the character and appearance would be

substantial, given the appeal site's location within a Conservation Area and AONB.

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR

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Appeal Decision

Site visit made on 5 October 2015

by Tom Cannon BA DIP TP MRTPI

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

Decision date: 2 November 2015

Appeal Ref: APP/L3245/W/15/3028166

Station Road, Albrighton, Shropshire WV7 3QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Peter Gwilt against Shropshire Council.
 - The application Ref 14/03279/FUL, is dated 21 July 2014.
 - The development proposed is the change of use of vacant units to 5 no self-contained flats.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of vacant units to 5 no self-contained flats at Station Road, Albrighton, Shropshire WV7 3QH in accordance with the terms of the application, 14/03279/FUL, dated 21 July 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3199/14/03 (Plans as proposed) and 3199/14/04 (Elevations as proposed).
 - 3) No development shall take place until details of all external materials, including hard surfacing have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No windows or doors shall be installed at the development before plans and sections at a scale of 1:20 of all new windows and doors have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No dwelling shall be occupied until space has been laid out, drained and hard surfaced within the site in accordance with drawing no. 3199/14/03 for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

Procedural Matters

2. A completed Unilateral Undertaking (UU) securing the provision of on-site affordable housing has been provided following the submission of the appeal.

3. The appellant's final comments confirm that the costs application originally made in respect of the appeal proposal has been withdrawn.

Main Issue

4. The main issue is whether the proposal makes adequate provision for affordable housing.

Reasons

5. Policy CS11 of the *Shropshire Local Development Framework: Adopted Core Strategy 2011* (CS) requires that developments of 5 dwellings or more should make provision for affordable housing on site. This is calculated on a geographical basis, with the appeal site located within Area B, where 15% of the total number of dwellings to be provided should be affordable. The development for 5 flats therefore has an affordable housing requirement of 0.75 dwellings, rounded up to 1 unit under the CS.
6. On the 28 November 2014, the *Written Ministerial Statement* (WMS) was published which set out national policy on S106, including setting a threshold beneath which affordable housing contributions should not be sought. As the development fell under this threshold the appellant initially considered that a contribution towards affordable housing was not necessary to make the development acceptable in planning terms.
7. However, following the High Court's judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015, the policies in the WMS must not be treated as a material consideration in development management. Consequently, *Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990* apply, requiring that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
8. The appellant has since reviewed his position in light of the above judgement which was handed down after the appeal was lodged. A completed UU has subsequently been provided, with 1 of the 5 proposed units to be affordable in accordance with the requirements of Policy CS11 of the CS. Therefore the delivery of affordable housing on small developments, either directly on site, or indirectly through financial contributions is essential to the effective delivery of much needed affordable housing in Shropshire, and the housing and community aspirations enshrined in the CS.
9. Thus, the proposed contribution would satisfy the 3 tests in *Regulation 122 of the Community Infrastructure Regulations* (CIL), as it would be necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development.
10. In September 2015 the *Department for Communities and Local Government* (DCLG) was granted permission to appeal the 31 July 2015 judgement. The main parties in the appeal have both commented on this matter. I understand that the hearing into the appeal by DCLG has been listed for 15 March 2016. Therefore, at the time of writing, the judgement and declaration order stands. As such, I must make my decision based on the Court's Order and evidence

before me, which is that there is a development plan policy requirement for the provision of on-site affordable housing.

11. For these reasons, there are also material differences between this case and the other appeal decisions referred to by the parties which were made prior to the 31 July 2015 judgement.
12. I therefore conclude that the proposal makes adequate provision for affordable housing and satisfies the 3 tests in Regulation 122, and paragraph 2014 of the *National Planning policy Framework* (the Framework). It would also accord with Policies CS9 and CS11 of the CS and guidance in the *Shropshire Local Development Framework Type and Affordability of Housing Supplementary Planning Document 2012* (SPD).

Other Matters

13. Albrighton is identified as a key market town in the CS, where the principle of new residential development such as that proposed in this appeal is acceptable, subject to its appropriate design and scale.
14. The appeal site comprises of an eclectic mix of modern inter-connecting storage units, which are situated to the rear of, and physically enclosed by existing built development on Station Road and High Street. Given its secluded location, and the minor improvements proposed to the external appearance of the buildings, I also therefore agree with the Council that the proposed conversions would preserve the character and appearance of the area, including the setting of the adjacent Albrighton Conservation Area.

Conditions

15. I have considered the conditions suggested by the Council and the appellant in light of advice in paragraphs 203 and 206 of the Framework and the *Planning Practice Guidance*.
16. In addition to the standard time limit condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. Details of external materials, including hard surfacing and windows and doors are required to ensure the satisfactory appearance of the development. To provide adequate on-site parking provision, and in the interests of highway safety, it is also necessary for the car parking layout shown on the approved plans to be implemented prior to the first occupation of the proposed dwellings. The submitted UU provides a satisfactory mechanism to secure the provision of on-site affordable housing. A condition to this effect would therefore be unnecessary.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should succeed.

T Cannon

INSPECTOR

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Appeal Decision

Site visit made on 26 October 2015

by B J Sims BSc(Hons) CEng MICE MRTPI

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

Decision date: 03 November 2015

Appeal Ref: APP/L3245/W/15/3032664

Land of Oldbury Road, Bridgnorth, Shropshire WV16 5DY

- 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 D Doley (P Woodhall and I Bissell) against the decision of Shropshire Council.
 - The application Ref 14/03768/OUT, dated 18 August 2014, was refused by notice dated 19 November 2014.
 - The proposal is for residential development and access.
-

Decision

1. The appeal is dismissed.

Procedure

2. The application and appeal are in outline with only the means of access for detailed consideration at this stage. A submitted indicative layout plan is taken into account for illustrative purposes.
3. The Appellants have provided a Unilateral Undertaking pursuant to Section 106 of the Act providing for a proportion of the proposed residential development to be delivered as affordable housing in accordance with the Shropshire Council adopted supplementary planning document 'Type and Affordability of Housing'. This planning obligation meets the requirements of Policy CS11 of the adopted Shropshire Core Strategy, as well as the tests of necessity and direct, fair and reasonable relationship to the proposed development, set down in Regulation 122 of the Community Infrastructure Regulations 2010, and is taken into account as a consideration material to this decision.

Main Issue

4. The main issue is the effect the proposed development would have on the character, appearance and setting of the Oldbury Conservation Area (CA), taking into account the degree of benefit the development would provide.

Reasons

5. The Appellant and the Council both place heavy reliance on a comparison of the present proposal with that dismissed at appeal Ref APP/L3245/A/14/2223481 in January 2015, with detailed reference to the findings of the Inspector in that case. That proposal was also for residential development and access, on the same land, with all matters reserved, apart from means of access. The chief

difference between the current appeal proposal and its predecessor is that the access vision splay at Oldbury Road could be reduced in extent, involving the loss of a shorter length of the existing boundary hedge. Whilst the previous appeal dismissal is a consideration material to the present case, this appeal must be determined on an entirely fresh appraisal of its individual merits.

6. Although not expressly mentioned in any of the written material submitted in connection with appeal, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to pay special attention to the desirability of any development within the Oldbury CA preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (NPPF), at paragraph 137, and the national Planning Practice Guidance (PPG) together make clear that the effect of development within the setting of the CA also must be taken into account, in terms of whether the development would enhance or better reveal the significance of the CA. NPPF paragraphs 132-134 give great weight to the conservation of such heritage assets and require that even 'less than substantial' harm to its significance be weighed against the public benefits of the proposed development. These national provisions are reflected in Policies CS6 and CS17 of the CS, whilst Policy CS5 generally restricts development in the countryside outside settlements.
7. The appeal site comprises countryside outside any settlement boundary defined either in the adopted Bridgnorth District Local Plan, the CS or in the emerging Sites and Management of Development (SAMDev) Local Plan, recently subject to public examination. Even so, that is not to say that development on the site should necessarily be refused if it is judged to be sustainable, in particular if the Council is unable to demonstrate a five year housing land supply (5YHLS). In those circumstances, NPPF paragraphs 49 and 14 respectively provide that relevant policies for the supply of housing should not be considered up to date and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
8. Notwithstanding that there is no Conservation Area Appraisal for the Oldbury CA, which is simply depicted on the Council Policy Map, it is clear that the main defining characteristic of the CA, as a whole, is its low density, mainly domestic development, with a wide variety of dwellings, generally well enclosed behind high mature hedges with many specimen trees. This is mainly confined to the south easterly side of Oldbury Road. There is less built development within that part of the CA north west of Oldbury Road, which encompasses several larger scale buildings including the church and an extensive property known as Eversley, bounding the western side of the appeal site. Beyond these northerly properties is essentially open countryside which includes the appeal land and extends to the A458 main road and the southern settlement boundary of Bridgnorth.
9. Only the front most part of the appeal site, together with its mature boundary hedge and trees, lies within the CA. However, the bulk of the site comprises open fields adjacent to the east and north fence lines of Eversley. The appeal site is thus important to the rural setting of the village of Oldbury in that it contributes to its physical and visual separation from urban Bridgnorth. This is achieved in a manner unlike the barrier created by the A458, whereby the physical presence of the road cutting and the noise of the traffic results in a perception of severance rather than of separation.

10. It is evident that, compared with the previously dismissed scheme, the access vision splays, at the Oldbury Road entrance to the site, could be substantially reduced from those shown on the submitted plans, with the approval of the Highway Authority. As a result, the length of the front boundary hedge lost to the development would be limited, as shown on a submitted road elevation, whilst compensatory planting could be placed behind the splays. Moreover, beyond the entrance, the access drive would not necessarily be required to be of adoptable width or alignment. Even so, the existing boundary hedge is characteristic of the verdant, enclosed nature of the CA and its partial loss would harm both the appearance and character of the CA to some degree which would accordingly not be preserved with respect to the statutory duty set out above. This harm is to be regarded as less than substantial in terms of the NPPF but must be weighed against any development benefits.
11. The effect of the development on the setting of the Oldbury CA would be more significant. The site is not highly visible from Oldbury Road itself due to boundary vegetation. However, from other public viewpoints and footpaths crossing the open fields to the north east, the development would be closely visible as an urban intrusion into the open countryside, within which the village and the Oldbury CA are set, eroding its separation from Bridgnorth.
12. There is no doubt that much could be achieved in any detailed design, including a reduction in the number of dwellings from the seven illustrated, extensive landscape planting and careful attention to architectural detail and road layout, to soften and integrate the development into the landscape. However, the presence of the development within the setting of Oldbury would still be harmful to the CA as a whole and would neither enhance nor better reveal its significance, as contemplated by national policy and guidance.
13. Taken together, the degree of direct harm to the Oldbury CA due to the road access and the damage due the urbanisation of the setting of the CA amounts to significant harm, albeit less than substantial in terms of the NPPF. This places the proposed development into conflict with Policies CS6 and CS17 and requires to be weighed against planning benefits.
14. It is evident that the development could be undertaken without unacceptable adverse impact on retained protected trees, wildlife, highway safety or other material planning interests and could provide several units of market and affordable housing in an otherwise sustainable location. Moreover, the proposal must be judged overall on the basis of the presumption in favour of sustainable development in its triple socio-economic and environmental roles, as promulgated in paragraphs 7 and 14 of the NPPF.
15. In relation to the provision of housing, there is a great volume of evidence in this appeal, from both the Council and the Appellants, respectively for and against the claim that the Borough currently enjoys a 5YHLS. In short, the Council is content that it can demonstrate a 5YHLS equivalent to 5.47 years, whilst the Appellants quote other evidence that it is of the order of only 4.28 years, whereby local policies for the supply of housing should not be considered up to date. The difference results from variation in the calculation methodology and assumptions regarding effective deliverability and build rates of individual sites. On balance, it is apparent that the 5YHLS for the purposes of this decision is likely to be just above or just below the requisite equivalent five years. Giving the benefit of any doubt to the Appellants, relevant local

policies for the supply of housing cannot be considered up to date and permission should be granted unless there would be overriding adverse impacts.

16. On an overall balance of judgement however, the socio-economic benefits of contributing a small number of market and affordable homes towards the Borough housing stock in the face of a relatively slight five year undersupply are significantly and demonstrably outweighed by the adverse environmental impacts the development would have on the Oldbury Conservation Area and its setting.
17. For these reasons the appeal fails.

B J Sims

Inspector

Appeal Decision

Site visit made on 3 November 2015

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 16 November 2015

Appeal Ref: APP/L3245/W/15/3005027

The Knotches, Seifton Batch, Craven Arms, SY7 9LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Roger Bowsher against Shropshire Council.
 - The application Ref 14/03704/FUL is dated 14 August 2014.
 - The development proposed is a new storage barn to store logs and secure gardening and plant equipment.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council has confirmed that the location plan (scale 1:2500) that it produced at the appeal site visit was in error and not a plan on which it made its decision. Consequently I have determined the appeal on the basis of the original plans submitted with the application.
3. The appeal follows the Council's non-determination of the application within the prescribed period. However a decision notice was issued on 19 February 2015 which contained reasons for refusal relating to the effect of the proposal on the character and appearance of the landscape within the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the living conditions of the residents of 14 The Knotches.

Main Issues

4. The main issues in this appeal are:
 - (i) The effect of the proposal on the character and appearance of the landscape having particular regard to its location in the AONB.
 - (ii) The effect of the proposal on the living conditions of the residents of 14 The Knotches having regard to outlook, noise, and fumes.

Reasons

Character and appearance

5. The appeal site is situated in a rural location within the Shropshire Hills AONB. The topography of the area is such that it sits in an elevated and relatively exposed location in the undulating landscape. A public footpath runs between

the eastern boundary of No 15 and the rear boundary of 14 The Knotches. There is also another footpath that runs across the garden area of No 15 and affords views across the appeal site.

6. The National Planning Policy Framework (the Framework) is clear that great weight should be given to conserving landscape and scenic beauty of AONB, which along with National Parks and the Broads have the highest status of protection in relation to landscape and scenic beauty.
7. Whilst I appreciate that the proposed building would be positioned on the lowest part of the appeal site, it would be in an isolated position away from other buildings. It would also be a substantial size and scale and be readily apparent from a number of viewpoints, including the public footpaths and from the wider AONB. This would appear conspicuous and in contrast with this area of open undeveloped landscape.
8. Although the appellant has expressed a willingness to accept a planning condition for a planting programme I have no details of this before me, including the size, height and species that would be used. Nonetheless, the proposed planting, and existing trees, would not, to my mind, be considered to constitute permanent screening or effective mitigation. The proposal would therefore not serve to conserve or enhance the scenic beauty of the AONB.
9. I therefore conclude that the proposal would significantly harm the character and appearance of the landscape having particular regard to its location in the AONB. As such it would conflict with the aims of Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) and advice within the Framework. Amongst other matters, these seek to maintain and enhance countryside character and the natural environment and safeguard the AONB from development which would harm its landscape and scenic beauty.

Living conditions

10. At approximately 5.5 metres in height and spanning approximately 15.5 metres in length the proposal would be clearly visible from No 14's rear garden area. Whilst it would be partially obscured by some mature conifer trees it would still be visible as there is substantial gap in between them. Furthermore, its impact would be exacerbated by the raised level of the appeal site in comparison to that of the neighbouring garden. As a result it would be readily apparent above the boundary fence and appear visually dominant and unacceptably overbearing from No 14's rear garden area.
11. A planning condition could be used to control the use of the proposal for storage purposes. Nonetheless, the size of the proposed building is such that there would be scope to accommodate a significant amount of machinery. Given the type of machinery and vehicles that would be stored in there (for the maintenance of the land), the noise levels associated with the comings and goings from the proposed building, and its close proximity to No 14's boundary it would be likely to result in an undue level of disturbance from noise, fumes and smells if used regularly.
12. I therefore conclude that the proposal would have a materially harmful effect on the living conditions of the residents of 14 The Knotches having regard to outlook, noise, and fumes. As a result it would conflict with CS Policy CS6,

which amongst other matters, seeks to ensure that residential amenity is safeguarded.

Other matters

13. The appellant has referred to a number of other matters in support of his case. These include the improvement to facilities, the tidying up of the site and the provision of safe and secure storage for the equipment. I have also had regard to the Culmington Parish Plan, and the employment opportunities that have been put to me. Furthermore, I appreciate that the need for storage is acknowledged by the occupiers of No 14, that no other neighbours have objected and that the proposal would not result in a significant loss of light to No 14 and its rear garden area. Nonetheless, all of these factors do not overcome or outweigh the harm that I have identified above.
14. The appellant considers the proposal to represent a sustainable development. However the subject of "achieving sustainable development" in the Framework has 3 dimensions, which are economic, social and environmental roles that are expected to be delivered equally. For the reasons given above the proposal would not satisfy the environmental dimension and as such does not constitute sustainable development.
15. In reaching my decision I have also had regard to an earlier appeal decision at the site for the erection of a steel framed building on a concrete base (APP/L3245/D/14/2213072). Whilst I note that the appellant considers the revised height of the proposed building to address the concerns raised by the previous Inspector, for the reasons give above, I continue to find that the scheme conflicts with current local and national planning policies.
16. The appellant has referred to chicken sheds around a mile away from the appeal site. Nonetheless, I have not been provided with any further details of this, including location so cannot be certain that it represents a direct parallel to the appeal proposal. I have, in any case, determined the appeal on its own merits.
17. I also note that the appellant is dissatisfied with the Council in respect of advice and guidance regarding the height of the proposal. However, this is a matter that would need to be pursued with the Council in the first instance. I confirm that in this respect, I have only had regard to the planning merits of the proposal that is before me.
18. For the reasons given above, the appeal is therefore dismissed and planning permission is refused.

Mark Caine

INSPECTOR

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Appeal Decision

Hearing held on 1 July 2015

Site visits made on 30 June & 1 July 2015

by Chris Preston BA (Hons) BPI MRTPI

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

Decision date: 16 November 2015

Appeal Ref: APP/L3245/A/14/2227555

7 Steeple Close, Cleobury Mortimer, Shropshire DY14 8PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Stokes against Shropshire Council.
 - The application Ref 14/03472/FUL, is dated 01 August 2014.
 - The development proposed is: two, one bedroom, flats on land adjacent to and belonging to No7 Steeple Close, Cleobury Mortimer.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr Paul Stokes against Shropshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal was submitted against the failure of the Council to reach a decision on the application. Its initial statement, the Council identified that, had it been in a position to determine the proposal, it would have refused to grant planning permission on grounds of the effect on the character and appearance of the area; the effect on the living conditions of residents of No 7 Steeple Close; the lack of a financial contribution towards affordable housing provision; and on matters of parking and highway safety. Further to a consultation response from the highways' department the Council wrote to the Planning Inspectorate to withdraw its objections on grounds of parking and highway safety.
4. The Hearing was held on 01 July 2015. On 31 July the High Court issued judgement on a joint application by West Berkshire District Council and Reading Borough Council who had challenged the Secretary of State's (SoS) written ministerial statement of 28 November (the WMS) and subsequent changes to the Planning Practice Guidance (PPG) with regard to planning obligations for affordable housing and social infrastructure contributions¹.

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).

5. The PPG, and the WMS, set out specific circumstances where affordable housing and tariff style contributions should not be sought for small scale development, including developments of 10-units or less, with a maximum gross floorspace of no more than 1000sqm.
6. The challenge was successful. However, rather than quashing the WMS a declaration order was issued confirming that the policies in the statement must not be treated as a material consideration for planning purposes. Paragraphs 12-23 of the PPG section on Planning Obligations have subsequently been removed. The SoS has been granted leave to appeal the judgement with a hearing listed for 15 March 2016.
7. Further to the Hearing, written submissions have been received from both parties regarding the implications of the High Court judgement. I have taken those comments into account in reaching my decision.

Main Issues

8. In view of the above, the main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) The effect of the proposal on the living conditions of residents of No 7 Steeple Close; and
 - iii) Whether the proposal should be required to make a financial contribution towards the provision of affordable housing, taking account of the requirements of the Development Plan and other material considerations.

Reasons

Character and appearance

9. The appeal site relates to the garden area at the side of No 7 Steeple Close, the end dwelling in a row of four, situated at the head of a short cul-de-sac. The dwellings, which would have been constructed as local authority housing stock, are within a wider area of twentieth century housing on the northern side of Cleobury Mortimer. In common with many local authority developments there is a high degree of uniformity in terms of the layout within the cul-de-sac, with dwellings on the northern side of the carriageway being mirrored by those on the southern side in terms of the block size, spacing and the size of front gardens. The block of four properties at the head of the cul-de-sac, including No 7, adds to the balance with its symmetrical proportions, including the projecting front gables at each end.
10. In terms of individual appearance, a number of dwellings have been altered, including the addition of a facing skin over the original cast concrete panels. Nonetheless, this does not disturb the pleasing symmetry and regularity of the established layout.
11. The position of the proposed building, to the side and rear of No 7, would not reflect the established symmetry, the consistency of plot size or the regular spacing between dwellings and would appear incongruous as a result. Moreover, when set against the comparatively generous plot size of adjacent

dwellings, the proposed flats would appear cramped and shoe-horned into the garden area to the side of the existing dwelling. The building would front onto the narrow footpath link which passes to the north and, as a consequence, a blank and relatively unattractive gable end would face towards Steeple Close. The orientation would be in stark contrast to the established layout where dwellings front directly onto the street, set behind short front gardens.

12. Whilst I note that there are parts of Cleobury Mortimer where dwellings are constructed at a higher density, those arrangements are not reflected within the vicinity of the appeal site which has a regulated character. In view of the above, I consider that the proposal would appear as a cramped and unsympathetic addition that would be harmful to the established character and appearance of the surrounding area.
13. As such, it would be contrary to the aims of policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (the CS) which, amongst other things, requires that development protects and enhances the built environment being appropriate in scale, density, pattern and design, taking into account the local context and character. For the same reasons, the proposal would be contrary to the requirement for good design as set out at paragraph 56 of the National Planning Policy Framework (the Framework).

Effect on the living Conditions of the occupants of No 7 Steeple Close

14. The proposal would project significantly beyond the rear elevation of No 7, extending close up to the shared boundary with No 6 Langland Road. The topography is such that the ground level would sit above the ground level to the rear of No 7. As a consequence of that change in level, the degree of projection beyond the rear elevation, and the scale of the proposed building, I consider that the proposal would restrict the outlook from the rear windows of No 7 and have an overbearing and oppressive impact when viewed from those windows and the garden to the rear of the house. The resulting impact upon the living conditions of existing and future residents of No 7 Steeple Close would be significant and harmful. The fact that No 7 is in the ownership of the appellant does not alter my conclusions in that regard; that situation could change in future and I must consider the likely effects, regardless of current ownership arrangements.
15. It would be possible to attach an appropriately worded condition to ensure that rear facing windows would be fixed shut and fitted with obscured glazing to prevent undue levels of overlooking and loss of privacy for adjacent residents. Nonetheless, that would not overcome my concerns relating to the scale and proximity of the proposal, as described above. For those reasons, the proposal would be contrary to the aims of policy CS6 of the CS which, amongst other things, requires that development should safeguard residential amenity.
16. Similarly, it would contravene one of the core principles of the Framework, set out at paragraph 17, which is that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Whether the proposal should be required to make a financial contribution towards the provision of affordable housing, taking account of the requirements of the Development Plan and other material considerations

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. That statutory requirement is acknowledged at paragraphs 2 and 210 of the Framework.
18. In this case, policy CS11 of the CS requires that all new market housing developments make appropriate contributions to the provision of local needs affordable housing, having regard to the overall target rate for affordable housing and the viability of development. For developments of 5 dwellings and above the policy expects affordable housing to be provided on site. Below that threshold, the Council seeks to secure a financial contribution towards off-site provision. Policy CS11 is supported by guidance within the Type and Affordability of Housing Supplementary Planning Document (2012) (the Affordable Housing SPD).
19. Shropshire is a predominantly rural district and it is clear, from the information presented, that a large proportion of planning applications relate to schemes of 10 dwellings or less. Of the 1001 residential applications that were submitted between January 2012 and December 2014, 928 (92.2%) were for 10 dwellings or less. Of those, 851 were for 5 dwellings or less. In the context of a high proportion of applications for smaller sites, the Council explained that the rationale for policy CS11 was to spread the financial burden of affordable housing delivery across all market housing, hence a requirement that all developments would contribute, from a single dwelling upwards. That approach is therefore embedded within the development plan.
20. I am satisfied that there is no inherent inconsistency between the approach to the provision of affordable housing in policy CS11 and the requirements of the Framework, including paragraphs 47, 50 and 54 with regard to the need to plan for the full objectively assessed needs for affordable housing; the need to provide a wide choice of high quality homes of a size type and tenure that is required in particular locations; the need for policies to set out how affordable housing will be delivered; and the potential use of exceptions sites in rural areas.
21. There was debate at the Hearing regarding the implications of policy CS11 on the viability and delivery of small and medium scale housing developments. However, no compelling evidence was presented by the appellant to show that the policy has had substantial effects in that regard. Therefore, on the evidence presented, policy CS11 is consistent with the aims of the Framework and considerable weight can be attached to it as a policy within an adopted development plan.
22. In essence, the evidence presented to the Hearing did not question whether policy CS11 was consistent with the Framework but whether the contents of the WMS and the PPG represented material considerations that would outweigh the development plan with regard to the need for off-site affordable housing contributions. The High Court judgement in relation to the 'West Berkshire'

- challenge explicitly made clear that the WMS and PPG should not be considered as a material consideration in the determination of planning applications.
23. Whilst I note that the SoS has been granted leave to challenge the decision, the scheduled hearing is some time away and I cannot predict the outcome of that process. I must make my decision on the basis of the policy position as it stands at the time of writing. As such, I can give no weight to the Government's intentions with regard to planning obligations, as set out in the WMS and the subsequently removed sections of the PPG, and no material considerations have been put forward that would outweigh the presumption in favour of the development plan in that regard.
24. Accordingly, in order to comply with the contents of policy CS11, a financial contribution towards the off-site provision of affordable housing would be required. In the absence of an agreed mechanism to deliver such a contribution, the proposal would fail to comply with the aims of that policy. Whilst the appellant suggested that the contribution would make the scheme unviable I have been presented with no financial information to support those assertions and can therefore attach little weight to them. Those matters do not alter my conclusions with regard to the compliance with policy CS11.
25. Moreover, with regard to paragraph 204 of the Framework, an off-site contribution would be necessary to make the development acceptable in planning terms. A contribution would also be related to the impact of the development because the rationale for policy CS11 is clearly to ensure that small scale developments make a proportionate contribution to the delivery of affordable housing to meet the needs of the wider area. The Affordable Housing SPD explains the way in which contributions are calculated and there is no evidence that would lead me to conclude that the amount sought by the Council is not fairly and reasonably related in scale and kind to the development.
26. I have been referred to a number of appeal decisions with regard to affordable housing contributions. However, all of these pre-date the High Court judgement in relation to the West Berkshire challenge and, consequently, the policy circumstances in which those decisions were taken were not comparable to those prevailing at the current time. Thus, the outcome of those appeals has little bearing on my decision.

Other Matters

27. No dedicated off-street parking would be provided as part of the development. Whilst the development would be of a small scale, it would be likely to result in increased pressure for on-street parking within the cul-de-sac. I noted a high level of on-street parking on my unaccompanied visit to the site on the evening before the Hearing. Nonetheless, parking is available within the cul-de-sac and on the roads immediately surrounding it. Increased competition may lead to a degree of inconvenience in situations where residents cannot park directly outside their own home but I am satisfied that it would not lead to harm in terms of highway safety. Thus, whilst the lack of parking is not a positive factor in favour of the proposal it would not justify the refusal of planning permission, of itself.

Planning Balance and Conclusion

28. The proposal would cause significant harm to the character and appearance of the area and would adversely affect the living conditions of the occupants and future occupants of No 7 Steeple Close. The appellant has suggested that the Council is unable to demonstrate a five-year supply of deliverable housing land. The Council maintains that it can demonstrate a 5.47 year supply of housing but accepts that this figure is yet to be fully tested through the development plan examination. There is insufficient information before me to draw a conclusion on that point.
29. In any event, the Council does not object to the principle of new development within Cleobury Mortimer. Moreover, the benefit to the supply of housing resulting from two flats would be small. Any benefit in that regard would be significantly and demonstrably outweighed by the harm caused to the character and appearance of the area and adjacent living conditions. I am satisfied that a contribution towards the provision of affordable housing would be necessary to make the development acceptable in planning terms and, in the absence of such a contribution, the proposal would be contrary to the requirements of policy CS11 of the CS.
30. In view of the above, and taking all other matters into account, I conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David Fellows	Land Research & Planning Associates
Mr Stuart Mumford	Architect

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hugh Richards	of Counsel
Mr Nick Wood	Communities and Housing Policy Team Leader
Miss Heather Bradley	Planning Case Officer
Mr Ian Kilby	Operations Manager for Planning Services

INTERESTED PERSONS:

Mr Howard Thorne	Director, Shropshire Homes
Mr Jake Berriman	Chief Executive, Shropshire Housing Group
Cllr Madge Shineton	Local councillor
Mr John Lesniak	Local resident

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The Planning Inspectorate

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Matthew Green
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Upton Magna
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Shropshire
SY4 4TT

Your Ref: 15_701_APLE1
Our Ref: APP/L3245/C/15/3136574

20 November 2015

Dear Mr Green,

Town and Country Planning Act 1990
Appeal by The Apley Estate
Site Address: Land at Grindle House Farm, Grindle, Shropshire, TF11 9JR

In exercise of the power in s173A(1)(a) of the Act, the LPA have withdrawn the enforcement notice and I understand that they have notified you.

We will take no further action on this appeal(s).

Any event arrangements made for the appeal will be cancelled.

The LPA should refund any fee paid to them.

A copy of this letter has been sent to the LPA

Yours sincerely,

Roger Thomas

Roger Thomas

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

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