



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

Date: Wednesday, 2 September 2015

Committee:
Central Planning Committee

Date: Thursday, 10 September 2015

Time: 2.00 pm

Venue: Shrewsbury 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

Vernon Bushell (Chairman)
Ted Clarke (Vice Chairman)
Andrew Bannerman
Tudor Bebb
Dean Carroll
Roger Evans
Pamela Moseley
Peter Nutting
Kevin Pardy
David Roberts
VACANCY

Substitute Members of the Committee

Peter Adams
Tim Barker
John Everall
Miles Kenny
Alan Mosley
Keith Roberts
Jon Tandy
Mansel Williams

Your Committee Officer is:

Linda Jeavons Committee Officer

Tel: 01743 257716

Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 10)

To confirm the Minutes of the meeting of the Central Planning Committee held on Tuesday, 16 July 2015.

Contact Linda Jeavons on 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 Land to the South of Hillside Drive, Shrewsbury, Shropshire (15/02212/FUL) (Pages 11 - 34)

Erection of 25 no. dwellings and associated public open space; formation of vehicular access.

6 Former Shrewsbury Sixth Form College, The Tannery, Barker Street, Shrewsbury, Shropshire (15/03009/FUL) (Pages 35 - 44)

Demolition of former Shrewsbury Sixth Form College building known as The Tannery.

7 42 North Street, Shrewsbury, Shropshire, SY1 2JJ (15/02310/FUL) (Pages 45 - 52)

Erection of a single storey rear extension following demolition of existing.

8 Land North Of Top Farm, Kinton, Shrewsbury, Shropshire (13/05065/OUT) (Pages 53 - 62)

Outline application for the erection of dwelling including re-aligned agricultural access and removal of agricultural shed.

9 Development Land Adj Leylands, Pulley Lane, Bayston Hill, Shrewsbury, Shropshire (14/00254/FUL) (Pages 63 - 70)

Erection of nine dwellings and associated garages; formation of vehicular access.

10 The Fox Inn, Ryton Shrewsbury, Shropshire (14/00701/FUL) (Pages 71 - 78)

Erection of six residential dwellings.

11 Development Land North Of A458, Ford, Shrewsbury, Shropshire (14/01819/OUT)
(Pages 79 - 86)

Outline application (access for approval) for mixed residential development.

12 Land East Of Bicton Lane, Bicton, Shrewsbury, Shropshire (14/02239/OUT) (Pages 87 - 96)

13 Proposed Development Land NW Of Montford Bridge, Shrewsbury, Shropshire (14/02964/OUT) (Pages 97 - 106)

Erection of 8 no. dwellings and formation of new vehicular access off Montford Bridge Road; provision of car parking to serve the existing fishing rights of the site.

14 Proposed Residential Development East Of Wilcot Lane, Nesscliffe, Shrewsbury, Shropshire (14/03259/OUT) (Pages 107 - 116)

Outline application for proposed housing development (all matters reserved).

15 Land West Of Mulberry House, Great Ryton, Shrewsbury, Shropshire (14/03338/OUT) (Pages 117 - 124)

Outline Application for the erection of 2No dwellings (to include access).

16 Proposed Residential Development Opposite The Crescent, Nesscliffe, Shrewsbury, Shropshire (14/03357/OUT) (Pages 125 - 134)

Outline application for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access).

17 Land Off Horsebridge Road, Minsterley, Shrewsbury, Shropshire (14/03670/OUT)
(Pages 135 - 142)

Outline application for residential development of 15 No dwellings (to include access).

18 Proposed Development Land West Of 12 Little Minsterley, Minsterley, Shrewsbury, Shropshire (14/00808/FUL) (Pages 143 - 152)

Erection of 1no: detached bungalow and 1no: detached 2 storey dwelling; including 2 detached garages, car parking and associated landscaping.

19 Schedule of Appeals and Appeal Decisions (Pages 153 - 166)

20 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 8 October 2015 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

13 August 2015

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 16 July 2015

2.00 - 4.20 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

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

Present

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Peter Adams (Substitute) (substitute for Dean Carroll), Andrew Bannerman, Tudor Bebb, Roger Evans, Pamela Moseley, Kevin Pardy and David Roberts

27 Apologies for absence

Apologies for absence were received from Councillors Dean Carroll (substitute: Peter Adams) and Peter Nutting.

28 Minutes

RESOLVED:

That the Minutes of the meetings of the Central Planning Committee held on 21 May 2015 and 18 June 2015 be approved as a correct record and signed by the Chairman.

With reference to the Minutes of 18 June 2015, Members noted that at Minute No. 23 a vote to include a condition requiring charging point isolation switches had been taken but had been lost.

29 Public Question Time

There were no public questions, statements or petitions received.

30 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.

At this juncture, some Members expressed their disagreement that local Ward Councillors could not vote on planning applications within their own Ward. It was noted that a Task and Finish Group had been convened to explore the process of

delivering Planning Committees and the anomaly of Ward Members joining the Committee to speak on an application and being allowed to remain after speaking but Committee Members being required to leave the table in the same circumstances had been discussed. A report on the findings would be considered by Cabinet and, if necessary, the Constitution would be amended accordingly. It was noted that all Members of Shropshire Council had been invited to submit their comments and/or attend the Task and Finish Group meetings and many Members had taken up the opportunity to do so. It was also noted that the input of a local Member at Planning Committees was a valued source of information and aided the decision-making process.

With reference to planning applications to be considered at this meeting, Councillor Andrew Bannerman stated that he was a member of the Planning Committee of Shrewsbury Town Council. He indicated that his views on any proposals when considered by the Town Council had been based on the information presented at that time and he would now be considering all proposals afresh with an open mind and the information as it stood at this time.

With reference to planning application 15/00999/FUL, Councillor Andrew Bannerman stated that he was acquainted with a neighbour of the plot under review and declared a personal interest.

With reference to planning application 15/00999/FUL, Councillor Roger Evans stated that he was acquainted with residents and declared a personal interest.

With reference to planning applications 14/00989/OUT and 15/00487/EIA, Councillor David Roberts declared an interest and would leave the room prior to consideration of these items.

31 Land Adjacent to Holcroft Way, Cross Houses, Shrewsbury, Shropshire (15/00539/OUT)

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, drew Members' attention to the location, layout and proposed road layout.

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 the Council's Scheme for Public Speaking at Planning Committees and Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Claire Wild spoke on the proposal on behalf of Berrington Parish Council and as local Member. She spoke in support of the proposal, participated in the discussion but did not vote. During which she raised the following points:

- Berrington Parish Council supported the proposal subject to the construction of the construction access prior to any construction taking place;
- The applicant had undertaken a consultation exercise and she hoped that this good working relationship would continue;

- Construction of phases one and two should be sequential and carried out expeditiously within a three year period;
- Residents would welcome the construction of the proposed roundabout and the blocking up of Holcroft Way being carried out prior to any construction works taking place; and
- There was sufficient provision of play areas and allotments Cross Houses.

Ms H Howie, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In response to questions, the Technical Specialist Planning Officer explained that it would not be possible to impose a condition to control the order in which phases one and two would be built; a Construction Method Statement had been attached as a condition and would include details of both vehicular and temporary access; the 'blocking-up' of Holcroft Way to motor vehicles would be controlled by condition 13; the access for phase 1 had already been approved.

In the ensuing debate, Members considered the submitted plans, noted the comments of all speakers and acknowledged the views of the local Ward Member and Parish Council.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report; and
- A Section 106 Legal Agreement to secure the relevant affordable housing contribution at the prevailing rate at the time of the application for Reserved Matters, and the provision of an improved and enlarged roundabout on the A458.

32 Proposed Residential Development Land Off Gorse Lane, Bayston Hill, Shrewsbury, Shropshire (14/00989/OUT)

In accordance with his declaration at Minute No. 30, Councillor David Roberts left the room during consideration of this item.

The Principal Planner introduced the application and with reference to the drawings displayed, drew Members' attention to the location and layout, and confirmed that the applicant had signed the S106 Legal Agreement.

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

- This application had first been considered during a very challenging climate at a time when the Site Allocations and Management Development Plan (SAMDev) had not been scheduled for examination and Shropshire Council could not demonstrate a five year land supply. The recommendation at that time was a balanced one in view of the building being outside the development boundary in a prominent position in the long established “green wedge” between Bayston and Shrewsbury;
- The Planning Inspector had now undertaken a full public examination, following which no alterations to the blue-print plans for Bayston Hill had been suggested;
- Various appeal decisions had confirmed that Shropshire Council did now have in excess of the required five year land supply;
- Other similar opportunistic applications which sought to breach the long established development boundary for Bayston Hill had been refused under delegated powers, including one for farm land off Gorse Lane directly adjacent to the site to be considered at this meeting;
- Although this application was just for five houses, the proposed new access road layout did lend itself to future development right across the rising ground;
- Would be contrary to Core Strategy Policies CS1, CS4 and CS5 and the adopted Policy S8.2; and
- The economic benefit achievable from this development would be outweighed by the very damaging visual impact on this prominent open countryside location, currently in valuable arable agriculture use.

Ms Emma Kay, representing Bayston Hill Parish Council, spoke against the proposal in accordance with the Council’s Scheme for Public Speaking at Planning Committees.

Mr S Thomas, 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, noted the comments of all speakers and held differing views. Some Members supported the proposal but others considered that, given the current situation, more weight could be afforded to SAMDev and there was no longer a need to develop outside the development boundary; there was no need for this type of housing in Bayston Hill; and the proposal would intrude into the open countryside.

RESOLVED:

That, contrary to the Officer’s recommendation, planning permission be refused for the following reasons:

- The site has not been identified as a site for residential development within the emerging SAMDev Plan and, in view of the stage the plan has now reached, significant weight can be given to this. The potential benefits that housing would bring are acknowledged and given weight but it is not considered that these benefits, or any other material considerations, would outweigh the emerging plan;

the policy support for a plan led approach or the harm caused by the intrusion into open countryside contrary to the environmental role of sustainability. As such the development of the site would be contrary to saved Policy HS3 of the SABC Local Plan, Policies CS1, CS4 and CS5 of the Core Strategy, policies S8.2, S16.2(ii), MD1 and MD3 of the SAMDev Plan and the NPPF.

33 Proposed Residential Development to the South of Cross Lane, Bayston Hill, Shrewsbury, Shropshire (15/01107/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from Shropshire Council's Highway Officer and the Case Officer.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Ted Clarke, as local Ward Councillor, made a statement, 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 and drew Members' attention to the comments of Bayston Parish Council as set out in the report; and
- Reiterated the concerns with regard to the poor condition of the access road, which should have been brought up to an acceptable standard prior to occupation of the existing three homes which had been granted planning permission subject to a Unilateral Undertaking.

Ms Emma Kay, representing Bayston Hill Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr S Thomas, 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, noted the comments of all speakers and continued to express their concerns regarding the poor condition of the access road.

RESOLVED:

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

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

- A Section 106 Legal Agreement to secure the relevant affordable housing contribution in accordance with the Council's adopted policy and to require the developer to make good any damage to the track arising from construction traffic within a time period to be stipulated by Shropshire Council.

**34 Poulton Farm, Little Minsterley, Minsterley, Shrewsbury, SY5 0BW
(15/00487/EIA)**

In accordance with his declaration at Minute No. 30, Councillor David Roberts left the room during consideration of this item.

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning, 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 Tudor Bebb, as local Ward Councillor, made a statement, 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 supported the proposal;
- Odour would be controlled and regulated;
- No objections had been received from statutory consultees; and
- Entrance to the site would be via the existing access.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Given the footway/cycle route, a Member expressed concerns regarding highway safety and suggested that delivery/collection vehicles should be discouraged from using this route at the beginning and end of the school day. In response to comments from Members, the Principal Planner provided clarification on traffic movements and confirmed that a Traffic Assessment had been submitted and Highway Officers had raised no objections.

RESOLVED:

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

**35 Proposed Dwelling Rear of Enterprise House, Main Road, Pontesbury,
Shrewsbury (15/00999/FUL)**

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Tudor Bebb, as local Ward Councillor, left the room, took no part in the debate and did not vote on this item. He did not return to the meeting.

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, drew Members' attention to the location, layout and elevations.

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 the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report; and
- A Section 106 Legal Agreement to secure the relevant affordable housing contribution in accordance with the Council's adopted policy.

36 Land Adjacent to 1B Racecourse Avenue, Shrewsbury, Shropshire (15/01382/FUL)

The Principal Planner introduced the application and with reference to the drawings displayed, drew Members' attention to the location and proposed layout.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Mrs Penny Bicknell, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

On behalf of the local Ward Member, Councillor Miles Kenny, the Chairman read out the following statement:

"This application is borderline between refusal and approval, but refusal would be inconsistent with previous approvals in the area and public opinion.

There were two 'public comments' both raising concerns about the beech tree - now resolved and one of these comments supported the rest of the proposal, pointing out the need for such dwellings in the area.

The issue is about 'siting, scale and design '

Racecourse Avenue is not a conservation area and consists of fairly uniform dwellings, except that a number of the front gardens are parking areas, there are a number of non-uniform garages, fences, gates and one large extension at the far end of Racecourse Avenue and a huge and modern garage opposite on a site granted outline permission for two dwellings. In addition to the left of the site is a mismatched collection of garages and outbuildings along with a large double gate.

Originally Highways objected on the grounds of lack of car parking, but this has been resolved. Highways now raise no objection and it would be contradictory and unsustainable to refuse this application on car parking grounds.

Nearby in Crowmere Road, numbers 71 and 73, permission was granted for small dwellings on smaller plots without off street parking and the precedence has been set for this area. There is outline permission for two similar sized dwellings opposite.

There are a number of older dwellings in Crowmere Road on much smaller plots.

This site has a larger amenity space than some of the other dwellings in the vicinity. Public opinion supports the provision of single starter low cost homes in urban environments instead of greenfield sites.

Accordingly it would be difficult to refuse this application and hope for success at appeal.

The officers recommend that this application be refused on the basis that it is a cramped plot. The plot is 46.29 square metres.

Nearby, in Crowmere Road there are a number of similar one bedroom dwellings that were given planning permission this century, all of them on smaller plots.”

In the ensuing debate, Members considered the submitted plans, noted the comments of all speakers and held differing views. Some Members commented that affordable homes were needed and recommended approval, subject to the protection of the amenities to the area during construction, protection of the Beech tree and other appropriate conditions. Other Members expressed concern with regard to the size of the dwelling, the impact on the Beech tree and the impact of the Beech tree on this property in future years and considered the proposal to be cramped and contrived.

RESOLVED:

That planning permission be refused as per the Officer’s recommendation.

37 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 16 July 2015 be noted.

38 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 13 August 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date

Central Planning Committee

10 September 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: 15/02212/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of 25 no. dwellings and associated public open space; formation of vehicular access		
Site Address: Land To The South Of Hillside Drive Shrewsbury Shropshire		
Applicant: Galliers Homes Ltd, Galliers Properties Ltd,		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 351759 - 312619



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the on site affordable housing.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the erection of 25 dwellings with associated public open space and the formation of vehicular access off Hillside Drive.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is an agricultural field or paddock situated at the end of Hillside Drive. The field is roughly rectangular in shape and is bound on all four sides by the properties in Hillside Drive to the North, the railway line to the South, the river to the East and Belvidere school playing field to the West. The Eastern part of the site that slopes down to the river is wooded and the Severn Way public footpath runs adjacent to the river. There is also an informal footpath across the site and although it is currently used by residents the land is private and it is not a public footpath nor is the land public open space.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Local Member has requested that the application be determined at committee. The Principal Officer and Area Planning Manager in consultation with the Committee Chairman and Vice Chairman agree that the Local Member has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Highways:

Recommendation

The highway authority raises no objection to the granting of consent.

Background

We understand this is a SAMDev allocated site and the proposals appear to broadly accord with the allocation. The proposed estate roads will form a sensible extension to Hillside Drive and the design is well laid out. The proposed footpath link to the Severn Way running adjacent to the river will provide a good route from the site for leisure walks. Consideration should be given to this route being dedicated as a public footpath and therefore it becoming part of the public rights of way network.

4.1.2 **SC Conservation:**

In considering this proposal, due regard to the following local and national policies, guidance and legislation will need to be taken: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, the National Planning Policy Framework (NPPF) published March 2012, the Planning Practice Guidance, and Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The subject site is located on the east side of Shrewsbury immediately north of the rail line and immediately west of the River Severn. This area is not covered by a Conservation Area designation however the Grade II* listed Belvidere Railway Bridge dating from 1848 spans the river immediately adjacent to this site. Our archival Ordnance Survey mapping layer indicates there may be other non-designated heritage assets in south east corner of the site and this should be clarified by the applicant and should not be negatively impacted by the proposal. Within this setting new dwellings and any associated enclosures should be designed to a high standard of detail, materials and finishes that harmonise well with the area. Relevant conditions concerning external materials should be applied.

4.1.3 **SC Archaeology:**

Background to Recommendation:

The proposed development site is located c.350m south-west of a large, early Roman temporary military camp (HER PRN 00124). It is possible that any road leading south-westwards from the camp forded the river immediately to the east of the proposed development site before continuing across it. Below ground remains of any such road may therefore survive on the proposed development site. For this reason it is deemed to have low-moderate archaeological potential.

Recommendation:

In view of the above, and in line with Paragraph 141 of the NPPF, I recommend that a programme of archaeological work, to comprise an archaeological watching brief during all ground works, be made a condition of any planning permission for the proposed development.

I have not requested either a desk based assessment or a field evaluation be submitted prior to determination. Neither do I have any objection to the development of the site. In my professional opinion I would therefore strongly disagree that an archaeological watching brief (i.e. archaeological monitoring of the ground works during commencement and recording of anything found), which in this instance is the recommended programme of archaeological work under the advised condition, is a disproportionate response in respect of a 25 unit development on a site of this size. I would also stand by my comments regarding the archaeological potential of the site - whilst I have not seen the river bank at this location, the Roman military were not necessarily known for taking the easiest route if it meant diverting from a straight road alignment (and in any case I think I advised the potential as low, hence only a watching brief was advised). If, however, Helen's client would prefer to de-risk the site prior to commencement, I would be pleased to amend the recommended programme of archaeological work to a field evaluation comprising trial trenching.

Following conversations with the agent confirmed that it would be appropriate for the archaeological watching brief, required under the advised programme of archaeological work, to focus initially on the top-soil stripping during the formation of the estate roads (since this would provide transects across the majority of the site), and for there to be a review of the need for any further archaeological mitigation thereafter subject to the findings.

4.1.4 SC Trees:

The trees that are subject to the Belvidere Paddocks TPO 2005 are shown in the extract below:



The submitted Arboricultural Assessment has considered the woodland and prominent individual trees and the proposed layout would not cause any encroachment into the construction exclusion zones (CEZs) around the trees. No objection to the proposals on arboricultural grounds provided a tree protection condition is added to any approval.

4.1.5 SC Ecology:

Nesting Birds

The site has the potential to be used by nesting birds.

Bats

The proposed development site is within close proximity to the River Seven and is bordered by a railway line. These are important environmental corridors which must be protected and enhanced during development.

Badgers

No evidence of badger use was recorded during the ecological survey.

Suggests conditions and informatives in order to mitigate and enhance the site for birds and bats.

Non-native Species

There is Himalayan Balsam on site. This is a non native, invasive species. Precautionary measures to avoid the spread of, and attempt to eradicate this species from the site should be included within the mitigation construction plan.

Environmental Networks

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework. This proposed development site is within the Environmental Network and as such the proposed scheme must clearly demonstrate how the development will 'promote the preservation, restoration and re-creation of priority habitats and ecological networks' as required by paragraph 117 of the National Planning Policy Framework. Welcomes the retention of habitat as public open space to the east of the housing. SC Ecology would discourage lighting in this section during and post construction. This area should not be disturbed during construction i.e. fenced off during development by at least a 20m buffer from the River Seven with no storage of material etc. Measures should be put in place to control run-off of sediment and pollution into the river during and post development. Access across the site should be maintained post development for terrestrial mammals therefore any fencing installed post construction should be permeable.

4.1.6 SC Parks and Recreation:

Under Shropshire Council's current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30sqm of public open space per bed space. The proposed development should therefore provide a minimum 2640 m² of useable public open space as part of the site design.

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

The playing field to the west of the site has no public access, which I assume is mainly for schools use. There are a number of different open space typologies that could be used on the site. However, as there are no play areas within a 10 min walking distance, I would recommend any open space provision has the potential to provide some play facility. This could be linked to the wooded area to the West.

4.1.7 SC Affordable Homes:

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. The size and tenure of the new affordable homes are acceptable in this area.

4.1.8 SC Public Protection:

It has been brought to this services attention that there may have been a foot and mouth burial pit on the land proposed for development. As a result the potential for this to require further attention has been researched and addressed below. A document on the HPA webpages states that no human contraction occurred in the most recent outbreaks and therefore no risk to human health from building above is expected. A link to the document is:

http://www.hpa.org.uk/webc/hpawebfile/hpaweb_c/1274089050185

A further document states the materials and recommended amounts of fuel for pyres.

Link:

http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/fmd/documents/environmental_report.pdf

The above documents state that air pollution is not considered to be a long term issue but short term increases in certain pollutants due to the burning of any carcasses as a method of disposal were likely at the time. It is stated that fallout from the pyres was not expected to cause any human health impact and therefore this element requires no further thought.

Potential ground instability from decomposition resulting in voids where animals were buried may present concerns for the developer. Gassing was likely but from 1967 burial pits is not expected to present any issue today. Leaching from a burial pit would have been likely for around 20 years and therefore this will have also ceased to be a likely issue in the locality. It would be unlikely that a soil sampling regime would be able to establish if there was any burial pit on site. Geophysical equipment may be able to show any burial pit however this service does not consider it necessary to go to the expense of carrying out such a survey as no documented evidence from the time of the burial is available to us to suggest that a burial site exists.

Having note of the documents and information above we are not of the opinion that a burial pit for livestock due to contracting foot and mouth or for welfare issues at the time of the outbreak in 1967 pose a threat of harm to human health through microbial activity, leachate to water supplies or from gassing of decomposing material. It has not been suggested that a pyre was located on site however chemical traces as a result of any pyre have been tested and documented in the above linked documents. These report that there is no major threat to health as a result of the ash material left behind after a pyre or from the fallout from a pyre. There may be traces of fuel still existing if a pyre was found on site but we have no knowledge of this taking place. Due to the fact that pyres were generally left to burn out it is unlikely that many fuel sources which could be considered as contaminants would be likely to have remained or still be present in sufficient quantities to find land to be considered likely to be contaminated. Adding to this the substantial amount of time that has passed only adds weight to this line of thought. The Health Protection Agency website has been consulted in regard to any microbial health affects to humans from foot and mouth and it states that foot and mouth disease is not a public health threat. I am therefore of the opinion that the land is not likely to be contaminated and require further assessment as such. A large burial site may however be a risk to the structural integrity of any development placed over the top of it. The applicant may wish to seek further information in order to establish if a burial

pit is located on the proposed site and if so the position and extent.

With regards to noise the noise assessment provided concludes that acoustic close boarded fencing is required to achieve a suitable noise environment in some garden areas.

4.1.9 **SC Drainage:**

The proposed surface water drainage is acceptable.

4.1.1 **Environment Agency:**

0

Based on the information submitted this appears to be a lower risk planning consultation which does not require direct consultation with the EA as it does not fall within our 'consultation filter'. The proposed built development falls within Flood Zone 1 based on our 'indicative' Flood Map for Planning (Rivers and Sea). However, a small area in the east of the red line site boundary appears to be located within Flood Zone 2 of the River Severn, which is classified as a 'Main River' in this location. Based on the scale and nature of the development located within Flood Zone 2, we would recommend you refer to our area Flood Risk Standing Advice - for 'Development in Flood Zone 2 – where the flood zone is generated by a Main River' and consult with the Lead Local Flood Authority (LLFA) i.e. your Council's Flood and Water Management team, to assist review of the Flood Risk Assessment.

For contaminated land matters, you are advised to seek the comments of your Environmental Health Officer or Contaminated Land Officer, with reference to our 'Developer Guidance' sheet.

For foul drainage matters, you are advised to seek the completion of the 'Foul Drainage Assessment Form' for your consideration.

For Pollution Prevention and any consent requirements (separate to planning) you are advised to refer to our 'Developer Guidance' sheet which includes Pollution Prevention Guidance Notes (PPG's) targeted at specific activities.

4.2 **- Public Comments**

4.2.1 **Cllr Pam Moseley: Requests that this application be placed before the Central Planning Committee for decision for the following reasons:**

1. Whilst the principle of development of this site is now established, through its inclusion as a preferred option housing site (SHREW016) in the SAMDev plan, the indicative number of units for the site is 20. The applicant has applied for 25, a 20% increase in potential households. The Shropshire and Shrewsbury Town Councils joint working group met on 10 June to consider the options for Shrewsbury. (I was not a member of this group, as Members with sites in their divisions were precluded). The minutes of the meeting state "Members agreed that the lower figure of 20 properties was the preferred option and that this scheme protects the green corridor." Additionally, in informal discussion with the planning policy team in May 2013, I was advised that 20 properties would be an

appropriate number for this site, with 25 being too many. In view of these opinions as well as my own, I therefore consider that the scheme of 25 houses proposed is excessive for this site.

2. Policy CS6 of the core strategy states that any development should complement and relate to its surroundings, and that it is appropriate in scale, density, pattern and design, and also that it takes into account the local context and character. As stated above, the density at 25 units is a 20% increase on the SAMDev allocation, and this number of houses in the layout shown, would provide a very different density to the properties in the immediate area, with design, pattern and type of houses also being very different. As such, I feel that policy CS6 is not met by this proposal.
3. Traffic issues were flagged up by local residents as an issue during the SAMDev consultation process. Hillside Drive is narrow, and has a bend close to the junction with St James Road. There are no parking restrictions. As such, the additional vehicle journeys which would result from the higher figure of 25 houses could prove to be excessive.

Additional comments:

This land has been identified as a housing site (SHREW016) through the emerging SAMDev process, and should have this status confirmed soon. As such, the principle of residential use has been established.

Under SAMDev, the site was identified as suitable for 20 units. However, this application is for 25 units, an increase of 20%. With this greater number of properties proposed, there would be a commensurate increase in vehicular movements, all of which would have to use Hillside Drive, which is narrow, contains a bend close to its junction with St James Road, and can contain parked roadside vehicles. As such, I feel that the safety of this road, especially for pedestrians, would be compromised.

The Shropshire Council/Shrewsbury Town Council Joint Working Group on SAMDev options (of which I was not a member), met on 10 June 2013, and considered this site amongst others. The minute from that meeting reads "Members agreed that the lower figure of 20 properties was the preferred option, and that this scheme protects the green corridor". On 23 June 2015, Shrewsbury Town Council's planning committee considered this application. Whilst they supported the proposal, they considered that 25 houses amounted to overdevelopment of the site. As such, there is a general view that twenty homes is an acceptable number for this site, with which I concur.

As a consequence of the proposal for additional houses, there is a higher density of housing proposed, with a consequent effect on the character of the new development. Policy CS6 of the Council's Core Strategy requires that development complements and relates well to its surroundings, and that it is appropriate in scale, density, pattern and design, taking into account the local context and character. The proposed housing layout however is different in character to that which neighbours the site, largely due to the higher density. The lower number of houses would provide a development which related better to the neighbouring properties.

In the applicant's earlier indicative plans for this site (dated May 2010), the group of mature trees in the top northwest corner of the site were shown as "woodland to the north" and outside of the development area. In the submitted plans, these trees are shown to be within the garden areas of plots 1 and 2, and within the development area. This potentially makes the trees more vulnerable to future loss, as new owners may not welcome their size, shade and loss of light. I feel that the trees would be afforded better protection were the arrangement of the earlier scheme to prevail. Otherwise, I would request that their retention be conditioned in any consent.

The application states that the scheme includes 0.8 Ha of public open space, representing 39% of the site. The Council's Parks and Recreation team's comment states that the SC's policy requires 2640m² of "useable open space" for the housing proposed. The area of land sloping to the river is well vegetated, and not necessarily easily accessible. As such, an assessment needs to be made as to whether there is sufficient useable open space, for activities such as informal play, within the site. The provision of play facilities could also be considered from developer contributions.

Should planning consent be granted, I would like to request that a construction method statement be conditioned, setting out times/days of working, deliveries, storage of materials, parking of plant and employee vehicles, and wheel washing when necessary.

To conclude, I feel that this SAMDev designated site should be developed for a maximum of twenty homes, which was the figure consulted upon through the SAMDev process, and that the proposal for twenty five homes is excessive.

Additional comments in response to letter from the agent:

Firstly, I note that STC have confirmed their comment as Support with Comments, and as such this is labelled as Support on the website. However I would point out that their comment is something of a misnomer, as whilst the town council effectively supports in principle, their comments refer to 25 properties being overdevelopment and also to potential traffic problems. As such, I hope that this concern is taken into account when considering it for placing on the committee agenda.

Secondly, I would like to provide a response to some issues in the schedule of responses to consultee comments, which include those made by me, which has been prepared by the applicant.

I will list these below:

1. Comment 11/6 and 11/7 by SC Parks and Recreation:

The 8000m² of open space will I presume include the large area of sloping land to the river. I would not consider much of this to be useable in terms of recreation, play etc, due to the many densely growing trees and shrubs present.

2. Comment 14/7 by Archaeology:

I understand that an agreement has been reached, but would make the point that this comment is a professional opinion and as such their view should prevail.

3. Comment 29/6 by me:

The applicant writes that their plans have "consistently provided indicative layout plans and figures for 25 dwellings on the site over the 5 years of the Plan's preparation" (referring to SAMDev). That may well be the case, but despite this, the number of dwellings proposed for the site in SAMDev has consistently remained at 20. The applicant could have proposed many more over the plan preparation period, but this is immaterial, as the allocation remains unchanged at 20.

With regard to density, the figures quoted by the applicant refer to properties in roads some of which are distance from the site and not within sight of it (eg Burnham Ave, Northwood Road). The true comparators are Hillside Drive and St James Road, from its junction with Crowmere Road to Hillside Drive.

4. Comment 29/6 STC:

As far as I am aware, the developer could of course exceed the 20% of affordable homes if the overall scheme were reduced from 25 to 20, and retain 5 in the scheme, were they so minded.

4.2.2 Shrewsbury Town Council: Supports - Whilst the Outline planning application was supported in SAMDev, the Town Council feels that the increase from an initial 20 properties to 25 with this application is an overdevelopment of the site and is not in-keeping with the existing property density on Hillside Drive. There are concerns regarding an increase in traffic movements from the new development. The Town Council notes that there are no arrangements for play space on the site and would like to see more information regarding the provision of these facilities from the developers.

4.2.3 23 letters of objection have been received summarised as follows:

- Planning permission had been refused in the past on this site in 1976 and 1984.
- The SamDev proposal is a maximum of 20 whereas the application is for 25.
- This site was identified in SAMDev subject to retention of protected trees, provision of public open space/woodland ecology area and enhancement of footpath access to Severn Way, which have not been fully addressed.
- The number of houses and density is not in keeping with that in Hillside Drive.
- The number of properties should be reduced and the scheme changed to be aimed at mainly elderly residents who would have a much lower vehicle usage.
- 25 dwellings accessing the site via Hillside Drive will treble the existing volume of traffic.
- This will also increase traffic in St.James Road, Crowmere Road and Belvidere Road and Bridge.
- Calming measures on all these roads should be provided by the developer

- Highways safety, congestion and parking issues due to the width of Hillside Drive being insufficient as a thoroughfare to cater for the increased volume of traffic proposed.
- In sufficient parking provision for the new houses resulting in on street parking.
- Short term problems during construction due to the volume and size of heavy building plant and deliveries and works vehicles travelling to and from and parking at the site. Large vehicles will be forced to mount the pavement which is an offence.
- National Rail access the adjacent railway line several times each year and won't be able to in the future. The Police, fire service and fishermen also currently park at the end of Hillside Drive to access the site and the river.
- There is no agreement for public transport to service the area and it is a long trek for young families and the elderly to access the nearest bus stop in Crowmere Road.
- An existing resident who lives adjacent to the site (15 Hillside) will be surrounded by 4 family homes and the noise and disruption from future residents will affect their quality of life and requests that a 2.4metre buffer is provided.
- Health and safety due to the former use of the site for the burial of Foot and Mouth cattle.
- Increased number of dwellings will impact on the capacity of the school and GP surgeries.
- Impact on public open space - the proposed site is currently a haven for the local residents to walk their dogs, let their children /grandchildren play and run in safe open space with no concerns about traffic and is extremely well used by the community. There is no provision for play space.
- The number of dwellings should be halved and the proposal should include provision for a play area and public space for walkers and dog walkers.
- Request for more public open space by taking some of the school playing field.
- There will be limited pedestrian access and Galliers should provide a short cinder path from Manor Way down to the existing cinder path from Galton Drive in the Community Woodland. The muddy footway down to the river by No 1 Hillside Dive should also be improved.
- Impact on trees and wildlife
- The field is one of four important wildlife areas that sit on the wildlife corridor that extends from the sewage works at the northern end, past Monkmoor woodland,

through the proposed development site and on to the wooded area to the south of the railway bridge. The loss of this part will have a compound effect on the wildlife in the whole area.

- Concern that the proposal includes the removal of protected trees and that there will be pressure from future residents to remove remaining trees at a later date and in particular plots 22 and 24.
- Loss of edge of town location and countryside setting and views.
- The neighbour consultation period was affected by the online system being down and not accepting comments and may have potentially resulted in residents not making their comments as the wording on the website implied they were not taking them.

4.2.4 **West Mercia Constabulary:** There are opportunities to design out crime and /or the fear of crime and to promote community safety. Provides information regarding Secured by Design status and Section 17 of the Crime and Disorder Act 1998 which states that it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions of, and the need to do all that it reasonably can to prevent crime and disorder in its area.

5.0 THE MAIN ISSUES

Principle of development
Density, layout, scale, design and appearance
Heritage assets
Access and Parking
Trees
Ecology
Public open space and footpaths
Impact on existing residents
Developer contributions
Flood risk and drainage
Contaminated Land

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Shropshire LDF Policy CS2 identifies Shrewsbury as the main focus for all new residential development and development of this site adjacent to an urban residential area of Shrewsbury accords with this policy. Although the site is currently outside the development boundary for Shrewsbury and is classed as countryside the site is an allocated site within the emerging SAMDev DPD (SHREW016). Paragraph 216 of the NPPF indicates that the weight that can be attached to relevant policies in emerging plans such as the SAMDev DPD depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. The SAMDev DPD has reached an advanced stage as it has been submitted for examination and the

Schedule of Main Modifications to the submitted version of the SAMDev Plan has been published. Only those areas subject to a proposed modification are subject to consultation. There are no proposed modifications to this allocated site and therefore significant weight can be given to this policy which is considered to have been found sound and consistent with the NPPF.

- 6.1.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF states that:

‘Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise’.

The Council has published a revised 5 year land supply statement which demonstrates that the Council now has a 5 year land supply. Now that the Council is in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements, policies for the supply of housing should be considered up-to-date. It is therefore considered that significant weight should be given to the policies that relate to housing land supply and that residential development of this site is acceptable in principle subject to there being no material considerations that would indicate otherwise.

- 6.1.3 Within SAMDev under schedule S16.1a (Allocated Housing Sites) it states the following:

Development of the allocated housing sites identified on the Policies Map should be in accordance with Policies CS6, CS9, and CS11, Policies MD2, MD3 and MD8, and the development guidelines and approximate site provision figures set out in this schedule.

The proposed site is an allocated site with a ‘site provision figure’ of 20 and states the following with regard to ‘development guidelines’ :

Development subject to retention of protected trees, provision of public open space/woodland ecology area and enhancement of footpath access to Severn Way.

Whether the proposal meets these guidelines will be considered in the paragraphs below. With regards to the ‘site provision figures’ this site has a figure of 20 but as outlined in S16.1a (referred to above) site provision figures on the allocated sites are only approximate and they are not a maximum figure. The site provision figure can be exceeded provided regard is given to policy CS6 when assessing whether the density, scale and layout is appropriate.

6.2 **Density, layout, scale, design and appearance**

- 6.2.1 Policy CS6 seeks to ensure that development is appropriate in scale, density, pattern and design taking into account the local context and character. Both local and national policy requires proposals to make most effective use of land whilst preserving the character and appearance of the area. Comments have been received from local residents and the local member concerned that the density is higher than the surrounding development. The agent has responded to this and has confirmed the following:

The proposed development provides a gross density (including public open space) of 12 dwellings per hectare, or a net density (excluding public open space) of 20 dwellings per hectare. This is substantially below the accepted norm of 30 dwellings per hectare. Core Strategy policy CS6 (7th bullet) requires development to make the most effective use of land. This minimises the amount of greenfield land that is needed across Shropshire. Paragraph 58 in the NPPF likewise requires that developments optimise the potential to accommodate development, to make effective use of land.

Hillside Drive has relatively large, private gardens which result in a density of only 7 dwellings per hectare. St. James Road has a density of 17 dwellings per hectare, while Burnham Avenue has a density of 24 dwellings per hectare and Northwood Road has a density of 31 dwellings per hectare.

The combined housing estate of Hillside Drive, St. James Road, Burnham Avenue and Northwood Road has an overall density of 19 dwellings per hectare (excluding public open space). The proposed development of 25 dwellings is a similar density of 20 dwellings per hectare (excluding public open space) and is therefore consistent with the character of the local area and in accordance with policy CS6 and MD2.

The figures quoted are an average across development in the surrounding area and it is acknowledged that the density of development in the nearest street (Hillside Drive) is much lower. The density in Hillside Drive is much lower as all the properties have very large long rear gardens. However from the street they do not appear to be sited within spacious plots as they are situated quite close to each other and there are no large gaps in between. The dwellings on the proposed site have a similar spacing and some are actually spaced further apart than those in Hillside Drive and even more so that the tight knit development in the approach roads of St James Road and Northwood Road. In addition the space between the last houses in Hillside Drive and the first houses on the site is considerably greater than any of the spacing between the houses in Hillside Drive. It is therefore considered that the proposed development will not appear more cramped and overdeveloped than the development in the nearest approach roads to the site and that the proposed layout will complement and continue the existing pattern of development and will not negatively impact on the character and appearance of the locality.

- 6.2.2 The proposed dwellings are a mix of detached and semi-detached houses and include a single terrace of three. Some include integral garages and some detached, and include front gardens and driveways of a size similar to that in Hillside Drive. They comprise a mix of traditionally designed houses with front facing pitched roof gables and porches and include chimneys on some of the house types. There is a larger proportion of detached homes and this is in keeping with the existing character of the area. It is considered that the mix in houses types and the variety in the scale and design of the houses is appropriate for the locality and will provide an attractive street scene. If the density of housing and number of dwellings was reduced to 15 for example (as has been suggested by some residents) this would likely result in a proposal for much larger 5+ bedroom homes (in order to make the scheme viable) and the provision of only 3 affordable dwellings instead of 5. Although having the site occupied by all very large homes might be in keeping with some of the houses in the locality it would not be in keeping with the wider area and would not provide a balance

of housing types and sizes desirable in any housing proposal. Larger houses would potentially attract larger families with greater car ownership and would therefore not necessarily reduce the vehicle movements in Hillside Drive.

6.3 Heritage assets

6.3.1 Conservation Area/Listed Buildings - The Conservation Officer has confirmed that the site is not situated in a Conservation Area but that Belvidere Railway Bridge dating from 1848 spans the river immediately adjacent to this site and is Grade II* listed. The archival Ordnance Survey mapping layer also indicates that there may be other non-designated heritage assets in the south east corner of the site. As the proposal has the potential to impact on the listed bridge special regard has to be given to the desirability of preserving the setting of the listed structure as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The listed railway bridge crosses the river to the South East corner of the site. There are no heritage assets within the South East corner of the site and the whole of the Eastern side of the site will be undeveloped and will remain as informal open space/woodland. It is therefore considered that the proposal will not impact on the setting of the listed bridge or any designated or non-designated heritage assets.

6.3.2 Archaeology – The Councils archaeologist has advised that below ground remains of a Roman Road may survive on the proposed development site and the site is deemed to have low-moderate archaeological potential. There was initially dispute about whether archaeological work should be undertaken prior to commencement of development and it is agreed that a condition should be imposed to ensure that no development commences until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI).

6.4 Access and Parking

6.4.1 Local residents and the local member are concerned that the proposed number of dwellings will treble the existing volume of traffic in Hillside Drive, which they consider is insufficient in width for the proposed increased volume of traffic and will result in congestion and impact on highway and pedestrian safety. Hillside Drive although narrow is a dual width road but its width can sometimes be reduced by parked vehicles. However it is agreed with the applicant that road conditions (including restrictions in width to single file traffic) can encourage slow vehicle speeds and is consistent with 'Manual for Streets' which requires new roads to be designed to produce slow vehicle speeds. Highways have no objection to the application and have commented that the proposed estate roads will form a sensible extension to Hillside Drive and that the proposed design is well laid out. The suitability of Hillside Drive to serve approximately 20 dwellings was considered prior to the sites allocation and it is considered that 25 dwellings rather than 20 dwellings will not result in a significant increase in traffic using Hillside Drive and the approach roads than has already been deemed to be suitable when the site was allocated for housing. The proposed layout includes more than adequate parking for the new residents (including space for at least 2 cars and up to 4 cars on some plots) and would therefore not result in the need for parking in the streets or Hillside Drive. The access enjoyed by Network Rail, the Police, Fire Service or Fisherman to the railway line and the river will not be prohibited by this proposal. It is not considered necessary for the developer to provide calming measures to the

approach roads to this site (as has been suggested by some local residents) in order to make the development acceptable. However CIL funds could be used to provide this if it was considered necessary. The concern regarding construction vehicles and deliveries to the site is acknowledged and will be addressed by the imposition of a condition requiring a construction management plan to be submitted prior to commencement.

6.5 Impact on existing residents

6.5.1 Policy CS6 also seeks to ensure that residential amenity is protected. Many residents have objected to the application largely due to the number of dwellings and increase in traffic which has been considered in the paragraphs above. There is also concern about the loss of the use of this field and route to the river that they currently enjoy; the loss of an edge of town location and countryside setting and loss of a view. The site is private land and the proposal will provide a public footpath to the Severn Way footpath and there is no right to a view or the preservation of an edge of town location. One existing resident is concerned that their home will now be surrounded by houses resulting in noise and disturbance from future residents in such close proximity and has requested a buffer strip. This is not considered necessary as the distance between the proposed new dwellings and the existing dwellings is no closer than the existing dwellings in Hillside Drive and St James Road and it is not considered that the proposed development would result in any noise and disturbance any different to that in the existing residential estate. However the plan has been amended so that the houses on plots 22-24 have been moved a few metres further away from the boundary with this neighbour also giving longer gardens to the new dwellings. Due to the distance between the existing and proposed dwellings it is considered that the proposed dwellings will not appear obtrusive or overbearing to existing residents and will also not result in overlooking or a loss of privacy.

6.6 Trees

6.6.1 Concern has been raised that the proposal includes the removal of protected trees and that there will be pressure from future residents to remove trees at a later date where they are included in their rear gardens (plots 1 and 2 for example) and in particular plots 22 - 24. As mentioned above the houses on plots 22-24 have been moved further away from the trees on this boundary and as the gardens are situated to the South of the trees they will not be overshadowed by them. The gardens of plots 1 and 2 are very large and the houses and the majority of the gardens will not be overshadowed by them as they will be situated to the South. There is no need to impose a condition regarding their retention as they are protected by the Belvidere Paddocks TPO 2005. The proposal does not require the removal of any mature trees and the tree officer has confirmed that the trees are protected by the TPO and that the submitted Arboricultural Assessment has considered the woodland and prominent individual trees and the proposed layout would not cause any encroachment into the construction exclusion zones (CEZs) around the trees. There is no objection to the proposals on arboricultural grounds provided that a condition regarding tree protection during the construction phase is imposed.

6.7 Ecology

6.7.1 There is local concern that the proposed development will impact on wildlife and the wildlife corridor. The river Severn and the railway line are wildlife corridors and will not be impacted on by this proposal. The proposed developed part of the application site is on the field which is not part of the Council's identified environmental network. However the woodland on the East part of the site is and this will be retained and protected by the proposals so that there will be no negative impact on the environmental network. The councils Ecologist welcomes the retention of habitat as public open space to the East of the housing and provides advice during and post construction and recommends a condition be imposed requiring a wildlife mitigation/protection plan to be submitted. There is Himalayan Balsam (a non-native, invasive species) on site and precautionary measures to avoid the spread of and attempt to eradicate this species from the site will be included within the mitigation plan. The submitted survey found no evidence of use of the site by badgers or any other protected species or wildlife including dormice, bats, amphibians, reptiles, barn owls, birds of prey, kingfisher, water vole, crayfish or otter. The site showed very little use by wildlife and this was considered to be due to the high ongoing activity by humans on the site and the frequent activity by dogs and cats across the site and has therefore limited the species willing to use the river bank, woodland and field. The Councils ecologist has confirmed that the site including trees and hedgerow and the wildlife corridors have the potential to be used by nesting birds and by bats. Conditions suggested by the Ecologist to ensure the enhancement of the site for bats and birds will be imposed. It is therefore considered that the proposal would have no adverse impact on protected species or their habitat and that subject to conditions the proposal would provide ecological enhancement of the site.

6.8 Public open space and footpaths

6.8.1 Informal use of the site is currently enjoyed by local residents but the land is private and there is no public right of way to the Severn Way riverside footpath and the gate could be locked and the public prohibited from entering the site. This proposal includes and secures a footpath link to the Severn Way and an open space/woodland ecology area as required by the development guidelines for this allocated site. The Council's Parks and Recreation team confirms that the Open Space IPG requires 2640m² of useable open space for the amount and size of housing proposed. The proposed amount of open space is 8000m² and far exceeds that required by the Open Space IPG. It is acknowledged that this space includes the area of wooded land that slopes down to the river and that this might not be useable in terms of formal recreation and play but it is usable for informal recreation. The IPG outlines that open space can be recreational or amenity open space or Natural or Semi-natural open space that '*should provide access to, enhance or link with existing green corridors*' and this is what is being proposed and accords with the development guidelines. The Council's Parks and Recreation team have also confirmed that there are a number of different open space typologies that could be used on the site but are no formal play areas within a 10 min walking distance recommends that the open space provision has the potential to provide some play facility and that this could be linked to the wooded area to the West. Some residents have also commented that an equipped play area should be provided by the developer on site. There is sufficient land available within the opens space provided to add an equipped play area. The proposed open space will be maintained and managed by either Shropshire Council or the Town Council or a management company and CIL

funds can be used to provide any required play equipment. It is considered that the proposed open space/woodland area meets both the IPG guidelines and the allocated site development guidelines.

6.9 Developer contributions

6.9.1 The scheme will be liable for CIL and the proposal includes 5 affordable houses on plots 20-24 and will be sold to a registered provider as 3 affordable rent and 2 shared ownership properties. The S106 agreement has already been prepared and signed to secure this on site affordable housing. The proposal therefore accords with CS11.

6.10 Flood risk and drainage

6.10.1 The Flood Risk Assessment and Drainage report prepared for the SAMDev process has been submitted and the EA have confirmed that the site is at low risk of flooding with the built development and access road being within Flood zone 1 and only a small part of the open space/woodland area being in flood zone 2. Foul drainage will be to the existing main sewer and surface water drainage to soakaways and will be managed to ensure that surface water run-off does not exceed the current greenfield run-off rates. The Drainage team have confirmed that the proposed surface water drainage is acceptable.

6.11 Contaminated land and noise assessment

6.11.1 A noise assessment has been submitted due to the proximity of some of the proposed dwellings to the railway line. Public Protection have commented that the noise assessment concludes that acoustic close boarded fencing is required to achieve a suitable noise environment in some garden areas and recommends a condition regarding this. Some residents have commented that the site was previously used for the burial of Foot and Mouth cattle and are concerned about the impact on the health of existing and new residents if the land is disturbed and also its stability for building on. Public Protection have provided a full assessment and response to this (available earlier in the report) and have concluded that the land is not likely to be contaminated and no further assessment is required. However a large burial site may have implications for potential ground instability. The applicant is aware of this and ground stability will be considered and taken into account as it would on any building site and the foundations and the construction of the buildings will be subject to building regulation control.

7.0 CONCLUSION

7.1 The development of this site for housing is acceptable in principle as it is an allocated site within SAMDev. Although the numbers are higher than the approximate housing provision indicated it is considered that the proposal makes effective and efficient use of land as required by local and national policy and that the layout, scale, design and appearance of the development is acceptable and would not adversely impact on the character and appearance of the locality or the amenity enjoyed by existing residents. Although it will result in an increase in vehicles using Hillside Drive it is not considered that this would significantly impact on highway safety. It will also not result in the loss of trees protected by the TPO and would have no adverse environmental or ecological

implications and will regularise public access to the open space and woodland and the Severn Way footpath. The proposal includes adequate open space provision, CIL funds can be used to provide any equipped play area and 5 affordable houses will be secured by the S106. The proposal therefore accords with SAMDev policy S16.1a, Core Strategy policies CS2, CS6, CS11 and CS17 and the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

Central Government Guidance: NPPF

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies: CS2, CS6, CS11 and CS17

11. Additional Information

List of Background Papers: File
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Pam Moseley
Appendices APPENDIX 1 - Conditions

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

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: To ensure a satisfactory access to the site.

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

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

5. No development approved by this permission shall commence until the applicant 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.

Reason: The site is known to hold archaeological interest.

6. The protective tree fence shown on the submitted Tree Protection Plan (No 4 in the submitted arboricultural assessment plans) shall be erected to the satisfaction of the LPA prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

7. No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
- a. An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b. Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
 - c. A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
 - d. Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

8. No development or clearance of vegetation shall take place until a scheme of landscaping has been submitted to and approved in writing by the LPA. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Planting plans, including wildlife habitat and features
 - d) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - e) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties).
 - f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
 - g) Implementation timetables

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

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

9. A close boarded fence of 10kg/m³ density as a minimum shall be installed to the southern garden boundary of plot 5, 6, 7, 8, 16 and 17, to the Eastern boundary of plot 17 and to the Western boundary of plot 5 prior to the first occupation of the dwellings on these plots.

Reason: To protect the health and wellbeing of future residents.

10. A total of 10 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site, as shown on a site plan submitted to and approved in writing by the local planning authority, prior to first occupation of the buildings hereby permitted.

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

11. A total of 10 woodcrete bat boxes/integrated bat brick 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. A plan showing the locations of the bat boxes/bricks must be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. 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.

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Committee and date

Central Planning Committee

10 September 2015

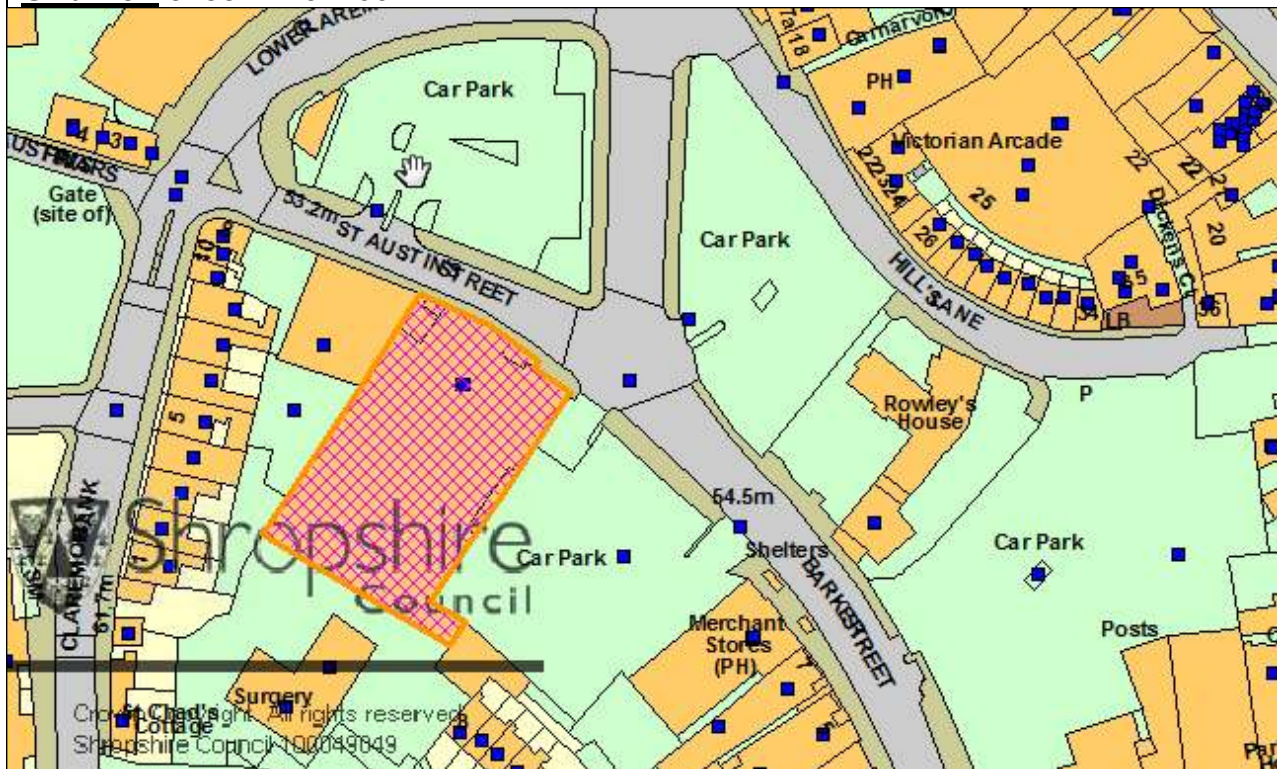
Development Management Report

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

Summary of Application

Application Number: 15/03009/FUL	Parish:	Shrewsbury Town Council
Proposal: Demolition of former Shrewsbury Sixth Form College building known as The Tannery		
Site Address: Former Shrewsbury Sixth Form College The Tannery Barker Street Shrewsbury Shropshire		
Applicant: Shropshire Council		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348871 - 312604



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

REPORT

1.0 THE PROPOSAL

1.1 This application relates to demolition of the former Shrewsbury Sixth Form College building known as The Tannery. A subsequent application (15/03580/FUL) has been submitted for the erection of three (4-storey) blocks of student accommodation and one (3-storey) block of management and post-graduate accommodation on this site and the adjacent car park. The consultation period on this application has not expired and is not ready to be determined.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is situated within the 'Town Centre Special Character Area' which makes up part of the larger Shrewsbury Conservation Area. The building is a 20th Century building on the site of a former tannery previously occupied by Shrewsbury Sixth Form College and faces St Austins Street. The building to the West has already been demolished and there is a surface car park on the adjacent land to the East.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposal does not comply with the delegation to officers as set out in Part 8 on the Shropshire Council Constitution as it is an application made by the Council and is on land owned by the Council and is not in line with statutory functions

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Historic England

Historic England Advice

We recommend that conditions should be imposed requiring the contract for the replacement building to be let before demolition of the existing building takes place.

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.

4.1.2 SC Conservation

Background to Recommendation:

This application proposes the demolition of the former Sixth Form College building, which sits in a central and visually prominent location in the Shrewsbury town

centre The property is located within the 'Town Centre Special Character Area' which makes up part of the larger Shrewsbury Conservation Area. The building is of relatively modern construction, is tired in appearance and does not contribute positively to the visual amenity of the surrounding area and the street scene. Our records and archival mapping indicate the site was formerly occupied by a tannery of likely 19th Century construction, much of which was destroyed by a fire in the 1960s, after which the current building was constructed.

Principles of Scheme:

In considering this 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, the Planning Practice Guidance, and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

There is no objection in terms of historic environment matters to the demolition of the existing building which presents an opportunity to enhance the site in this key location within the town centre. The archaeology half of our Team has requested that remains of the former 19th Century tannery building are formally recorded prior to demolition and a condition in this regard should be added to the Decision Notice. We would also note the advice from Historic England, which aims to prevent the creation of long term gap site which is not appropriate here. We would ask that our Team and Historic England are formally consulted on subsequent planning applications related to this site so that we can fully assess the potential impacts of future proposals on the setting of adjacent heritage assets, the visual character of the immediate street scene and the character and appearance of the wider Conservation Area and to ensure future proposals will preserve and enhance the Conservation Area as required by Section 77 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.1.3 **SC Archaeology**

It is understood that this the north-eastern wall of the existing building comprises standing remains of the late 19th century tannery buildings which previously occupied the site. This wall should therefore be subject to a programme of building recording prior to demolition. However, it is understood that fieldwork that will achieve this will be completed prior to the determination of the application, as part of a wider archaeological assessment of the site. As a consequence, we have no further comments to make on this application with respect to archaeological matters at this stage.

4.1.4 **SC Ecology**

An internal and external survey of the building and its surroundings was carried out on June 18th 2015. All rooms were searched with the exception of one ground floor toilet, which was locked. The roof was accessed through a hatch. All suspended ceiling spaces around the perimeter of the building were examined by using ladders and a powerful torch. The exterior of the building was also examined, using binoculars. There are no sites with statutory protection for nature conservation

within 1km of the site. The River Severn is a Local Wildlife Site and lies c. 110m from the demolition site. The Quarry (about 200m W) and Porthill Meadows (about 450m W, beyond the river) both have some recognised habitat value. Impacts on protected or valued habitat are unlikely.

The only semi-natural habitat close to the site is the scrub and climber growth on adjacent walls. There are no ponds or other water bodies close to the site, and no woodland, hedgerow networks or diverse grassland. The only protected species that are at all likely to be present are bats and nesting birds.

Bats

No evidence of bat activity was found inside the building or the adjacent store room out building. The main building is tightly sealed around its roofline and there was no visible access to the interior of the building for bats. The only areas of concern identified were the hanging tiles on two sides of the building, the voids in the western wall and two disused chimney shafts in the store room which could not be inspected effectively. The consultant advised that an evening activity survey in summer for pipistrelle bats and other crevice dwelling species such as Daubenton's bat should be carried out. The consultant considered that species that favour large voids, such as long-eared bats and Natterer's bat are very unlikely to be present.

Three bat activity surveys were carried out, the first on 25th June 2015 as a roaming survey by one observer around the outside building, from shortly before sunset to one hour after sunset. Two further surveys were completed, on 28th and 29th July, to Bat Conservation Trust standards. These were by two observers from fixed positions, with an Anabat ultrasonic recorder in a third location on each night.

No bats were seen or heard emerging from the building during the survey. The only activity detected was a single pass, by a noctule, at 22:08 on 29th July. The consultant concludes 'This strongly indicates that there are no bats present in the building and that the location is not attractive to foraging bats, which further decreases the likelihood of bats roosting in the building.'

Nesting Birds

There was no sign of any birds nesting in the building, on or in the walls, or on the roofs. Large numbers of birds were seen around the ivy and creeper-covered walls to either side, including many house sparrows, now of conservation concern because of a sharp decline in their UK population. These walls are likely to have nest sites, so vegetation should be left intact wherever possible and the walls undisturbed. If works have to be carried out on these walls it should not take place in the bird nesting season i.e. not before the end of August.

Other impacts

The River Severn passes c.180m north of the site and is protected from pollution and other impacts under various Acts. Care will be needed over drainage from the site; in addition to current land drainage arrangements, disused drainage routes may still be in place.

Because ecological survey can only show presence or likely absence, rather than certain absence, and because species may move into a site before the start of development work, a careful approach is advisable. The precautions and recommendations in the ecological report by Camlad Ecology Ltd should be conditioned and followed.

4.1.5 **SC Public Protection**

Having regard of past activities at the site as a Tannery we have knowledge that the Tannery tanks were not removed or when the existing structures were built. As a result it is advised that careful consideration is given to break out of any slabs above these tanks until measures are in place to undertake contaminated land assessments of the site and be in a position to remediate any contamination found.

4.2 **- Public Comments**

4.2.1 **Shrewsbury Town Council** - Raises no objections to this application.

5.0 **THE MAIN ISSUES**

Impact on the character and appearance of the Conservation area.

Archaeology

Ecology

Contaminated land

6.0 **OFFICER APPRAISAL**

6.1 **Impact on the character and appearance of the Conservation area and the setting of surrounding listed buildings**

6.1.1 The proposed site is situated within the Shrewsbury Conservation Area and special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The existing building is a modern 20th Century building of no architectural interest or merit and it is considered that its loss will enhance the appearance of the area. However it is acknowledged that a large gap in the street scene could have an adverse impact on the character and appearance of the area and it would be preferable to have permission for a replacement building secured prior to its demolition. However there are time constraints with the re-development of this site and it is hoped that the proposed university student accommodation buildings to be considered under a separate application will be constructed and completed by September 2016. It is hoped that the application for the student accommodation on this and the adjacent sites will be ready to be presented to committee in October but in order to meet the tight timetable if this application for demolition is approved there is a requirement for there to be no pre-commencement conditions so that work on the demolition can commence immediately. It is considered that the commitment of both Chester University and Shropshire Council in promoting 'University Centre Shrewsbury' and that an application has already been submitted for redevelopment of the site is sufficient evidence that the site will not be left vacant and the town will not be left with a large undeveloped gap.

6.2 Archaeology

- 6.2.1 The north-eastern wall of the existing building comprises standing remains of the late 19th century tannery buildings which previously occupied the site. This wall has already been subject to a programme of building recording as part of the archaeological survey work and a wider archaeological assessment of the site submitted with the application for the student accommodation. No further archaeological field work is required prior to the above ground demolition of the buildings.

6.3 Ecology

- 6.3.1 An ecological and protected species survey has been submitted which concludes that there are no bats present in the building and that the location is not attractive to foraging bats, which further decreases the likelihood of bats roosting in the building. There was no sign of any birds nesting in the building, on or in the walls, or on the roofs of the building to be demolished. It is therefore considered that the proposal would have no adverse impact on protected species or wildlife subject to the imposition of the condition regarding precautionary methods of working.

6.4 Contaminated land

- 6.4.1 Due to the potential for there to be underground tanks in connection with the former use of the site as a tannery an informative will be imposed regarding the break out of any slabs above the tannery tanks to ensure measures are in place to undertake contaminated land assessments of the site and be in a position to remediate any contamination found. These assessments have been undertaken and will be considered as part of the application for the new build prior to the commencement of below ground works.

7.0 CONCLUSION

- 7.1 It is considered that the proposed demolition of the building would not be a loss to the character and appearance of the conservation area and that it presents an opportunity to enhance the site. Full consideration will be given to the visual impact of the proposed replacement buildings when the application for the Student accommodation is considered.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS6 and CS17

RELEVANT PLANNING HISTORY:

15/03580/FUL Erection of three (4-storey) blocks of student accommodation; one (3-storey) block of management and post-graduate accommodation; new/altered vehicular access; cycle parks; and ancillary works PCO

11. Additional Information

List of Background Papers: File 15/03009/FUL
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Andrew Bannerman
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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. Work shall be carried out strictly in accordance with the precautions and recommendations in 'The Tannery Site, St Austin Street, Shrewsbury, Ecological and protected species survey', July 2015 by Camlad Ecology Ltd.

Reason: To ensure the protection of bats, European Protected Species, nesting birds and other wildlife.

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Committee and date

Central Planning Committee

10 September 2015

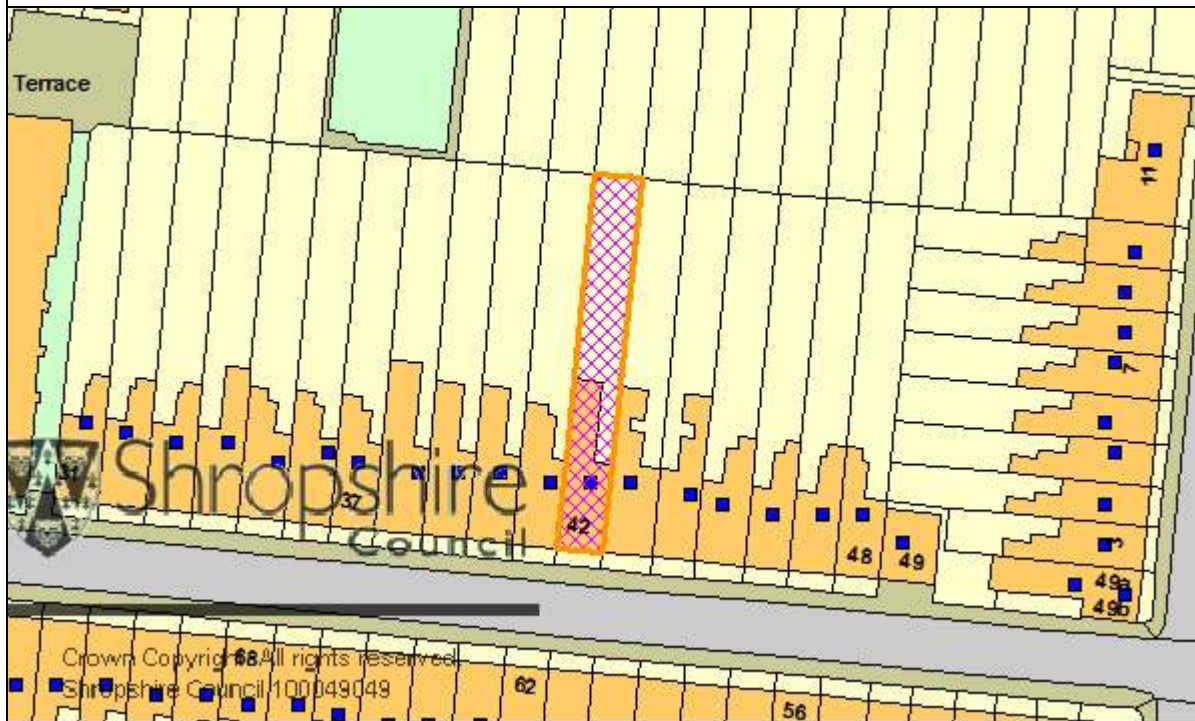
Development Management Report

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

Summary of Application

Application Number: 15/02310/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of a single storey rear extension following demolition of existing		
Site Address: 42 North Street Shrewsbury Shropshire SY1 2JJ		
Applicant: Mr H Hannaford		
Case Officer: Kate Whitfield		email: planningdmc@shropshire.gov.uk

Grid Ref: 349951 – 313185



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal is for a single storey side and rear extension to a residential dwelling to provide a new dining area and kitchen.
- 1.2 The 'L' shaped extension will infill a yard area to the side of an existing two storey element and also project back by around a further 2.6 metres beyond the rear elevation. The rear section of the extension will have a lean-to roof adjoining a flat roof over the side element with a roof lantern reaching a height of around 3.5 metres. The extension will be constructed from brick and tile.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 This application site is a mid-terraced, 19th Century residential dwelling. The property occupies a narrow but relatively long plot with a deep rear garden. On the rear elevation of the house a narrower two storey section extends back. Later single storey extensions have been added to the side and rear of this but will be replaced by the proposals under this application.
- 2.2 The property is located within the 'Castlefields and Spring Gardens Special Character Area' which makes up part of the larger Shrewsbury Conservation Area and the front elevation is covered by an Article 4(2) Direction, the purpose of which is to retain the visual character of unlisted residential buildings in the Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development is considered to accord with the requirements of the Council's relevant adopted policies and no contrary opinions have been received that would require determination of the application by Committee. However, the Applicant is an officer of the Council who directly reports to the Planning Services Manager of the Business Support and Regulatory Services Directorate. Therefore under the terms of the scheme of delegation to officers as set out in Part 8 of the Council Constitution the application should be determined by the Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.2 **Shropshire Council's Historic Environment Officer** : This proposal is confined to the rear elevation and will have no impact on the appearance of the front elevation or public views from North Street and therefore the aims of the Article 4 Direction in this instance are maintained. I would also raise no objections to the removal of the existing rear extension which is in a poor state of repair, and would note that the proposed new extension respects the main part of the dwelling and the rest of the terrace and would be an improvement to the configuration of the rear elevation of the property. The application is considered to satisfactorily meet the policies, guidance and legislation noted above in terms of historic environment matters.

4.3 **RECOMMENDATION:** No objection to the proposed rear extension subject to the inclusion of conditions to state materials should match existing and rooflights.

4.4 **Shropshire Council's Historic Environment Archaeology Officer :** No comments on this application.

4.5 **Shropshire Council's Flood and Water Management Team :**
Informative: The applicant should consider employing measures such as the following:

- Surface water soakaways (Designed to BRE Digest 365)
- 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 development is undertaken in a sustainable manner.

4.6 **Public Comments**

4.7 **Shrewsbury Town Council :** No objections to the proposal.

4.8 The application has been advertised by notices at the site and seven surrounding properties have been individually notified. No representations have been received in response to this publicity.

5.0 THE MAIN ISSUES

- Principle of development.
- Siting, scale and design of the extension and alterations to the dwelling and the impact on the appearance of the property and the visual amenity of the Conservation Area.
- Impact on the residential amenity of neighbouring properties.

6.0 OFFICER APPRAISAL

6.1 Principle of Development

6.1.1 Extensions to residential properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6 : Sustainable Design and Development Principles. This policy states that development should be appropriate in scale, density, pattern and design and should also safeguard residential and local amenity.

6.1.2 As the application site is within a designated Conservation Area proposals also need to meet policy CS17 : Environmental Networks, which seeks to protect and enhance the historic environment and the character and appearance of the locality, and national guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to preserving or enhancing the character or appearance of

the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2 Siting, scale and design of the extension and alterations to the dwelling and the impact on the appearance of the property and the visual amenity of the Conservation area.

6.2.1 The proposed extension will be located on the rear elevation of the dwelling, where alterations and additions are acceptable in principal and the impact on the character and appearance of the surrounding Conservation Area will be minimal. In this case the proposed extension will replace a flat roofed rear extension and an untidy, side extension covering the yard area. The floor area covered by the proposed new extension is fairly similar to these existing extensions but the design and proposed materials are far more in keeping with the age and character of the property. The proposals should therefore enhance the appearance of the rear elevation.

6.2.2 The height of the flat roof over the side extension is relatively high but this is part of the design which enables a lean-to roof over the rear section. This side elevation is not visible as it will be built against the side of the two storey element on the adjoining property and therefore it should not appear as overly bulky. The proposed extension is therefore considered acceptable in scale and design and would accord with Section 72 and Shropshire Core Strategy policies CS6 and CS17. The scheme will not be detrimental to the appearance of the dwelling or its setting within the Conservation Area.

6.2.3 It is proposed to use brick and tile for the extension. The main roof over the dwelling is slate but a slate effect tile would be acceptable for the extension and a condition will be added to the permission to state that the materials should match the existing house. The Conservation Officer has requested a condition relating to the submission of details of the rooflights for prior approval. However, due to the siting of the extension this is not deemed to be necessary and a condition is added purely to state that these should be 'conservation style' rooflights.

6.3 Impact on the residential amenity of neighbouring properties.

6.3.1 The configuration of all the properties within the terrace is largely identical and both adjoining properties have intersecting two storey rear elements. Due to this it is not considered that the proposed extension will have any additional negative impact of the outlook or light enjoyed by either adjoining property.

6.3.2 The proposed side extension will lie between the existing two storey elements on the application site property and the adjoining dwelling to the east. It will not project out beyond the rear elevation of the adjoining dwelling and therefore should have a negligible impact on its amenity. On the western side the proposed extension will directly replace the existing flat roof rear extension, extending back by the same depth. Whilst the roof height will be higher than the existing flat roof it would not be expected that this would have any additional impact on the adjoining property on this side, which is already overshadowed by the original dwelling.

7.0 CONCLUSION

7.1 The proposed extension is considered to meet the criteria of Core Strategy Policies CS6 and CS17. It considered appropriate in scale, density, pattern and design to the existing house and will not adversely affect the amenity of neighbouring residents or the character and appearance of the Shrewsbury Conservation Area. Delegated approval is therefore recommended.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

Risk Management

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

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

HUMAN RIGHTS

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

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

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

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework :

Part: 7: Requiring Good Design

Part 12 : Conserving and Enhancing the Historic Environment

Core Strategy and Saved Policies:

CS6 : Sustainable Design and Development Principles

CS17 : Environmental Networks

RELEVANT PLANNING HISTORY:

None

List of Background Papers : Application Reference 15/02310/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Alan Mosley
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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development and the surrounding Shrewsbury Conservation Area.

4. The roof windows shall be of the traditional low profile metal 'Conservation' design.

Reason: To ensure that the works harmonise with the existing development and the surrounding Shrewsbury Conservation Area.

Informatives

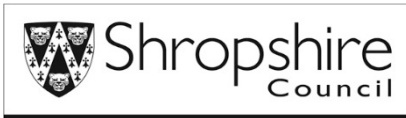
1. The provisions of the Party Wall etc. Act 1996 apply in respect of this development and you are required to notify all neighbours affected by the proposal before any work commences on the site.

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

- Surface water soakaways (Designed to BRE Digest 365)
- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new driveway, parking area/ paved area
- Attenuation
- Greywater recycling system
- Green roofs

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

3. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.
4. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

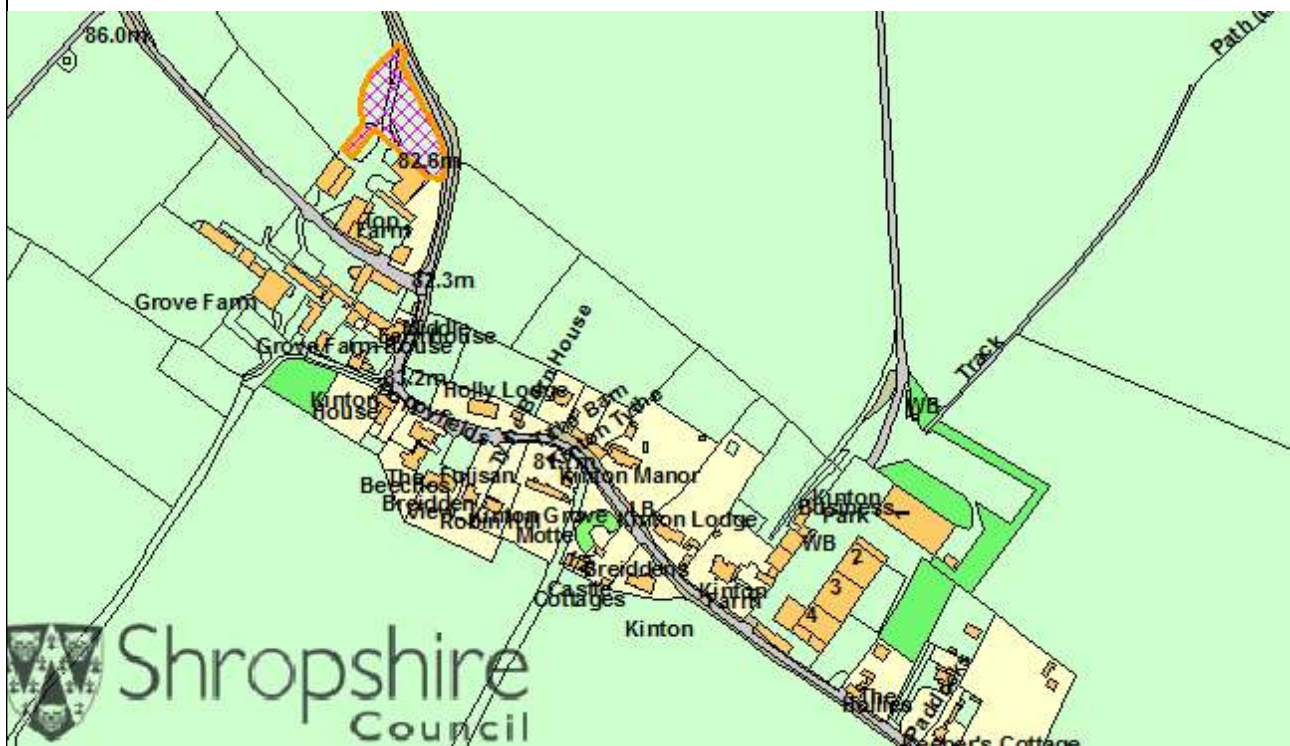
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 13/05065/OUT	Parish:	Great Ness
Proposal: Outline application for the erection of dwelling including re-aligned agricultural access and removal of agricultural shed		
Site Address: Land North Of Top Farm Kinton Shrewsbury Shropshire		
Applicant: Mr J Hitchen		
Case Officer: Jane Raymond		email: planningdmc@shropshire.gov.uk

Grid Ref: 336973 - 319742



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a s106 agreement to secure the relevant AHC the Reserved Matters stage.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

1.1 On the 06 March 2014 it was resolved by the Central Planning Committee to grant outline planning permission for the erection of a single dwelling including re-aligned agricultural access and removal of an agricultural shed subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.

1.2 Since that time the following events have occurred:

- The applicant has progressed the S106 agreement to a point where it has been signed and returned to the Council for sealing. The applicant has been ready to sign the agreement since April 2015 and had been advised that it was on hold due to the challenge to the Ministerial Statement on sites of 10 or less not requiring an AHC.
- The number of decisions for approval released in the Kinton cluster of settlements has increased.
- A revised 5 year housing land supply statement has been published confirming that the Council has a 5 year supply of housing land.
- There have been further developments with the Site Allocations and Management of Development (SAMDev) Plan that has been submitted for examination. The examination has been undertaken and the main modifications were published in June 2015 and have been consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.

1.3 The following is a review of the 'Principle of Development' in light of the publications of the SAMDev Plan main modifications since the applications was first considered at the March 2014 Central Committee.

2.0 Impact of SAMDev progress

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for

planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless there are other material considerations that indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

- 2.2 The NPPF constitutes guidance for local planning authorities and is a material consideration to be given significant weight in determining applications. NPPF Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The council has published a revised 5 year land supply statement which demonstrates that the Council now considers that it still has a 5 year supply of housing. Policies for the supply of housing should therefore be considered up-to-date. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The NPPF is a material consideration but does not change the statutory status of the development plan for decision taking and the presumption in favour of sustainable development does not outweigh the development plan but it is one of the considerations that need to be weighed alongside it. The starting point for determining all applications is the local development plan as indicated by paragraph 12 of the NPPF and the relevant local plan policies relevant in assessing the acceptability of this housing application in principle are discussed below:
- 2.3 The Development Plan - The development plan presently comprises the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The relevant saved policies in the SABC local plan remain saved policies until the adoption of the SAMDev, however these policies could be argued to be out of date due to their age and as the SAMDev progresses the weight that can be given to SABC saved policies reduces.
- 2.4 Adopted policy – The relevant adopted housing policy is saved policy H3 of the SABC local plan, and Hopton is not a settlement identified under this policy where residential development would be supported and the site is therefore located in an area defined as ‘countryside’ for the purposes of planning policy. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development (accommodation for essential countryside workers and other affordable housing for example) is permitted. The proposal therefore conflicts with this policy being for a single open market dwelling. CS5 also advises that proposals that would result in isolated and sporadic development that would erode the character of the countryside would not be acceptable. However it is not considered that the proposal represents isolated and sporadic development within the countryside as it is sited on the edge of the settlement of Kinton and is not considered to be an unacceptable intrusion and extension of the village into open countryside. CS4 is also relevant and outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be

allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD.

2.5 Emerging policy - The SAMDev plan is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

2.6 Under policy MD1 within the emerging SAMDev Hopton is identified as a Community Cluster settlement where a limited amount of development would be acceptable. Under policy S16.2(ix) of SAMDev Hopton is part of a group of 7 settlements identified as a community cluster and states the following:

Great Ness, Little Ness, Wilcott, Hopton/Valeswood, Kinton, and Felton Butler are a Community Cluster in the Nesses Parish where development by limited infilling/conversions of buildings may be acceptable on suitable sites within the villages, with a housing guideline of approximately 10-15 dwellings over the period to 2026.

This policy would therefore allow an average of 2 dwellings per settlement across the cluster of 7 settlements within the plan period.

2.7 To date within this plan period the following permissions have already been approved for 26 open market houses within this 'Community Cluster' with 3 of them in Kinton :

13/01591/FUL – 2 dwellings (Kinton)
11/00371/FUL – 1 dwelling (Kinton)

14/05711/FUL – 1 dwelling (Great Ness)
14/02165/FUL – 2 dwellings (Great Ness)
14/04155/REM – 3 dwellings (Great Ness)

14/03029/OUT – 2 dwellings (Little Ness)
14/01106/FUL – 1 dwelling (Little Ness)
13/03505/FUL – 2 dwellings (Little Ness)

14/03070/OUT – 2 dwellings (Wilcott)
14/01945/FUL – 2 dwellings (Wilcott)
11/00052/FUL - 1 dwelling (Wilcott)

12/02933/FUL – 2 dwellings (Hopton)
12/05222/FUL – 1 dwelling (Hopton)
11/04268/FUL – 1 dwelling (Hopton)

13/04525/OUT – 2 dwellings (Valeswood)
14/02388/OUT – 1 dwelling (Valeswood)

Many more applications have a resolution to grant permission but the decision notices have not yet been released and won't be until a S106 has been signed to secure the relevant affordable housing contribution.

- 2.8 Allowing additional dwellings would obviously exceed the housing guideline both within the settlement of Hopton and across the cluster as a whole. However the housing numbers is a guideline and not a maximum and there is scope for exceeding the housing guideline in some settlements and this is being considered on a case by case basis. Obviously in settlements that are more sustainably located and which have more facilities and services, applications significantly above the housing guideline are more likely to be acceptable as suggested by 2 iii and v of SAMDev policy MD3:

MD3 - Delivery of Housing Development (as amended in the Inspectors main modifications) states the following:

Matching the Settlement housing guidelines:

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

- i. The increase in number of dwellings relative to ~~degree by which the requirement is exceeded~~ the guideline; and*
- ii. The likelihood of delivery of the outstanding permissions; and*
- iii. ~~Evidence of community support; and~~*
- iii. The benefits arising from the development; and*
- iv. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and*
- v. The presumption in favour of sustainable development.*

- 2.9 Although limited weight can be given to this policy at this stage it is a useful guideline. With regards to (i) and (iv) one additional dwelling is not considered to be a significant increase to the number of dwellings allowed in Kinton and would not have a significant cumulative impact on the number of new dwellings across the seven settlements within this cluster. With regards to (ii) full planning permission has been granted for 19 dwellings and these are more likely to be delivered than the Outline permissions for 7 dwellings that could be considered to be speculative. With regards to (iii) and (v) the benefits of the proposal and whether it represents sustainable development will be considered below.
- 2.10 In addition to housing guidelines SAMDev policy S16.2(ix) also refers to limited infilling but there is no definition of 'infill' in local policy. The site is however considered to be an infill site as it is land situated between the farm yard complex and the highway. It is considered that the proposal generally accords with policy S16.2(ix) but prior to adoption of SAMDev it is still considered appropriate to also

consider whether the proposal represents sustainable development which is one of the considerations that MD3 requires decisions to have regard to when housing guidelines are exceeded.

- 2.11 Sustainable development: Within paragraph 4.63 of CS4 (the core strategy policy promoting hubs and clusters) it states that:

Smaller settlements generally have fewer facilities, services and infrastructure, and less choice of housing, than larger settlements. As they generally start from a lower base in sustainability terms, it takes greater effort to raise their sustainability. In recognition of this fact, development in Community Hubs and Community Clusters will generally have to work harder to improve sustainability.

And within 4.65 it states that:

Rather than abandoning settlements that have lost services as perpetually 'unsustainable', this approach seeks to improve the sustainability of rural settlements and their hinterlands, even those that start from a low base. Shropshire Council will work with communities, including delivery stakeholders and landowners that wish to achieve this vision.

The explanation to CS4 clearly recognises that some cluster settlements aren't sustainable but that by allowing limited development that is of a scale appropriate to the settlement that this will help to improve the overall sustainability of that settlement and settlements nearby.

- 2.12 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. There is no bus service that serves Kinton but the proposal is only for one dwelling and it is not considered that the proposal will result in a significant increase in traffic. The nearest primary school is in Nescliffe and the nearest secondary school is Baschurch and therefore future residents (if families) are likely to rely on the private car rather than walk or cycle to school. Residents are also likely to travel by car to access other essential services and employment.
- 2.13 However the NPPF suggests that sustainable development isn't solely about accessibility and proximity to essential services but that it is '*about positive growth – making economic, environmental and social progress for this and future generations*'. The Framework seeks to promote sustainable development in rural areas and advises that there are three dimensions to sustainable development: economic, social and environmental.
- 2.14 Economic role - In terms of the economic role the proposal will contribute in a small way due to the jobs created in the construction phase supporting builders and building suppliers. The proposal would also bring some economic benefits in terms of the New Homes Bonus, Community Infrastructure Levy contributions and Council Tax payments. Future residents might potentially support local businesses and services within the surrounding settlements and the larger settlement of

Nesscliffe. Economic benefits are therefore considered to be limited given the scale of the development, although future occupiers will bring additional spending to the local community supporting the local economy.

2.15 Social role - The social role of sustainability includes supporting strong, vibrant and healthy communities with accessible local services and the NPPF advises that housing should be located where it will enhance or maintain the vitality of local communities. Allowing additional housing of a small scale in this community will improve the overall sustainability of the settlement and surrounding settlements by future residents using and supporting local facilities and services within this cluster of settlements and the nearby Nesscliffe. The proposal will make a small contribution to the Government's objective of boosting the supply of housing and will also provide an AHC which will go towards funding much needed affordable housing in the area.

2.16 Environmental role - The environmental role of sustainability requires the planning system to contribute to protecting and enhancing the natural, built and historic environment. The site is a small field adjacent to the existing farm complex on the edge of the settlement of Kinton and development of this site is not considered to be an intrusion into the countryside and would not adversely impact on the character and appearance on the approach to the village. The site itself has no specific land-use designation in respect of landscape, ecological or historic value. Whilst not bringing any significant environmental benefits the site is considered to be an infill site and the proposal will not extend the settlement into open countryside and would have no adverse impact on the natural, built and historic environment.

3.0 **Conclusion**

3.1 Since this application was determined by members in March 2014 greater weight is now given to the SAMDev policies including policy S16.2(ix) that relates to the cluster of settlements that includes the village of Kinton. More houses have been approved for this particular cluster of settlements since the Central Committee resolved to approve this application in March 2014 and the housing guideline of 15 has been exceeded by 11. However one additional dwelling is not considered to be a significant increase to the number of dwellings allowed in Kinton and would not have a significant cumulative impact on the number of new dwellings across the seven settlements within this cluster. It is still considered that allowing this proposal is acceptable in principle and accords with Core Strategy CS4 and CS5 and the SAMDev policies MD1, S16 and MD3. It is recognised that Kinton is a dispersed settlement and that the site is not in itself a particularly sustainable location for new housing development when assessed against the three strands of sustainability outlined in the NPPF. However para 10 of the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In order for policies contained in the SAMDev Plan to proceed to adoption they will therefore need to comply with the sustainable guidance set out in the Framework. The policies relating to the location of housing within settlements in the countryside are not included in the schedule of proposed main modifications and are therefore considered to be sound and in accordance

with the NPPF guidance on sustainable development. Core Strategy Policy CS4 acknowledges that smaller settlements will generally have fewer local services and facilities and start from a lower base in sustainability terms, but when grouped with other nearby settlements proportionate development and support for their shared facilities plays an important role in reinvigorating rural communities and may improve the overall sustainability of that group of settlements. Limited additional housing in Kinton is therefore supported in accordance with CS4 and will contribute to infrastructure and affordable housing and help to retain existing services and may lead to the provision of new facilities and services in the area.

- 2.18 The proposal is therefore still considered acceptable in principle ahead of the adoption of SAMDev. The site is considered to be an infill site and the proposal will not extend the settlement into open countryside, it is of a sufficient size to accommodate a single dwelling and the scale and appearance will be considered at the reserved matters stage. The proposal would have no adverse highway safety implications, and the S106 will secure the payment of an AHC. The proposal therefore accords with Shropshire Council LDF Policies CS4, CS6 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 1970.

9.0 **Financial Implications**

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

10. **Background**

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS4, CS5, CS6, CS11 and CS17

11. Additional Information

List of Background Papers: File 13/05065/OUT and report to Central Committee on 06 March 2014
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr David Roberts
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

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

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

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

4. Details of the means of access, including the layout, construction and sightlines, shall be submitted as part of the application for reserved matters and the agreed details shall be fully implemented prior to the first occupation of the development.

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

5. Details of the driveway and turning and parking area and surfacing materials shall be submitted as part of the application for reserved matters. If non permeable surfacing is used on the driveway and parking area and/or the driveway slopes towards the highway the submission shall also include a drainage system. The agreed scheme shall be fully implemented prior to the first occupation of the development and shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles off the highway and to enable the turning of vehicles within the site curtilage in order that they may enter and leave the site in a forward gear in the interests of highway safety and to ensure that no surface water runoff from the new driveway runs onto the highway.



Committee and date
 Central Planning Committee
 10 September 2015

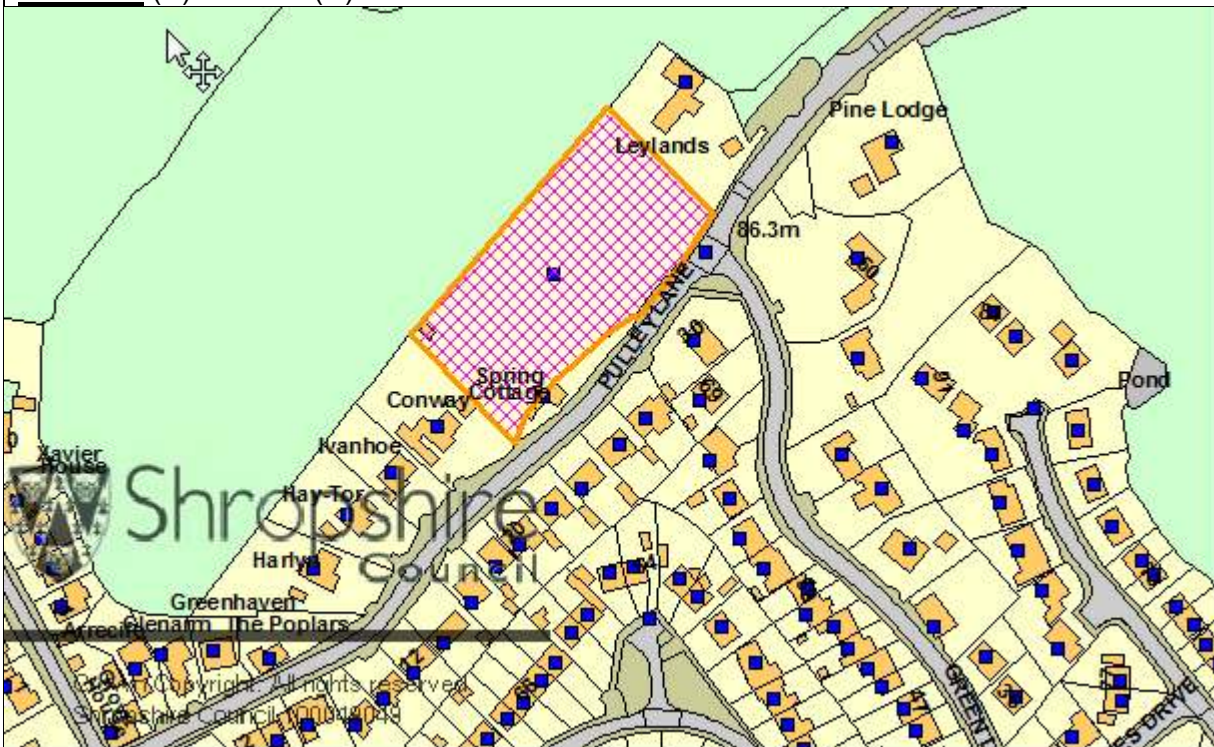
Development Management Report

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

Summary of Application

Application Number: 14/00254/FUL	Parish:	Bayston Hill
Proposal: Erection of nine dwellings and associated garages; formation of vehicular access.		
Site Address: Development Land Adj Leylands, Pulley Lane, Bayston Hill Shrewsbury, Shropshire.		
Applicant: Shropshire Homes Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 347651 (N) 309356



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant on-site affordable housing provision (two shared ownership dwellings).

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 18th September 2014 it was resolved by the Central Planning Committee to grant full planning permission for the erection of nine dwellings and associated garages; formation of vehicular access subject to conditions following completion of Section 106 agreement to secure the relevant on-site affordable housing provision (two shared ownership dwellings) in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev policy S16.2(ii)** identifies Bayston Hill as a Community Hub with a development boundary and this can now be given significant weight. The application must also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy prior to adoption.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Bayston and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however

considered to constitute a sustainable form of development with the application site located within a suitable position, immediately adjacent to the development boundary and bounded on two sides by the development boundary and existing housing itself.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The proposal has been submitted as a Full Application which demonstrates a clear intent that the scheme will be delivered within the 5 year period. In addition the application has been made by Housing Developer who have an 'option' on the land, which further reinforces this intent. In addition, the developer has worked with the Council during the delay in signing the s106 due to legal probate in order to prepare a Discharge of Condition Application ready for submission (this was prior to the advice that the application would have to be represented to Members.
- The draft s106 has been signed and a decision could be released immediately;
- The scheme as resolved to approve by Members was for three 3-bed affordable and eight 4-bed open market dwellings. In order to achieve a better mix the Developer has agreed to Officers request to amend the scheme, which now provides two 3-bed shared ownership affordable dwellings (an overprovision of 0.4), two 3-bed and five 4-bed open market dwellings.
- Due to the topography of the site and its position bounded on three sides by development (including the road) it is contained within the built form of development for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;

3.0 Conclusion

3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in November. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Saved Policies:
HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

- CS4: Community Hubs and Community Clusters
- CS5 : Countryside and Green Belt
- CS6 : Sustainable Design and Development Principles
- CS9 : Developer Contributions
- CS11 : Type and Affordability of Housing
- CS17 : Environmental Networks
- CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan
MD1: Scale and Distribution of Development
MD2: Sustainable Design
MD3: Managing Housing Development

RELEVANT PLANNING HISTORY: n/a

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information): Planning file 14/00254/FUL including report to 13th November 2014 Central Planning Committee</p>
<p>Cabinet Member (Portfolio Holder) Cllr M. Price</p>
<p>Local Member(s) Cllr Ted Clarke Cllr Jane Mackenzie Cllr Jon Tandy</p>
<p>Appendices APPENDIX 1 - Conditions</p>

APPENDIX 1

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 deposited and amended plans and drawings.

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

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

5. Details of the design and construction of any new roads, footways, accesses together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the dwellings hereby approved are first occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

6. The access shall be constructed in accordance with the approved drawing prior to the dwellings hereby approved being first occupied.

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

7. 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 as shown on a site plan prior to first occupation of the buildings hereby permitted.

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

8. 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 buildings hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

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

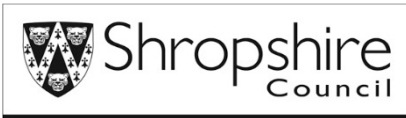
10. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until all tree protection measures specified in the submitted Tree Protection Plan site layout plan LL-P-01 Rev. D with Tree Protection Details and the Arboricultural Method Statement forming part of the submitted Arboricultural Report dated 30.1.2013 & 20.2.14 have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority. A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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

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



<u>Committee and date</u>
Central Planning Committee
10 September 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: 14/00701/FUL	Parish:	Condover
Proposal: Erection of six residential dwellings		
Site Address: The Fox Inn, Ryton Shrewsbury, Shropshire.		
Applicant: Mr John Owen		
Case Officer: Tim Rogers	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 349000 (N) 303176



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure one on-site affordable dwelling.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 18th September 2014 it was resolved by the Central Planning Committee to grant full planning permission for the erection of 6 dwellings subject to conditions and to the signing of a Section 106 Legal Agreement to secure one on-site affordable dwelling in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev Policy S8.2 does not** identify Ryton as either a Community Hub or Cluster confirming its status as countryside, and this can now be given significant weight.
- 2.3 This application site is located within the built envelope of the village, and would be erected on amenity land associated with the public house. However, the proposal would be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however considered to constitute a sustainable form of development with the application site located within a suitable position, representing an efficient reuse of brownfield land with no encroachment into open countryside.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The proposal has been submitted as a Full Application which demonstrates a clear intent that the scheme will be delivered within the 5 year period.
- The draft s106 has been signed and a decision could be released immediately;
- The proposal will be sited on brownfield land associated with the public houses therefore representing an efficient use of land enhancement of the visual amenity of the village, and not representing an encroachment into countryside;
- The proposal will not compromise the viability of the pub going forward. Indeed it is considered that the proposal will contribute to the protection and retention of the pub as an existing community facility.
- The scheme includes a mix of four 2-bed and two 3-bed dwellings, with the later benefiting from attached garages. Within this mix the proposal includes one rented affordable dwelling.

3.0 Conclusion

3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in November. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Saved Policies:
HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

RELEVANT PLANNING HISTORY: n/a

7. Additional Information

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

Planning file 14/00701/FUL including report to 18th September 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Tim Barker

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

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.

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 BEFORE THE DEVELOPMENT COMMENCES

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

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. Prior to first occupation of any of the dwellings hereby approved, the vehicular access shall be set out and surfaced in accordance with the approved plans. The access shall thereafter permanently be maintained as agreed.

Reason: In the interests of highway and pedestrian safety

5. Prior to first occupation of the dwellings hereby approved, the parking and turning areas shall be set out in accordance with the details shown in the unreferenced amended site plan received 7th August 2014. On-site parking shall thereafter be retained as shown and kept free from obstruction.

Reason: In the interests of highway safety to ensure that sufficient parking space is available on site and to prevent the occurrence of on-street parking or the requirement to park in the adjacent public house car park where space is limited.

6. Prior to first occupation of the dwellings hereby approved, a scheme of landscaping shall be submitted to and agreed in writing by the local planning authority. The submitted scheme shall include:

Means of enclosure

Hard surfacing materials

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

A timetable for the implementation of the agreed scheme.

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

7. The following restrictions shall apply to windows in the development hereby approved: -

- The first floor windows in the rear elevation of units 2 and 3 shall be obscure glazed and fitted with opening restrictors (fitted to have a maximum opening of 100mm).

- The first floor window in the south west facing (side) elevation of unit 4 shall be fitted with obscure glazing.

The above requirements shall have been installed prior to first occupation of the units concerned and shall permanently be retained as such

Reason: To protect the privacy of occupants of Wisteria Cottage and holiday lets.

8. The drainage scheme to be provided in the development hereby approved shall be carried out strictly in accordance with the details indicated in the unreferenced Amended Site Plan received 7th August 2014, Site Layout Plan ref. 1142/11-10 received 23rd May 2014, and Surface Water Drainage Proposal Plans ref. T17219/14/115B and T17219/14/115D both received 23rd May 2014 together with the accompanying Drainage Statement prepared by David Bennion Drainage dated 20th May 2014. The approved scheme shall be fully completed before the development is first occupied.

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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class A, B and C, (or any Order amending or revoking and re-enacting that Order), the enlargement, improvement or other alteration of the dwelling shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class E, (or any Order amending or revoking and re-enacting that Order), the erection of any freestanding structure within the curtilage of the property shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

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

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

12. No burning shall take place on site including during clearance of the site.

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



Committee and date
 Central Planning Committee
 10 September 2015

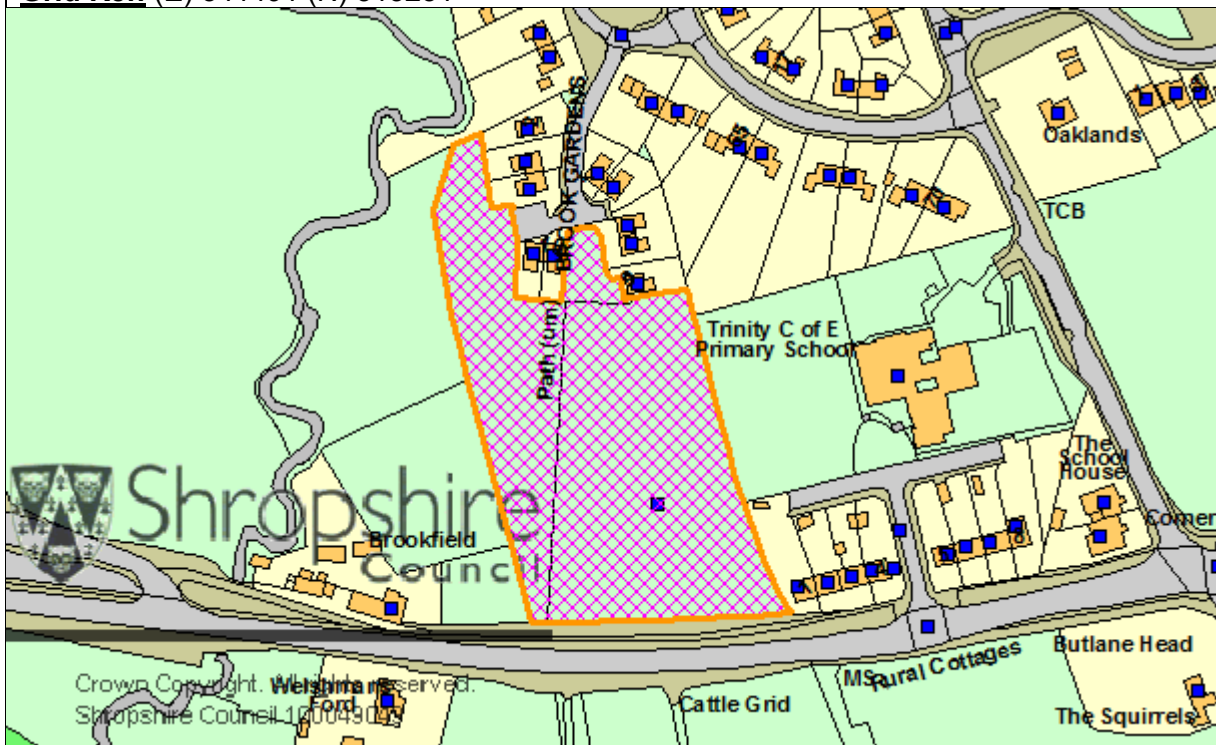
Development Management Report

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

Summary of Application

Application Number: 14/01819/OUT	Parish:	Ford
Proposal: Outline application (access for approval) for mixed residential development.		
Site Address: Development Land North Of A458, Ford, Shrewsbury, Shropshire.		
Applicant: Shropshire Homes Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 341491 (N) 313231



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 13th November 2014 it was resolved by the Central Planning Committee to grant outline planning permission (to include access) for residential development, with an indicative plan showing 26 dwellings subject to conditions and to the signing of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev Policy S8.2 does not** identify Ford as either a Community Hub or Cluster confirming its status as countryside, and this can now be given significant weight.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Ford and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however considered to constitute a sustainable form of development with the application site located within a suitable position, immediately adjacent to the development boundary and bounded on two sides by the development boundary and existing housing itself.
- 2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply including affordable in the immediate future;
- The indicative site plan illustrates a scheme with a good mix of housing ranging from two-four bed properties;
- The draft s106 has been signed and a decision could be released immediately;
- Due to the topography of the site and its position bounded on three sides by development (including the truck road) it is contained within the built form of development for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;
- The application includes the provision of a footpath link from the site into and towards the centre of the village for future occupants.

3.0 Conclusion

- 3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in February. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.
- 3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Saved Policies:
HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)
CS5 : Countryside and Green Belt
CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions
CS11 : Type and Affordability of Housing
CS17 : Environmental Networks
CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development
MD2: Sustainable Design

RELEVANT PLANNING HISTORY: n/a

7. Additional Information

View details online:

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

Planning file 14/01819/OUT including report to 13th November 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Roger Evans

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITIONS

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission.

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

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

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The number of units
The means of enclosure of the site
The drainage of the site

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

5. This permission does not purport to grant consent for the layout shown on the deposited Proposed Site Plan F0-P-01i submitted with this application.

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

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.

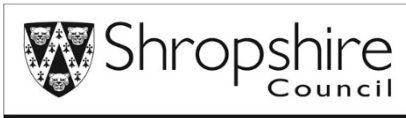
7. Prior to the first occupation of the dwellings details of five bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a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

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

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

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

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Committee and date

Central Planning Committee

10 September 2015

Development Management Report

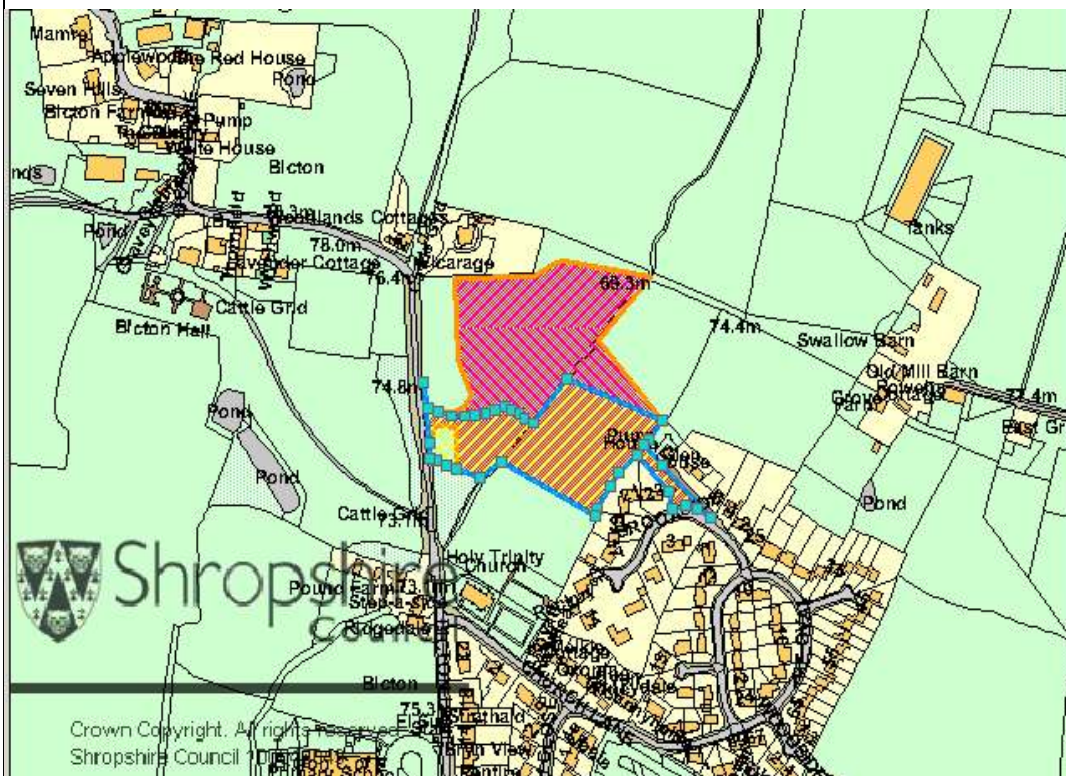
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/02239/OUT	Parish:	Bicton
Proposal: Outline application for residential development to include means of access (amended description)		
Site Address: Land East Of Bicton Lane Bicton Shrewsbury Shropshire		
Applicant: Galliers Homes Limited		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 344856 - 315035



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 09 April 2015 it was resolved by the Central Planning Committee to grant outline planning permission for residential development to include means of access (with an indicative layout of 15 dwellings) subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the applicant has progressed the S106 agreement to a point where it is has been signed and returned to the Council for sealing. A revised 5 year housing land supply statement has also been published confirming that the Council has a 5 year supply of housing land. There have also been further developments with the Site Allocations and Management of Development (SAMDev) Plan that has been submitted for examination. The examination has been undertaken and the main modifications were published in June 2015 and have been consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications since that time.

2.0 Impact of SAMDev progress

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless there are other material considerations that indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF constitutes guidance for local planning authorities and is a material consideration to be given significant weight in determining applications. NPPF Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The council has published a revised 5 year land supply statement which demonstrates that the Council now considers that it still has

a 5 year supply of housing. Policies for the supply of housing should therefore be considered up-to-date. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The NPPF is a material consideration but does not change the statutory status of the development plan for decision taking and the presumption in favour of sustainable development does not outweigh the development plan but it is one of the considerations that need to be weighed alongside it. The starting point for determining all applications is the local development plan as indicated by paragraph 12 of the NPPF and the relevant local plan policies relevant in assessing the acceptability of this housing application in principle are discussed below:

- 2.3 The Development Plan - The development plan presently comprises the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The relevant saved policies in the SABC local plan remain saved policies until the adoption of the SAMDev, however these policies could be argued to be out of date due to their age and as the SAMDev progresses the weight that can be given to SABC saved policies reduces.
- 2.4 Adopted policy – The relevant adopted housing policy is saved policy H3 of the SABC local plan, and Bicton is not a settlement identified under this policy where residential development would be supported and the site is therefore located in an area defined as ‘countryside’ for the purposes of planning policy. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development (accommodation for essential countryside workers and other affordable housing for example) is permitted. The proposal therefore conflicts with this policy being predominantly for open market housing. CS5 also advises that proposals that would result in isolated and sporadic development that would erode the character of the countryside would not be acceptable. However it is not considered that the proposal represents isolated and sporadic development within the countryside as it is sited within Bicton and is not considered to be an unacceptable intrusion and extension of the village into open countryside. CS4 is also relevant and outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD and not allowing development outside these settlements unless it meets policy CS5.
- 2.5 Emerging policy - The SAMDev plan is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.

- 2.6 Policy S16.2(vi) within the SAMDev plan identifies Bicton as a Community Cluster settlement where a limited amount of development would be acceptable and states the following:

S16.2(vi): 'Bicton and the Four Crosses area are a Community Cluster in Bicton Parish where development by infilling, conversion of buildings and small groups of houses may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with a housing guideline of around 15 additional dwellings over the period to 2026.'

Development of the proposed site would therefore be contrary to the housing development policy in both adopted and emerging policy and this was outlined in the previous report to committee.

- 2.7 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In order for policies contained in the SAMDev Plan to proceed to adoption they will therefore need to comply with the sustainable guidance set out in the Framework. The policies relating to the location of housing within settlements in the countryside are not included in the schedule of proposed main modifications and therefore these policies are considered to be sound and in accordance with the NPPF guidance. Therefore significant weight should now be given to the settlement policies in the SAMDev plan and as development of this site would be contrary to this plan the proposal should be refused unless there are material considerations that indicate otherwise and weigh in its favour.

3.0 **Other material considerations**

- 3.1 Officers consider that there are other material considerations which should be taken into account in considering the application and weighed against the conflict with the adopted and emerging policy relating to housing prior to the adoption of SAMDev:
- 3.2 Sustainable development: The April 2015 report outlined the sustainability credentials of the proposal and concluded that the proposal represented sustainable development and that there would be no adverse impacts of allowing this proposal that would outweigh the benefits. The site is considered to be in a sustainable location within a village that has some local service provision including a primary school and garage/shop and a regular bus service to the larger settlements of Shrewsbury and Oswestry.
- 3.2 Environmental impact: The previous report identified that although in policy terms this site is greenfield land in open countryside the development was not considered to be an encroachment into the countryside as the built development will be within a small field that is bound on three of its four sides, one of which is a residential estate. The PC were concerned that the areas East and West of Bicton Lane should be kept as open fields in order to distinguish between the new and old areas of the village. The dwellings will be situated on a square piece of land accessed via

a new access road off Bicton Lane that would be set within landscaped open space. The developed part of the site would not be readily visible from Bicton lane and is bound on two sides by existing hedgerows and trees and the South West boundary abuts the existing houses in Brookside. The site area only occupies one small field and would not close the gap between the new and the old parts of the village and would therefore preserve the setting of these distinct parts of the settlement. The development site is adjacent to Brooklands the newer housing within the village and it is not considered that the proposed development would impact on the rural setting or the character and appearance of the village when approached from different directions. It is still considered that the proposed development would not intrude into the open countryside or have a significant visual impact that would affect the rural setting of the settlement.

- 3.4 Vehicular and pedestrian access: The proposal includes the provision of a new vehicular and pedestrian access onto Bicton Lane to the West of the site including widening of Bicton lane at this point to provide an additional passing place. A new pedestrian link is to be provided to the East of the site and this will provide an alternative safe pedestrian route for existing residents in Brookside and the Oval to the new open space and on to Bicton Lane as well as providing an alternative route for new residents to different parts of the village. The proposal therefore provides for greater connectivity to the wider pedestrian network for both new and existing residents
- 3.5 Boosting housing supply: Although the Council can currently demonstrate a 5 year land supply this proposal will contribute to the overall housing supply figure.
- 3.6 Deliverability: The applicant is a local house builder (Galliers Homes) and the Reserved Matters application is due to be submitted immediately following release of the outline decision with development planned to commence soon after a decision on the reserved matters application being issued. The S106 has been signed so the decision can be issued immediately and in any case will require submission of the reserved matters application within 12 months of the date of the decision. A layout plan has already been prepared ready for the Reserved Matters application and has been submitted to demonstrate the commitment of the applicant to progress the development of this site. It is therefore considered that the application is not speculative but that it is a highly deliverable sustainable housing site.
- 4.0 **Conclusion**
- 4.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in April. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

4.2 It is also considered that the proposed development includes a safe means of access and that a satisfactory layout, design and appearance of buildings and landscaping of the site (the reserved matters) can be achieved without adverse impact on the character and appearance of the area or residential amenity. The proposal would not result in the loss of any significant trees or hedgerow, and would have no adverse highway or ecological implications subject to the recommended conditions being imposed. Landscape details and open space provision will be fully considered and determined as part of the application for reserved matters. The on-site affordable housing provision will be secured by the S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS4, CS5, CS6, CS11 and CS17

11. Additional Information

List of Background Papers: File 14/02239/OUT and report to Central Committee 09 April 2015
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr John Overall
Appendices APPENDIX 1 - Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved prior to the first occupation of the dwellings or in accordance with an agreed timetable. The submitted scheme shall include:

- a. Means of enclosure, including all security and other fencing
- b. plan clearly showing a minimum of 5m wildlife corridor from the existing corridor features (watercourse) to the proposed development site fenced during development. Post development this area should be shown as not included within gardens
- c. Hard surfacing materials (including wildlife friendly gully pots and kerbs)
- d. Planting plans, including wildlife habitat and features (e.g. 6 hibernacula, areas of long grassland, bird and bat nest box)
- e. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- f. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- g. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- h. Implementation timetables
- i. Ecological trends and constraints on site that may influence management of public open space as newt habitat;
- j. Aims and objectives of management of public open space

- k. A works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be reviewed every 5 years)
- l. Personnel responsible for the management of public open space and implementation of the plan in k above

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

- 5. As part of the first application for reserved matters a surface water drainage strategy shall be submitted to the LPA to include a contoured plan of the finished ground levels to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

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.

- 6. As part of the first application for approval of Reserved matters full engineering details of the site access works, new access road, existing highway/road works, structures, foot/cycleways, surface water drainage, street lighting and carriageway markings/signs, shall be submitted to and approved by the planning authority; the works shall be fully implemented in accordance with the approved details prior to the development hereby permitted being first brought into use.

Reason: To ensure the construction is to an adequate standard in the interests of road safety.

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

- 7. The footpath link between the proposed site and Brookfield shall be provided prior to the first occupation of the dwellings hereby approved.

Reason: In the interests of sustainability.

- 8. 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. The approved scheme shall be implemented prior to the first occupation of the dwellings hereby approved.

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

9. Prior to the first occupation of the dwellings 10 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected at an appropriate height above the ground with a clear flight path.

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

10. Prior to the first occupation of the dwellings details of 6 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected.

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

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

11. Work shall be carried out strictly in accordance with the Great Crested Newt Assessment and Mitigation Strategy Supplementary Report by Eco Tech (January 2015, updated 24th March 2014).

Reason: To ensure the protection of GCN, a European Protected Species



<u>Committee and date</u>
Central Planning Committee
10 September 2015

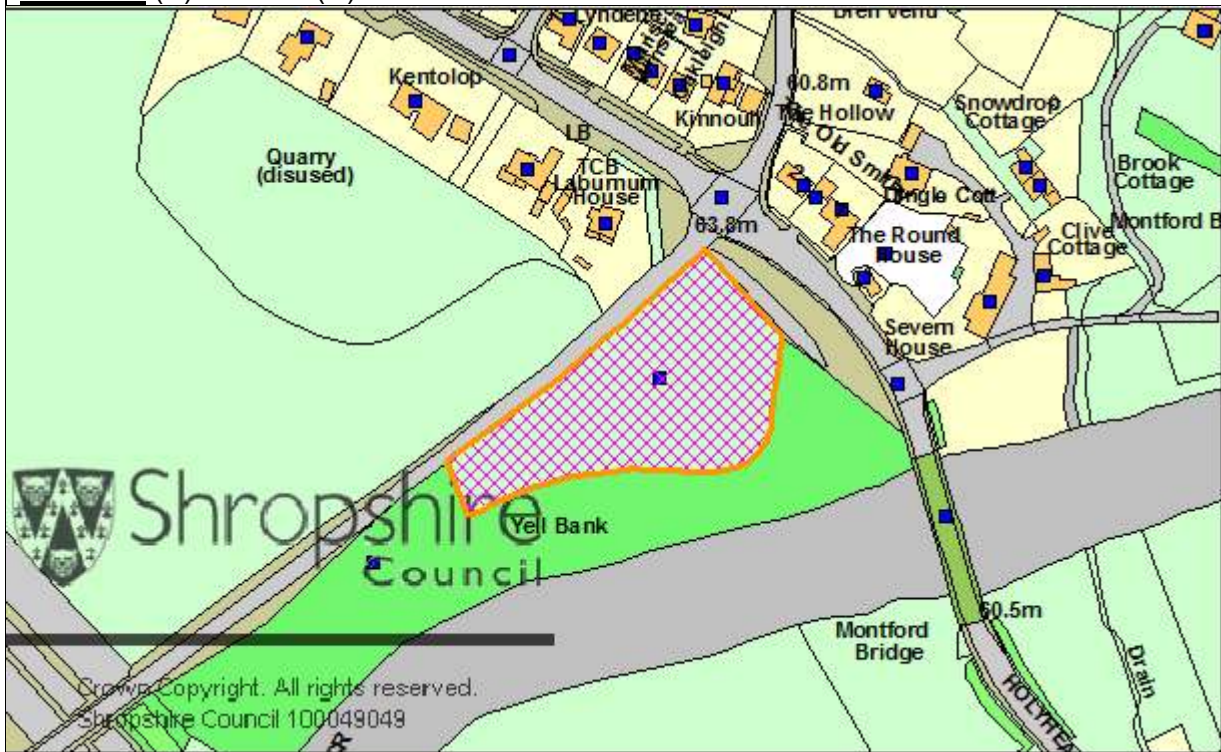
Development Management Report

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

Summary of Application

Application Number: 14/02964/OUT	Parish:	Montford Bridge
Proposal: Erection of 8 no. dwellings and formation of new vehicular access off Montford Bridge Road; provision of car parking to serve the existing fishing rights of the site.		
Site Address: Proposed Development Land NW Of Montford Bridge, Shrewsbury, Shropshire.		
Applicant: Shropshire Homes Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 343096 (N) 315361



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant affordable housing provision depending on rate at submission of Reserved Matters.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 12th March 2015 it was resolved by the Central Planning Committee to grant full planning permission for the erection of 8 dwellings and formation of new vehicular access off Montford Bridge Road together with the provision of car parking to serve the existing fishing rights of the site. The permission is subject to conditions and following completion of Section 106 agreement to secure the relevant affordable housing provision in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev policy S16.2(xii)** identifies Montford Bridge West as a Community Cluster in Montford Parish where development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the village, with a housing guideline of approximately 10 additional dwellings over the period to 2026. Outline planning permission has been granted (2013) for 5 dwellings on land south-west of the Holyhead Road. Applications on further sites within or adjacent to the village will be considered on an individual basis, but with a maximum of 1-2 dwellings per site sought in the Parish Council's Montford Housing Strategy.

Following the publication of Main Modifications this can now be given significant weight and the application must also be assessed against emerging Policy MD3 although it is noted that only limited weight can be given to this policy prior to adoption.

- 2.3 It is acknowledged that this application site is situated across the road from the built development in the village, but it is considered that the site is well contained and well screened by a substantial boundary hedge along Holyhead Road and is screened from view by a steep incline down to the River Severn to the rear. Moreover, as part of the previous considerations by the Central Planning Committee the proposal was considered to constitute a sustainable form of development where any harm would be outweighed by benefits.
- 2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:
- The draft s106 has been signed and a decision could be released immediately;
 - The site is well contained and well screened by a substantial boundary hedge along Holyhead Road and is screened from view by a steep incline down to the River Severn to the rear. As such the proposal would result in no visual harm or encroachment into the open countryside or wider landscape;
 - The proposed development includes the widening of this road and providing a footway link along it to join with the footways running through the village.
 - The proposed development includes the provision of access and car parking to serve the existing fishing rights of the site in perpetuity.

3.0 Conclusion

- 3.1 Development of the proposed site would accord with the emerging local development plan policies for the location of housing. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in March. Weight must also be given to other material considerations and those relevant to the determination of this application have been outlined above. It is considered that the benefits of the proposal outlined would still warrant a recommendation in favour of this application.
- 3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Saved Policies:

HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

CS4: Community Hubs and Community Clusters

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development

RELEVANT PLANNING HISTORY: n/a

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

Planning file 14/02964/OUT including report to 12th March 2015 Central Planning Committee

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr John Overall

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITIONS

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission.

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

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

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

4. The number of dwellings submitted with the Reserved Matters application shall not exceed 8 (eight).

Reason: To ensure the development is of an appropriate size in relation to the existing settlement and the services available.

5. Details of a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority concurrently with the submission of the first reserved matter. The approved scheme shall be completed before the development is occupied.

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

6. As part of the reserved matters details of the location and design of bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Assessment by Star Ecology dated April 2014.

Reason: To ensure the protection of badgers, hedgehogs and otters

8. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Risk Avoidance Measures for Reptiles by Star Ecology dated November 2014

Reason: To ensure the protection of reptiles and other wildlife.

9. No burning shall take place on site including during clearance of the site.

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

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

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

12. 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 a competent person and 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.

Note: In order to address the potential for gassing from the infilled material it is suggested that monitoring is carried out at the north west boundary of the site in order to establish if there is any gas migrating from the former quarried area to the proposed site. Alternatively information should be provided which states that gassing is not likely due to the type of infill material used e.g. inert material, this would be acceptable.

13. Prior to the commencement of the development full engineering details of the highway widening and footway link across the site frontage and to the B4380 shall be submitted to and approved in writing by the Local Planning Authority; these works shall be fully implemented in accordance with the approved details prior to the dwellings hereby permitted being first occupied.

Reason: In the interests of highway safety.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

14. Prior to the first occupation of the dwellings six artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

15. 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.

16. The parking and turning areas, including those serving the fishing rights shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained in perpetuity for that purpose.

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

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Committee and date

Central Planning Committee

10 September 2015

Development Management Report

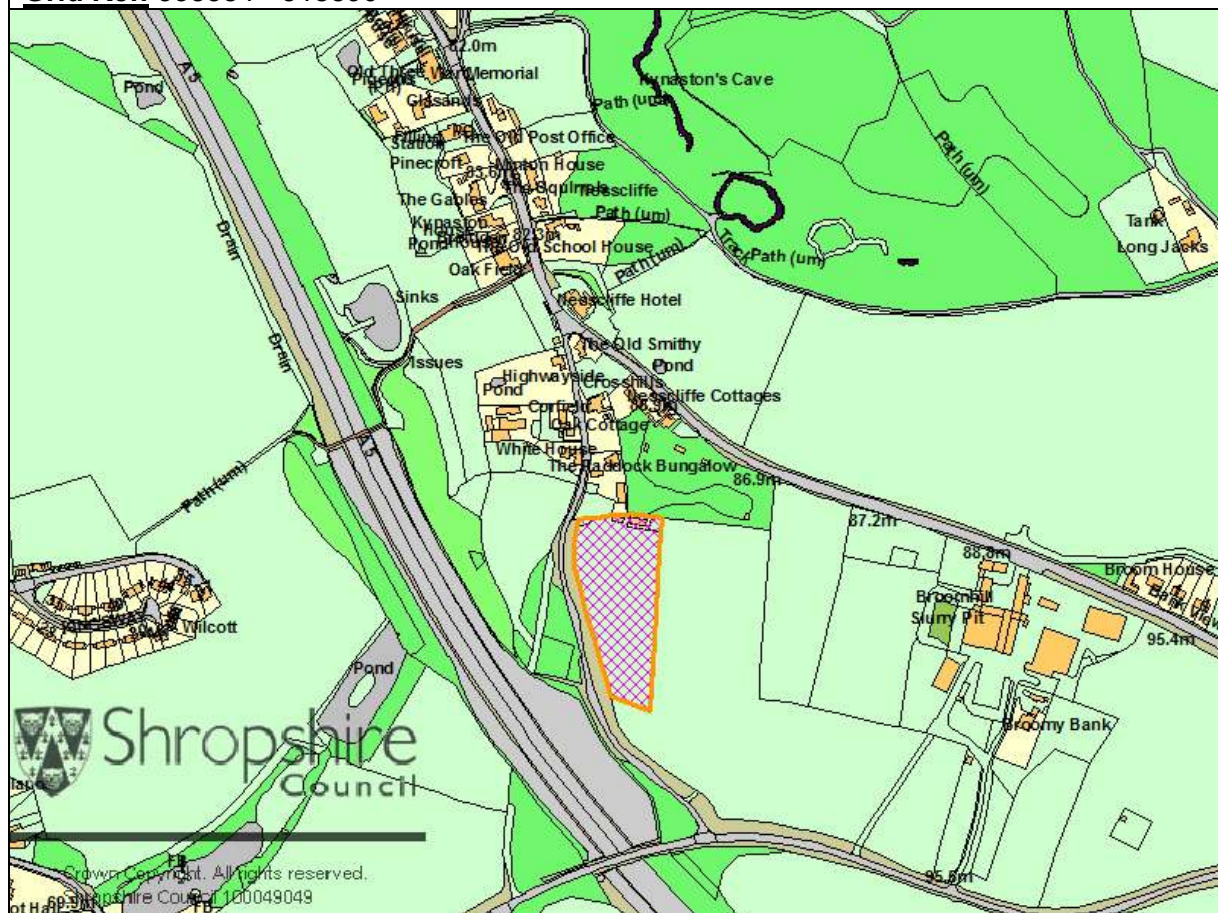
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03259/OUT	Parish:	Great Ness
Proposal: Outline application for proposed housing development (all matters reserved)		
Site Address: Proposed Residential Development East Of Wilcot Lane Nesscliffe Shrewsbury Shropshire		
Applicant: Midland Groundworks Ltd		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 338384 - 318890



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 12th February 2015 it was resolved by the Central Planning Committee to grant outline planning permission (all matters reserved) for proposed housing development subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'. The illustrative layout plan submitted with the application indicated the provision of 9 dwellings.
- 1.2 Since that time the S106 agreement has been progressed to a point where the s106 has been signed and sealed. Following consideration of this application on this agenda then the planning permission could be issued immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application was made the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev policy S16.2 (iv)** identifies Nesscliffe as a Community Hub and this can now be given significant weight. The application can also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy, prior to adoption.
- 2.3 This application site is located at the southern end of the village to the south of existing dwellings on Wilcot Lane. Nesscliffe does not have any defined development boundary and SAMDev identifies a housing guideline for the village of

Nesscliffe of around 30 new dwellings. This has already potentially been taken up and exceeded by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by those other smaller sites that have also been recently resolved/granted for approval in the village. As part of the previous considerations by the Central Planning Committee it considered that the development would constitute a sustainable development with the application site located within a suitable position, at the edge of the village, adjacent to existing dwellings.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply in the immediate future;
- The s106 has been produced and has been signed and sealed already;
- The development would result in no visual harm or encroachment into the open countryside or wider landscape.
- The proposed conditions include a requirement for the provision of bungalows, providing a mixed development of house types.

3.0 Conclusion

3.1 Development of the proposed site would potentially be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in June. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS4, CS5, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

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

Planning file 14/03259/OUT and committee report of 12th February 2015

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 – Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. The Reserved Matters submission shall include bungalows on the plots as shown on the illustrative site plan.

Reason: To ensure the provision of an appropriate mix and size of dwellings, and in the interests of the visual amenities of the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

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

7. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of nesting Barn Owls

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

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

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

9. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

10. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

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

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

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

12. No burning shall take place on site including during clearance of the site.

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

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. 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.
3. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
4. 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.

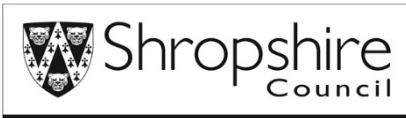
Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

5. 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). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.
6. 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.

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. An independent 32 amp radial circuit isolation switch must 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; "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."
9. Unless a s38 legal agreement is entered into with the Local Highway Authority (LHA) and the construction works are inspected, then the LHA will not consider the access road for adoption in future. If the access roads do remain private, the street name plates should state 'PRIVATE ROAD' or 'UNADOPTED ROAD' below the street name in order to ensure that the LHA aren't contacted regarding their upkeep in the future.
10. A licence will be required with the local highway authority for the proposed access before work can commence on site. Details of the process for obtaining a licence can be found on the following web page: [http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-\(dropped-kerb\)/](http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-(dropped-kerb)/)

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Committee and date

Central Planning Committee

10 September 2015

Development Management Report

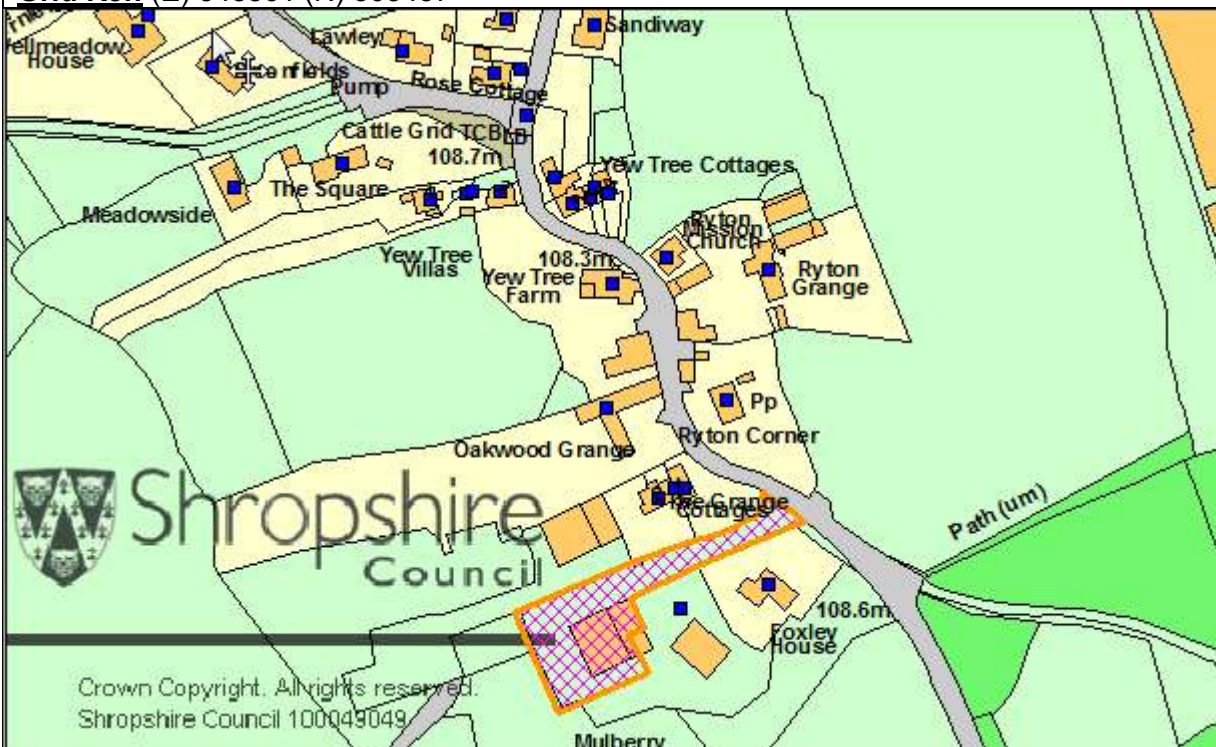
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03338/FUL	Parish:	Condover
Proposal: Outline Application for the erection of 2No dwellings (to include access).		
Site Address: Land West Of Mulberry House, Great Ryton, Shrewsbury, Shropshire.		
Applicant: The Planning Group Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 348861 (N) 303437



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 13th November 2014 it was resolved by the Central Planning Committee to grant outline planning permission for the erection of 2 dwellings (to include access) subject to conditions and to the signing of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev Policy S8.2 does not** identify Ryton as either a Community Hub or Cluster confirming its status as countryside, and this can now be given significant weight.
- 2.3 This application site is located within the built envelope of the village, and would be erected following the demolition of an agricultural storage building. However, the proposal would be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however considered to constitute a sustainable form of development with the application site located within a suitable position, representing an efficient reuse of brownfield land following the removal of an agricultural storage building with no encroachment into open countryside.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply including affordable in the immediate future;
- The draft s106 has been signed and a decision could be released immediately;
- The proposal will be sited on brownfield land following the removal of an agricultural storage building and therefore represents an efficient use of land enhancement of the visual amenity of the village and does not represent an encroachment into countryside.

3.0 Conclusion

3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in November. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Saved Policies:
HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)
CS5 : Countryside and Green Belt
CS6 : Sustainable Design and Development Principles
CS9 : Developer Contributions

CS11 : Type and Affordability of Housing
 CS17 : Environmental Networks
 CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development
 MD2: Sustainable Design

RELEVANT PLANNING HISTORY: n/a

7. Additional Information

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

Planning file 14/03338/OUT including report to 13th November 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)
 Cllr M. Price

Local Member
 Cllr Tim Barker

Appendices
 APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITIONS

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site
The levels of the site
The drainage of the site
The finished floor levels

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

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

6. 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 roosting opportunities for bats which are European Protected Species

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

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

8. A total of 2 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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

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

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

10. No burning shall take place on site including during clearance of the site.

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

11. Work shall be carried out strictly in accordance with the Assessment for Newts by Greenscape Environmental dated November 2014

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

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Committee and date

Central Planning Committee

10 September 2015

Development Management Report

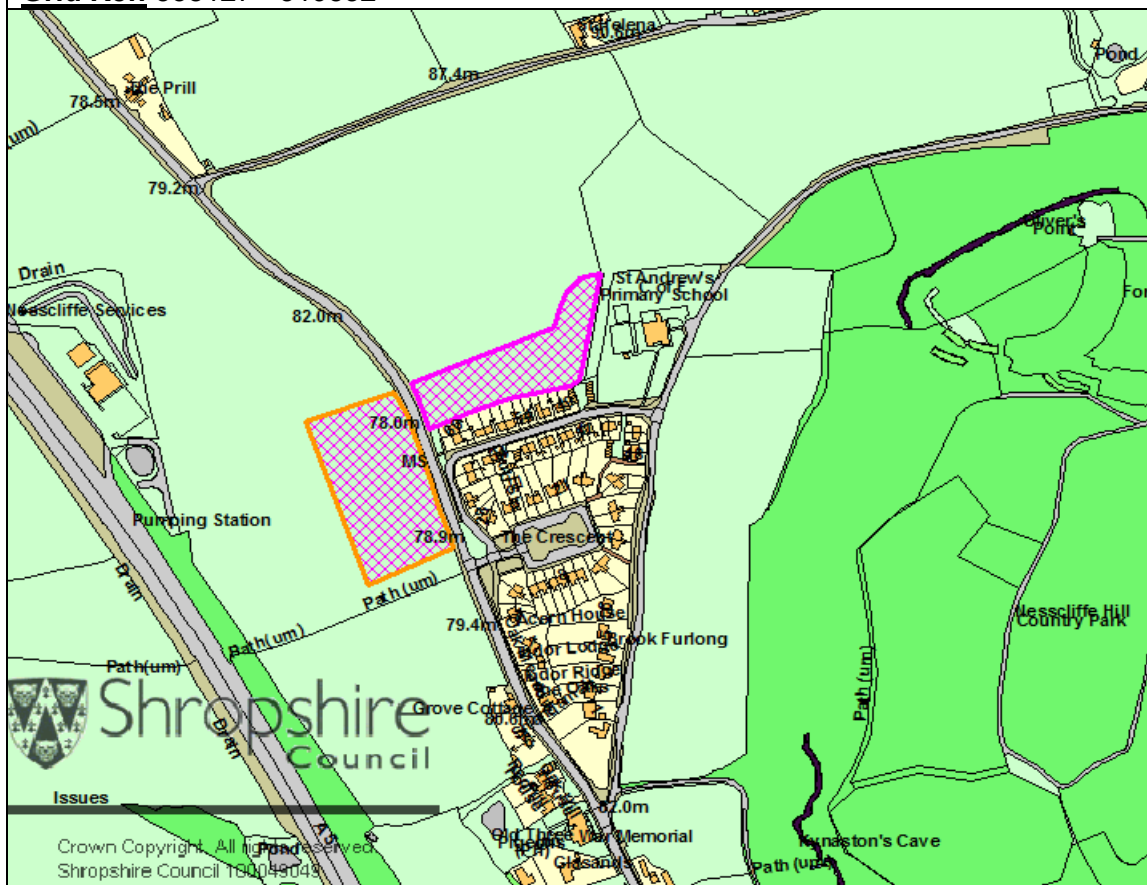
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03357/OUT	Parish:	Great Ness
Proposal: Outline application for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access)		
Site Address: Proposed Residential Development Opposite The Crescent Nesscliffe Shrewsbury Shropshire		
Applicant: JC & MW Suckley		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 338127 - 319532



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 11th December 2014 it was resolved by the Central Planning Committee to grant outline planning permission for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access) subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been progressed to a point where the s106 has been signed. Following consideration of this application on this agenda then the planning permission could be issued immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application was made the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev policy S16.2 (iv)** identifies Nesscliffe as a Community Hub and this can now be given significant weight. The application can also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy, prior to adoption.
- 2.3 This application site is located at the northern end of the village to the north and east of the allocated site for housing as set out in SAMDev. Nesscliffe does not have any defined development boundary and SAMDev identifies a housing

guideline for the village of Nesscliffe of around 30 new dwellings. This has already potentially been mostly taken up by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by other smaller sites that have also been recently resolved/granted for approval in the village. This application has been submitted by the same developers as for the adjacent allocated site and it is intended that both sites would be developed as one scheme. As part of the previous considerations by the Central Planning Committee it considered that the development would constitute a sustainable development with the application site located within a suitable position, at the edge of the village, adjacent to existing dwellings.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply in the immediate future;
- The s106 has been produced and has been signed and sealed already;
- The proposal would be developed at the same time as the adjacent allocated site;
- The proposal also includes a drop off/pick up facility to serve the adjacent school and the provision of land to be utilised for community development.

3.0 Conclusion

3.1 Development of the proposed site would potentially be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members last December. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS4,CS5,CS6,CS9,CS11,CS17

SAMDev
Housing Types and Affordability SPD

RELEVANT PLANNING HISTORY:

13/04757/OUT Application for Outline Planning Permission (access for approval) for residential development and associated works PDE

7. Additional Information

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

Planning File 14/03357/OUT and committee report for December 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 - Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development site to which this consent applies immediately prior to work commencing. The site should be inspected within 3 months prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of badgers

6. Prior to the commencement of the development full engineering details of the new access roads, existing highway/road works, structures, foot/cycleways, surface water drainage, street lighting and carriageway markings/signs, shall be submitted to and approved by the planning authority; the works shall be fully implemented in accordance

with the approved details prior to the development hereby permitted being first brought into use.

Reason: To ensure the construction is to an adequate standard in the interests of road safety.

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

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

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with Appendix 7 of the Ecological Survey Report by JW Ecological Ltd dated June 2013.

Reason: To ensure the protection of reptiles. 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).

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

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

9. Prior to the erection of any external lighting above 150W on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
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.

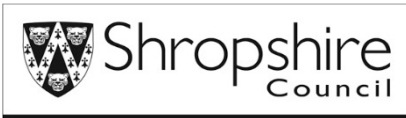
Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. 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 order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. An independent 32 amp radial circuit isolation switch must 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. Reason: Paragraph 35 of the NPPF states; "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."
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). 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.
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 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. The proposed site access and highway improvement works will require a s278 agreement with the local highway authority prior to these works commencing on site.
9. The use of soakaways should be investigated in the first instance for surface water disposal. The SuDs applicability for the area is Infiltration PLUS treatment as the development lies within a groundwater Source Protection Zone. Surface water run-off must be treated through a filtration unit prior to entering the soakaway and also pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. 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. As identified in the FRA the site is identified as being at risk of groundwater flooding. The level of water table should be determined if the use of infiltration techniques are being proposed.
10. 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.
11. The Management Train Approach should be central to the surface water drainage strategy of the proposed site. The main objective is treatment and control of runoff as near to the source as possible protecting downstream habitats and further enhancing the amenity value of the site 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. 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.
12. 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 and Greywater recycling systems to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.
13. Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.

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Committee and date
 Central Planning Committee
 10 September 2015

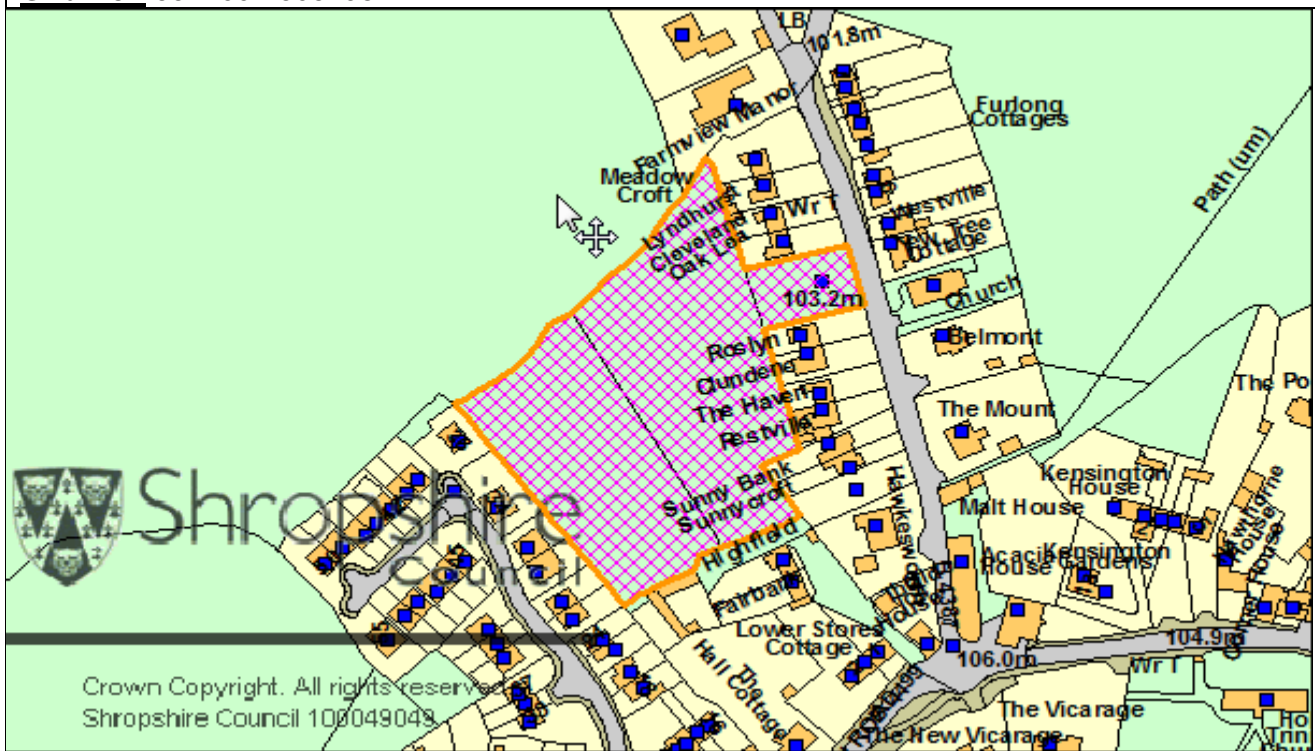
Development Management Report

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

Summary of Application

Application Number: 14/03670/OUT	Parish:	Minsterley
Proposal: Outline application for residential development of 15 No dwellings (to include access)		
Site Address: Land Off Horsebridge Road Minsterley Shrewsbury Shropshire		
Applicant: Executors Of Mrs E. Griffiths (deceased)		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 337260 - 305198



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and Section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 21st May 2015 it was resolved by the Central Planning Committee to grant outline planning permission (to include access) for residential development of up to 15 dwellings to include access, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been progressed to a point where a draft s106 agreement has been produced and the agreement is now ready to be signed and returned to the Council for sealing.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev Policy S12** identifies Minsterley, along with the adjacent settlement of Pontesbury as forming a joint Key Centre and this can now be given significant weight. The application can also be assessed against emerging Policy MD3, Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy, which is subject to modification, prior to adoption.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Minsterley and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however

considered to constitute a sustainable form of development with the application site located within a suitable position, immediately adjacent to the development boundary and bounded on three sides by the development boundary and existing housing itself.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply in the immediate future;
- The draft s106 has been produced and will be signed imminently;
- Due to the topography of the site and its position bounded on three sides by development contained within the development boundary for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;
- The application includes the provision of a footpath link from the site into and towards the centre of the village for future occupants.

3.0 Conclusion

3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in February. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

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

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Saved Policies:

HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

CS3 : The Market Towns and Other Key Centres

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development

RELEVANT PLANNING HISTORY: n/a

7. Additional Information

View details online:

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

Planning file 14/03670/OUT including report to 21st May 2015 Central Planning Committee

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Tudor Bebb

Appendices

APPENDIX 1 - Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. No development shall take place 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.

Reason: The development site is known to have archaeological interest

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

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

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

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

8. Visibility Splays of a depth of 2.4 metres and a length of 43m metres from the centre point of the junction of the access road with the public highway shall be provided before the commencement of the development, and these splays shall thereafter be kept free of any obstacles or obstructions.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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

9. 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 any of the dwellings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. Prior to the erection of any external street 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.

11. A total of 2 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

12. Prior to the first occupation of the residential development hereby approved, the proposed footway link between the development site and Leigh Road through the adjacent shared private driveway as shown on the approved plans shall be established and surfaced in a suitable bound material prior and shall thereafter permanently be retained as such.

Reason: To ensure the development site is served by a satisfactory and safe walking link to the village.



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

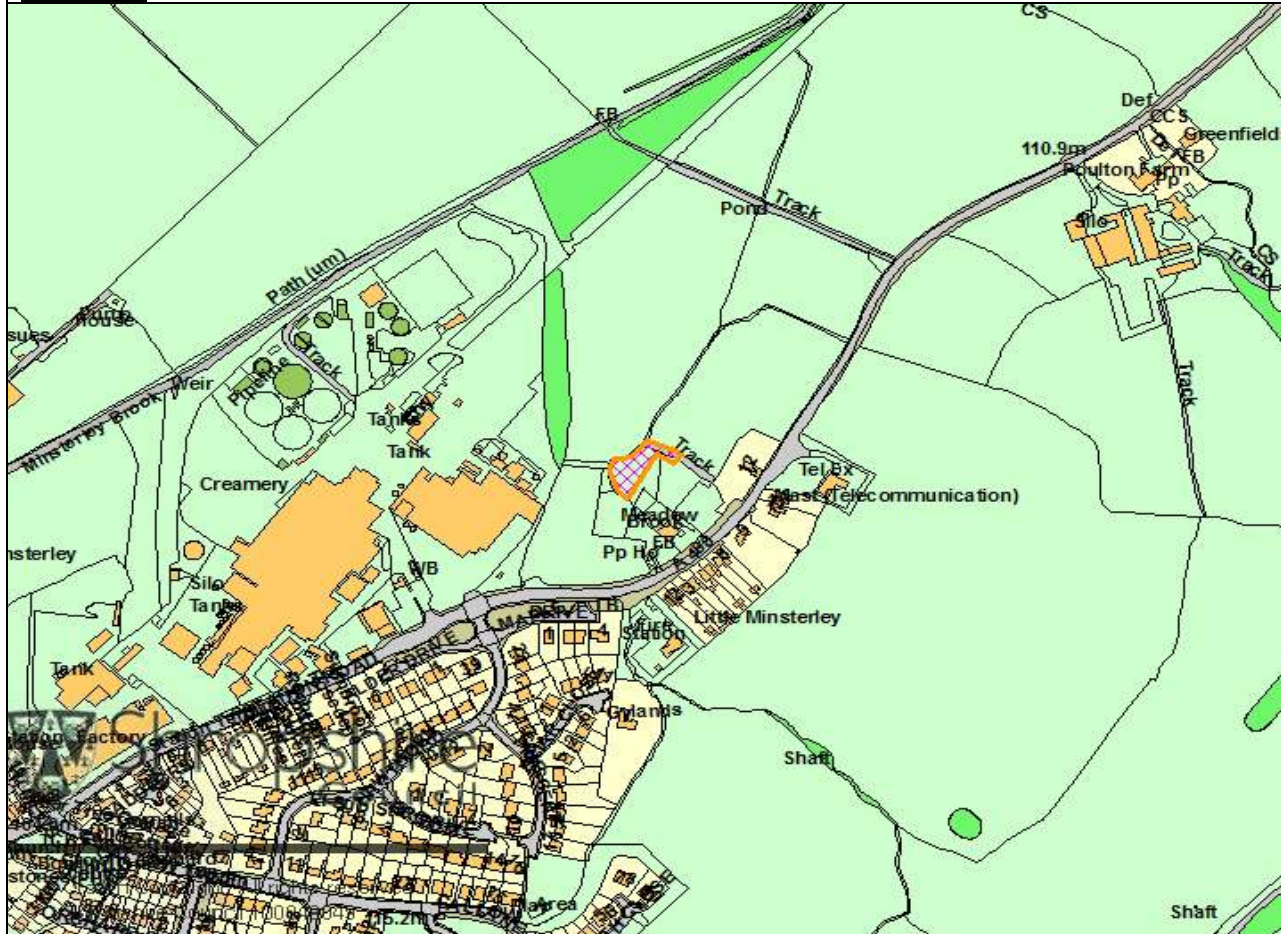
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/00808/FUL	Parish:	Minsterley
Proposal: Erection of 1no: detached bungalow and 1no: detached 2 storey dwelling; including 2 detached garages, car parking and associated landscaping		
Site Address: Proposed Development Land West Of 12 Little Minsterley Minsterley Shrewsbury Shropshire		
Applicant: Mr Steve Jennings		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 337961 - 305352



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 18th June 2015 it was resolved by the Central Planning Committee to grant full planning permission (to include access) for the erection of 1no: detached bungalow and 1no: detached 2 storey dwelling; including 2 detached garages, car parking and associated landscaping, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been progressed to a point where the engrossments have been sent to the applicants for signing before being returned to the Council for signing and sealing. On completion of this the planning permission could issued immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application was made the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 SAMDev policy S12 identifies Minsterley, along with the adjacent settlement of Pontesbury as forming a joint Key Centre and this can now be given significant weight. The application can also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be

met prior to the end of the plan period, it is noted that only limited weight can be given to this policy prior to adoption.

2.3 This application site is located just outside, but close to, the identified development boundary for Minsterley and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the site was however considered to constitute a sustainable development with the application site located within a suitable position, close to the development boundary and immediately adjacent to and adding to a site that already has granted outline and reserved matters planning permissions for housing (14/01684/OUT & 15/00809/REM).

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The application is a full planning application and the house and bungalow would be constructed as part (by the same developer) of an adjacent development that already has the benefit of both outline and reserved matters planning permissions, aiding to boost housing supply in the immediate future;
- The s106 has been produced and is awaiting signature;
- Due to the topography of the site and its position bounded on two sides by a housing development that already has the benefit of planning permission the site would appear to visually infill and complete a rear corner of the development and would result in no visual harm or encroachment into the open countryside or wider landscape.

3.0 Conclusion

3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in June. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.

3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

- ② 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.
- ② 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.

4.2 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.

4.3 Equalities

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

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS4, CS6, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

-

7. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning File 14/00808/FUL including report to 18 th June 2015 Central Planning Committee
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Tudor Bebb
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. The external materials and their colour shall be as shown on the deposited plans.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a noise assessment in respect of noise from the adjacent creamery site and details of any resulting noise mitigation proposals have been submitted to and approved in writing by the local planning authority. The approved mitigation scheme shall be completed prior to the first occupation of the dwellings and shall thereafter be retained.

Reason: To protect the amenities of future occupiers of the new properties from excessive noise.

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

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said

development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

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

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

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

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

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

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

7. A total of 1 woodcrete bat box 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

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

8. No development shall take place within 3 metres of the brook which runs alongside the north western boundary of the site.

Reason: To ensure access to the brook is maintained for maintenance purposes and not to cause any obstructions of the flow of the brook.

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

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

10. No burning shall take place on site including during clearance of the site.

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

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
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. The formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway'

prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

6. Ordinary Watercourse Consent is required from Shropshire Council for any works within the channel of the watercourse that will obstruct/ affect the flow of the watercourse including temporary works. Ordinary Watercourse Consent Application Form and Guidance Notes are on the Council's website: www.shropshire.gov.uk/flooding

Reason: To ensure that it complies with the Land Drainage Act 1991

7. Consent is required from the service provider to connect into the foul main sewer.
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. Any external lighting should be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK in order to minimise disturbance to bats, a European Protected Species. Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.
10. 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.
11. In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. Paragraph 35 of the NPPF states; "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." An independent 32 amp radial circuit isolation switch should therefore be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point should comply with BS7671 and

a standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and be provided with a locking weatherproof cover if located externally to the building.



Committee and date

Central Planning Committee

10 September 2015

Schedule of Appeals and Appeal Decisions

As at 10 September 2015

LPA reference	14/03425/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs J & K Reynolds
Proposal	Outline application for the erection of one dwelling to include means of access
Location	Proposed Dwelling To The East Of Grove Lane Pontesbury Shrewsbury
Date of application	31.07.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	10.12.2014
Date of appeal	23.02.2015
Appeal method	Written Representations
Date site visit	30.06.2015
Date of appeal decision	27.07.2015
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	14/05742/OUT
Appeal against	Appeal Against Refusal
Appellant	Morris Property
Proposal	Outline application (access, layout for approval) for mixed residential development; formation of a vehicular access and associated infrastructure (revised scheme)
Location	Development Land Adj Oaklands Holyhead Road Montford Bridge Shrewsbury
Date of application	23.12.2014
Officer recommendation	Approval
Committee decision (delegated)	Committee
Date of decision	14.04.2015
Date of appeal	01.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05309/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs I Middleton
Proposal	Outline planning for the erection of a self build open market dwelling and detached garage: including formation of new vehicular access. (Access for Approval)
Location	Land South West Of Brook Farm Longden Common Shrewsbury
Date of application	25.11.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	26.03.2015
Date of appeal	14.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/03062/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs Thomas
Proposal	Erection of one single storey dwelling and detached garage; replacement stabling.
Location	Proposed Dwelling Opposite Jessamine Cottages Wattlesborough Halfway House Shrewsbury
Date of application	10.07.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	19.12.2014
Date of appeal	06.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/03575/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr John Lakelin
Proposal	Outline application (all matters reserved) for the erection of one dwelling
Location	Proposed Dwelling To The South Of Grove Lane Pontesbury Shrewsbury
Date of application	08.08.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	22.12.2014
Date of appeal	20.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/03796/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr E Jones
Proposal	Outline application for the residential development of 3 dwellings to include access (amended description)
Location	Land To The South Of Queensway Wilcott Shrewsbury
Date of application	21.08.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	26.11.2014
Date of appeal	26.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05583/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr Andrew Smallman
Proposal	Erection of a detached dwelling and garage
Location	Proposed Dwelling At Plot Adj To Frodesley Lane Farm, Acton Burnell, Shrewsbury.
Date of application	18.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	02.04.2015
Date of appeal	12.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05324/OUT
Appeal against	Appeal Against Refusal
Appellant	Galliers Homes
Proposal	Outline application for residential development to include means of access
Location	Development Land To The North Of Gorse Lane Bayston Hill Shrewsbury
Date of application	28.11.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	05.05.2015
Date of appeal	29.06.2015
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/03451/FUL
Appeal against	Appeal Against Refusal
Appellant	Mrs M Jones
Proposal	Erection of 2 no. dwellings with associated garages; formation of vehicular access
Location	Proposed Residential Development To The NW Of Ford Shrewsbury
Date of application	01.08.2014
Officer recommendation	Approval
Committee decision (delegated)	Committee
Date of decision	19.12.2014
Date of appeal	19.06.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05383/FUL
Appeal against	Appeal Against Refusal
Appellant	R & R Partnership
Proposal	Erection of a single open market residential dwelling.
Location	West Of Victoria Terrace Shrewsbury
Date of application	01.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	07.04.2015
Date of appeal	16.06.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05693/FUL
Appeal against	Appeal Against Refusal
Appellant	Ms A Wellings
Proposal	Erection of detached dwelling and alteration to existing access
Location	Cobblers Cottage 2 Mount Pleasant Vennington Road Westbury
Date of application	05.01.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	14.05.2015
Date of appeal	05.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	15/00292/OUT
Appeal against	Appeal Against Refusal
Appellant	J Elcock
Proposal	Outline application for a single dwelling to include means of access
Location	Ashdale Cottage Condover Shrewsbury
Date of application	23.01.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	26.05.2015
Date of appeal	09.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/05580/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr A Morgan
Proposal	Outline application for the erection of two detached dwellings with associated garaging to include means of access
Location	Land To The South Of Sheinton Road Cressage Shrewsbury
Date of application	18.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	17.02.2015
Date of appeal	23.07.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

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Appeal Decision

Site visit made on 30 June 2015

by David Spencer BA (Hons) DipTP MRTPI

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

Decision date: 27 July 2015

Appeal Ref: APP/L3245/W/15/3005443

Land on Grove Lane, Pontesbury, Shrewsbury, Shropshire.

- 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 & Mrs J & K Reynolds against the decision of Shropshire Council.
 - The application Ref 14/03245/OUT, dated 29 July 2014, was refused by notice dated 10 December 2014.
 - The development proposed is a single dwelling on Grove Lane.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved except for access. I have dealt with the appeal on that basis.
3. Although not referenced on the decision notice, I am mindful that the submitted Shropshire Site Allocations and Management of Development Plan (the SAMDev), which is currently being examined, is germane to the issue of housing land supply. I understand at the time of writing this decision a number of proposed modifications suggested to make the document sound are being consulted on. Consequently, the plan is at a relatively late stage in its preparation and is likely to be adopted later in 2015. Accordingly, and with regard to paragraph 216 of the National Planning Policy Framework (NPPF), I attach appreciable weight to the emerging SAMDev document.
4. The appellant has submitted a planning obligation in the form of a Unilateral Undertaking (UU), signed and dated 17 February 2015, which would make a financial contribution towards affordable housing provision. The proposed contributions in the UU would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.

Main Issue

5. The main issue is whether the proposed development would provide a suitable site for housing, having regard to the principles of sustainable development and housing land supply.

Reasons

Suitability for housing

6. Pontesbury is a sizeable rural settlement containing a good range of day-to-day services and facilities including public transport links to Shrewsbury. Together with the nearby settlement of Minsterley it is identified in the emerging SAMDev as a key centre in the settlement policy framework. The SAMDev supports sustainable development in key centres, including additional housing development. The appeal site is at the south-eastern edge of Pontesbury, a short distance beyond the settlement boundary. It is in an area of open countryside between the settlement and the Shropshire Hills Area of Outstanding Natural Beauty (AONB) immediately to the south and a short distance to the east.
7. The development plan in Shropshire consists of the Shropshire Local Development Framework Adopted Core Strategy 2011 (CS) of which Policies CS5, CS6 and CS17 are cited in the Council's decision notice. Policy CS5 seeks to strictly control new development in the countryside to that which is essential for the social and economic well-being of rural communities and businesses. Policy CS6 seeks to secure sustainable design, including amongst other things, conserving and enhancing the natural environment and reflecting local context and character. Policy CS17 requires new development to protect and enhance the local character of the natural environment in general terms and more specifically the Shropshire Hills AONB. Whilst the CS pre-dates the publication of the NPPF these policies are consistent with it and in particular the core planning principle at paragraph 17 to recognise the intrinsic character and beauty of the countryside. Therefore, having regard to paragraph 215 of the NPPF, I attach significant weight to these policies of the adopted development plan.
8. The appeal site is within reasonable walking and cycling distance of the range of facilities in Pontesbury. Whilst there are short sections along the route to these facilities where there is no footway, these are on generally quiet country lanes, within a reduced speed limit, and where there is some street lighting. As such the location of the appeal site is not isolated and this is a positive factor which weighs in favour of the appeal proposal. In accordance with the Planning Practice Guidance¹, the appeal proposal as a single dwelling would also make a modest contribution to supporting the thriving rural community at Pontesbury and the viability of community facilities. However, paragraphs 6-9 of the NPPF identify that sustainability should not be narrowly defined. Wider considerations such as contributing to protecting and enhancing the natural environment are necessary if sustainable development is to be achieved.
9. Grove Lane is a narrow country highway largely contained within steep, hedged banks. At the point of its junction with Habberley Road, a short distance to the west of the appeal site, the lane passes between the dwellings at Yew Tree Cottage and Tremellion. These dwellings are identifiable within the settlement of Pontesbury with a clear relationship to the pattern of dwellings along Habberley Road. However, moving eastwards, beyond these properties, the lane adopts a clear rural character reinforced by the verdant enclosure of strong hedging along its northern boundary, including at the appeal site. On the opposite southern boundary the rural character is maintained by the mix of

¹ PPG Reference ID: 50-001-20140306

hedging and scattered residential development set back from the highway within established gardens. Consequently, this residential development is well-landscaped and does not conspicuously intrude on the overall rural character.

10. In contrast, other than the gable end of Tremellion at the junction of Habberley Road, there is no existing residential development on the northern side of Grove Lane in the vicinity of the appeal site. The proposed dwelling would be separated from the built edge of Pontesbury to the west by an intervening pastoral field. Whilst it is in the 'Principal Settled Farmlands' landscape character typology, which is defined by clustered settlements with a medium to high density dispersal of farmsteads and wayside cottages, the appeal site is nonetheless not part of an established character of linear roadside dwellings. As such I share the view of the Council that the appeal proposal would introduce a sporadic development into the open countryside.
11. Whilst the position, scale and appearance of the proposed dwelling would be a reserved matter, the appeal site is at an elevated position as the lane begins a notable ascent towards the Pontesford and Earl's Hills in the AONB to the east. The appeal site occupies one corner of a wider field and the only established landscaping is the hedging along the highway. A significant length of this hedging would need to be removed to achieve the necessary visibility splays for safe highway access. Accordingly, due to topography and lack of established vegetation a new dwelling on the appeal site would be harmfully exposed in the wider landscape.
12. It would also be visible in views along Grove Lane, notably the open gateway to the west which affords pleasant north-easterly views over the rolling agricultural landscape towards the AONB. Additionally the removal of the established hedgerow along the site frontage would also be detrimental to the rural character of this quiet lane which connects the settlement to the wider landscape and the AONB. I acknowledge that replacement hedging is shown on the submitted plans and could be secured by condition but this would take some time to become established. In addition it is unlikely to effectively screen the presence of the dwelling as a sporadic development in the countryside.
13. The appellant submits that the appeal proposal would be seen against the backdrop of the two storey dwellings a short distance to the west. In some westerly views along Grove Lane and in the very limited number of long range views from the AONB to the east I accept that this would be the case. However, the same would not apply when facing the opposite direction towards the AONB and the immediate rural landscape at the edge of Pontesbury. I consider this to be significantly harmful given the current absence of residential development in this rural perspective.
14. My attention has also been drawn to a site with outline planning permission² on Grove Lane to the rear of Yew Tree Cottage. Whilst this is a short distance from the appeal site it sits within the defined curtilage of the host property and contains a sizeable outbuilding close to the highway edge. It would also be directly adjacent the development boundary and generally occupies lower lying land with a better relationship to the existing settlement and limited inter-visibility with the AONB due to topography and surrounding land cover. This noticeably contrasts with the elevated and solitary position of the appeal

² Reference 14/01785/OUT

- proposal in the wider landscape. Accordingly I do not consider that the nearby permitted site on Grove Lane sets an applicable precedent.
15. In considering the suitability of the site for housing the Council's ability to demonstrate a five year supply of deliverable housing land is contested by the appellant in the context of paragraphs 14 and 49 of the NPPF. These paragraphs reaffirm the presumption in favour of sustainable development, and the need for a balancing exercise to be undertaken.
 16. The appellant submits evidence, largely relating to the current SAMDev process, which has analysed the Council's Housing Land Supply Statement of November 2014. A further housing supply rebuttal from the appellant dated June 2015 refers to updated Council evidence in relation to another appeal but I have few details about this evidence. However, I have carefully noted in the submissions that the appellant considers that the housing requirement in Shropshire should be increased to reflect amongst other things, a 20% buffer to historic shortfalls and the use of an annualised rather than phased approach. The appellant also submits that supply side should be reduced to take account of site specific delivery problems with permitted sites and proposed SAMDev allocations and how sites with a resolution to grant planning permission have been treated. As a consequence the appellant originally averred that the Council only has 2.64 years of deliverable supply although this figure is recalibrated to 4.28 years in the June 2015 rebuttal.
 17. The Council's position at the time of determining appeal and in its Housing Land Supply Statement of November 2014 is that it can demonstrate a small margin above the minimum five year supply of deliverable housing land. However, this would appear to be subject to methodological assumptions and the inclusion of proposed allocations that have informed the SAMDev and are currently being examined. Nonetheless, I have been referred to two recent appeal decisions³ in Shropshire where Inspectors have concluded there is a 5 year supply of deliverable housing land. However, I also note that the Council's committee report⁴ of 29 April 2015 in the determination of The Leasowes at Church Stretton at paragraph 6.1.2 states that the Council is unable to demonstrate a five year supply and as a consequence saved housing policies are out of date.
 18. Whilst there is a welter of evidence before me on housing land supply it would not be appropriate for me, however, to repeat the work of the SAMDev examination in the context of an appeal proposal for a single dwelling and undertake a strategic review of the housing requirement and a forensic review of the component sources of supply, including the deliverability of individual sites. What is clear to me from the submissions of both parties is that, in the interim, before the SAMDev is shortly to be adopted, the situation on deliverable housing land supply in Shropshire is complex and debatable. Even when taking an optimistic outlook in line with the Council's submission, provision of deliverable housing land would be, at best, only marginally above the minimum five year requirement. Consequently, I share the view of both parties, that the objective of paragraph 47 of NPPF to boost significantly the supply of housing is a material consideration in this appeal and as such the presumption in favour of sustainable development at paragraphs 14 and 49 of the NPPF is invoked.

³ APP/L3245/A/14/2223087 & APP/L3245/A/14/2222742

⁴ Appendix 1D Appellant's Final Comments

19. Paragraph 14 of the NPPF requires a balance of whether the adverse impacts would significantly and demonstrably outweigh the benefits. In addition to the benefit of being in a sustainable location within walking and cycling distance of key day-to-day facilities, the proposed dwelling would be situated on the appellant's rural horticultural smallholding. However, I have very little evidence that a dwelling on-site would be essential to the vitality and viability of this rural business, including on-site security, and as such I attach very little weight to the benefit of the dwelling supporting the operation of the business.
20. An additional market dwelling in terms of the supply of housing would also be a benefit albeit only a modest one. The proposal would also provide an opportunity for an energy efficient and sustainably constructed dwelling but given the direction of travel on construction standards such a benefit would not be significant. The proposal would be liable for the Community Infrastructure Levy (CIL) of which a significant proportion would be spent in the parish. However, as CIL is designed to deliver infrastructure necessary to support additional development I consider this to be neutral factor in any overall balance rather than a positive benefit in favour of the proposal.
21. It would also be the case that the appeal proposal would not have an unacceptable effect on highway safety given the likely volumes and speed of traffic on Grove Lane, the low number of trips likely to be generated by a single dwelling and the relatively short distance to reach the wider highway network at Habberley Road.
22. However, the benefit of its proximity to day-to-day services and facilities together with the other modest benefits identified would be significantly and demonstrably outweighed by the adverse impact on the intrinsic character and beauty of the countryside and wider valued landscape at this rural edge of Pontesbury. The significant harm to the natural environment and the character of the area resulting from the solitary position of the dwelling means that the environmental gains necessary to achieve sustainable development would not be secured and consequently there is not the presumption in favour of the appeal proposal in the context of paragraph 14 of the NPPF.
23. I therefore conclude that the proposed development would not provide a suitable site for housing, having regard to the principles of sustainable development and housing land supply. It would be contrary CS Policies CS5, CS6 and CS17 which seek to protect the countryside from inappropriate development. It would also fail to accord with the objective of the NPPF to take account of the character of different areas, including recognising the intrinsic character and beauty of the countryside.

Other Matters

24. The appellant has drawn my attention to the recently published modifications to the SAMDev including references to modified Policy MD3 which state that planning permission will also be granted for other sustainable housing development and for this to apply to windfall development on sites both within settlements and in the countryside. I have very little information on the context of the proposed modification, which remains subject to consultation and further consideration as part of the SAMDev examination. However, I consider that its qualification for sustainable housing development means the proposal would not accord with this emerging policy given my conclusion on the main issue.

25. The appellant has submitted a signed and dated UU which would make a financial contribution towards the provision of affordable housing in accordance with CS Policy CS11. However, because I am dismissing the appeal for other reasons it is not necessary for me to consider its provisions further.

Conclusion

26. For the above reasons, and having regard to all other matters, I conclude that the appeal should be dismissed.

David Spencer

INSPECTOR.