



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

Date: Monday, 16 November 2015

Committee:
North Planning Committee

Date: Tuesday, 24 November 2015
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
John Cadwallader
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

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

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 27th October, attached, marked 2. (Minutes to Follow)

Contact: Emily Marshall on 01743 257717;

3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

4 Disclosable Pecuniary Interests

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

5 Development Land East Of Wem Road, Shawbury, Shropshire (14/04558/OUT) (Pages 1 - 34)

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

6 Former Oswalds Stores, Oswalds Well Lane, Oswestry, Shropshire, SY11 2TF (15/03804/FUL) (Pages 35 - 50)

Erection of four dwellings.

7 Appeals and Appeal Decisions (Pages 51 - 68)

8 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 22nd December 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

24th November 2015

Item

5

Public

Development Management Report

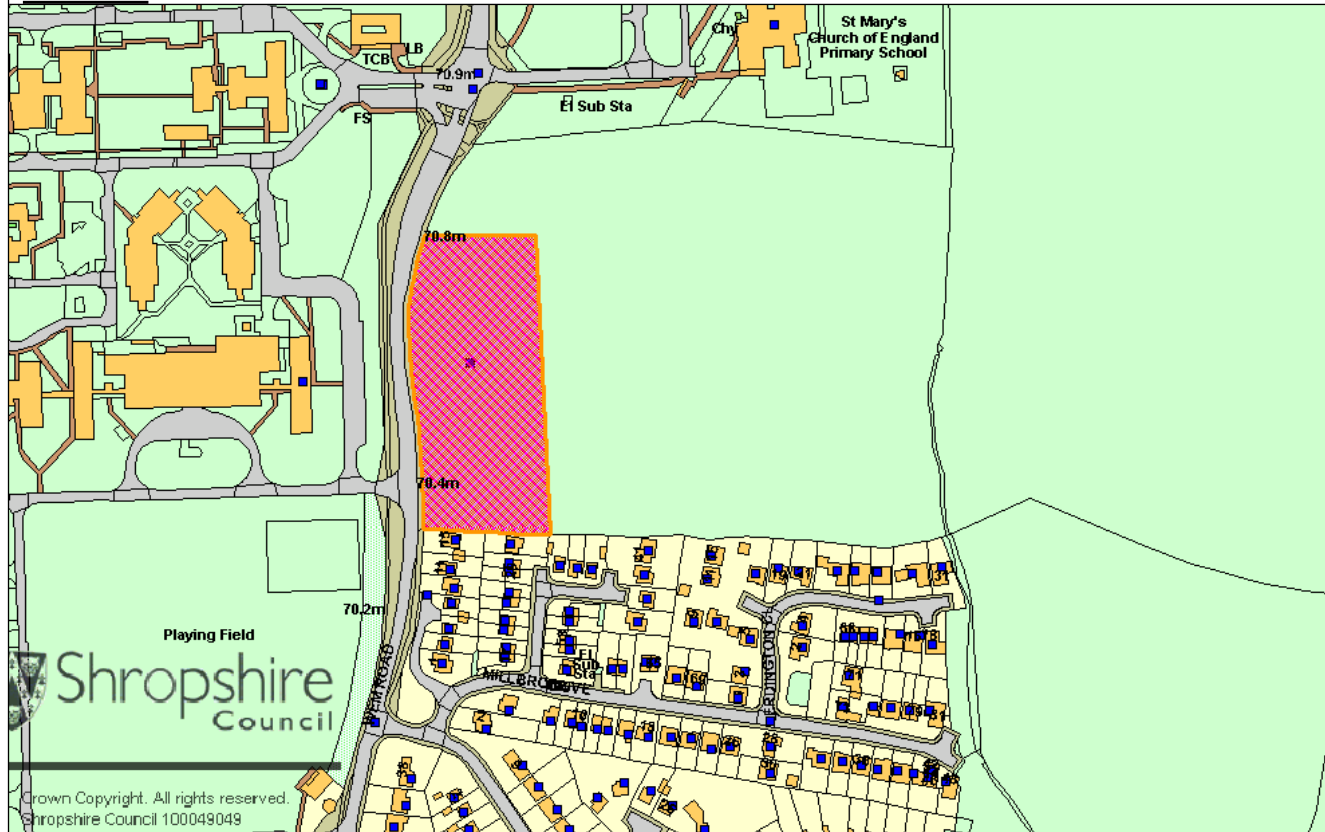
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04558/OUT	Parish: Shawbury
Proposal: Outline application (access for approval) for mixed residential development	
Site Address: Development Land East Of Wem Road Shawbury Shropshire	
Applicant: Acton Reynald Estate Trustees	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 355859 - 321746



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Recommendation:- REFUSE planning permission for the following reasons:

1. *The proposal is considered to conflict with the Shropshire Core Strategy, Shropshire Site Allocations and Management of Development Plan (SAMDev) and the saved policies of the North Shropshire Local Plan as the development proposes housing development in an area identified as countryside for planning purposes which does not comply with the restricted development supported in the policies. The site is not a recognised site for development in accordance with SAMDev policy S17.2, Core Strategy policy CS5 or saved policy H5 of the North Shropshire Local Plan. The Council is also of the opinion that it can now demonstrate an adequate five year supply of house building land as required by paragraph 49 of the NPPF.*

2. *The development of the site is not considered to be sustainable development in accordance with the overall aims and objectives of NPPF by reason of the visual impact of the development and the environmental harm from developing grade 3 agricultural land. These adverse impacts are considered to be harm resulting from the development which are not outweighed by the benefits identified or any material considerations.*

ADDENDUM TO PREVIOUS OFFICER REPORTS**1.0 THE PROPOSAL**

1.1 On the 17th February 2015 members of the North Planning Committee resolved to grant outline planning permission for residential development for up to 25 dwellings on land at Wem Road, Shawbury. Access was detailed for approval with all other matters reserved. The resolution was subject to a S106 agreement for affordable housing and also subject to the further noise survey work and no further objections from the MOD or Defence Infrastructure Organisation (DIO).

1.2 This report is presented to members to consider the following:

- The change in weight to the SAMDev
- The updated noise information and consultation responses received

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 0.93 hectares in area and is part of a larger agricultural field on the edge of Shawbury. It has road frontage onto the Wem Road and lies opposite the RAF Shawbury base and buildings within the base. To the south of the application site lies an existing housing estate made up of a mix of detached and semi detached houses and bungalows. Two existing dwellings sit with their side elevations facing over the application site, one of which is a bungalow with ground floor windows in the facing elevation, the second is a two storey dwelling with one ground floor window. To the north of the site is agricultural land and north of that lies the exit road for the, now disused, primary school and the recently completed sports facilities for the RAF base.

2.2 There is a low roadside hedge running along the Wem Road with a footpath and the field boundary post and wire fence on the inside of the site but the side and rear boundaries of the application site are not currently defined and the land is open to the remainder of the field. The boundary with the adjacent dwellings is also a hedge which varies in height. The main part of Shawbury lies to the south

of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application was previously considered by members and therefore the confirmation or alteration of the resolution to grant is a matter for members.

The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which cannot be overcome by condition or negotiation.

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

4.0 Officer appraisal

4.1 Change in weight to SAMDev

4.1.1 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 other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).

4.1.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. 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. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:

4.1.3 The Development Plan

For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date and as the SAMDev progresses the weight that can be given to NSLP policies reduces.

4.1.4 Shropshire Core Strategy policies CS1, CS4 and CS5 - Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision. It is envisaged that the community hubs and clusters will enable the rural rebalance to make rural areas more sustainable and accommodate around 35% of Shropshire's residential development. The identification of hubs and clusters is to be done through the SAMDev and therefore policy CS4 is reliant on the SAMDev for the detail of settlement allocation, however it does set principles for future development of settlements which are not identified in CS2 or CS3. Policies CS1

and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.

- 4.1.5 The site lies outside the development boundary for Shawbury (in both the saved NSLP and the SAMDev). Therefore, the proposal conflicts with adopted Core Strategy policies CS1 and CS4 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions in housing needs, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.
- 4.1.6 SAMDev Policy – The SAMDev is now considered to be at a very advanced stage. The SAMDev Plan Inspector has recently sent her report on the submitted policy following the main modifications in July 2015 and the examination in public in November & December 2014. The final stage of the SAMDev is for it to be presented to Full Council in December 2015 with a recommendation for approval. The report from the Inspector is the last changes that will be made to the plan and policies.
- 4.1.7 The report from the Inspector advises that the recommended main modifications make the plan sound and legally compliant and capable of adoption. With regard to Shawbury and this specific site there are no modifications proposed and the wording in the SAMDev is as initially submitted in 2014. This confirmation of soundness from the Inspector and the single stage left before adoption means that very significant weight can now be given to all of the SAMDev policies in planning decisions.
- 4.1.7 Shawbury has been identified in the SAMDev as a Community Hub. The SAMDev Plan provides a detailed map of showing the development boundary and detailed policy setting out the development guidelines for the town and identifying the allocated sites. Policy S17.2 advises that Shawbury will provide for modest growth of about 50 new dwellings through the allocation of a single site. The current application site is not the proposed allocated site, which has gained outline planning consent, nor is it within the development boundary and as such the development of the site would also be contrary to the housing development policy in the SAMDev.
- 4.1.8 The NPPF - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 4.1.9 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.
- 4.1.10 Ultimately the policies contained in the SAMDev Plan will therefore need to

comply with the sustainable guidance set out in the Framework in order to proceed to adoption.

4.2 **Other material considerations**

- 4.2.1 As noted at 4.1.1 above, proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the NPPF refers). The development of a site outside of the development boundary conflicts with the housing policies of the local plan. However, material considerations can still be taken into account in the determination of an application. Officers advise that the primacy of the plan should come first and that material considerations would need to be significant and site specific to outweigh the presumption against open market housing development outside the settlement boundaries.
- 4.2.2 The February report details the consideration of the application against the three threads of sustainable development, economic, social and environmental, in the NPPF and concluded that the development of the site would provide social and economic benefits which would outweigh any environmental harm of developing a site outside the development boundary. However, the environmental harm of the development can now be given greater weight, alongside the progress of the SAMDev.
- 4.2.3 The development of the site will result in the loss of a parcel of grade 3 agricultural land. Although it is accepted that this is only a small parcel of land the loss of the land is an environmental harm resulting from the development. Furthermore, the site is currently open agricultural land providing a break between built development areas and the development of housing on this land will result in a change of character to the site. The February committee report accepted that the development of the site will extend the built form of the existing village and although it is accepted that the site is not isolated and the development of the site would not intrude into open countryside surrounding the village, it will result in the loss of a section of countryside which is within the village and this will result in some visual harm.
- 4.2.8 Officers consider that the indicative layout and principles set out in the design and access statement would result in a development which would relate well to the existing development adjacent to the site. There would not be any harm to existing residential amenity or any harm to ecology, biodiversity or flood risk that could not be mitigated through conditions and the development can be provided with a safe means of vehicular access. However, the development would be contrary to the adopted and forthcoming policy and result in environmental harm which is now considered to outweigh the economic and social benefits of the proposal.
- 4.2.9 In conclusion, at the February committee meeting both officers and members acknowledged these impacts but considered that the economic and social benefits of the housing development outweighed the environmental harms. Members may still come to the same conclusion now, however, the loss of the agricultural land, visual impact and development in the countryside are adverse impacts of the development which needs to be given weight in the balance.

4.3 Noise survey update

- 4.3.1 As noted at the start of this report the resolution to grant was subject to the submission of further noise survey work and no further objections from the MOD or DIO. This was to ensure that the amenities of the future residents of the application site were not adversely affected by the close proximity of RAF Shawbury and the associated helicopter movements and therefore noise generation. The report initially submitted with the planning application was objected to by the DIO as they did not consider that it showed typical use of the RAF base, did not take into account night time flying or overflying of the site and was not monitored for long enough to cover the varying activity on the base.
- 4.3.2 The Council Public Protection Officer also raised concerns about the level of mitigation but had advised that a noise refusal could not be sustained. A further noise assessment was recommended and it has been the negotiation on this further survey that has resulted in the delay in the application. A survey was submitted and consulted on and further work undertaken.
- 4.3.3 A further survey was undertaken with two monitoring positions on the application site recording the noise levels during a “worst case” scenario agreed with key members of the RAF base at the time of the survey. During the agreed week both fixed wing and helicopter movements were recorded and the helicopter movements were recorded during the daytime and night time. Surveys were also undertaken on the base in two locations approximately 20m from the take-off and landing position.
- 4.3.4 The results of the surveys were that the peak events on the RAF base with aircraft in use did not appear to be significant in relation to the recorded road traffic passing the site. The road noise was virtually consistent and much closer to the proposed development with helicopter noise indiscernible from background noise. The site is not affected by overflying under normal base operations except during occasionally for ceremonial and emergency use. Therefore, except these infrequent and short events, the road traffic is the dominant noise source. The report therefore recommends glazing mitigation for the road facing properties only, passive ventilation and the arrangement of the internal layout of the properties to minimise bedrooms and living rooms facing towards the base.
- 4.3.5 The DIO has commented as follows:
I write in connection with the above planning application, further to my letters dated 21st April 2015 and 15th June 2015, on behalf of the Ministry of Defence (MoD), and our meeting at RAF Shawbury on 16th October 2015.

Notwithstanding the Defence Infrastructure Organisation’s (DIO) previous consultation responses, the MoD are now satisfied that their concerns previously identified in connection with the latest Environmental Noise Survey & Assessment report (No. 14947A-1 R1 dated 9th July 2015), prepared by Noise.co.uk, are now resolved. However, it has recently come to the DIO’s attention that there is a 25m small-weapons range at RAF Shawbury. It is the MoD’s contention that the latest Environmental Noise Survey & assessment report does not include any reference to, or noise assessment in connection with, this range. Indeed, during our meeting on 16th October

2015, Squadron Leader Adrian Vine confirmed that no live-firing activities were undertaken on the range during the week in which the noise monitoring surveys were undertaken by Noise.co.uk, i.e. the week commencing 16th February 2015, in which case this would confirm no such assessment has previously been made.

Given the nature of live-firing activities undertaken on the range, the MoD has concerns regarding the potential noise levels that would be experienced by the future inhabitants of the residential development scheme proposed, which has potential to lead to environmental noise complaints. As a result, it is the MoD's contention that the Applicant should undertake an Addendum to the latest Environmental Noise Survey & Assessment to take into account noise emissions from the range at RAF Shawbury. It is envisaged that such evidence would then allow the Local Planning Authority to make an informed decision as to whether or not the proposed development would be acceptable from a noise point of view. N.B. In reference to the undertaking of noise measurements from the range, it is suggested that these are made using a microphone capable of measuring 20 millisecond noise events rather than the more usual 125 millisecond microphone, which is not sensitive enough to capture gunfire noise events.

Following the submission of this addendum, the MoD would appreciate the opportunity to review its content and be afforded a further opportunity to provide comments. Should the Applicant not submit this addendum, it is the MoD's contention that the application should be refused on the basis of insufficient information submitted in support of the application to enable determination of the full impacts of the planning application.

Accordingly, the DIO will leave the above for the Local Planning Authority's consideration. Notwithstanding the above, the MoD acknowledges the consultation response provided by Shropshire Council's Public Protection Officer, Mr Matthew Clark, in connection with this planning application. This will be further discussed below. In connection with paragraph 3 of this consultation response, Mr Clark advised that following our meeting on 16th October 2015 that he would undertake a desk study assessment of the noise source and its potential to impact upon the proposed application site. Whilst this has been undertaken, this would not satisfy the MoD's concerns identified above in connection with the range at RAF Shawbury, especially in the absence of any evidence to support this assessment.

Within paragraph 9 of the response, it is suggested that during the period of noise monitoring, 9 individual night time noise events (either fixed or rotary aircraft related) exceeded the World Health Organisation night time target level of 45 dB. Whilst the Council may not consider this as having a significant detrimental impact, the MoD are concerned that this could lead to future complaints from the inhabitants of the proposed residential development scheme, especially as the target level will be exceeded even in view of the noise mitigation proposed by the Applicant.

With regard to paragraph 11 of the response, there appears to be no evidence to support the Officer's claim "I do not consider it is likely that noise in external

amenity areas is likely to exceed 55dB”.

With regard to paragraph 12 of the response, in the absence of the undertaking of noise measurements from live-firing activities on the range at RAF Shawbury, and appropriate modelling, it cannot be concluded that the Officer’s claims can be substantiated.

In respect of the potential for future noise complaints from the inhabitants of the proposed residential development scheme in connection with the live-firing activities undertaken on the range at RAF Shawbury, it is suggested that the absence of noise complaints in respect to live-firing activities at RAF Shawbury within the past 2-years would not reflect future trends. Indeed, it cannot be taken for granted that the future inhabitants of the proposed residential development scheme are to be familiar with the local area, the presence of RAF Shawbury in the immediate locale and the nature of operations undertaken at RAF Shawbury. Therefore, it is conceivable that future complaints could be received in connection with the range.

In view of the above, it is suggested that the Officer’s claims in paragraphs 13 and 14, in connection with the noise emissions from the range, cannot be substantiated. With regard to paragraph 15, the MoD has concerns regarding the Officer’s statement. Please be advised, the MoD’s noise contour levels are derived from the recommendations in the 2003 White Paper: Future of Air Transport in the UK. These contours should not be perceived to represent noise levels below which the MoD would not expect to receive noise complaints.

Other than the above, the MoD have no further comments to make in respect of this consultation response.

Notwithstanding the above, it is appreciated that the regular flying program at RAF Shawbury, in support of the Defence of the Realm, can unfortunately cause some annoyance to neighbours by reason of noise disturbance. With regard to the proposed development, should the Local Planning Authority decide to grant planning permission for residential development on this adjoining site to RAF Shawbury, the MoD/RAF will bear no responsibility for any complaints or claims from new residents in respect of matters of noise and will refer the complainants to the Developer and the Council.

Should you wish to discuss the above comments further, please do not hesitate to contact me. Please be advised that the MoD Safeguarding Department have submitted additional representations in reference to this planning application. This response should, therefore, be read in connection with the MoD Safeguarding response.

- 4.3.6 The Council Public Protection Officer has commented as follows:
These comments take on board the latest noise assessment, reference 14947A-1 R1, submitted in relation to planning application reference 14/04558/OUT. This assessment was carried out in order to address concerns which were raised by the MoD in previous correspondence. This comment also takes into consideration

salient points raised at a site meeting attended by MoD, RAF and Shropshire Council representatives along with the agents for the planning application and the noise consultants who undertook the noise monitoring and subsequent assessment.

It is acknowledged that there is the potential for noise from existing sources to impact upon residents of the dwellings proposed in application 14/04558/FUL. The noise sources which require attention at the proposed site indicated by the MoD and Shropshire Council include noise from aircraft both in the air and during engine ground running, noise from the road which bounds the proposed site to its western edge and target shooting from the shooting range on the RAF site. It is recognised that the current noise sources on the RAF site may change in future. However, this is the case with the majority of noise sources in many contexts and circumstances. As it is not possible to predict potential future noise which may see more frequent flying and alterations to flight paths which may increase noise on the proposed site but which also may see quieter aircraft introduced over time, an assessment which takes into consideration the current noise situation is considered to be suitable in most circumstances including this specific case.

The shooting range has not been considered in the assessment submitted with this application due to this aspect only being identified since the assessment was carried out. This element of potential noise was discussed in length during the site meeting where it was agreed that a desk study assessment of the noise source and its potential to impact upon the proposed site would be carried out by Shropshire Council public protection representative to identify if this aspect requires further detailed assessment or not given the site specific characteristics and distances involved between the noise source and the proposed site.

The noise assessment submitted with the application comments upon data monitored over a period of a week. The monitoring period was discussed with RAF Shawbury and the period chosen identified as a week where a significant amount of operations would be occurring at RAF Shawbury. As a result I am satisfied that this assessment considers the worst case scenario and is generally accepted as a suitable monitoring period by all parties. Questions were raised in relation to engine ground running taking place on site during this week. An RAF Shawbury representative noted during the site meeting that the week in question would have been composed of several flying events with low level/ground refuelling with engines running on RAF Shawbury. As a result it is considered that engine ground running will have taken place during the monitoring period.

The MoD note in their latest correspondence that no dominant tonal frequencies have been picked up using 1/3 octave band data. They pose the question of whether or not engine ground running was therefore occurring on site during the monitoring period. With regard to above and also the distances involved from the air field to the monitoring location and the significant number of large buildings on RAF Shawbury which would screen out this type of noise from the monitoring location it can be concluded that no dominant frequencies were found as a result of attenuation of noise between the noise source and the monitoring location. It is also worth noting that road noise from adjacent to the site would mask any engine ground running. As a result of the above information it is considered that engine ground running was likely to have been encountered and not picked up as a

distinguishing time due to site specific attenuating features and other noise sources dominating the noise environment.

The noise assessment considers the average noise in both the day (07:00-23:00 hours) and night (23:00-07:00 hours). Having explored noise sources above the monitoring is found to be generally representative of the average noise environment and is therefore suitable for discussion and basing any necessary mitigation measures upon.

Day time noise levels are documented and found to be 62.7dB at the monitoring location closest to noise sources (position 1 in the assessment). Average night time noise levels recorded at 51.5dB with a maximum night time noise level of 79.2dB noted (Table 4 of the noise assessment). As a result a level of mitigation is required to ensure that in the day levels of 35dB are found in habitable rooms and at night an internal noise level of 30dB is found in bedrooms or a maximum noise level of 45dB whichever is the required to ensure that target noise levels are achieved. The noise reductions required are found in Table 7 of the noise report with the glazing specification required to meet these internal noise levels specified in Table 8. I can confirm that the mitigation proposed at this point will ensure that the target noise levels are achieved in full in all instances across the site.

When referring to noise target levels these have been taken from World Health Organisation document Guidelines on Community noise which in 2014 became the target levels specified in BS8233:2014. These target levels are used by Public Protection to ensure that if these noise levels are achieved that there is no significant detrimental impact to the health and wellbeing of future residents and that a good level of amenity has been achieved. As this level has been achieved the mitigation proposed is fit for purpose to ensure future residents are adequately protected from noise sources in the vicinity.

The MoD have raised a valid point relating to specific noise events rather than an averaged period. This would have the largest impact on future residents at night. The noise assessment highlights the highest noise level recorded at night during monitoring as 81.1dB at position 1. With the proposed mitigation this would ensure that an internal noise level of 46.9dB would be found on this occasion. This exceeds the target level of 45dB by 1.9dB which may be perceptible to the human ear. However, this does not suggest a significant detrimental impact. In fact during a weeks monitoring only 9 individual noise events exceeded this target level.

In order to address the above concern raised by the MoD the applicant has specified that they will use glazing which can attenuate additional noise. They have proposed using the glazing which is stipulated in MoD recommended Noise Amelioration Scheme (Military) document of 6.4L-12-10. Having looked at information for this type of glazing it will achieve at least 37dB noise reduction between the external and internal noise environment. This level of attenuation reduces noise to levels below the target level in all cases and therefore satisfies the MoD concerns in relation to maximum noise levels and the type of insulation proposed in order to fall in line with the Noise Amelioration Scheme (Military) non-statutory guidance document.

In relation to external areas the MoD raised the issue of noise mitigation required

in these areas. Having considered the orientation of dwellings and the layout of the site it is noted that external amenity areas, i.e. rear gardens, are positioned away from the road and RAF Shawbury and therefore screened by the dwellings themselves. Based on this scenario I do not consider it is likely that noise in external amenity areas is likely to exceed 55dB, a level specified by WHO above which they conclude could impact on health and wellbeing. This is considered a target for average noise levels. As a result short term events which may be noisy should not be considered as having a health and/or wellbeing impact. There are likely to be certain events which increase noise in external areas over the 55dB level however it is considered that this target level may not always be met in areas next to noisy activities where development is desirable. As a result this adds further weight suggesting the noise environment in this instance is suitable for use.

Turning to the issue of noise from the shooting range while on site this aspect was considered. It was noted that the shooting positions are 550m from the nearest proposed dwelling. In between the shooting range and the proposed dwelling are several buildings and trees which will attenuate noise. The shooting positions are enclosed on three sides and above with an open facade facing the targets and small openings approximately 1.8m off the ground to the eastern façade facing the proposed development site. Importantly there is no direct line of sight from any gap to the proposed development site. Having considered that target shooting may involve noise in the region of 155dB assumed to be at 1 meter from the noise source it is noted that distance attenuation alone would reduce noise to 92.2dB at the nearest dwelling. Taking into consideration a brick wall surrounding the target range and a roof enclosing the range above the shooting activity this will remove a significant amount of noise. Added to this the fact that the majority of noise will be screened by at least one further solid structure I do not find it likely that there will be any significant noise at proposed dwellings. For example, if it was assumed that the enclosure only removed a further 10dB, a significant underestimate, this would put noise levels from shooting in the same region as noisiest night time noise noted on the proposed site. This noise is adequately mitigated against by the glazing proposed by the applicant. Added to this is the knowledge that RAF Shawbury have not had a noise complaint in relation to target shooting activities in the past 2 years.

As a result it can be concluded that at very worst case assuming an underestimate of the noise attenuation from the shooting range enclosure and no other screening by the many buildings between the shooting range and the proposed development site that the mitigation proposed for dwellings will be sufficient to ensure that the impact on residents is not expected to have an impact on the residential amenity. As a result in practise it is concluded that there is not likely to be any perceived nuisance from this activity without considering the fact that other noise sources in the area would screen the noise e.g. aircraft movements and the predominant road noise.

As a result of the above information it is concluded that noise is a factor requiring suitable mitigation on the proposed site. Mitigation has been proposed which is found to be suitable and achieve all applicable target levels. In addition it is noted that all past concerns raised by the MoD have been addressed in full by the noise assessment or discussions on site and the content and commentary provided

above in this report. As a result I have no objection to the proposed development on noise grounds however recommend that a condition is placed on any decision document as follows:

Glazing requirements across the site shall provide equal to or better noise attenuation than the following glazing specification: 6.4L-12-10. In addition ventilation to the specification found in section 10.3 of noise.co.uk report reference 14947A-1 R1 shall be installed.

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

Finally it is worth commenting that the MoD have concerns in relation to the possibility of noise complaints from activities on site impacting on the proposed residential development area. However, it should be noted that there are residential properties already positioned directly to the south of the proposed development site which will experience noise from the RAF site in a similar way to the proposed development area. As a result anything that RAF Shawbury would do in order to ensure they do not have a significant impact on existing properties would have a similar level of protection on the proposed development site. As a result it is not anticipated that any additional measures would be required of RAF Shawbury in future should this development be granted approval. It cannot be stated that no complaints would ever be received from the proposed development as complaints are subjective based on individuals experiences and perception of noise however future residents would be moving to the area in knowledge that there is noise to be expected from the RAF Shawbury site. As a result people likely to move to the area will be aware of the potential for noise and complaints are not expected to be likely. In conclusion although it is not possible to state that no complaints will occur in future it can be stated that it is unlikely that any justified complaints are likely which would require any mitigation by RAF Shawbury in future. This is particularly evident as the Noise Amelioration Scheme (Military) considers noise down to an averaged level of 63dB and the noise levels found on the site during monitoring were below this level. This suggests that the RAF in general do not consider it necessary to mitigate noise below this level and therefore that complaints are not generally considered likely at these noise levels.

- 4.3.7 The DIO comments have confirmed that the concerns regarding helicopter noise have been overcome but they remain concerned about the potential for noise from the firing range. As noted in the PPO response the use of the shooting range on the base and the potential impact on the proposed development has been assessed by the PPO who advises that the noise is reduced by distance, built development and the proposed mitigation. Although the DIO do not agree with this advice this is based on a lack of monitoring. However, the advice was intended to not require monitoring and was based on a thorough assessment of the site constraints.
- 4.3.8 The PPO's conclusion advises that the submitted survey considers the worst case scenario and generally a suitable monitoring period. The noise impact from aircraft and the firing range on the base is reduced by the existing buildings on the base and the noise from the road adjacent to the application site. The PPO has confirmed that the mitigation proposed will ensure that the World Health Organisation and Public Protection standards of day levels of 35dB in habitable rooms and night time noise level of 30dB in bedrooms (or a maximum noise level

of 45dB) is achieved for the majority of the time. It is accepted that there may be occasional events where the noise exceeds this target by 1.9dB but this is not considered to result in a significant detrimental impact and overall it is officers advice that the mitigation proposed is appropriate and will minimise impact on the future residents of this development.

- 4.3.9 The applicant has, however, proposed to over mitigate to closer meet the DIO recommendations and the indicative layout also shows that private garden areas will be screened by the proposed dwellings. As such the recommended condition is for the mitigation to be at least to the standards proposed in the survey which would allow for over mitigation without requiring it, which would be beyond what could be justified.
- 4.3.10 Members are therefore advised that the noise survey work previously requested has been undertaken. Although the DIO continue to raise concerns about the proposed development these concerns are not considered to be sufficient in planning terms to justify a refusal and to enable the refusal to be defended at an appeal. The condition recommended will ensure that the mitigation is to the World Health Organisation and Public Protection standards and therefore will ensure that the amenities of the future residents of the site are not unacceptably affected by the proximity of either the RAF base or the adjacent road.

5.0 CONCLUSION

- 5.1 The site is located outside the current development boundary for Shawbury and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMDev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development. With this in mind it is accepted that the site is in a sustainable location, where it benefits from connectivity to the village centre, services and facilities and will provide additional housing supply to help sustain the settlement and accord with national planning policy priorities relating housing provision. In this context it is considered that the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application.
- 5.2 In light of the SAMDev Inspector not recommending any significant changes to Shawbury through main modifications, it is considered that significant weight can now be placed upon policy S17.2, in a way consistent with paragraph 216 of the NPPF. Policy S17.2 does not allocate the application site for development and continues to place the site outside the development boundary. It is therefore considered that significant weight can be given to policy Core Strategy CS5 given the site is located in the 'countryside' in policy terms, and that relevant policy constraints should apply. The Council can currently demonstrate a five year supply of housing land which further emphasises the significant weight that be given to SAMDev Policy S17.2 and Core Strategy policy CS5.

- 5.3 Whilst there are aspects of the development such as drainage, impact on neighbours and ecology which could be mitigated and therefore comply with the relevant parts of adopted policies and the NPPF, it is considered that the development would result in harm to the character of the area and the loss of best and most versatile agricultural land and would therefore not comply with policies CS6 or CS9 of the Core Strategy or the NPPF as a whole.
- 5.4 The proposal would contribute to the supply of housing and generally provides some economic and social benefits to Shropshire. However, it is considered that the development does not meet the requirements of the NPPF as a whole in regards providing a sustainable development for the reasons given above. Accordingly officer's recommendation on this application has changed since the February meeting and is now one of refusal for the following reasons:
- 5.5 *1. The proposal is considered to conflict with the Shropshire Core Strategy, Shropshire Site Allocations and Management of Development Plan (SAMDev) and the saved policies of the North Shropshire Local Plan as the development proposes housing development in an area identified as countryside for planning purposes which does not comply with the restricted development supported in the policies. The site is not a recognised site for development in accordance with SAMDev policy S17.2, Core Strategy policy CS5 or saved policy H5 of the North Shropshire Local Plan. The Council is also of the opinion that it can now demonstrate an adequate five year supply of house building land as required by paragraph 49 of the NPPF.*
- 5.6 *2. The development of the site is not considered to be sustainable development in accordance with the overall aims and objectives of NPPF by reason of the visual impact of the development and the environmental harm from developing grade 3 agricultural land. These adverse impacts are considered to be harm resulting from the development which are not outweighed by the benefits identified or any material considerations.*

6.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

6.1 Risk Management

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

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

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

claim first arose first arose.

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

6.2 **Human Rights**

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

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

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

6.3 **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.

7.0 **FINANCIAL IMPLICATIONS**

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

8. **BACKGROUND**

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

9. **ADDITIONAL INFORMATION**

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Simon Jones

Appendices
APPENDIX 1 - Conditions

17th February 2015 report to committee**1.0 THE PROPOSAL**

1.1 The application seeks outline planning permission for residential development for up to 25 dwellings. At this outline stage access has been submitted for approval, all other matters of layout, scale, appearance and landscaping are reserved for later approval.

1.2 In support of the planning application the following documents have been submitted: Design and Access Statement, Ecology report and Noise Assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 0.93 hectares in area and is part of a larger agricultural field on the edge of Shawbury. It has road frontage onto the Wem Road and lies opposite the RAF Shawbury base and buildings within the base. To the south of the application site lies an existing housing estate made up of a mix of detached and semi detached houses and bungalows. Two existing dwellings sit with their side elevations facing over the application site, one of which is a bungalow with ground floor windows in the facing elevation, the second is a two storey dwelling with one ground floor window. To the north of the site is agricultural land and north of that lies the exit road for the, now disused, primary school and the recently completed sports facilities for the RAF base.

2.2 There is a low roadside hedge running along the Wem Road with a footpath and the field boundary post and wire fence on the inside of the site but the side and rear boundaries of the application site are not currently defined and the land is open to the remainder of the field. The boundary with the adjacent dwellings is also a hedge which varies in height. The main part of Shawbury lies to the south of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which can not be overcome by condition or negotiation.

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

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

4.1.1 **Parish Council** – Object to the plans for the following reasons:

(a) The results of the Parish wide questionnaire and the public meeting called to discuss Shawburys response to the fifteen year planning cycle had overwhelmingly been that Shawbury should be classed as a hub but that development over the period should be restricted to fifty properties. There was already a plan on the table for a development of fifty properties on land adjacent to the A53.

(b) As Shropshire had now reached its SAMDev land target, the results of the public consultation and the Parish Place Plan could and should be observed.

(c) When the preferred sites in the Parish had been considered, this site had been rejected in favour of the site alongside the A53.

(d) There are sustainability concerns, especially in respect of providing Doctors surgery provision and the distance from the local primary school. This will result in children walking alongside the Wem Road and then crossing the busy A53 or in more vehicles transporting them. The school suggested by the developers is not a logical proposition.

(e) Access to/from the site is directly onto Wem Road, notorious for excessive speed and heavy use, which has already been acknowledged by the extension of the 30mph speed limit; the installation of a Vehicle Operated Speed Control and regular visits by the Speed Watch Team. It is also close to the access to the RAF station. Additional traffic on to this road will only increase the inherent dangers.

4.1.2 **Ministry of Defence - Defence Infrastructure Organisation (DIO)** – Royal Air Force (RAF) Shawbury lies to the north/west of the application site. It is home to the Central Air Traffic Control School (CATCS), the Defence Helicopter Flying School (DHFS), the Aircraft Maintenance and Storage Unit (AMSU), Central Flying School (Helicopter) (CFS (H)) Sqn and Air Traffic Management Standards and Evaluation (ATM Staneval).

CATCS trains all RAF and RN Air Traffic Controllers (ATC), Flight Ops Officers (FOO) and Assistants (FOA), Air Traffic and Flight Ops Instructors and Unit Training Officers. DHFS trains tri-service helicopter pilots and crews. CFS (H) Sqn trains tri-service Qualified Helicopter Instructors and Qualified Helicopter Crewman Instructors. Training at RAF Shawbury enables front-line activity and is critical in priming the frontline with aircrew, ATC/Flt Ops personnel, and in pre-deployment training standardisation and deployment of Individual Augmentees. RAF Shawbury is currently an intensively operated RAF airbase. Notwithstanding this, it is expected that the operation of RAF Shawbury will intensify further in the future. To this effect, the DIO wishes to raise the following points regarding the future of the airbase:

- It is expected that there will likely be an increase in helicopter operations in Low Flying Area 9 due to the drawdown of operations in Afghanistan and greater helicopter training taking place in the UK;
- Course sizes are increasing;
- The Defence Helicopter Flying School expect their output to increase in accordance with Future Force 2020 model;
- Over 50% of all flying training output for the military is rotary wing;
- UK Military Flying Training System Plans feature a potential relocation of activity on the airfield;
- Additional fixed-wing aircraft are expected in storage in the AMSU which will mean that there will be additional noise sources from fixed-wing ground engine running prior to storage and following removal from storage.

With regard to the proposed development, it is important to acknowledge that the MoD supports the principle of new residential development in the local area. However, in these circumstances, we wish to outline our concerns regarding this planning application.

Given the nature of operations undertaken at RAF Shawbury and their proximity to the application site, the MoD has significant concerns regarding the noise levels that would be experienced by the future inhabitants of the new houses proposed. Notwithstanding this, these concerns will be greater in future in line with the future

proposals for RAF Shawbury. In view of these concerns, it would be our usual course of action to suggest that the application should be supported by a Noise Assessment and that suitable mitigation, in accordance with MoD Noise Amelioration Scheme (Military) (NAS(M)) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

In this case, the Applicant has submitted an Environmental Noise Assessment (reference 14947-1 R1) in support of their application. However, it is this Assessment which causes concern to the DIO for the following reasons; Firstly, paragraph 5.2.1 of Section 5.2 indicates that the noise monitoring surveys were carried out over a 3-day period from 23rd through to 25th April 2014, which is described by Noise.co.uk as “a typical weekday period”. Unfortunately, the DIO disagree with this statement given the period identified coincided with the Easter holiday period when on-site activity was quieter and included no night-time flying operations. N.B. on average, RAF Shawbury has 50 aircraft sorties a day. Therefore, this would not represent a typical weekday period for the site and RAF Shawbury. In addition, a 3-day period is not considered to be a sufficient timeframe due to the variable training programme which takes place at RAF Shawbury in which case a longer timeframe for the Assessment would be required. Accordingly, the DIO believe this statement is somewhat misleading.

Secondly, the Assessment almost considers RAF Shawbury itself to be the source of noise given that there has been no consideration of flight paths in/around RAF Shawbury and the application site and the potential for aircraft to fly over the application site. This is further evidenced by virtue of the monitoring position for the noise monitoring survey, which again considered the noise source to be RAF Shawbury but did not consider flight paths. Please be advised that whilst the application site is not in an area routinely transited by aircraft, it will on occasion be over-flown as it currently provides the only clear approach to the airfield from the east.

Thirdly, the assessment takes into account average noise levels only, which despite not being wrong in terms of guidance, would not reflect individual events on site. Therefore, it is suggested that this is somewhat misleading in these circumstances.

Fourthly, in respect to the noise attenuation measures proposed, average data has been used to specify the noise attenuation of the glazing proposed. It is suggested that the proposed mitigation would fail to meet the minimum standards of the NAS(M) specifications, in which case would be unacceptable in these circumstances. Please note that all glazing throughout the development scheme should comply with the minimum standards of the NAS(M) specifications. In view of the above, the DIO do not believe the Environmental Noise Assessment as submitted to be sufficient and fails to fully address the issue of noise. It is unfortunate that there has been no contact between the consultant and RAF Shawbury in advance, during or post completion of the noise monitoring surveys/assessment as this would no doubt have assisted and perhaps removed the need for a further Assessment. Accordingly, the DIO suggest the application should be supported by a new Noise Assessment and that suitable mitigation, in accordance with MoD NAS(M) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

Following the submission of a new Noise Assessment, the MoD would appreciate the opportunity to review its content and be afforded a further opportunity to provide comments.

It is appreciated that the regular flying program at RAF Shawbury, in support of the Defence of the Realm, can unfortunately cause some annoyance to neighbours by reason of noise disturbance. With regard to the proposed development, should the Local Planning Authority decide to grant planning permission for residential development on this adjoining site to RAF Shawbury, the MoD/RAF will bear no responsibility for any complaints or claims from new residents in respect of matters of noise and will refer the complainants to the Developer and the Council.

Notwithstanding the above, it is my understanding that the MoD Safeguarding Department will be submitting additional representations in reference to this planning application. This response should, therefore, be read in connection with the MoD Safeguarding response.

- 4.1.3 **Ministry of Defence - Safeguarding** – The MOD has no safeguarding objections to this proposal.
- 4.1.4 **Affordable Housing** – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 15% this would mean a provision of 3 Affordable houses on site along with a financial sum for the remaining percentage. The assumed tenure split of the affordable homes would be 2 for affordable rent and 1 for low cost home ownership and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted

- 4.1.5 **Public Protection** – The noise report attached to planning application 14/04558/OUT has not considered max noise levels and the number of these events that may occur on any day/night. This is not considered to be suitable due to the large number of flight movements potentially at low level which could impact on the proposed development in terms of max noise levels day and night. The MOD/RAF state that the noise levels are not typical due to minimal flying activities during the survey in particular no or little night time flying. They were also not contacted to discuss suitable times for the noise survey to take place. Therefore the applicant should carry out a further noise assessment which takes into

consideration noise data from a noise survey which the RAF agree represents at least typical day and night time noise levels and where possible a worst case scenario as well for comparison. This is fundamental in ensuring that appropriate mitigation is feasible. Mitigation is also required across the whole site rather than simply to the façade of building on the western edge of the development facing west due to flights overhead potentially being from any direction unless it can be demonstrated otherwise. The RAF/MOD may be able to give further comment on this aspect.

Alternatively a condition as stated above could be placed to ensure an appropriate assessment is carried out in future however I would encourage an appropriate assessment at this point in order that the financial implications of mitigation are known.

- 4.1.6 **Highways** – Raise no objection to the granting of outline consent subject to a condition to require details of the access and footpath linkage to Millbrook Drive.
- 4.1.7 **Ecology** – Recommends conditions and informatives. The hedgerows on site are likely to be used for bat foraging and commuting and also for nesting birds.
- 4.1.8 **Drainage** – No objection subject to conditions requiring full drainage details to be submitted as part of the approval of reserved matters application.

4.2 **Public Comments**

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

- Overdevelopment with other proposals in the village
- Loss of prime agricultural land
- Old school site should be developed first
- Impact on amenities
- Increase in noise from new dwellings
- Proposed houses are too close to existing dwellings
- Increase in traffic on fast section of road

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Policy & principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the

adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.4 It is acknowledged that the site is outside the development boundary for Shawbury as previously set within the North Shropshire Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. The site is also outside of the proposed development boundary in the forthcoming Site Allocations and Management of Development (SAMDev) plan. Shawbury in the SAMDev is identified as a community hub which will provide for modest growth of about 50 new dwellings over the plan period. There is one proposed allocation for new housing which is

not the current application site and as such the proposed development would not comply with the proposed SAMDev. However, as noted above the SAMDev can only be given limited weight and it is still appropriate to consider whether the development would be considered as sustainable against the whole of the NPPF.

- 6.1.5 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.
- 6.2 **Is the site sustainable?**
- 6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.
- 6.2.2 The agent has commented in the D&A that Shawbury is a main service village in the NSLP and that the site is approximately 400 metres from the village services and facilities and that there is a regular bus service (hourly six days per week). The agent also comments that the identification of Shawbury as a Community Hub in the SAMDev clearly shows that the settlement is sustainable and capable of accommodating development. However, just because a settlement has services and facilities and can accommodate development does not mean that all development should be granted. Each application needs to be considered on its own merits and each application needs to be shown to be sustainable development, not only within a sustainable settlement.
- 6.2.3 The Parish Council response notes that the site was not progressed in the SAMDev as another site was favoured. In considering the site the Council noted its good relationship with some recreation facilities but scored it poorly due to its distance from some recreation facilities, close proximity to an ancient woodland, loss of agricultural land, distance from the primary school and close proximity to the RAF base. Overall the sustainability of the site was judged to be fair but it was not proposed for allocation as the alternative site was better located in relation to

services and facilities in the village.

6.2.4 However, this does not mean that the proposed development is not sustainable. All three parts of the definition of sustainable development need to be considered and need to be given equal weight and consideration in the determination of the application. Some weight can also be given to the overall fair sustainability assessment previously noted.

6.3 **Economic considerations?**

6.3.1 The construction of new housing in, or on the edge of, Shawbury would support the businesses and services within the village. Furthermore, the development will result in construction jobs, new homes bonus, new residents, increased household expenditure and the resultant opportunities to support local shops and facilities.

6.3.2 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £80 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements. This money can be used to assist in resolving the issues raised within the local place plan.

6.4 **Social considerations?**

6.4.1 As noted by the objectors and the Parish Council, new housing in the village will also increase pressure on the services such as the school and doctors surgery. This is a social harm resulting from any development. However, objectors have also noted the size of the existing village, which is not considered to be a small village by officers but is considered to be a medium to large village with a good range of services and facilities.

6.4.2 Given the size of the existing village and that the development will provide community infrastructure levy payments, the impact of the scale of the proposed development of 25 houses is not considered to be a significant harm which would justify refusal of the application.

6.4.3 The application also proposes to provide affordable housing. Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').

6.4.4 The application has been submitted with the Council Affordable Housing Form which confirms the applicant's willingness to provide affordable housing on the site. The form calculates the affordable housing required for 25 dwellings at the current target rate of 15%. However as an outline planning application the target rate would be the rate at the time of the submission of reserved matters and furthermore the number of houses is not for approval at this time. As such the form can be considered to show an agreement in principle to affordable housing but does not set the level of affordable housing to be provided. Given the above,

it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

6.5 **Environmental considerations?**

6.5.1 It is acknowledged that the development of the site will result in the loss of a parcel of grade 3 agricultural land which is considered to be best and most versatile land and as such is a harm to be factored into the planning balance. However, as a site of 0.93 hectares the development of this site will only result in the loss of a small parcel of land and could not be considered as significant loss of agricultural land and as such the harm from the loss of the agricultural land needs to form part of the overall planning balance but is not considered to be significant and demonstrable to outweigh the presumption in favour of sustainable development.

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

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.6.2 The design and access statement notes that the indicative layout shows a mix of 2, 3 and 4 bed houses in a mix of terrace, semi-detached and detached house types. All the properties are intended to be 2 storey similar to the majority of the adjacent housing estate and the designs will pick up the features of the surrounding housing development. The indicative layout shows the dwellings served off a single access and with small groups of houses accessed off a main spine estate road.

6.6.3 As an outline planning application it is only possible to consider the principle of the development and the potential future development of the site. It is accepted that the development of the site will extend the built form of the existing village, however in the case of the application site the development would be enclosed on three sides by existing built development. It is an agricultural field within the village limits as defined by the welcome signs and the built form. It is not isolated and the development of the site would not intrude into open countryside surrounding the village, however it will result in the loss of a section of countryside which is within the village and this will result in some visual harm.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire

Core Strategy indicates that development should safeguard the residential and local amenity. Objectors have raised concerns about the potential for increased noise, loss of privacy and light and that the layout shows buildings too close to the existing properties.

- 6.7.2 The submitted plan is for indicative purposes only and is not submitted for approval at this time. It shows two detached dwellings on the edge of the site closest to the existing dwellings, one of which is a bungalow, the other is two storey. The indicative plan shows the proposed dwellings to be 7m from the side elevations of the existing dwellings with a single garage proposed in the rear of each new dwelling and as such would not adversely affect the sunlight to the existing properties to an unacceptable level. The dwellings will alter the outlook of the existing properties but planning does not protect a right to a view. Whether the proposed development affects privacy will depend on the internal layout of the proposed dwellings but it is considered that, in principle, the site can be developed without significant harm to the amenities of the neighbouring residents.
- 6.7.3 One objector has advised that they are ill and have suffered heart problems and stress. Officers have sympathy with the residents, however the health of local residents can not be a reason to refuse a development. Given the close proximity of the site to existing properties it would be wholly reasonable to limit the hours of construction and to require a construction method statement, through which, given the health issues raised, the Council could encourage the developer to limit activity in this area to reduce the impact to only the construction of the dwellings and garages.
- 6.7.4 It is also necessary to ensure the amenity of the future residents of the application site. The close proximity of the site to RAF Shawbury with its regular helicopter movements is a potential for noise generation. The applicant has undertaken and submitted a noise assessment which covered 3 days which the agent suggests are typical week days. The report assesses the existing noise levels on site and predicts noise levels in bedrooms and living rooms. Existing noise is from the road, RAF base, aircraft and helicopters. The recorded noise measurements were 65dB daytime and 57.5dB night time and aircraft noise was recorded 2-3 per hour with a measurement of 68.5LAmax. The report notes the British standards for noise levels in living rooms and bedrooms and recommends glazing requirements to reduce impact.
- 6.7.5 However, the response from DOI comments that the noise assessment is not a typical week day as it was conducted over the Easter period, did not take into account night time flying or overflying of the site and was not monitored for long enough to cover the varying activity from RAF Shawbury. Furthermore DOI consider that providing averages is misleading and that the mitigation would not be sufficient and that a further assessment should be carried out.
- 6.7.6 The Council Public Protection Officer has looked at the application details and the comments from the DOI with regard to noise and commented that an objection on noise grounds could not be sustained in that mitigation could be achieved. However, the Public Protection Officer has noted that the noise report submitted does not consider maximum noise levels or the number of these events. As such it is advised that the report is not suitable and that mitigation may be required for

the whole of the site not just the road frontage properties. It is therefore recommended that a further noise assessment should be undertaken prior to the determination of the application so that the land owner and future developers fully understand the potential costs of developing the site in such close proximity to the RAF base.

6.7.7 Confirmation has been received from the agent and the RAF Commanding Officer that the additional noise survey is to be undertaken at the end of February. As such officers consider that a resolution to grant consent can be provided by members subject to the results of the additional noise survey, and subject to a S106 in relation to affordable housing. Should the noise survey conclude that development can not proceed the application could be refused on this basis. Should the survey establish that development can proceed and recommend conditions these can be added if delegated power is given to officers. It is considered that the principle of whether the site can be developed in planning terms can be established whilst waiting for the noise survey to be done.

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

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

6.8.2 As noted above the access is submitted for consideration at this outline stage. The application proposes a single point of access to serve all 25 dwellings. The D&A notes that the access position is within the 30mph zone and that visibility splays can be provided at 2.4m by 90m. Concern has been raised by the Parish Council about the access position and by residents about the increase in traffic and the speed of traffic at this point.

6.8.3 The application has been considered by the Council Highway Officer who has not raised any objections. As such it is considered by officers that the access is acceptable and that the local highway network is capable of accepting the additional traffic.

6.8.4 Within the Design and Access Statement the agent notes the surfaced footpath inside the existing roadside hedge which will connect the proposed development site to the village and services.

6.9 **Ecology and trees**

6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.9.2 The submitted ecology survey notes that the site is not close to any designated

sites, that there are records of bats, water vole, otter and Great Crested Newts in the local area and details the survey work undertaken for the application. The local ponds were surveyed but no evidence of GCN was found. No evidence was present of water vole or badger either. The report acknowledges the potential for nesting birds and bats using the boundary hedges. It recommends removal of the hedge for access outside of the nesting season, lighting specifications and biodiversity enhancements in the form of nesting boxes, bat boxes and native planting.

6.9.3 The Council Ecologists has considered the application and submitted information and has advised that there will not be any adverse impact and recommended conditions and informatives to ensure habitat enhancements.

6.10 **Drainage**

6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The D&A advises that the site is within flood zone 1 and as such is at low risk of flooding, that surface water is to be discharged to soakaways and that foul is to be discharged to mains.

6.10.2 The Council Drainage Engineer has not raised any concerns about flooding, foul or surface water and as such has recommended that the details of the proposed drainage can be dealt with by an appropriately worded condition. It is therefore considered that, in principle, the site can be developed without increasing the flood risk of the site or surrounding area in accordance with CS18.

7.0 **CONCLUSION**

7.1 The site is located outside the current development boundary for Shawbury and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMDev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply. With this in mind it is accepted that the site is in a sustainable location, where it benefits from connectivity to the village centre, services and facilities and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context it is considered that the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application in this instance such as to warrant a departure from the development plan.

7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with

the requirements of the NPPF.

- 7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements and will not be harmful to the natural environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.
- 7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of scale, appearance, landscaping and layout, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity of existing residents. The amenities of the future residents of the development are to be confirmed through an additional noise survey and possible mitigation methods. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.
- 7.5 Overall, it is considered that the outline proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. Therefore, approval is recommended subject to the conditions of approval listed in the appendix below and the prior completion of a Section 106 agreement to secure the affordable housing contributions.
- 7.6 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

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

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
- The number of units
 - The means of enclosure of the site
 - The levels of the site
 - The drainage of the site
 - The finished floor levels

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

7. No development shall take place until full scheme engineering details of the means of access, visibility splays, internal road layout together with footpath linkage to Millbrook Drive have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the scheme has been implemented fully in accordance with the approved details.

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

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

8. Glazing requirements across the site shall provide equal to or better noise attenuation than the following glazing specification: 6.4L-12-10. In addition ventilation to the specification found in section 10.3 of noise.co.uk report reference 14947A-1 R1 shall be installed.

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

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

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

10. 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.

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

11. 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
 North Planning Committee
 24th November 2015

Item
6
 Public

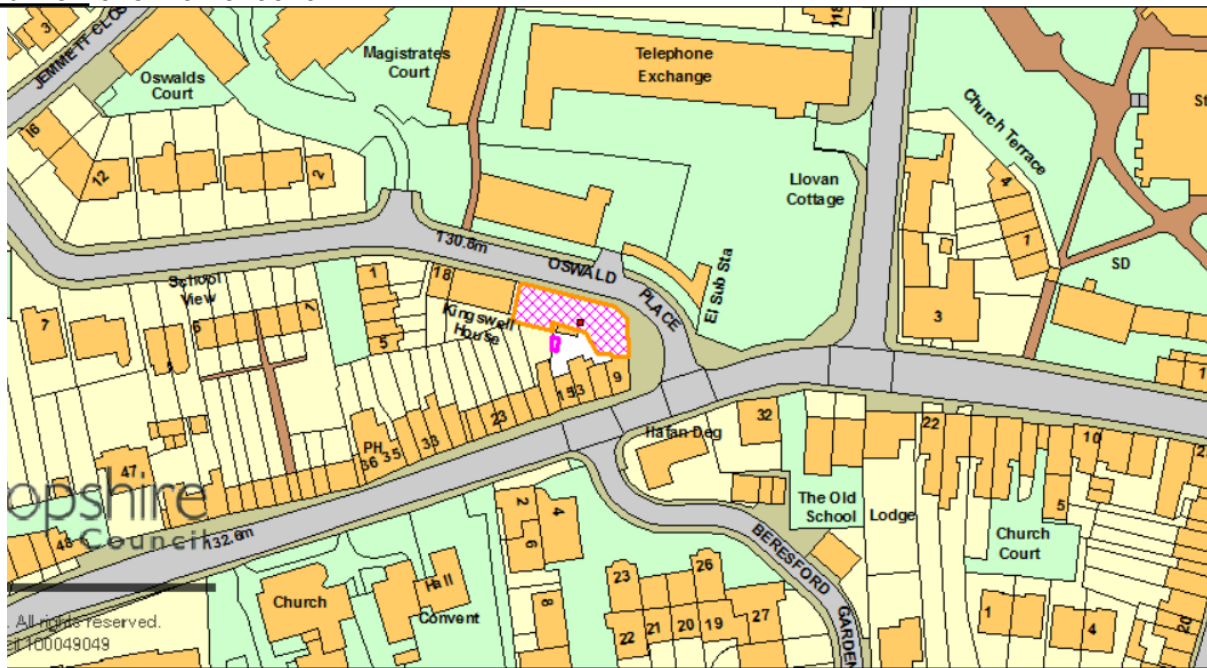
Development Management Report

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

Summary of Application

Application Number: 15/03804/FUL	Parish: Oswestry Town
Proposal: Erection of four dwellings	
Site Address: Former Oswalds Stores Oswalds Well Lane Oswestry Shropshire SY11 2TF	
Applicant: United Trust Bank	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk

Grid Ref: 328716 - 329319



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

- 1.1 The proposal is for the erection of two pairs of semi-detached dwellings; all are two bedroom. The gross internal floor areas range from 54 sqm up to 64 sqm. Therefore the dwellings will be pitched at the smaller and cheaper end of the property market.
- 1.2 The proposed building, form and detail of the proposed dwelling would be largely traditional in style and would follow the curved alignment of Oswald Place. The scheme includes the provision of private and shared courtyards which would provide some amenity space to future occupiers
- 1.3 None of the dwellings proposed would have any private off street parking because of the constraints of the site which include the limited space and the alignment of the highway.
- 1.4 This site has been the subject of numerous planning applications and planning appeals in recent years none of which have resulting in planning permission being granted. The last planning application was for the erection of five 2/ 3 storey dwellings, this was refused by committee in October 2013 (application no. 12/03718/FUL) the subsequent appeal was then dismissed by the Planning Inspector.
- 1.5 As such this latest proposal is intended to overcome the previous reasons for refusal and the issues of concern identified by the Planning Committees and the Planning Inspectors.

2.0 SITE LOCATION/DESCRIPTION AND HISTORY

- 2.1 The application site comprises an irregular shaped parcel of land (0.286ha in area) which has a frontage to Oswald Place at its junction with Oswald Place and Upper Brook Street to the west of Oswestry town centre. The site falls just inside the Oswestry town centre Conservation Area.
- 2.2 The site is previously developed but was cleared of its former buildings a significant number of years ago. Since that time the site has been surrounded by temporary fencing to Oswalds Place and the site has been left unused to become overgrown although on occasions the vegetation has been cut down in an attempt to improve the site's appearance.
- 2.3 Oswald Place provides access to commercial premises with a vehicle repair business immediately opposite the application site. Further along Oswald Place

there is an access serving the Magistrate's Court and Oswald's Court, a relatively modern residential scheme comprising detached, semi-detached and short row of terraced properties. On the southern side of Oswald Place, more traditional, older residential properties set within a more irregular pattern characterise the street, and these to some extent are reflected on Upper Brook Street, where back of pavement two-storey residential properties are found. A small number of these, numbers 9 to 17, have rear elevations facing immediately onto the application site.

- 2.4 A full planning application was made in 2004 for the demolition of existing buildings and the erection of six dwellings with associated landscaping works (04/13278/FUL). This application was approved by Oswestry Borough Council but was never developed, in all likelihood due to issues over land ownership.
- 2.5 In 2009 a renewal application was submitted pursuant to planning permission 04/132784/FUL, under application reference 09/03185/FUL. The renewal application was refused and appealed under reference APP/L3245/A/2132820, however the appeal was not progressed due to discrepancies between the 2004 approved drawings and 2009 renewal drawings.
- 2.6 In 2011, a full application was submitted for six dwellings, the form of units, their siting and access were as per the previous approval. This was refused and appealed; under reference number APP/L3245/A/11/2163733 where it was subsequently dismissed in February 2012.
- 2.7 The latest application to be considered was for five dwellings. This was also refused and appealed under reference number APP/L3245/A/13/2209289 and again dismissed. The Planning Inspector had a number of concerns about the development which resulted in the appeal being dismissed. These were, 1) the impact upon highway safety for both pedestrians and vehicular traffic as the scheme proposed that 3 of the dwellings having integral garages that opened directly onto the pavement. And, 2) The very small and shaded areas of amenity space for the future occupants of the development.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 It has been requested by the Local Member that the planning application warrants considerations by Members of the Planning Committee

4.0 Community Representations

4.1 **Consultee Comments**

Town Council- The Town Council strongly oppose the application considering that it represents over-intensification of development on the site. It records concern at the absence of on-street parking alongside the fact that concerns already exist with highway and pedestrian dangers appropriate to the site, acknowledging the volume of traffic using the junction and the drop off and collection at the adjoining School.

Concern is also evidenced at the development being so close to busy junctions and the traffic lights that represent a major route in and out of Oswestry.

Highways- No objection following the removal of the on-site parking. The site is sustainably located in close proximity to the town centre and all its availability of infrastructure, community facilities and availability of other modes of transport than just being purely reliant on private transport.

Public Protection- no comments to make on the application

Archaeology- no objection subject to conditions

Affordable Housing- No objection subject to an affordable housing contribution in line with the Council's adopted SPD- Type and Affordability of Housing.

Drainage- No objection subject to conditions

4.2 **Public Comments**

3 letters of representations received commenting on the following issues:

Objection

Encroachment onto neighbours land

No resolution over access rights and boundaries

Impact on neighbours during construction

Cramped rooms

Over development of the plot

Inadequate bin storage and bins obstructing the pavement

Lack of amenity space

Pedestrian safety

Support

The best compromise for the site

No parking is not unique in this location

The site has been an eyesore for long enough

The scheme should be an enhancement to the area

5.0 **THE MAIN ISSUES**

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

Highway implications

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. Further to the above the Council's SAMDev plan is nearing the end of the process towards adoption having been considered sound by the Planning Inspectorate and is now awaiting consideration by Full Council ahead of its formal adoption. As such very significant weight can be awarded to the SAMDev policies as amended.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration. For decision taking paragraph 14 advises that schemes that accord with a development plan should be approved without delay.

6.1.3 The application site is clearly within the urban area of Oswestry which is the largest market town within the County, the site constitutes a previously developed brownfield and infill site within the development boundary to the settlement. The local area is mixed in character and includes a variety of commercial and residential uses. As such the principle of its redevelopment for residential purposes is clearly acceptable subject to all other material considerations. Redevelopment for residential purposes would be in line with the aims and requirements of adopted Policies CS3, CS6 and CS11 of the Shropshire Core Strategy, MD1, MD2 and MD3 policies of the SAMDev plan and Government advice contained within the National Planning Policy Framework. The other primary considerations are set out below.

6.2 Siting, scale and design of structure

6.2.1 The proposed dwellings will be close to the existing properties that front onto Upper Brook Street and the relationship between proposed and existing dwellings was one of the concerns identified by the Inspector in dismissing the earlier appeal referred to above. The Inspector stated "...the dwellings would in places be less than 6 metres from the rear of the houses on Upper Brook Street. This is less than might normally be expected and it gives rise to potential issues through

overlooking, loss of light and the overbearing impact of new development”. He goes on to comment, “The internal layout is arranged so that bedrooms and bathrooms would be at the rear, reducing the extent to which the privacy of neighbouring residents would be compromised. It also appears that some windows in the existing houses have been screened but the perception of overlooking would remain. In addition, the proximity of the new dwellings would result in an unacceptable sense of enclosure and reduce light levels to the rear of the existing dwellings”.

- 6.2.2 The agents for the previous application sought to overcome the above Inspector’s comments by reducing the height of part of the terrace, the distance between the middle properties to those nearest on Upper Brook Street was also increased. During the latest appeal the Inspector commented that, “the garden depth of properties in Upper Brook Street increases westwards. In these circumstances, the proposal would not, on balance, materially or unreasonably restrict the outlook or availability of daylight and sunlight to the rear of neighbouring houses on Upper Brook Street”. In the application that is now under consideration the applicant has made further changes by only proposing 2-storey dwellings and also further increasing the distance of separation between the proposed and existing properties. At the time of the previous appeal the separation was shown as 9.5 m and 7.0 metres at different points in the site and this has been increased to 12.2 and 7.7 metres respectively. These measurements are taken from the two projecting wings to the rear of the proposed dwellings with the rest of the proposed development having an even greater distance of separation.
- 6.2.3 The Planning Inspector raised no concerns about the impact on outlook or light to the neighbouring dwellings as such the fact that the current application further reduces the height of the proposed dwellings and increases the distance of separation it is also considered that there would be no detrimental impact in this respect.
- 6.2.4 Unlike the previously considered scheme the proposal does now show first floor bedroom windows facing towards the rear windows of the properties on Upper Brook Street; previously only landing windows faced in this direction. Whilst it is acknowledged that the distance between facing windows is less than might be anticipated on more open and less constrained development sites, Officers consider that this must be balanced against the benefits that the development of this unsightly and derelict brownfield site brings. It must also be recognised that this is a near to town centre site where it is common for historic layouts to result in smaller distances of separation and a higher density of development.
- 6.2.5 The external appearance of the development will be traditional in its form. The heights of the development will cascade downwards from the neighbouring development and follow the alignment of the existing terraced properties, although there will be a gap in the terrace which would be filled by a wall with a gate leading through to the shared amenity area for plots 3 and 4. The development would include traditional sash windows and slate roof and robust chimneys to reflect the character of neighbouring buildings and the conservation area.

6.3 Amenity Space

6.3.1 The previous appeal was for a scheme that would have provided very limited and poor quality private amenity space for the future occupiers of the proposed development. This was one factor that contributed towards the Planning Inspector dismissing the appeal. This revised scheme has removed the 3 storey parts of the development and also removed the overhanging first and second floors which caused the Planning Inspector to express concern about the over shadowing of the courtyard areas. The development now proposed would provide more open and more user friendly external amenity spaces. Plots 1 and 2 would have private amenity space measuring 26.1 and 17.3 sq m respectively. Due to the constraints of the site in terms of its shape and land ownership Plots 3 and 4 would have a shared amenity space measuring 33.7 sq m. It is acknowledged that the amenity spaces are small when compared to more typical gardens and they will most likely be hard landscaped but residents would still have sufficient space for some outdoor living as well as space for keeping bicycles, drying clothes, outdoor bin storage etc. It is considered by Officers that the amount of amenity space would meet the most immediate needs for domestic amenity space. For larger open spaces and access to children's play area there is easy access to Cae Glas Park which is just a few minutes walk from the site.

6.4 Impact on Conservation Area

6.4.1 Being within the Town Centre Conservation Area there is a requirement for the proposals to preserve and/or enhance the character and appearance of the Conservation Area. It is considered by Officers that the proposal does follow the pattern of residential development comprising small terraces of properties fronting directly on to the highway. The main finishing materials are traditional and the use of a relevant condition to control their selection can ensure that they are appropriate. It is considered by Officers that the design of the proposed dwellings is acceptable in terms of its location within the Conservation Area.

6.5 Visual impact and landscaping

6.5.1 The proposed development would improve the current overgrown and unkempt appearance of the application site. It would round off development around the corner of the highway in a form which is similar to the character of surrounding development. Because development would be tight to the back of the highway pavement, there is no real scope for landscaping to soften the external appearance of the proposal but the development would be identical to adjacent development in this regard. There will be scope for some very limited and primarily hard landscaping at the rear of the proposed units.

6.5.2 The proposed development will inevitably impact on the outlook from adjacent properties, particularly the rear of those fronting on to Upper Brook Street. There is however no right to a view across the site from those properties and the question is therefore whether the impact is unacceptable in terms of a feeling of enclosure. As confirmed above, officers consider that the changes to this scheme from earlier submissions are on balance sufficient to conclude that the proposed development will not have a significant adverse impact on the privacy, amenity, and will not have a significant overbearing impact on the properties of the Upper Brook Street

residents.

6.6 Highway Safety

6.6.1 One of the primary concerns of the Planning Inspector at the time of the previous appeal was the safety of highway users and pedestrians. To overcome this issue the integral garaging has been completely removed from the application. As such this scheme for four dwellings would not provide any off street parking provision. This is the same situation for many other existing dwellings in the immediate area where occupants rely on the limited supply of on road parking. Not having off street parking is not uncommon in town centre locations where shops, services and facilities are easily accessible and there is also the availability good public transport services and public car parks. As such there is not the necessity to be a car owner in comparison to some of the more rural locations. The roads around the site already have parking restrictions in place, this would ensure that residents do not park in positions where the free flow of traffic and highway safety would be compromised. The Council's Highways Officer has not raised any objection to a development without any off street parking provision.

6.7 Affordable Housing

6.7.1 Regarding the need for an affordable housing payment, Officers acknowledge the November 2014 Ministerial statement and National Planning Practice Guidance (PPG) advising against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of the 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD. In this case the number of dwelling proposed would not result in the on-site provision of affordable housing; instead a financial contribution would need to be made.

6.8 Other Issues

6.8.1 As part of the consultation process a neighbour has commented on the issue regarding land ownership and access rights. For the purposes of the planning application the applicant has shown all of the proposed development and the private/ shared amenity land to be within the ownership of the applicant. If there is any dispute over ownership or private access right then this would be a civil matter between the two parties concerned.

7.0 CONCLUSION

7.1 The application site is a previously developed site within the built form of the town which is currently overgrown and clearly a candidate for some form of redevelopment. Given the nature of surrounding development and land uses, and the proximity of adjoining properties, residential redevelopment would seem to be the most appropriate. Furthermore the character of residential properties in the

immediate locality is one of quite dense and compact dwellings.

- 7.2 The site is not the easiest to redevelop given the constraints imposed by the proximity of adjoining properties and its location on a bend in the road. This necessitates that any new properties are likely to be sited hard against the rear edge of the footpath to the highway, but this is a common feature of other properties in the vicinity of the site.
- 7.3 Formal amenity space has been provided to the rear of the proposed properties together with the provision of bin storage. The difference with this scheme and previous proposals are the reduction in the number of dwellings and the layout and design of the units mean that they are less suitable for family occupation than earlier submissions. It is acknowledged that there would be no control over occupation of the proposed units but potential occupiers would be fully aware of the limited amenity space and the lack of off street parking.
- 7.4 Given all of the above it is considered that although there are some clear constraints associated with the development of this site, requiring some compromise on the space standards and separation distances and parking provision that may ordinarily be expected. It is considered that on balance it is considered that these issues alone are insufficient to prejudice the proposal as a whole which will provide four dwellings which because of their size would be at the more affordable end of the housing market and located in a sustainable town centre location. Importantly the scheme would allow an existing unsightly site, in a prominent location, which currently has a detrimental impact on the character and appearance of the Conservation Area and its environs.
- 7.5 Therefore subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with Council Policy, it is recommended that the application be approved.
- 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.
- 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 6 weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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
Planning Practice Guidance

Core Strategy and Saved Policies:

CS1- Strategic Approach

CS3- Market Towns and other Key Centres

CS6- Sustainable Design and Development Principles

CS11- Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

09/03185/FUL Demolition of existing buildings and erection of six dwellings with associated landscaping works (Renewal of extant permission reference 04/13278/FUL) REFUSE 17th June 2010

11/03612/FUL Demolition of existing buildings and erection of six dwellings with associated landscaping works (amendment to previously withdrawn application 11/02286/FUL) REFUSE 14th October 2011

12/03718/FUL Demolition of existing buildings and erection of five dwellings with associated landscaping works REFUSE 17th October 2013

PREAPP/15/00151 Erection of 4 no. dwellings and associated works PREAIP 12th May 2015

15/03804/FUL Erection of four dwellings PCO

Appeal

10/01814/REF Demolition of existing buildings and erection of six dwellings with associated landscaping works (Renewal of extant permission reference 04/13278/FUL) NOTPW 26th January 2011

Appeal

11/01923/REF Demolition of existing buildings and erection of six dwellings with associated landscaping works (amendment to previously withdrawn application 11/02286/FUL) DISMIS 2nd February 2012

Appeal

13/02088/REF Demolition of existing buildings and erection of five dwellings with associated landscaping works DISMIS 26th March 2014

11. Additional Information

View details online:

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

Cllr M. Price

Local Member

Cllr Keith Barrow

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 a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use.

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

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

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

5. Notwithstanding the details shown on the approved plans, before development commences samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

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

6. Notwithstanding the details shown on the approved plans prior to their installation details of all rain water goods shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in complete accordance with the approved details.

Reason: To safeguard the architectural and historic interest aof the Conservation Area.

7. Notwithstanding the details on the approved plans, all doors and windows shall be constructed of timber. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections. All doors and windows shall be stalled in complete accordance with the agreed details.

Reason: To safeguard the amenity of the conservation area and the external appearance of the development.

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

8. Airborne dust from the construction operations on the site shall be minimised by spraying with water or carrying out other such works that may be necessary to suppress dust.

Reason - To minimise disruption to adjoining occupiers and highway users.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- hard surfacing
- container for the storage of oil
- satellite antenna
- fences, gates or walls
- any windows or dormer windows

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

10. Construction and demolition works shall not take place outside 7:30 hours to 18:00 hours Monday to Friday and 8:00 hours to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason - In the interests of residential amenity

11. The proposed ground floor windows and doors on the side of the buildings adjoining the highway shall be of a type that does not open in the direction of the highway.

Reason: To prevent the opening of windows/doors over the highway footway in the interests of highway safety.

12. No waste materials generated, as a result of the proposed site preparation or construction operations shall be burnt on the site. All such refuse shall be disposed of by a suitable alternative method.

Reason - In the interest of residential amenity

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. Wales & West Utilities has pipes in the area. Apparatus may be affected and at risk during construction works. The applicant is advised to contact Wales and West Utilities directly to discuss requirements in detail before any works commence on site.

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<u>Committee and Date</u>
North Planning Committee
24 th November 2015

<u>Item</u>
7
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 24th NOVEMBER 2015

Appeals Lodged

LPA reference	14/03934/FUL
Appeal against	Non-Determination
Committee or Del. Decision	
Appellant	Mr Christopher and Mrs Rosemary Horton
Proposal	Erection of 10 dwellings to include alterations to pedestrian footpath link to Cremorne Gardens; works to brick wall
Location	Church Street, Ellesmere, Shropshire, SY12 0HD
Date of appeal	16.10.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00454/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Glen Noakes
Proposal	Outline application for the erection of 2 no. detached houses and associated garages to include means of access
Location	Land to the South of Knockin Heath, Oswestry
Date of appeal	23.10.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00916/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Muller Property Group
Proposal	Outline application (access for approval) for residential development of up to 39 dwellings
Location	Land adj Bollandsfield Tarporley Road Whitchurch
Date of appeal	22 nd October 2015
Appeal method	Inquiry
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/03509/OUT
Appeal against	Non determination
Committee or Del. Decision	Delegated
Appellant	Mr Brian Wigley
Proposal	Outline application (all matters reserved) for residential development to include conversion of farm buildings
Location	North Of Glebe Meadows, Whittington
Date of appeal	15 th October 2015
Appeal method	Written Reps
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/00291/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	CMS JAW ltd
Proposal	Outline application for residential development to include means of access
Location	Land NE of the Cemetary, Swan Hill, Ellesmere
Date of appeal	26 th October 2015
Appeal method	
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/04423/OUT
Appeal against	Non Determination
Committee or Del. Decision	Delegated
Appellant	Mr M Reid – C/O Christal Planning
Proposal	Outline application for the erection of a detached dwelling (all matters reserved)
Location	Land Adjacent To Sunnyholme Sydnall Lane Woodseaves Market Drayton
Date of appeal	09.11.15
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Decided

LPA reference	14/03176/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Gary Richards
Proposal	Outline application for 4 no. detached market housing and 3 no. pairs of semi-detached houses
Location	Land adjacent to Gilrhos Farm, St Martins
Date of appeal	17 th July 2015
Appeal method	Written reps
Date site visit	15 th September 2015
Date of appeal decision	19 th October 2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03629/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Arthur Richards
Proposal	Proposed two detached houses
Location	Land adjacent to Heath Cottage, Weirbrook, West Felton
Date of appeal	15 th July 2015
Appeal method	Written Reps
Date site visit	28 th September 2015
Date of appeal decision	19 th October 2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/05743/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs J Lycett
Proposal	Residential development, 2 dwellings including access
Location	Land between Startlewood Lane/ Little Ness Road, Ruyton XI Towns
Date of appeal	17 th July 2015
Appeal method	Written Reps
Date site visit	28 th September 2015
Date of appeal decision	20 th October 2015
Costs awarded	
Appeal decision	Dismissed

Appeal Decision

Site visit made on 15 September 2015

by Beverley Doward BSc BTP MRTPI

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

Decision date: 19 October 2015

Appeal Ref: APP/L3245/W/15/3127901

Land adjacent to Gilrhos Farm, Overton Road, St. Martins, Oswestry, Shropshire, SY11 3HA

- 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 Gary Richards against the decision of Shropshire Council.
 - The application Ref 14/03176/OUT, dated 14 July 2014, was refused by notice dated 6 May 2015.
 - The development proposed is described as "outline application for 4 no. detached market housing and 3 no. pairs of semi-detached houses on land adjacent to Gilrhos Farm, St Martins".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved. I have therefore dealt with the appeal on this basis.
3. The application was accompanied by a site layout plan. I have treated this as being for indicative purposes only.
4. In the appeal documentation the appellant states that the planning application was submitted on 15 July 2014 in support of the Council's shortage of a 5 year housing land supply at that time and that it was determined on 6 May 2015. The appellant requests that the proposal subject to this appeal be considered within the context of the housing land supply position and planning policy context pertaining at the time of application. However, I must consider the appeal in the context of the most recent position and on the basis of the evidence before me. The courts have confirmed that Inspectors need to make their decisions on planning appeals on the basis of the development plan and national policy which are in place at the time of their decision rather than at any earlier stage. Accordingly, my consideration of the appeal proposal has been based on the current position in relation to housing land supply and planning policy.

Main Issues

5. The main issues in this appeal are:

- whether the proposal for housing in this location comprises sustainable development, having regard to the provisions of the development plan and the National Planning Policy Framework (the Framework); and
- the effect of the proposed development on the character of the rural landscape and surrounding biodiversity.

Reasons

Whether sustainable development

6. Planning law requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework sets out the Government's planning policies and is a material consideration in planning decisions.
7. The adopted development plan for this area comprises the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (Core Strategy) and the saved policies of the Oswestry Borough Local Plan (Local Plan).
8. Policy H5 of the Local Plan indicates that the majority of new dwellings will be located in Oswestry Town and a number of larger settlements. St. Martins is indicated as one of the larger settlements within this policy. I have not been provided with a plan indicating the settlement boundary of St. Martins. However, the site is located some distance from the built up area of the settlement and there is no disagreement between the parties that the appeal site lies within the countryside for planning purposes.
9. Policy CS5 of the Core Strategy indicates that new development in the countryside will be strictly controlled except for certain defined uses, these include dwellings to house agricultural, forestry or other essential countryside workers, and other affordable housing/accommodation to meet a local housing need. There is nothing in the evidence before me to indicate that the proposed houses would be of a type that would meet the exceptions stated in policy CS5 of the Core Strategy. Accordingly, as the appeal proposal would be located in the countryside it would conflict with policy CS5 of the Core Strategy.
10. Policy CS5 of the Core Strategy is broadly consistent with the core planning principle of the Framework of recognising the intrinsic character and beauty of the countryside and the advice at paragraph 55 of the Framework that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities and that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
11. Policy MD1 of the emerging Shropshire Site Allocation and Management of Development Plan (SAMDev Plan) indicates that sufficient land will be made available during the remainder of the plan period to enable the delivery of the development planned in the Core Strategy, including the amount of housing. It also indicates that sustainable development will be supported in Shrewsbury, the market towns, key centres and identified community hubs and clusters. This is consistent with the advice at paragraph 55 of the Framework referred to above. Although St. Martins is identified as a community hub the appeal site is located to the north of the settlement somewhat detached from it and, as indicated above, the parties agree that it lies within the countryside for planning policy purposes. I see no reason to take an alternative view.

12. Policy MD7a of the SAMDev Plan relates to housing development in the countryside and reiterates that, further to Core Strategy policy CS5, new market housing will be strictly controlled outside of Shrewsbury, the market towns, key centres and identified community hubs and clusters except in certain circumstances, none of which apply in this case. Accordingly, the appeal proposal would be contrary to policies MD1 and MD7a of the emerging SAMDev Plan.
13. The SAMDev Plan was submitted to the Secretary of State in 2014 and is currently under examination. The Inspector conducting the examination of the SAMDev Plan has consulted on the Main Modifications which have been identified as necessary to make the policies in the plan sound and I note that there are no proposed modifications which would change the status of the appeal site. Therefore, in accordance with the advice at paragraph 216 of the Framework I attach considerable weight, albeit not full weight, to the relevant policies of the SAMDev Plan.
14. The appellant states that the planning application was submitted in support of the Council's shortage of a 5 year housing land supply at that time. However, there is no disagreement between the parties that the Council is now able to demonstrate a five year supply of housing land and from the evidence before me I see no reason to take an alternative view. Accordingly, paragraph 49 of the Framework is not engaged in this case.
15. As indicated above the Framework is a material consideration in planning decisions. At its heart is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 7 of the Framework sets out three dimensions of sustainable development: economic, social and environmental.
16. The appeal proposal would provide some economic and social benefits. It would provide housing, initially bringing employment opportunities during the construction of the houses and then providing homes whose occupiers would contribute to the local economy. It would also contribute to the overall supply of housing and could help support the existing local services within St. Martins thereby maintaining its vitality. However, given the scale of the proposed development, any benefits in these respects would be somewhat limited.
17. The appeal proposal would result in built development on open land within the countryside in a location which is somewhat divorced from the settlement of St. Martins. I note that the appellant indicates that a footway would be provided to link into the existing footway to St Martins which would facilitate the use of sustainable modes of transport to access the site and accordingly provide some environmental benefit. However, as I have found below, the proposal would cause material harm to the character of the rural landscape and surrounding biodiversity thus it would not contribute to protecting the natural environment and using resources prudently and accordingly overall it would not accord with the environmental dimension of sustainable development.
18. The benefits of the proposal would not outweigh the adverse impacts. The development would not be in accordance with the development plan. Therefore, the proposal for housing in this location would not constitute sustainable development, having regard to the provisions of the development plan and the Framework.

Character of rural landscape and surrounding biodiversity

19. The appeal site comprises agricultural land to the north of the settlement of St. Martins which the appellant indicates has generally been used as a pony paddock. It is located to the west of the B5069 (Overton Road) which runs alongside its south-eastern boundary. The site is surrounded by farm land and open land. To the west of the appeal site is an industrial use. To the north-east is the property known as Gilrhos, a former smallholding and there is some sporadic residential development further north on Overton Road and along Coopers Lane to the north-east. However, the residential development within the surrounding area is inter-dispersed amongst the surrounding farmland. The appeal site forms part of an area of open countryside to the north of St. Martins and as such it contributes to the form and character of the rural settlement. The appeal proposal would not be substantially enclosed by existing development nor could it be considered to satisfactorily complete the settlement pattern. Rather it would introduce residential development outside the built up extent of the settlement which would intrude into the open countryside. As such it would cause harm to the intrinsic character of the surrounding rural landscape.
20. The appeal proposal is in outline and landscaping would be determined as a reserved matter. However, I note that the appellant indicates that a number of the existing trees and hedgerows on the site would remain and that further planting would be undertaken to screen the development. Nevertheless, in so far as the development would not have the backdrop of existing buildings, it would appear as isolated development in the countryside. This visual impact would be unlikely to be materially reduced by additional landscaping.
21. I also note that the appellant indicates that some of the existing native hedgerow alongside Overton Road would be removed to provide a footway and to ensure adequate visibility splays for vehicular traffic into and out of the site. Whilst the provision of a footway would provide some benefits as detailed above, the removal of the roadside hedgerow would, notwithstanding the stated intention of the appellant to provide a replacement hedgerow on his land, detract from the rural character of the locality and the rural landscape and would be likely to cause harm to the biodiversity of the area.
22. To conclude on this issue therefore, the proposal would cause material harm to the character of the rural landscape and surrounding biodiversity contrary to policies CS5, CS6 and CS17 of the Core Strategy which, of the policies referred to by the Council in relation to this issue, are the most relevant. These policies when taken together seek to protect the character of the countryside and the natural environment. The proposal would also fail to satisfy the core planning principles of the Framework that planning should always take account of the character of different areas, recognising the intrinsic character and beauty of the countryside and contribute to conserving and enhancing the natural environment.

Other matters

23. In its reasons for refusal the Council refers to the lack of a completed planning obligation. It indicates that a planning obligation in relation to the provision of affordable housing is necessary in accordance with policies CS9 and CS11 of the Core Strategy and the Council's Type and Affordability of Housing Supplementary Planning Document. The appellant accepts the need for a

planning obligation in this respect although no such planning obligation is before me. Nevertheless, in view of the degree of harm I have identified above, any social benefits arising in this respect would be unlikely to swing the balance of advantage in favour of the development. Accordingly, this issue is not decisive.

24. I note that the site is somewhat low grade agricultural land. However, this does not serve to outweigh the harm that I have found would be caused by the proposal. Furthermore, the absence of any harm in relation to flooding and drainage does not serve to add weight in favour of the proposal.
25. The appellant raises concerns regarding the Council's handling of the planning application and the time taken to determine the application. However, these are not matters for me to comment upon or consider as part of an appeal under Section 78 of the above Act.

Conclusions

26. To conclude therefore, the appeal proposal would cause material harm to the character of the rural landscape and surrounding biodiversity, would not be in accordance with the development plan and would not constitute sustainable development, having regard to the provisions of the development plan and the Framework. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Beverley Doward

INSPECTOR

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Appeal Decision

Site visit made on 28 September 2015

by S. Ashworth BA (Hons) BPI MRTPI

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

Decision date: 19 October 2015

Appeal Ref: APP/L3245/W/15/3033102

Land adjacent to Heath Cottage, Weirbrook, West Felton, Oswestry, Shropshire SY11 4ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Arthur Richards against the decision of Shropshire Council.
 - The application Ref 14/03629/FUL, dated 8 August 2014, was refused by notice dated 27 November 2014.
 - The development proposed is two detached houses.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposed development would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework and the development plan.

Reasons

3. The appeal site comprises an area of mainly open, grassed land which lies adjacent to the appellant's property Heath Cottage. The site fronts a cul-de-sac which terminates just beyond Heath Cottage. The A5, which by-passes West Felton, lies immediately to the west of the site. The site lies outside of any defined settlement boundary and is therefore in the countryside for planning purposes.
4. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development strategy contained within the Council's adopted Core Strategy 2011 (Core Strategy) is to focus new residential development within Shrewsbury, market towns and other key centres; within rural areas development will be located predominantly within community hubs or community clusters as set out in the emerging Site Allocations and Management of Development Plan (SAMDev). Policy CS4 of the Core Strategy advises that development outside of community hubs and community clusters will not be allowed unless it meets the provisions of Policy CS5. Policy CS5 seeks to strictly control new development in the countryside although it provides for a number of exceptions.

5. The site is located outside of any community hub or community cluster as set out within the emerging SAMDev. As the proposal would be for new, open market housing in this countryside location, and would not fall within any of the exceptions of Policy CS5, there would be conflict with this policy.
6. However, where a local planning authority cannot demonstrate a five-year supply of deliverable housing land, paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date. As part of the appeal submission the Council contend that it has identified sufficient land to demonstrate a 5.75 year supply of deliverable sites. The appellant does not dispute this but contends that a five year supply could not be demonstrated at the time the planning application was determined. I do not have sufficient evidence before me to draw an accurate conclusion on this matter. Nevertheless the Framework sets out a presumption in favour of sustainable development which should be seen as the golden thread running through both plan-making and decision-taking. The Framework advises at paragraph 7 that there are three dimensions to sustainability: economic, social and environmental.
7. In terms of economic growth, the Framework advises at paragraph 156, that local planning authorities should set out the strategic priorities for the area in the Local Plan, including strategic policies to deliver amongst other things, the homes and jobs needed in the area. The proposed development would not be in accordance with the hierarchical approach to development set out in Core Strategy as outlined above. Paragraph 55 of the Framework states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities and isolated new homes should be avoided except in special circumstances.
8. The site lies within the settlement of Weirbrook which consists of a small collection of dwellings and is readily accessible from the A5. As such the site is not isolated. However, whilst there is some economic benefit to be gained from two dwellings, including a contribution towards the provision of affordable housing, given the scale of the development, this benefit would be limited.
9. The Framework advises that the social dimension of sustainability is the need to support communities; provide a supply of housing to meet the needs of present and future generations and create a high quality built environment with accessible local services. There are no facilities in Weirbrook itself but the appeal site lies around 1.3km from the village shop and public house in West Felton, which also has a school. The appellant advises that there is an hourly bus service to West Felton, which also provides access to Oswestry. I note that there is a footpath along the road leading to West Felton but this is unlit. As a result of the distances involved and the lack of street lighting, it is not a particularly attractive walking or cycling route. In my judgement it is therefore likely that occupants would rely on the car for journeys to services.
10. The environmental dimension of sustainability relates, amongst other things, to the need to protect and enhance the natural and built environment. The Framework sets out as a core principle the need to encourage the effective use of land by re-using land that has been previously developed. This site is described by the appellant as a pony paddock and by definition in the Framework, is not previously developed land. Furthermore, development in Weirbrook has a sporadic, loose knit appearance. Dwellings are set apart from

each other with space and vegetation in between them. This space contributes to the rural character of the settlement. The appeal site is currently open and free of development and thereby contributes positively to this character. As a consequence of the proposal, the built part of the settlement would be consolidated to the detriment of the character of the area.

11. I accept that the site is well screened from the A5. However, it is visible when viewed from within the settlement. Dwellings in Weirbrook vary in terms of their style and design. The proposed dwellings are of a modern design and are of a type normally found in an urban area. Whilst I have noted the appellant's contention that various features are reflective of neighbouring houses, the overall impression of the dwellings, their form and detailing, is that they are suburban in character. As such they would not reflect or enhance the character or appearance of the settlement. I agree that landscaping would help soften the appearance of the dwellings but it would not compensate for the form and design of the dwellings nor loss of openness the development would cause.
12. I have taken into consideration the appellant's points that the development would represent an in-fill form of development and that the proposal would not result in the loss of valuable agricultural land. Be this as it may, I am not persuaded that the development would be of benefit to the natural or built environment or to the rural character of the area for the reasons set out above.
13. The Framework states at paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. For the reasons outlined above, whilst there would be some limited gains as a result of the proposal, the proposal would not comply with the definition of sustainability when the Framework is taken as a whole. Therefore even if the Council were still not in a position to demonstrate a five year housing land supply, the overall conclusion would have been the same.
14. Consequently the proposal, as well as conflicting with Policy CS5 of the Core Strategy, would also conflict with Policy CS6 of the Core Strategy which seeks to promote sustainable design and development principles, and would not meet the aims of the Framework to promote sustainable development.

Conclusion

15. For these reasons, and taking into account all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR

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Appeal Decision

Site visit made on 28 September 2015

by S. Ashworth BA (Hons) BPI MRTPI

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

Decision date: 20 October 2015

Appeal Ref: APP/L3245/W/15/3035824

**Land between Startlewood Lane/ Little Ness Road, Ruyton X1 Towns
Shropshire SY4 1NA**

- 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 Lycett against the decision of Shropshire Council.
 - The application Ref 14/05743/OUT, dated 22 December 2014, was refused by notice dated 30 April 2015.
 - The development proposed is residential development, 2 dwellings, including access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was submitted in outline with only access to be determined at this stage. I have dealt with the appeal on that basis.

Main Issues

3. The main issues in this case are:
 - The effect of the development on the character and appearance of the area.
 - Whether the proposed development would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework (the Framework) and the development plan.

Reasons

Planning Policy

4. The development strategy contained within the Council's adopted Core Strategy 2011 (Core Strategy) is to focus new residential development within Shrewsbury, market towns and other key centres. Within rural areas development will be located predominantly within community hubs or community clusters as set out in the emerging Site Allocations and Management of Development Plan (SAMDev). Policy CS4 of the Core Strategy advises that development outside of community hubs and community clusters will not be allowed unless it meets the provisions of Policy CS5. Policy CS5 seeks to strictly control new development in the countryside although it provides for a number of exceptions.

5. Ruyton XI Towns is proposed as a community hub in the emerging SAMDev Plan. However, the appeal site lies outside the defined development boundary set out in the Plan, and is also outside the development boundary set out in the adopted North Shropshire Local Plan. As the proposal would be for new, open market housing in this countryside location, and would not fall within any of the exceptions of Policy CS5, there would be conflict with this policy.

Character and appearance

6. The appeal site lies on the south side of the settlement at the junction of Startlewood Lane and Little Ness Road. It forms part of a field which has been divided into sections and is currently used for grazing purposes. The proposed vehicular access into the development would be located on Little Ness Road close to an access into the adjoining part of the field.
7. To the west of the site, on the opposite side of Startlewood Lane, is a row of residential properties of different forms and styles. The linear pattern of this development is a strong and distinctive element in the composition and character of this part of the settlement that marks a clear boundary between the built up part of the village and the open undeveloped countryside to the south and east. Whilst the appeal site is within an area that has no special landscape designation as a green field, it is in part of the open countryside that contributes to the setting of the village.
8. The site is currently well screened from public view by mature boundary hedging. Nevertheless, it is set at a higher level than some of the surrounding roads. It seems to me that even if the development were to be single storey in height, as has been suggested by the appellants, and thereby largely screened by existing vegetation, it would still be apparent from the surrounding road network, particularly in winter months. The formation of the access to the site, which would require the provision of visibility splays and the removal of part of the boundary hedge, would accentuate the visibility of the development and its effect on the character of the area.
9. As a consequence, the development would urbanise this section of land between Startlewood Lane and Little Ness Road and would have a significant adverse effect on the character and appearance of the countryside. This would be contrary to Core Strategy Policies CS3, CS5 and CS17 which seek amongst other things to protect and enhance the diversity, high quality and local character of Shropshire's natural and built environment.

Sustainability

10. Where a local planning authority cannot demonstrate a five-year supply of deliverable housing sites, paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date. As part of the appeal submission the Council contend that it has identified sufficient land to demonstrate a 5.75 year supply of deliverable sites. The appellant disputes that this has been established.
11. I do not have sufficient evidence before me to draw an accurate conclusion on this matter. Nevertheless the Framework sets out a presumption in favour of sustainable development which should be seen as the golden thread running through both plan-making and decision-taking. Sustainability, the Framework advises, encompasses economic, social and environmental dimensions.

12. In terms of economic growth, the Framework advises at paragraph 156, that local planning authorities should set out the strategic priorities for the area in the Local Plan, including strategic policies to deliver amongst other things, the homes and jobs needed in the area. The proposed development would not be in accordance with the hierarchical approach to development set out in Core Strategy as outlined above. Nevertheless the site lies immediately adjacent to existing residential development and is on the edge of the settlement. It could not therefore be described as isolated in terms of paragraph 55. Moreover, there would be some economic gain from the proposal although as a result of the size of the development this benefit would be limited.
13. The Framework advises that the social dimension of sustainability is the need to support communities, provide a supply of housing to meet the needs of present and future generations and to create a high quality built environment with accessible local services. There is a range of community facilities in the village, including a school, pub, village hall and church within walking distance of the site. However, the road serving the development is a narrow lane with no pedestrian footpaths and restricted visibility around the 5-ways junction. It seems from third party comments, and from what I saw on site, that the lanes around the site are used by walkers and cyclists. However, the highway network, without the provision of footpaths, is less than ideal. This, in my judgement, compromises the accessibility of the site in sustainability terms.
14. I have taken into consideration the appellants' suggestion that a pedestrian link could be formed to the north end of the site, which I agree would provide a more direct route to the centre of the settlement. However, this does not form part of the proposal. The extent of the development needed to form such a pedestrian access at a road junction in a position where there is no footpath, and the impact of that development on the character and appearance of the area, is unknown and therefore unassessed. I cannot therefore give this matter any weight.
15. The environmental dimension of sustainability relates, amongst other things, to the need to contribute to protecting and enhancing the natural and built environment. The Framework sets out as a core principle the need to take into account the different roles and character of different areas and that planning should recognise the intrinsic beauty and character of the countryside. For the reasons set out above, the proposed development would cause harm to the character and appearance of the area. The Framework states at paragraph 8 that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously. For the reasons outlined above, whilst there would be some limited gains as a result of the proposal in economic and social terms, it would not meet the requirements of the Framework taken as a whole. Accordingly the proposal does not therefore constitute a sustainable form of development
16. For these reasons the proposal would also be contrary to Policies CS4 and CS6 of the Core Strategy which seek amongst other things to promote sustainable development.

Other Matters

17. I have taken into consideration local residents' concern that the proposal will result in a danger to highway safety. However, it seems to me that traffic generated by two additional dwellings would be limited. Provided that adequate

visibility splays were provided there is no convincing evidence before me that the proposal would have a detrimental effect in this regard. I have also noted concerns that the development would adversely affect the privacy and light to neighbouring houses. However, this cannot be concluded from an outline application where details not provided. Such a matter would have been dealt with at the reserved matters stage had I been minded to allow the appeal.

18. Residents have drawn my attention to issues of drainage. However, no evidence has been put forward about this matter and I cannot therefore conclude that the development would cause harm to the area in this respect or exacerbate any existing problem. A condition requiring the submission of a suitable drainage scheme could have been imposed should one have been deemed necessary. Nor is there any firm evidence that the proposal would significantly compromise any wildlife value the site may have.
19. The appellants have drawn my attention to several examples where planning permission for the development of other sites in the vicinity has been approved. I accept that some of these appear to have some similar characteristics to the appeal proposal. However, they are not exactly comparable and from the information I have been provided with, it seems to me that none of the proposals have the same physical context adjacent to a very well defined edge of the built-up part of the settlement. Moreover, the SAMDev is at a more advanced stage of preparation and I can attach significant weight to it in accordance with advice set out in paragraph 216 of the Framework. In addition I have taken into account recent appeal decisions submitted by the Council and have noted the weight the Inspectors in these cases give to the emerging plan.

CONCLUSION

20. For the reasons outlined above, and taking all other matters raised into account, the appeal is dismissed.

S Ashworth

INSPECTOR