

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

Date: Monday, 13 June 2016

Committee:
South Planning Committee

Date: Tuesday, 21 June 2016

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

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

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

Members of the Committee

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Gwilym Butler
Nigel Hartin
Richard Huffer
John Hurst-Knight
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Charlotte Barnes
Lee Chapman
Heather Kidd
Christian Lea
Cecilia Motley
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

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

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 24 May 2016.

Contact: Emily Marshall (01743) 257717.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 pm on Thursday, 16 June 2016.

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 Proposed Residential Development Land to the South Of Rocks Green, Ludlow (15/04158/OUT) (Pages 7 - 28)

Outline application for the erection of 2 detached dwellings (all matters reserved).

6 Barn To The North Of Woodfield House, St Mary's Lane, Much Wenlock, Shropshire (16/00642/FUL) (Pages 29 - 46)

Conversion of redundant barn to one dwelling with extension and relocated access.

7 Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT (16/00952/VAR) (Pages 47 - 72)

Variation of Condition 2 (approved plans and drawings) of 15/04032/REM erection of 6 no. dwellings.

8 Schedule of Appeals and Appeal Decisions (Pages 73 - 118)

9 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 19 July 2016, in the Shrewsbury Room, Shirehall.



Committee and Date

South Planning Committee

21st June 2016

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 24 May 2016

2.00 - 4.40 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Nigel Hartin, Richard Huffer, John Hurst-Knight, Madge Shingleton, Robert Tindall and Tina Woodward

1 Election of Chairman

RESOLVED: That Councillor David Evans be elected Chairman for the ensuing municipal year.

2 Apologies for Absence

An apology for absence was received from Councillor G. Butler (Councillor Celia Motley Substitute)

3 Appointment of Vice-Chairman

RESOLVED: That Councillor David Turner be appointed Vice Chairman for the ensuing municipal year.

4 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 26 April 2016 be approved as a correct record and signed by the Chairman.

5 Public Question Time

There were no public questions received.

6 Disclosable Pecuniary Interests

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

7 Barn To The North Of Woodfield House, St Marys Lane, Much Wenlock, Shropshire (16/00642/FUL)

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

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

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

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor David Turner, as local Ward Councillor, made a statement. He expressed concerns in relation to a lack of parking within Much Wenlock town centre. He highlighted that overspill parking at the Raven Hotel would be unlikely as it was often full, especially at weekends and he emphasised the need for members to taking into account the timings of the holiday let in the adjacent properties and the timings of the Raven Hotel. He then left the meeting, took no part in the debate and did not vote on this item.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members of the Committee expressed concern in relation to the proposal to raise the roof and the potential harm that could be caused to the historic fabric of an old building that was within a conservation area.

RESOLVED:

That consideration of the application be deferred to a future meeting to enable further discussion with the developer on the need for and potential harm to the historic fabric that could result from the proposed raising of the roof.

8 Land North East Of Stone Drive, Shifnal, Shropshire (16/00645/REM)

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

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting, which included additional comments made by Shropshire Councillor Stuart West, as local ward councillor.

With the permission of the Chairman, the following speakers were permitted to speak:

Mrs J. Owen, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr Bob Haddon, Chairman of the Shifnall Flood Partnership, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillors Robert Harrop and Andy Mitchell (who shared the three minute speaking time), Shifnall Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr Andy Williams, Agent on behalf of the application, spoke in support for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. The Chairman allowed Mr Williams six minutes within which to speak as there were two speakers speaking against the proposal in addition to the Town Council.

David Edwards, Shropshire Council's Flood and Water Manager responded to concerns expressed by the public speaker. Mr Edwards explained that issues in relation to flooding at Silvermere Pool existed separately to this development, indeed proposals to develop the site would improve any flooding issues in the area.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members agreed that the proposed scheme was very well designed, with greenspaces and mature trees incorporated within the design.

RESOLVED:

That Planning Permission be granted, subject to the conditions set out in Appendix 1.

9 Land North East Of Stone Drive, Shifnal, Shropshire (16/00646/REM)

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

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

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

With the permission of the Chairman, the following speakers were permitted to speak:

Mr R. Owen, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Ms. J. Smith, Scheme Designer, spoke in support for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In response to concerns expressed by the public speaker in relation to potential issues relating to crime and public safety, Ms. Smith explained that the scheme had

been designed to include properties which over looked the open spaces, to include a level of surveillance.

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

RESOLVED:

That Planning Permission be granted, subject to the conditions set out in Appendix 1.

10 Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT (16/00952/VAR)

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

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

With the permission of the Chairman, the following speakers were permitted to speak:

Mr R. Cass, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor Kim Golden on behalf of the Worthen and Shelve Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Heather Kidd, as local Ward Councillor, who spoke against the proposal. Councillor Kidd explained that she wanted the council to take action to ameliorate the impact on local residents whose properties had been devalued and were overlooked by the development.

Mr Stuart Taylor, agent on behalf of the applicant spoke in support of the proposals in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Concern was expressed in relation to the elements of the application in particular the raised roof levels of plots 3-6, the reinstatement of the original dormer pitch and with regards to overall site layout consideration should be given to careful tree planting.

Councillor Cecilia Motley left the meeting at this point.

RESOLVED:

That consideration of the application be **deferred** to a future meeting of the South Planning Committee with a request to the developer to come back with further

amendments in relation to elements of the application that members expressed concern about.

11 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 24 May 2016 be noted.

12 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 21 June 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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Committee and date

South Committee

21st June 2016

Development Management Report (Referral back to committee)

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04158/OUT	Parish:	Ludford
Proposal: Outline application for the erection of 2 detached dwellings (all matters reserved)		
Site Address: Proposed Residential Development Land to the South Of Rocks Green Ludlow		
Applicant: Mr & Mrs W & L Smith		
Case Officer: Grahame French	email: planningdmsw@shropshire.gov.uk	

Recommendation: It is recommended that the requirement for an affordable housing contribution accompanying the approval resolution for the application at the 2nd February 2016 committee is removed on the basis that there has been a subsequent material change to national affordable housing policy.

REPORT

1.0 BACKGROUND TO THE REPORT

1.1 This application was reported to the committee on 2nd February 2016. The original officer report is attached as Annex 1. Members resolved to approve the application in accordance with the officer recommendation which included a legal agreement relating to 1) an affordable housing contribution and 2) revocation of permission ref SS/1/07/19486/CE for storage use on applicant's land.

1.2 There has been a significant change in national policy on affordable housing since this time and the applicant has indicated that the affordable housing contribution should no longer apply. The application is being reported back to the committee on this basis.

2.0 AFFORDABLE HOUSING POLICY

2.1 A Written Ministerial Statement (WMS) on affordable housing contributions (AHC's) was issued in November 2014 and stipulates that Local Planning Authorities should not require an AHC for applications for 10 or less dwellings (5 of less in designated rural areas) and less than 1,000sq m floor area. This was challenged legally by West

Berkshire and Reading Councils and Shropshire Council continued to implement its adopted affordable housing policy (see below) whilst the challenge was in progress.

- 2.2 In May this year the High Court supported the Government's position and Shropshire Council has now accepted that the WMS applies as a significant material consideration. Accordingly the Council will not normally require an AHC where the circumstances set out in the WMS apply.
- 2.2 Prior to the above High Court decision the Council's policy on affordable housing was set out in Core Strategy Policy CS11 and an accompanying Supplementary Planning Document on type and affordability of housing. The policy advises that all new open market housing development should make 'appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index'.
- 2.3 The current application was considered by the committee before the May High Court decision and an AHC was therefore required under the Council's adopted housing policy. However, the legal agreement has not yet been completed and, as stated above, the WMS is now a significant material consideration. It is therefore necessary to re-evaluate whether an AHC can still be justified in the light of the WMS. As the original decision was taken by the south committee it is necessary to report the application back to the committee.
3. OFFICER APPRAISAL
- 3.1 The key test to apply in determining the weight to be accorded to the WMS is whether the application would still be compliant with the development plan without an AHC.
- 3.2 Notwithstanding the specific thresholds set out in the AHC, recent case law has confirmed that a developer can seek to 'overprovide' affordable housing in order to make an otherwise unacceptable scheme more acceptable (a recent appeal for a major housing scheme in the Green Belt succeeded because the developer proposed a voluntary 30% AHC). This is because securing an AHC can render a scheme more acceptable in terms of social sustainability and this can in turn be a material consideration weighing in favour of the scheme. Overprovision can in the current context mean volunteering to provide an AHC where it was previously required under Policy CS11 but is no longer formally required in the wake of the WMS. Significant weight can potentially be given to the benefits of 'AHC overprovision', particularly where there is a strong affordable housing need.
- 3.3 However, the current applicant has not volunteered to 'overprovide' and is simply seeking to remove this requirement from the legal agreement in the light of the WMS. It is necessary therefore to assess whether the development would remain sustainable and hence capable of support in the absence of the AHC.
- 3.4 The key issues raised by the Rock Green proposals are set out in the officer report (Annex 1). This indicates that in policy terms the site is located outside the development boundary of Ludlow. The location is nonetheless considered to be a sustainable location for 2 proposed properties given its close spatial relationship to existing property and to a nearby allocated housing site and its proximity to the market town of Ludlow. Moreover,

the site is currently part of a yard area which benefits from planning permission for storage uses. As such it is a brownfield site and the NPPF encourages the preferential development of such sites.

- 3.5 The land use issues raised by the proposals have also been considered in the officer report. No objections have been received from technical consultees. Whilst local residents have expressed concerns about the nature of the access to the site the highways officer has not objected. The applicant has agreed to formally revoke the permission for a storage use within their land ownership and this could potentially have generated greater levels of traffic than the proposed development.
- 3.6 The housing enabling team did not identify Rocks Green as an area of high affordable housing need in commenting on the planning application. Hence, this issue was not accorded any special weight above the normal level for Core Strategy Policy CS11. It should be noted in this respect that the proposed nearby housing allocation, when developed, will deliver a significant level of affordable housing provision and also Community Infrastructure Levy funding. In addition, there is a significant concentration of existing affordable / social housing within the Market Town of Ludlow, commensurate with its role as an important centre within South Shropshire.

4. CONCLUSION

- 4.1 Whilst the site is outside of the development boundary for Ludlow it is considered to be a sustainable location for the reasons outlined in the February 2016 officer report and there are no technical objections to the scheme.
- 4.2 There are no special circumstances which would justify retaining an affordable housing contribution for this development in the light of the significant weight which must now be accorded to the Written Ministerial Statement. It is concluded on balance that the proposals would remain compliant with the Development Plan as a whole in the absence of an affordable contribution. The committee is therefore recommended to remove the legal clause relating to the affordable contribution. The clause relating to revocation of the storage use permission would remain.

5. ADDITIONAL INFORMATION

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NV567QTDIAF00>

List of Background Papers: Planning application form for application reference 15/04158/OUT and accompanying design and access statement and plans
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr. Vivienne Parry
Appendices: APPENDIX 1 - Conditions

ANNEX 1

REPORT TO SOUTH PLANNING COMMITTEE ON 2 FEBRUARY 2016



Committee and date
South Committee
2 nd February 2016

Item
7
Public

Development Management Report

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

Summary of Application

<u>Application Number:</u> 15/04158/OUT	<u>Parish:</u>	Ludford
<u>Proposal:</u> Outline application for the erection of 2 detached dwellings (all matters reserved)		
<u>Site Address:</u> Proposed Residential Development Land to the South Of Rocks Green Ludlow		
<u>Applicant:</u> Mr & Mrs W & L Smith		
<u>Case Officer:</u> Grahame French	<u>email:</u> planningdmsw@shropshire.gov.uk	

Recommendation:- Grant Permission as a Departure subject to the conditions set out in Appendix 1 and subject to Legal Agreement delivering an affordable housing contribution and revocation of permission ref SS/1/07/19486/CE for storage use on applicant's land.



Figure 1 - Location REPORT

1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for the erection of two detached dwellings (reduced from 3) on vacant land at the rear of Rock Terrace, Rocks Green Ludlow and the means of access. All other details including scale, appearance, layout and landscaping would be the subject of a reserved matters application. The original layout plan (below) showed 3 properties, but two are now proposed following discussion with officers.



Figure 2 – Original indicative layout, now reduced to 2 properties

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located at Rocks Green, Ludlow, a small settlement that straddles the A4117 in linear form immediately on the eastern side of the by-pass. A major housing development has taken place on the northern side of the A4117 that is accessed immediately opposite Rock Terrace which is fronts the southern side of the highway.
- 2.2 The site is vacant land situated at the rear of Rock Terrace in Rocks Green and to the rear of the Nelson Public House. The land and a further area to the immediate south has the benefit of a Certificate of Lawfulness for storage use granted in 2007 (SS/1/07/19486/CE). The application site comprises two parcels of land, one to the west of an existing single detached bungalow and a further parcel to the south.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have submitted a view contrary to officers' recommendation for approval. The Area Planning Manager in consultation with the Local Member and the committee chairman agrees that the material planning issues have been raised by the Parish Council and that the application should be referred to the committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 Ludford Parish Council: Objection. As the Parish Council is uncertain how much the new application has changed regarding drainage , much increased use of an old green lane and a near impossible access on to the B4117 and over development etc. the parish council is to reiterate their reasons for objecting to the proposal for 3 dwellings at Rocks Green number 15/011410/OUT. Ludford Parish Council objects to the planning application, for the reasons outlined below:

- i. There are errors on the application, namely:
- The land is not, nor has been, residential.
 - There is no access to a mains drainage system. The present sewerage arrangement allows the current properties to access a septic tank to be found in the field the subject of this planning application, together with all proper legal easements necessary for this arrangement. It is understood that this system will not allow for any increase of the use of the system. In the event that the proposed application was to receive approval it is suggested that a condition be imposed to protect the existing sewerage pipework connecting the existing properties to the septic tank, and for access to and from such tank for maintenance and emptying.
- ii. The concerns are that have determined the objection are:
- There is poor visibility splay at the junction with the A4117 and requires the Highway Agency to report on the safety issues which will arise in the event of this development being granted permission.
 - The lane leading to the proposed site, part of which is a grass lane and narrow, is inadequate and unsuitable for the traffic that would be generated to and from the

site, and would not allow simultaneous two way traffic during all hours of the day and night.

- The proposed development is not included within SAMDev. There are 200 dwellings proposed at Rocks Green in SAM-Dev and the SAM-Dev proposal is sufficient development for Rocks Green. Consequently there would be an over-development at this site.
- The encroachment on the adjoining properties by this proposed development would place an unacceptable loss of residential amenity.
- The application does not conform with the SAM-Dev proposals and should therefore be refused by Shropshire Council as not meeting their own plans.

4.1.1 Affordable Housing: Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.1.2 Highways: No objection subject to condition approving access details. The development is proposed to be served via an existing private drive/lane which accesses out onto Rocks Green, A4117 adjoining the Nelson Public House, within a 40 mph speed limit. The Highway Authority commented upon the earlier application submission 15/01141/OUT which was subsequently withdrawn. Whilst the application has been submitted with all matters reserved, an indicative plan has been forwarded and the proposed development described as the erection of three dwellings. The current application from the highway perspective is a resubmission of the earlier proposal. As with the earlier application having regard to the context of the proposed application and the existing use of the private drive, the Highway Authority continues to be of the view that the width of the private drive is unlikely to result in conditions detrimental to highway safety to sustain a highway objection to the proposal.

4.1.3 Ecology: No objection, Informative notes on protected species are recommended. Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

4.1.4 Drainage: No objection. The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted:

4.2 Public Representations:

4.2.1 The application has been advertised in accordance with statutory provisions. Comments have been received from one resident objecting to the proposals and an agent acting on their behalf. The following points are raised:

- Procedural: Delay in the application submission process has caused distress;

- Access: Objector owns the land and existing rights of access would not be sufficient to afford rights of access for 3 new properties. The access and its limitations have discouraged past development attempts;
- Highway comments advising of no objection to access proposals are questioned. The existing lane does not meet relevant standards and the proposals would exacerbate this;
- Questioning accuracy of application plans;
- The land falls outside of the development boundary and is not garden or residential amenity space. It must therefore be considered as open countryside.
- The proposal would conflict with the linear form of Rocks Green and must be regarded as backland development.
- The applicant questions the Council's claim to have a 5 year housing supply. However, the site is unsustainable as a windfall site and small sites such as this do not make any significant impact on housing supply.
- The proposals are trying to ride on the back of an adjacent SAMDev allocation. A major development would provide significant benefits which is not the case with this proposal.
- The site may have ecological potential.
- Foul water drains cannot be connected and the nearest mains supply is at the roundabout where the cost of connection would be prohibitive.
- The proposals would not deliver affordable housing.
- The ward councillor and Parish Council opposed the original application before it was withdrawn and there have been no material changes to affect their views.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Highways and access
- Visual impact and landscaping
- Other considerations

6.0 OFFICER APPRAISAL

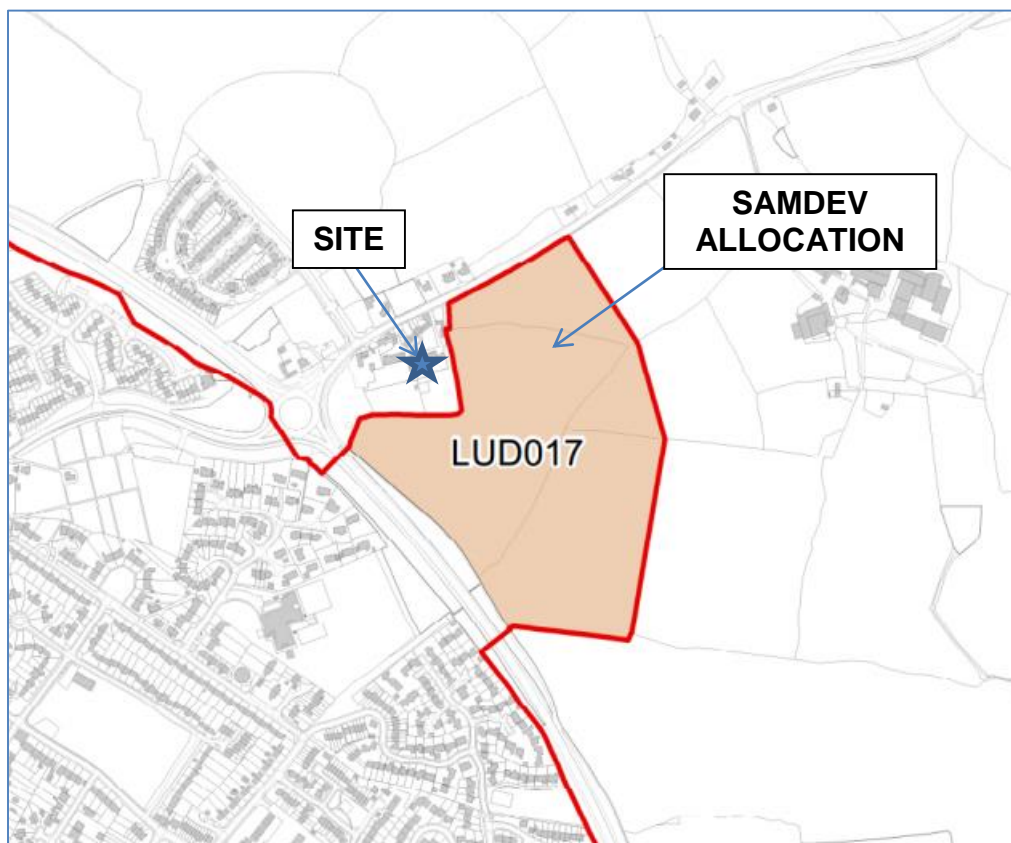


Figure 3 – SAMDev allocation

6.1 Principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan (DP) unless material considerations indicate otherwise. Consideration needs to be given to this presumption in favour of sustainable development in determining whether a site is suitable for release.
- 6.1.2 The application site is located outside of the development boundary for Ludlow as identified in the adopted SAMDev plan and Rocks Green is not identified as part of a community hub or cluster. In technical terms therefore the site is in an ‘open countryside’ location where Core Strategy policy CS5 generally seeks to prevent new open market housing.
- 6.1.3 SAMDev Policy MD3 reaffirms the need for housing proposals to be sustainable and compliant with other relevant policies. It advises that ‘In addition to supporting the development of the allocated housing sites set out in Settlement Policies S1-S18, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a’. Residential proposals should also meet the design requirements of relevant Local Plan policies and confirm with the settlement housing guideline.
- 6.1.4 Existing spatial housing policies do not support open market housing in countryside locations. In this particular case however there are extenuating circumstances which weigh in favour of the proposals:

- 6.1.5 The proposed development is to the immediate north of a site allocated for 200 houses in the SAMDev (LUD017 - plan 3). SAMDev Policy S10 advises that the guideline for growth in Ludlow is for around 875 new dwellings and a minimum of 6 ha of employment land between 2006 and 2026. The policy advises that new housing development will be delivered primarily on the allocated housing sites east of the A49, alongside additional infill and windfall development within the town's development boundary.
- 6.1.6 The effect of the housing allocation LUD17 is to extend the town's development boundary in this area such that the application site will be surrounded by development on all sides, except by a small paddock to the west which separates the site from the Ludlow By-Pass. As such, Rocks Green cannot be said in landscape terms to be a separate settlement in open countryside and the proposals would have the characteristics of an infill development. It is considered unlikely that the small 'landlocked' area between existing and allocated housing, including the current site and its immediate surrounds would be capable of sustaining a viable agricultural use.
- 6.1.7 Previous proposals for housing in this area have been refused by the former South Shropshire District Council, but adoption of the SAMDev and the adjacent large housing allocation represents a material change in the context of the site. It could be argued that the allocation has not yet been developed and that it is premature to take account of this as context. However the principle of housing development on this adjacent area has now been established and the probability that the allocation will be developed is considered high. It is also the case that the allocation would benefit from a modern purpose built access and other new enabling infrastructure, in contrast to the current site. However, SC Highways have not objected to the principle of using the existing access for 3 properties and this has now been reduced to 2.
- 6.1.8 A key objective of the Council's spatial housing strategy is to direct housing development towards sustainable settlements and to avoid encroachment into open countryside locations. It is considered, whilst previous residential proposals for the site were in conflict with this objective, the current proposals would not be in conflict in the light of the SAMDev allocation.
- 6.1.9 The site also has the benefit of a Certificate of Lawfulness for open storage use (containers, vehicles) granted by the former South Shropshire District Council in May 2007 (ref SS/1/07/19486/CE). The approval also extends beyond the southern boundary of the site. Air photo evidence confirms that the site has remained as a fenced off yard with an ongoing low-key storage use since this time. Some existing outbuildings have been erected at the northern end of the site in connection with this use but would be removed as part of the development. The agent advises that the use also has a connection with the applicant's existing domestic property, though the Parish Council contests that the site has any existing residential status.
- 6.1.10 The officer considers that the site can be said to have a 'brownfield' status in view of this existing business use. The applicant has agreed to revoke this use within their landholding. The development is also located immediately between existing and proposed residential development on the edge of the market town of Ludlow with its wide range of services. In view of this, and given also the generic support for new housing development set out in the NPPF it is considered in this particular case there may

potentially be circumstances justifying a departure from adopted spatial housing strategy (CS4, CS5; MD1, MD3). It is necessary however to determine the extent to which the proposals are also capable of complying with other relevant development plan policies.

6.2 Siting, scale and design

6.2.1 The application is in outline so detailed design would be the subject of reserved matters if the proposals are approved. An indicative layout plan was provided which shows 3 dwellings and their suggested alignment. The applicant has however now agreed to reduce the proposals to 2 properties following discussions with officers. It is considered that there is ample space to accommodate 2 properties within the site without adversely impacting on the amenities of the nearest existing properties.

6.2.2 It is suggested that any reserved matters application would need to specify a maximum 1½ height design for the plots with use of obscure glazing on appropriate elevations and appropriate landscaping. It is however possible in principle to maintain acceptable spatial relationships with existing properties now that the scheme has been reduced to 2 properties.



Figure 4 – Spatial relationships for original 3 house scheme

6.2.3 There would be ample space for 2 vehicles to park and turn on the plots. The southern plot is adjacent to the remainder of the storage yard area. However, this land is within the applicant’s control and the applicant has been agreed that the lawful use covering the storage activity can be revoked if the current application is approved. Hence, there would be no conflicts between this use and residential amenity.

6.2.8 In summary, the reduction to a 2 house scheme allows sufficient space to optimise the relationships with neighbouring properties. There is ample space to accommodate 2 detached dwellings within the site whilst maintaining acceptable spatial relationships with neighbours. The requirement for 30m² of amenity space per person for new housing (SAMDev policy MD2) can readily be achieved. It is considered that an acceptable scheme in terms of layout and design could be achieved in principle at the reserved matters stage.

6.3 Highways and access

- 6.3.1 The Parish Council and the objector have raised concerns about the access to the site in terms of width limitations and safety of the junction. The access road is restricted to 3.6m between Nelson Inn and Nelson Cottage some 17m from the public highway. Highway officers have however not objected on the basis of the limited additional traffic which the proposals would generate.
- 6.3.2 The objector's consultant has suggested that the applicant does not have sufficient rights of access to accommodate the 3 properties originally proposed. This is however a separate legal matter and is not a material planning consideration. The objector has also expressed concern that the access track is currently used as an extension to private garden space. Again however, this is a private legal matter and the two existing properties fronting the proposed access both have private gardens.
- 6.3.3 It is not considered that a highway objection can be sustained based on the advice of the Council's Highways officer. Whilst the limitations of the access are acknowledged the reduction to a 2 house scheme provides further mitigation. Revocation of the certificate of lawfulness for the storage use also means that there would be an overall reduction in existing traffic using the access road relative to what could potentially occur.

6.4 Visual impact and landscaping

- 6.4.1 The site is not located within the AONB and there are no listed properties in the vicinity. The Nelson Inn is an old property which is a non-designated heritage asset. There is however no inter-visibility between the proposed development and this public house.
- 6.4.2 Given the relationship of the development to existing residential property it is important that the detailed design is sensitive in order to assist in integrating the development. In particular, as noted above, it is considered that the properties should be of no more than 1½ height design in this location. Other detailed design issues such as use of obscure glazing to certain elevations and landscaping of plot boundaries are capable of being secured by condition at the reserved matters stage.

6.5 Other considerations

- 6.5.1 Flooding/Drainage – The drainage information submitted in support of the application has been assessed by the Councils submitted flood risk and water management team and they have raised no objection to the proposal on the basis that they are satisfied that a satisfactory drainage solution can be provided subject to recommended conditions.
- 6.5.2 Overlooking/loss of privacy – the layout and design details submitted with the application have been superseded due to the reduction from 3 to 2 houses. Detailed layout and elevation plans would be submitted at the reserved matters stage. The implications for the neighbouring properties can be adequately considered at that time. However, as noted above, the officer is satisfied that acceptable spatial relationships can in principle be maintained between existing and proposed properties. There would be some potential loss of an existing open aspect for the nearest property ('The Bungalow'). However, there is no 'right to a view' in UK planning law and it is not considered that any post

development view would be unacceptably adverse given the reduction to 2 properties and the ability to specify the detailed design, surface treatments and landscaping measures.

- 6.5.3 Residential amenity: – A construction management plan condition has been recommended in order to control and minimise disturbance during the construction phase. Once completed, the development would have no greater implications for noise generation or nuisance than any other residential use. The revocation of the Certificate of Lawfulness may reduce overall levels of noise in the local area relative to what could potentially occur.
- 6.5.4 Development precedent: Approval of this application would not set a wider precedent for development outside of the defined development boundary of Ludlow. This is because of the unique geographic context of the site including its immediate proximity to existing housing and the LUD17 SAMDev housing allocation and the existing brownfield status.
- 6.5.5 Impact on enjoyment of the local area – The site is not in an area likely to be frequented by visitors and construction will be screened from more public areas by existing properties.
- 6.5.6 Sewerage: The objector has indicated that foul water drains cannot be connected and the nearest mains supply is at the roundabout where the cost of connection would be prohibitive. In the event that the proposed application was to receive approval it is suggested that a condition be imposed to protect the existing sewerage pipework connecting the existing properties to the septic tank located to the immediate west of the site, and for access to and from such tank for maintenance and emptying.
- 6.5.7 Ecology: The site is within an existing yard area. SC Ecology have not objected but have recommended advisory notes which are included in Appendix 1.
- 6.5.8 Affordable Housing: The proposals are for open market housing and accordingly, a financial contribution will be due under Core Strategy Policy CS11 so any consent would need to be subject to a Section 106 Agreement. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of the Reserved Matters application.
- 6.5.9 Sustainability: The development is considered to meet all 3 strands of sustainable development identified in the NPPF. It will provide social benefits through the provision of new housing in a sustainable location adjoining the market town of Ludlow. It will provide economic benefits through purchase of local goods and services to facilitate the development and through the economic contribution of future occupants to the town's economy. These benefits will be proportionate to the limited scale of the development but are nonetheless recognised by the NPPF.
- 6.5.10 It is considered that the proposals will also be sustainable in environmental terms. The reduction to 2 properties means that acceptable spatial relationships can be maintained between existing and proposed properties. The access is considered acceptable by highway officers and no technical / environmental issues have been identified which are not considered capable of being addressed by use of appropriate planning conditions.

7.0 CONCLUSION

- 7.1 The application site is located outside of the development boundary of Ludlow and is therefore technically in 'open countryside'. However, it is immediately adjacent to existing dwellings at Rocks Green and is surrounded to the south and east by a SAMDev allocation of 200 houses. The strategic policy objective of preventing urban encroachment into the countryside would therefore be upheld. The site is within easy reach of the market town of Ludlow, the primary road network and existing and emerging facilities east of the by-pass. It is therefore in a generally sustainable location. It also comprises land with permission for a storage use as opposed to an undeveloped 'green field' plot.
- 7.2 The number of proposed houses has been reduced from 3 to 2 and this allows acceptable spatial relationships to be maintained with existing properties. The two plots would have ample private amenity space. Conditions can assist in integrating the development with existing properties and preserving mutual privacy. This includes controls over detailed design (specifying a 1½ height maximum design), use of obscure glazing and a landscaping condition. These matters can be progressed at the reserved matters stage.
- 7.3 Highway officers have not objected and it is not considered that refusal on the grounds of the characteristics of the existing access can be sustained given the level of housing proposed. The reduction to 2 properties will reduce the level of traffic associated with the development and any traffic would be less than that which could potentially occur under the existing Certificate of Lawfulness for storage uses. The removal of the area of open storage use with a lawful development certificate is a material consideration which, together with the sustainable location adjoining a local plan allocation, is considered to be sufficient in principle to justify a departure from adopted housing policy. No other issues have been identified through the planning consultation process which, together with the above would suggest that the proposals should be refused.
- 7.4 The proposals are considered to represent sustainable development when assessed against the development plan overall. Consequently the 'presumption in favour' set out in local and national planning policy applies and release of the site for 2 open market houses is not considered to be in conflict with Policy MD3: Delivery of Housing Development and Policy MD7a; Managing Housing Development in the Countryside. It is concluded that whilst the proposals are a departure from adopted spatial housing strategy they comply with the Development Plan overall. Approval is therefore recommended subject to conditions and a legal agreement providing for the affordable housing contribution and revoking the previously approved storage use.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

- 8.1.1 There are two principal risks associated with this recommendation as follows:
- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective

of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

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

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

8.2 Human Rights

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning Policies

Central Government Guidance:

- National Planning policy Framework

Shropshire Core Strategy:

- CS3 The Market Towns and other Key centres
- CS4 Hubs and Clusters
- CS5 Countryside and Greenbelt seeks to limit development in the countryside to that which needs to be there and makes it clear that in assessing proposals account will be taken of the impact on the character of the countryside.
- Policy CS6: Sustainable Design and Development Principles is concerned, amongst other things, with ensuring new development protects, restores, conserves and enhances the natural, built and historic environment. The policy also seeks to ensure that there is sufficient infrastructure capacity to cope with any new development.
- CS11 Type and affordability of Housing;
- Policy C17: Environmental Networks endeavours to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

SAMDev Plan:

- MD1 – Scale and Distribution of Development allocates sufficient land in the period up to 2026 to enable the delivery of the amount and distribution of housing development set out in Policies CS1 and CS2 and in the SAMDev site allocation policies including S10 (Ludlow).
- MD2 – Sustainable Design is concerned, amongst other things, with respecting locally distinctive or valued character, including the historic context.
- MD3 – Delivery of Housing Development;
- Policy MD8: Infrastructure Provision specifies that new development will only take place where there is sufficient existing infrastructure capacity or where development includes measures to address a specific capacity shortfall which it has created.
- MD12: The Natural Environment indicates that proposals that are likely to have a significant adverse effect, directly, indirectly or cumulatively on a range of matters, including visual amenity or landscape character and local distinctiveness, will only be permitted if there is no satisfactory alternative and the social and economic benefits of the proposal outweigh the harm.
- MD13: The Historic Environment
- S10: Ludlow Area

Relevant Planning History:

- 14/00066/FUL Erection of extensions and alterations to existing B & B to provide ground floor bedroom; new rear access and extension to conservatory and first floor extension to include juliet balcony NPW 20th January 2014
- 15/04158/OUT Outline application for the erection of 3 detached dwellings (all matters reserved) PDE
- SS/1/07/20019/F Erection of an extension to dwelling (Delegated matter) PERCON 21st November 2007
- SS/1979/147/P/ Erection of a private double garage. PERCON 4th May 1979
- SS/1977/341/P/ Demolition of existing sheds and erection of a building for use as a workshop for the production of furniture. REFUSE 26th August 1977
- SS/1/99/009633/F Erection of an extension to dwelling. PERCON 12th March 1999

- 15/01141/OUT Outline Application for the erection of 3 No detached dwellings (all matters reserved) WDN 1st September 2015
- 15/04158/OUT Outline application for the erection of 3 detached dwellings (all matters reserved) PDE

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=Nv567QTDIAF00>

List of Background Papers: Planning application form for application reference 15/04158/OUT and accompanying design and access statement and plans
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member: Cllr. Vivienne Parry

Appendices: APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the appearance, layout and scale 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 three years from the date of this permission.

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. Prior to the commencement of development full engineering details of the means of access to the site including parking and turning areas, shall be submitted to and approved in writing by the Local Planning Authority; the access, parking and turning areas shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied.

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

5. Full details and sizing of the proposed surface water drainage soakaways shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Percolation tests and the sizing of the soakaways shall be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, soakaways shall be designed for the 1 in 10 year storm event provided the applicant submits details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. The system should ensure that flood water does not affect other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways shall be submitted for approval. Surface water shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

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

6. If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, the applicant shall submit for approval a drainage system to intercept water prior to flowing on to the public highway.

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

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

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- measures to control the emission of dust, mud and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;

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

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

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

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

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

9. All hard and soft landscape works shall be carried out in accordance with details to be approved as part of the reserved matters submissions and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

10. The developments hereby approved shall consist of no more than 2 floors of living accommodation.

Reason: To define the development and in the interests of residential and visual amenity.

11. The existing sewerage pipework connecting the existing properties to the septic tank adjoining the Site shall be protected during the construction works and appropriate access shall continue to be provided to and from such tank for maintenance and emptying purposes.

Reason: To protect and afford appropriate access to existing sewerage infrastructure within the site.

Notes, Ecology:

- i. Great Crested Newt: There is a pond approximately 100m away from the development. Due to the size of the development, lack of natural habitats on the application site and the distance from the pond it is considered that causing an offence by disturbing a great crested newt population is highly unlikely, as shown using Natural England's Rapid Risk

Assessment. No survey is therefore necessary. The following informatives should be on the decision notice. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

- ii. Trenches and wildlife: Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped. The storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.*
- iii. Nesting Birds: There is a hedgerow adjacent the proposed development site as well existing structures on site which may provide habitat for nesting birds. The following informative should be on the decision notice. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of birds nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

Notes, Drainage:

- i. As part of the SuDS, the applicant should consider employing measures such as the following to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner:*
 - *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access, driveway, parking area/ paved area*
 - *Attenuation*
 - *Greywater recycling system*
 - *Green roofs*
- ii. Where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.*

iii. *Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. This is to ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces. The allowances set out below must be applied to the impermeable area within the property curtilage:*

<u>Residential Dwellings per hectare</u>	<u>Change allowance % of impermeable area</u>
Less than 25	10
30	8
35	6
45	4
More than 50	2
Flats & apartments	0

Notes, Design:

i. *The developer is advised that the reserved matters application should specify properties which are no greater than a 1½ height design in order to integrate the development acceptably into its surroundings. Appropriate use should be made of obscure glazing in order to preserve privacy and prevent overlooking of existing properties.*

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Committee and date

South Planning Committee

21 June 2016

Development Management Report

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

Summary of Application

Application Number: 16/00642/FUL	Parish:	Much Wenlock
Proposal: Conversion of redundant barn to one dwelling with extension and relocated access		
Site Address: Barn To The North Of Woodfield House St Marys Lane Much Wenlock Shropshire		
Applicant: Mrs Alina Mitchell		
Case Officer: Luke Ashley	email: planningdmse@shropshire.gov.uk	

Grid Ref: 362387 - 299835



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

- 1.1 The proposal seeks to convert and extend an existing redundant barn structure into a one bedroom residential property. The application was previously considered by Members at the South Planning Committee held on 24th May 2016. At that meeting it was determined that the application be deferred to a future meeting to enable further consideration to be given by the applicants and their agent as to the need for and the potential harm to the historic fabric that could result from the proposed raising of the roof.
- 1.2 During the debate by Members it was noted that the proposed loft area would be for storage purposes only and the necessity of raising the eaves height of the building by around 300mm and thus the overall height of the building was questioned. Members raised concern that the raising of the walls and the new roof structure would impose additional loadings onto the existing stone walls of the structure that could necessitate significant rebuilding works, causing harm to the historic fabric of this non-designated heritage asset within the Much Wenlock Conservation Area.
- 1.3 In response to the Members concerns a revised scheme has been submitted which now shows no height increase in relation to the original barn building and removes the internal staircase and proposed storage area from the loft space.
- 1.4 The scheme includes an extension which will be of brick construction and would lengthen the building into the existing courtyard. The revised plans submitted in response to neighbour concerns have also resulted in the existing roof now stretching over the extension, so the eaves and ridge lines of the proposed extension are the same height as the existing roof. The living accommodation is proposed to be on a single level at ground floor.
- 1.5 Three roof lights are proposed within the south east elevation roof plane of the existing building to light the ground floor kitchen, bathroom and bedroom areas below.
- 1.6 The existing vehicular access is to be blocked up and a new access would be formed providing a parking and rear amenity space.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application building is set to the rear of the Raven Hotel and a number of other domestic properties off St Marys Lane in Much Wenlock. The building is enclosed by this layout and as such views into the site are restricted. The building is a detached unit currently used as a garage and is understood to have originally provided stabling. It is constructed of stone walls under plain clay tiled pitched roof.

2.2 Access is provided via an existing courtyard which serves both the hotel and the surrounding dwellings. The site is also set within the designated Much Wenlock Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council have provided views contrary to the Officers recommendation. The Principal Planning Officer, in consultation with the Committee Chairman and Vice Chairman consider that the Town Council has raised material planning issues and the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Much Wenlock Town Council – Object

1. The proposed roofline would be too high and imposing on the neighbours.
2. Over-development on a small site in a Conservation Area - Policy GQD2, objective 6 in the Neighbourhood Development Plan for Much Wenlock refers.

4.1.2 SC Conservation – No objection

The application proposes the conversion of this redundant barn to the north of Woodfield House, St Marys Lane, Much Wenlock to a residential dwelling. The barn is not listed but lies within the conservation area. The proposed design shows minimal alteration to the existing building and a small extension to provide adequate living space. The proposals are generally considered to be acceptable and to accord with policies, guidance and legislation.

4.1.3 SC Drainage – No objections subject to condition regarding surface water drainage.

4.1.4 SC Archaeology – No objections subject to condition requiring written scheme of investigation.

4.1.5 SC Highways – No objections.

4.1.6 SC Ecology – 03.03.2016 – Object – Additional information regarding bats is required;

SC Ecology – 18.04.2016 – No objection following receipt of Bat Survey by Shropshire Wildlife Survey. Recommend condition regarding artificial nesting boxes for house sparrows and informatives regarding storage of materials, trenches and pipework;

4.2 - Public Comments

4.2.1 Much Wenlock Civic Society – No objection raised;

4.2.2 3no. neighbour objections have been raised –

Raising the height of the roof by any amount would affect our property and garden.

Question the need to raise the roof since the proposed living spaces are all ground floor.

Loss of privacy - Uncomfortable with the number of Velux windows proposed, and that their size is not specified. No wish to look into the proposed dwelling and do not want them to overlook us.

Loss of parking - The plans for Woodfield House (c1990) consisting of two properties made provision for four parking spaces to the rear. The site of the proposed new property and its driveway sits across these parking spaces and provides only a single parking space for the new property. The shortage of general off street parking in the town would be exacerbated by this loss.

Harm to businesses –

Disruption during construction works – harm occupiers of nearby holiday let and hotel accommodation.

Overlooking and loss of light into the garden would be detrimental to the appeal of the holiday lets.

As the only access to the proposed development is via the entrance and car park of The Raven Hotel – Disruption due to the close proximity of the access.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual amenity
Conservation Area
Residential Amenity
Highways
Ecology
Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that '*Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise*'.

- 6.1.2 With regards to housing development paragraph 49 of the NPPF states that:
‘Housing applications should be considered in the context of the presumption in favour of sustainable development’.

and that

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’
- 6.1.3 The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach. The Council therefore considers the housing policies contained within the development plan up to date and should be attached full weight.
- 6.1.4 For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other ‘key centres’ and certain named villages (‘Community Hubs and Clusters’) as identified in policy CS3; CS4 and set out in detail in the Council’s SAMDev Plan, policy MD1. Much Wenlock is identified as a market town and thus a focus for development. Policy S13 of SAMDev recognises that Much Wenlock benefits from a neighbourhood plan which sets out the development strategy for the town during the Plan period. The neighbourhood plan is therefore a material consideration in the assessment of this application and the policies contained which are applicable to this proposal will be used to determine this application.
- 6.1.5 Policy H2 of the Much Wenlock Neighbourhood Plan states housing developments within the development boundary of Much Wenlock will be permitted where they include a range of house type, including two and three bedroom dwellings. Housing developments will also be expected to include an element of single level dwellings and to meet the needs of the elderly and people with disabilities.
- 6.1.6 Policy H4 of the Much Wenlock Neighbourhood Plan states that housing infill development and the conversion of existing buildings to residential use will be supported where they contribute positively to local character and where they help to meet local housing needs.
- 6.1.7 In this regard it is evident that the application site is set within the development boundary of the host settlement, the scheme is also for the conversion of an existing building. Furthermore, the proposal is for a single level building which should contribute to meeting the needs of the elderly / disabled within the locality. The siting of the development and nature of the residential accommodation proposed is therefore considered to comply with the aforementioned policies.
- 6.1.7 Affordable Housing - Under adopted Shropshire Development Plan policy (This comprises of the Shropshire Core Strategy, the SAMDev Plan and the Much Wenlock Neighbourhood Plan for this particular proposal) all new open market housing

developments are expected to make appropriate contributions to the provision of local need affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index. However, account must now be taken of the Court of Appeal judgement of 11th May 2016 in the case of ***Secretary of State for Communities and Local Government (1)West Berkshire District Council(2)Reading Borough Council [2016] EWCA Civ 441***

- 6.1.8 The effect of this judgement is to confirm that the Written Ministerial Statement (WMS) of the 28th November 2014, announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum gross floorspace of 1,000sq m), or 5 units or less in designated protected rural areas, still applies in considering development proposals.
- 6.1.9 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not automatically require an AHC for applications for 10 or less dwellings and less than 1,000sq m floor area in the majority of cases.
- 6.1.10 In this particular case for the conversion and extension of a building to form a single open market dwelling within the development boundary of a town, it is considered that an affordable housing contribution could no longer be justified and therefore no weight should be given to this in the overall planning balance.
- 6.2 Scale and design, impact on visual amenity and character and appearance of Conservation Area
- 6.2.1 The former barn, whilst not listed lies within the Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that local planning authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 6.2.2 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - The desirability of new development making a positive contribution to local character and distinctiveness.
- 6.2.3 In terms of Conservation Areas para 137 states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

- 6.2.4 The aims and objectives of the above legislation and national policy are reflected at the local level through Core Strategy Policy CS6, which seeks to create '*sustainable places, where development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness*'.

It further states that that all development:

Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance.

- 6.2.5 This is elaborated on by SAMDev Plan policy MD2 which states that new development should respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set. As such, new development should respect the existing pattern of development, both visually and in relation to the function of spaces, retain and enhance important views and landmarks and respond appropriately to local environmental and historic assets, in accordance with MD12 and MD13
- 6.2.6 Core Strategy Policy CS17 goes further in regard to protecting heritage assets and states that all development proposals shall protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment [and] contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets.
- 6.2.7 Policy MD13 states that heritage assets are a finite, non-renewable resource and great care must therefore be taken when determining applications which result in a loss of significance, either partial or total. Proposals adversely affecting either the significance or setting of designated or non-designated heritage assets will therefore be rejected unless the harm to the significance of the asset is outweighed by the public benefits of the proposal and there are no satisfactory alternatives.
- 6.2.8 Policy GQD2 states that all development will be designed to a high quality and to reinforce local distinctiveness. Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable. Development proposals, extensions and alterations to existing buildings and structures will be expected to:
- have regard to the principles set out in the Much Wenlock Design Statement; and
 - make efficient use of land while respecting the density, character, landscape and biodiversity of the surrounding area; and
 - be suitably designed for the context within which they are set; and
 - retain existing important landscape and natural features; and
 - ensure that the scale and massing of buildings relate sympathetically to the surrounding area; and
 - create safe environments addressing crime prevention and community safety; and

□ use traditional and vernacular building materials where such treatment is necessary to respect the context of the development concerned.

6.2.9 The barn is constructed of traditional vernacular materials and whilst not listed is considered to be a non-designated heritage asset. The proposed design shows minimal alteration to the existing building, proposing no alterations to the existing blank walls, with the extension proposed to come off the end elevation which is currently disrupted by the existing garage door opening. Roof lights are proposed to be inserted into the roof. Planning policy does not rule out extensions to outbuildings as part of conversion schemes. The extension is considered to be relatively small scale and through the use of facing brick would reflect the character and appearance of the original barn, whilst maintaining the identity of the original stone structure.

6.2.10 The revised scheme removes the height increase to the roof and although this removes the step down which was proposed for the extension, given the relatively small scale of the addition proposed it is not considered that the lack of a step down in the roof line would result in any material harm to the character or overall scale of the barn. The proposals are therefore generally considered to be acceptable in terms of the scale and character.

6.2.11 Views into the site are well shielded by virtue of the layout of the site behind the main developed area of the town and the impact made by such a proposal in terms of its impact upon the wider character of the conservation area are considered negligible. Further the conversion of the barn would secure the immediate future use of the building enabling the restoration of a non-designated heritage asset which would enhance and preserve the character and appearance of the Conservation Area.

6.3 Residential Amenity

6.3.1 Policies CS6 and MD2 are relevant to the impact that development will have upon neighbouring uses and seeks to ensure no new development is unduly harmful to residential amenity.

6.3.2 In this case the site is encompassed on three sides by existing residential units, with the neighbouring properties curtilages running immediately up against three of the existing walls of the building to be converted. The built form in this area is of a compact form, with properties in close proximity to each other and the proposed conversion would not introduce a use which would be inappropriate for the site or be of a type which would result in unsuitable levels of noise or disturbance for neighbouring occupiers.

6.3.3 As part of the proposal to create the single storey dwelling, no openings are proposed in the walls which directly form boundaries with the neighbouring properties. The openings in the wall of the proposed extension face onto the parking area for the property and should not result in any direct overlooking into private amenity space of neighbouring properties, particularly bearing in mind boundary walls and fencing of up to 2m in height can be constructed as permitted development. The plans indicate that the main source of natural light into the ground floor accommodation will be from the roof lights. The revised plans indicate that there is currently no intention to form

a loft area and the ground floor would be open to the roof voids. As such the rooflights proposed would direct natural light down into the living accommodation on the ground floor. As the roof lights would be high level there should be no direct overlooking from the ground floor accommodation into neighbouring properties. It is acknowledged that whilst there is no loft area proposed this does not mean a loft area cannot be create in the future. To retain planning control and protect residential amenity should a loft area be provided it is recommended that conditions are attached to any permission granted which restricts the use of any roof space created to storage only; remove permitted development rights and requires that the rooflights provide nature light to the ground floor accommodation only. The potential for overlooking as a result of the scheme is considered negligible.

6.3.4 The barn proposed to be converted and extended is single storey and any loss of light as a result of the proposal is not considered to be of a level which would harm existing neighbour amenity.

6.3.4 Due to the close relationship between the properties in this area it is considered appropriate in this case to restrict the construction hours by planning condition in order to protect both the amenity of permanent residents and visitors occupying surrounding holiday accommodation.

6.4 Highways

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

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

6.4.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. There are no set parking standards within the Core Strategy or SAMDev plans, however, Policy H6 of the Much Wenlock Neighbourhood plan, states that proposals for housing development will be required to provide a minimum of two parking spaces per dwelling. The policy goes on to state that proposals accompanied by a parking provision of less than two parking spaces per dwelling will only be permitted if:

- Alternative and reasonably accessible car parking arrangements can be demonstrated and which in themselves do not add to on-street parking; or
- Otherwise acceptable and well-designed new build or conversion schemes in the town centre conservation area would be incapable of meeting this parking provision.

6.4.3 The Highway Authority provided comment that this proposed development is unlikely to have any significant traffic impact on adjacent public highway, in this town centre location, subject to an appropriate access and parking place being provided. Parking

can be accommodated on site and visitor parking could well be achieved within the compound via which access onto the site is provided, although it is noted this would require agreement with the landowner and is a civil matter. The town centre location of the property means it is within reach of a range of amenities and services which could be visited on foot or bicycle, there is also a public car park off St Marys Lane. The likely reliance on private transport is greatly reduced within this accessible and sustainable location. It is therefore considered that the proposal accords with Policy H6 of the Neighbourhood plan subject to appropriate conditions being imposed.

6.5 Ecology

6.5.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev policy MD12 reflects the obligations placed by Wildlife Legislation to ensure the protection and enhancement of ecological interests.

6.5.2 A bat survey was carried out on this site in April 2016 by Shropshire Wildlife Surveys. The survey found no evidence of roosting bats or nesting birds during this survey process. The building has been renovated in recent years with walls re-pointed and what appeared to be reroofing. Part of that renovation was the inclusion of a nest box for Owls in the east gable apex, although the survey found that there is no evidence that the owl box has been used by any nesting birds. The surveyor recommends the inclusion of a house sparrow nest box terrace in the converted building to enhance the nesting opportunities for this species and this shall be conditions appropriately. The Councils Ecologist is content given the findings in the Bat Survey that the proposal is considered acceptable and could be carried out without harm to local ecology.

6.6 Drainage

6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. This is expanded upon by Neighbourhood plan policies RF.2 and RF.6. The Councils Drainage Officer is satisfied that subject to conditions securing details of the surface water drainage method, the development can be adequately drained without causing or exacerbating flooding in the site or vicinity. A condition shall also be added to any permission granted requiring the parking area to be laid with a permeable surface to accord with the requirements of neighbourhood plan policy RF.6.

7.0 CONCLUSION

7.1 The conversion is within an area where new housing development is acceptable in principle. The scheme would provide a single bedroom dwelling, contributing to the range of housing stock available to the local area.

- 7.2 The proposal would enable the conversion of a non-designated heritage asset and the alterations proposed are considered to respect the scale and character of the existing unit, enhancing the site in terms of its visual appearance and thus the character and appearance of this part of the Conservation Area.
- 7.3 The scheme would not create undue harm to residential amenity, result in any severe highway safety impacts and could be carried out without harm to biodiversity of the area or exacerbation of flooding.
- 7.4 The proposal as such accords with the aims and provisions of the NPPF and the main objectives of the relevant Shropshire Core Strategy policies CS1, CS4, CS6, CS17 and CS18; SAMDev policies MD1, MD2, and MD13, and the Much Wenlock Neighbourhood Plan policies H4, H6, GQD2, RF2 and RF6. It is therefore recommended that planning permission is granted subject to conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

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

Shropshire Core Strategy
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS17 Environmental Networks
CS18 Sustainable Water Management
CS19 Sustainable Waste Management

Site Allocations and Management of Development (SAMDev) Plan
MD1 Scale and Distribution of Development;
MD2 Sustainable Design
MD3 Managing Housing Development
MD12 Natural Environment
MD13 Historic Environment

Settlement policy S13 Much Wenlock

Much Wenlock Neighbourhood Plan
H4
H6

GQD2
RF2
RF6

RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

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

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr David Turner
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to commencement of the development, details of the surface water drainage system shall be submitted for approval in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.

Reason: To ensure satisfactory drainage of the site, to avoid flooding in the interests of sustainable development and to accord with policy RF2 of the Much Wenlock Neighbourhood Plan.

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

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

5. 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:

1. The parking of vehicles of site operatives and visitors
2. Loading and unloading of plant and materials
3. Storage of plant and materials used in constructing the development
4. Wheel washing facilities
5. Measures to control the emission of dust and dirt during construction
6. A scheme for recycling/disposing of waste resulting from demolition and construction works
- 7 Construction traffic management plan.

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

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

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls of the extension 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 and safeguard the character of the heritage asset.

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

Reason: To ensure that the external appearance of the development is satisfactory and safeguard the character of the heritage asset.

8. Prior to the any above ground works commencing, details of the treatment for use in the edging of the access and materials to be used to infill the existing access in the boundary wall shall be submitted for approval in writing by the Local Planning Authority. The parking area shall be laid with a permeable surface. All works to form the new access, parking area and to close off the existing access shall be completed prior to the first occupation of the dwelling hereby permitted.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to accord with policy RF6 of the Much Wenlock Neighbourhood plan.

9. Prior to the first occupation of the buildings hereby permitted, 1 woodcrete artificial nesting terrace suitable for house sparrows shall be erected on the site. The type and location of the box shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

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

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

10. The roof lights hereby approved shall provide natural light to the ground floor living accommodation only. At no time shall these roof lights be used to provide light into any loft storage space which may subsequently be provided.

Reason: To safeguard residential amenity.

11. Demolition, construction works or deliveries shall not take place outside 7.30am - 6pm Monday to Friday, and 8am - 1pm on a Saturday, with no work taking place on Sundays or bank or public holidays.

Reason: To safeguard the residential amenities of the area during the construction of the development.

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

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

Informatives

1. Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
2. The storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.
3. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: www.shropshire.gov.uk/environmental-maintenance-and-enforcement/drainage-andflooding/flood-risk-management-and-the-planning-process. The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.
4. Drainage and Public Highway.
Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway.

This planning permission does not authorise the applicant to:

1. construct any means of access over the publicly maintained highway (footway or verge) or

2. carry out any works within the publicly maintained highway, or
3. authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
4. undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

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<u>Committee and date</u>
South Planning Committee
21 June 2016

Development Management Report

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

Summary of Application

Summary of Application

<u>Application Number:</u> 16/00952/VAR	<u>Parish:</u>	Worthen With Shelve
<u>Proposal:</u> Variation of Condition 2 (approved plans and drawings) of 15/04032/REM erection of 6 no. dwellings		
<u>Site Address:</u> Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT		
<u>Applicant:</u> S Y Homes Ltd		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmsw@shropshire.gov.uk	

Recommendation: That Members note the further amendments to the scheme and Grant Permission subject to the conditions sets out in Appendix 1 of Annex 1. This is subject to amendment to condition 1 in order to refer to the most recent amended plans.

1.0 BACKGROUND TO THE REPORT

- 1.1 This application was reported to the committee on 24th May 2016. The original officer report is attached as Annex 1. The application seeks to regularise some changes to the development which have occurred since the reserved matters approval (15/04032/REM) dated 8th December 2015.
- 1.2 The officer emphasised that the application related to variations to the approved reserved matters scheme and that the principle of constructing 6 two floor homes on this existing residential site has already been established by the outline and reserved matters permissions.
- 1.3 Members resolved 'that consideration of the application be deferred to a future meeting of the South Planning Committee with a request to the developer to come back with further amendments in relation to elements of the application that members expressed concern about'.

1.4 The main elements which Members were concerned about were:

- the height of plots 3-6 which was 44cm higher than was approved under the reserved matters application;
- more brick had been used in the conservatories for plots 1 and 2 giving a more 'solid' appearance than in the approved reserved matters plans
- some queries were also raised regarding the rationale behind the landscape planting which had been undertaken.

The variation application also seeks to regularise some changes to window and door openings in plots 1 and 2 and changes to the design and pitch of window gables.

1.5 Since this time the applicant has amended the scheme in response to the above concerns, and has provided further information seeking to address the concerns of the committee. The application is being reported back to the committee on this basis.

2. OFFICER APPRAISAL

2.1 The applicant's response to the above issues is considered in subsequent sections.

2.2 Ridge height of plots 3-6: A survey has confirmed that the ridge height of plots 3-6 is 44cm higher than the level specified in the approved reserved matters plan. Some local residents have objected that this increase in height has resulted in an overbearing appearance for the development. In an attempt to address this concern the applicant put forward a proposals for half-hipping of external-facing gables within the development and enhanced landscaping measures. However, Members did not consider that the half-hipping provided sufficient mitigation.

2.3 At the May meeting it was suggested that the applicant should investigate the possibility of lowering the ridge height of plots 3-6 to a level nearer to that approved under the reserved matters application. The officer noted to Members at the time that initial discussions regarding this matter suggested that the ridge heights of plots 3-6 could potentially be reduced by 17cm without the need to disassemble the rooves. This option has been looked at further since the committee. Whilst the ridge beam can be lowered to this extent capping requirements mean that the overall height reduction would only be 10cm which is not considered to be material.

2.4 In view of this the officer has discussed with the applicant the option of introducing more extensive hiping and amended plans have been provided on this basis. The revised scheme involves hiping of all gable ends at a lower level and a shallower angle than the original variation scheme. The effect of this is:

- To reduce the area where the roof ridge is at its maximum height by 50%;
- To reduce the average height of the rooves by significantly more than the lower height approved under the reserved matters scheme;
- There is corresponding reduction in the mass and increase in skyline.

2.5 The officer considers that the greater symmetry of the design improves the architectural balance and adds visual interest to the buildings. The roof form also mirrors other properties in the village, giving a more tradition 'cottage' type appearance and improving the visual integration of the development. The applicant

has agreed that this measure would apply for all plots including plots 1 and 2 which are at the level approved in the reserved matters permission.

2.5 The increase in height for plots 3-6 relative to the reserved matters scheme was unfortunate and the concerns of local residents are acknowledged. The applicant has however acted to address these concerns and the officer considers that the scheme as now proposed fully mitigates this concern. It could also be to yield an overall design improvement relative to the approved reserved matters scheme.



Fig 1 - Revised elevations for detached and semi-detached plots showing amended hipping detail.



Fig 2 - Elevations approved under reserved matters permission (15/04032/REM)

2.6 Detailed discussions between officers and the applicant have confirmed that no other measures are technically possible to mitigate for the increased height of plots 3-6 within the structural constraints of the roof design. In summary, suitable measures are available to mitigate for the increased roof height of plots 3-6. It is therefore considered that requiring disassembly and re-construction of the rooves of plots 3-6 would not be reasonable or justifiable in the terms of the Council’s enforcement protocol.

2.8 Conservatories of plots 1-2: The applicant has amended the conservatories of plots 1 and 2 in order to re-instate windows in the external elevations in place of the existing brickwork. A letter has been provided from the building control service which confirms

that these are the largest windows allowable under Building Regulations for a structure of this nature (see Fig 3).

- 2.9 The windows openings effectively re-instate the detail approved under the reserved matters scheme (Fig 2 – south east elevation). They would be obscure glazed in order to further protect the privacy of adjoining residents, although there are no direct views across relevant boundaries due to established hedges and fencing. The conservatories would be specified with glass rooves as per the approved reserved matters design.
- 2.10 The officer considers that the effective reinstatement of the approved reserved matters design for the facades in question is sufficient to fully address concerns regarding this matter.



Fig 3 - Conservatory window opening

- 2.11 Landscape methodology: Landscaping including planting trees around a site margin is an established way of integrating a development with its surroundings. Accordingly the applicant put forward a landscaping scheme as a condition of the reserved matters approval and this was subsequently expanded in the context of the current application. Some Members however expressed concerns during the site visit and at the subsequent committee meeting regarding the methodology behind the landscaping measures. It was suggested that some tree species may not be appropriate for their context.
- 2.12 The officer has requested that the applicant's landscape contractor has provided a statement in support of the justification for the landscaping scheme which has involved a significant investment on the part of the applicant:
- i. Trees: have been specifically chosen to provide screening. They are predominantly native varieties and will provide interest throughout the seasons. They will provide shelter and food for local birdlife. They are long-lived and are considered garden-friendly specimens. They will provide connectivity with existing veteran trees.

- ii. Shrubs: have been selected to enhance the front elevations and offer demarcation lines between the dwellings. The selected varieties are robust and long-lived and will again offer all year round appeal. All tree and shrub stocks comply with BS3936 and the HTA National Plant Specification. Vegetation has been planted at appropriate depths into specially cultivated topsoil and so as to avoid any conflict with underground services. Any dead plants would be replaced at the end of the first growing season.
- iii. Plot 6: Screen planting to the side and rear of plot 6 is of native trees with average heights of 3m. These varieties will help to blind the side elevation of plot 6 from neighbouring properties. They are ornamental trees which will fill out without becoming overbearing or onerous regarding future maintenance.
- iv. Plot 2: The tree planted in the rear garden of plot 2 (*Quercus Ilex* – ‘Holly Oak’ or ‘Holm Oak’) is a long lived tree native of southern Ireland. It is evergreen with a dense crown and therefore offers all year screening from adjacent properties. The head can easily be controlled by pruning if required and is suited to topiary. It is versatile in that it grows in exposed and even coastal conditions, is tolerant of urban pollution and thrives best in free draining soil.

2.13 The applicant has confirmed that the location above the dwarf wall where the Holm Oak has been planted will be provided with appropriate drainage holes.



Fig 4 – Mature unpruned Holm Oak tree, heather heathland, Shottisham Heath, Suffolk

2.15 The officer considers that the applicant has provided sufficient justification for the landscaping scheme and that this will assist in integrating the development with its surroundings. The selection of larger trees and shrubs will ensure some screening and filtering is provided from an early stage.

- 2.16 Other matters: The variation involves some changes to the design of openings on plots 1 and 2 as described in section 2.2 of annex 1. It is not considered that these changes result in any material impacts relative to the approved reserved matters scheme.
- 2.17 The variation also involves an amendment to the design of dormers which can be appreciated by comparing figures 2 and 3. These are shallower relative to the reserved matters details and are treated in brick rather than lead. The reduced dormer pitch is now the same as the pitch of the proposed hips, improving the visual cohesion of the development. The shallower dormer pitch also protrudes less aggressively into the roof slope. The officer considers that this gives a perception of reduced height / prominence to the development, thereby helping further to address the above – mentioned concerns of residents.
3. Other objections on layout and design
- 3.1 As noted above, the principle of erecting six houses with 2 storey living accommodation has been established by the outline and reserved matters planning consents and cannot be re-visited. Notwithstanding this, some local residents have objected to the scheme from its inception at outline stage citing various concerns about design and layout. It is recognised that the principle of establishing 2 floor dwellings in a sloping location where bungalows previously existed raises additional issues of sensitivity. The applicant advised however at the outline stage that development of bungalows on the site would not be financially viable. The following can be said in relation to these objections:
- 3.2 The applicant has sought to address the above concerns by making a number of changes to the scheme in discussion with officers. In particular, the scheme was amended at the reserved matters stage to specify 1½ height buildings rather than full 2 storey facades. This resulted in an average 1m reduction in height relative to the outline scheme. The importance of keeping ground levels as low as possible was also stressed to the applicant and a specific condition relating to ground levels was imposed on the reserved matters permission. It is unfortunate that detailed ground conditions meant that the developer was unable to comply fully with this condition with respect to plots 3-6.
- 3.3 Parish Council has maintained that the development remains out of keeping with the streetscape and higher than surrounding houses. However, the officer considers that site inspection and the applicant's cross sections (Fig 5) do not support this conclusion as the roof ridges remain at or below the height of existing properties to the north and east. As noted above, the officer also considers that an appropriate mitigation solution has now been identified for the increased height of plots 3-6.



Figure 5 – Cross sections indicating relative heights of existing and new dwellings.

The ridges of plots 3-6 remain at or below the height of surrounding properties to the north and east notwithstanding the hipping proposals.

- 3.4 Another concern raised by some residents relates to the positioning of the new plots in relation to existing residential properties. This was closely discussed with the developer at both outline and reserved matters stages. The officer assessed the spatial relationships between existing and proposed properties and found that these were fully compliant with general nationally adopted standards. This conclusion has since been reiterated by the applicant’s planning consultant.
- 3.5 One particular area of concern raised by an objector relates to the proximity of the external gable of plot 6 to the adjoining property of Ash Cottage to the east. Generally adopted national standards indicate a minimum separation distance of 12m between a blank 2 storey gable and a principal rear elevation. In this case the separation (17.6m) significantly exceeds this. The comprehensive landscaping along this boundary provides additional mitigation.
- 3.6 A second area of concern raised by residents is the extent to which plots 2 and 3 have been said to impact on the amenity of the garden of 17 Millstream to the west which they adjoin on 2 sides and is defined by low walls and 1.5m hedging. There is however no overlooking from these blank gables (in contrast to 16 Millstream which has views of the garden), hence national spatial standards are met. Nor is it considered that there would be any material loss of natural light given the relative height and orientation of the properties. Privacy is also maintained as the gardens of plots 2 and 3 are at a lower level.
- 3.7 The garden of 17 Millstream was previously enclosed by roofs of bungalows which faced towards this garden on 2 sides. The gable of plot 3 is closer to this boundary and the building is taller, but as noted above, is 1m lower than the former bungalows. The applicant’s landscaping scheme also provides planting to filter views of the development. It is considered therefore that the scheme remains fully compliant with relevant spatial standards.

4. CONCLUSION

- 4.1 The applicant has sought to regularise changes to the scheme which was approved at outline stage through submission of the current variation application. At the May committee Members were not satisfied that the proposed mitigation measures were sufficient to fully address their concerns. Since this time the applicant has put forward a revised roof design involving more extensive hipping which results in an overall reduction in average roof height for all properties relative to the approved reserved matters scheme. The officer considers that this also improved the design of the development.
- 4.2 The applicant has also reinstated a window in the conservatories of plots 1 and 2, ensuring compliance with the reserved matters details in this respect. In addition, the applicant has provided specific justification from a landscape consultant for the choice of landscaping species. No other significant issues were highlighted by Members during the site visit or the May committee meeting.
- 4.3 It is concluded that the proposed variation scheme as amended represents the only practical option for mitigation and is capable of fully mitigating concerns raised regarding the changes to the currently approved scheme. It is considered that the proposals in some respects represent an improvement on the reserved matters scheme and that the overall development can be accepted as sustainable and compliant with the development overall. This is subject to an amendment to condition 1 recommended in Appendix 1, Annex 1 in order to update the reference to the amended plans.

5. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O3DJGLTDL0E00>

List of Background Papers: Planning application reference 15/01919/FUL and associated location plan and documents
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member: Cllr Mrs Heather Kidd
Appendices: Appendix 1 – Conditions

ANNEX 1

REPORT TO MAY 2016 SOUTH PLANNING COMMITTEE



Development Management Report

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

Summary of Application

Summary of Application

<u>Application Number:</u> 16/00952/VAR	<u>Parish:</u>	Worthen With Shelve
<u>Proposal:</u> Variation of Condition 2 (approved plans and drawings) of 15/04032/REM erection of 6 no. dwellings		
<u>Site Address:</u> Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT		
<u>Applicant:</u> S Y Homes Ltd		
<u>Case Officer:</u> Graham French	<u>email:</u> planningdmsw@shropshire.gov.uk	

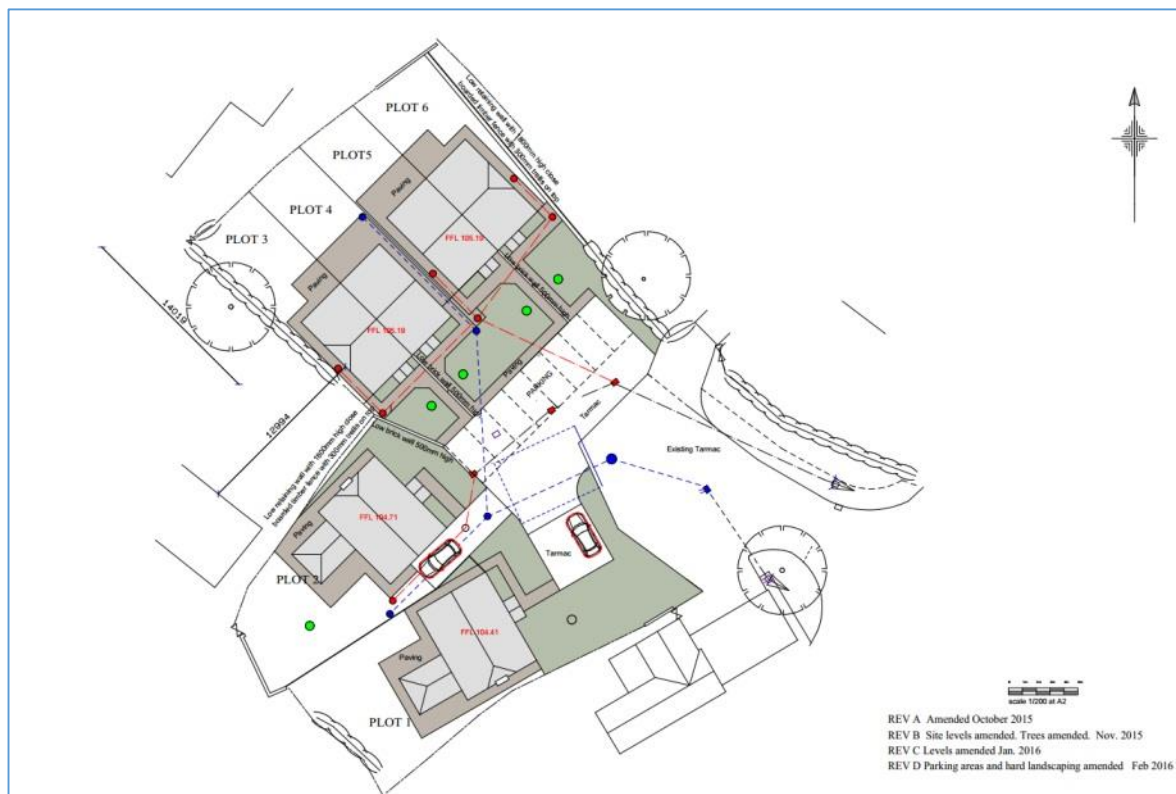
Recommendation: Grant Permission subject to the conditions sets out in Appendix 1



REPORT

1.0 BACKGROUND

- 1.1 Outline planning permission was granted for the erection of six 3 bedroomed dwellings (2 detached and 4 semi-detached) for open market sale on land at Old Mill Close, Worthen, some 10 miles west of Shrewsbury on 18th March 2014 (13/05121/OUT). Subsequently, a reserved matters application was approved on 8th December 2015 (reference 15/04032/REM) and confirms the following details:
- i. The siting and ground levels of the dwellings;
 - ii. The design and external appearance of the dwellings;
 - iii. Details of the materials, finishes and colours of the dwellings;
 - iv. Details of the landscaping of the site.
- 1.2 Further information required by conditions attached the outline and reserved matters permissions was subsequently approved under discharge of conditions applications 15/05411/DIS (surface treatments) and 16/00345/DIS (drainage, landscaping, external lighting and ecology). The applicant amended the design of the scheme at reserved matters stage in order to take into account concerns raised by local residents. The principal concern related to the height of the proposed houses and privacy issues.



2.0 THE PROPOSAL

2.1 During the course of construction, a number of amendments have been made to the houses. The applicant states that this is as a result of site conditions, improvements to the internal layout and/or meeting building regulations requirements.

2.2 The current application is being made to vary condition 2 (approved plans) of the Reserved Matters approval (ref. 15/04032/REM). This is in order to substitute revised drawings for those currently approved in order to regularise the amendments. The approved drawing numbers 812/15/4B, 812/15/10A and 810/15/11A would be replaced by drawing numbers 812/15/4D, /12B, /15C, /19D, /20C, /26, /27 and ADL143b.

2.2 The amendments are as follows:

PLOTS 1 AND 2

- 1) Position of conservatory amended. (To move further away from boundary)
- 2) Side window to conservatory omitted. (To avoid overlooking neighbour)
- 3) Width of end window to conservatory reduced (Building regulations)
- 4) One bathroom window omitted. (Internal alteration to layout)
- 5) Position of porch and front door amended. (Internal alteration to layout)
- 6) Rear exit door moved to side elevation. (Internal alteration to layout)
- 7) Base of chimney amended. (to accommodate wood burner)
- 8) Pitch of dormers amended. (To match plots 3-6)
- 9) Gable to dormers amended to brick.
- 10) Hip added to one side of roof. (To match plots 3-6)

PLOTS 3 – 6

- 1) Finished floor level raised by 440mm. (Due to difference in level between new ground level and neighbouring garden of Ash Cottage)
- 2) Hip added to gable of plot 6 and 3. (To compensate for raised roof level)
- 3) Pitch of dormers reduced. (To compensate for raised roof level)
- 4) Gable to dormers amended from lead to brick.

SITE LAYOUT

- 1) Parking areas to plots 3-6 amended. (To accommodate underground gas tanks)
- 2) Low brick walls, 500mm high added to front boundaries. (To act as fire wall to gas tanks – building regulations)
- 3) Boundary to plot 6 amended. Low brick retaining wall added with 1800mm high close boarded fence with 300mm trellis above. (To provide greater screening for Ash Cottage)
- 4) Landscaping drawing amended to accommodate changes to site layout.

- 2.3 Single solar panels have also been added to the centre of each roof on the south-facing elevation and are similar in tone to the surrounding tiles. This would comprise householder permitted development for occupied properties.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located in an existing residential area of Worthen and is surrounded on 3 sides by other dwellings at varying angles to the plot boundary. This includes 3 bungalows on slightly higher ground to the north-west and west in relatively close proximity (3-4m at closest) to the plot boundary, and 3 two storey properties set back 8-18m from the north eastern boundary. The site margin is defined by wooden fencing with some associated hedges.

- 2.2 Access is obtained from Brookside / Millstream to the south east which links to the main Worthen – Shrewsbury Road approximately 60m to the north. Land falls gently from north to south across the site, towards a brook 11m to the south of the plot. Brook End, a grade 2 listed property is located to the north east of the site on lower ground behind a mature hedgerow. The gable end of this 2 storey rendered property extends to within 10m of the site boundary.

- 2.3 A public footpath is located 15m to the south on the opposite side of the brook but would be unaffected. A small part of the access into the site is located within a flood plain but levels here would not be affected by the proposals.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At an agenda setting meeting in April 2016 it was agreed that the application could be determined under officer delegation on the basis that the proposed variations were not significant in the context of the approved scheme. The Parish Council challenged this decision and the matter was reported back to the subsequent May 2016 agenda setting meeting when it was determined that the application should be referred to committee given the nature of local concerns.

4.0 COMMUNITY REPRESENTATIONS

- 4.1.i. Worthen With Shelve Parish Council: The Parish Council formally request that this application is considered at a planning committee meeting. There are numerous concerns regarding the site and the processes which have allowed this situation to arise and progress. Works have been undertaken which were not approved on the reserved matters planning permission and there are a number of unauthorised changes to the development which the applicant is seeking to regularise by submitting the variation order. The amended reserved matters layout has been assessed on Shropshire Council's GIS system and has been considered to remain compliant with nationally accepted criteria for separation distances and orientations between principal windows.
- ii. The scheme seeks to avoid overlooking by plot siting, alignment of principal windows, obscure glazing on upstairs side windows and boundary planting. However, the effect of the overall capacity, layout and density of the development when considering the grading of the land, topography of the site and surrounding area, the local context, street patterns, scale and proportion of existing buildings have culminated in the loss of visual and residential amenity. It is considered by the Parish Council that the proposed variations are inadequate to address this detrimental impact and the overall visual effect of the development. The proportions of the houses on the development in relation to, but not limited to, the building heights and solid brick conservatories are considered overbearing as they are considerably larger than the bungalows, cottages and semi-detached properties which are located around this development site.
- iii. There are a number of properties overlooking the site and the increased roof heights and window level has resulted in a negative residential visual amenity and a non-uniform roof line. It is considered that the size and height of the new buildings does little to maintain the amenity and privacy of adjoining houses or indeed properties located close to the site. Whilst, the variation order seeks to mitigate the loss of privacy, overlooking, overshadowing and loss of light it is again considered the measures suggested do not redress the impact of this site.
- 4.2 SC Highways – No objection. The changes do not compromise highway access/safety.
- 4.3 SC Affordable Houses: - No objection. The original application related to replacement dwellings and therefore did not result in the requirement for any affordable housing provision. The situation is unchanged from an affordable housing perspective.
- 4.4 SC Drainage: - No objection. The proposed surface water drainage system remained unchanged.
- 4.8 SC Ecology: – No objection. SC Ecology would like to see more native, local species being used in the landscape plan. We have no comments to make on the variation of housing layout.
- 4.9 SC Trees: No objection. We note that the applicants' agent has stated in their design statement that plan 143B (Landscape is submitted in support of the variation, on the actual plan the reference number is 134B not 143B. We also note that the rear garden tree planting is hard up against boundaries which means the crowns of these trees will start to encroach across the boundaries into neighbouring gardens as soon as they start to become established. Also, due to the limited space for meaningful tree

planting it is likely that most of these trees will not reach full maturity before being removed. In particular we would question the merit of planting a holm oak in the confined rear garden of plot 2, this tree has potential to fill the whole garden space but it is unlikely to be given the chance to before being removed.

Public Comments

- 4.11 The application has been advertised in accordance with statutory provisions and the nearest residential properties have been individually notified. Objections have been received from 8 individuals who raise the following concerns:
- i. This developer, Sy Homes, has totally flouted the Planning and Conditions required at the passing of this application late last year. From the start before consent he had dug the footings and grubbed out hedges against the conditions. The change of size and the foot prints were slipped in whilst the planning officer was concerned with the heights of the build; the ridges of plots 5 & 6 are now 1:46 m higher than the plans approved. This was pointed out over 6 weeks ago and I requested the heights to be checked. Up to then no base height or eve height had been checked. This height has nothing to do with ground levels at Ash Cottage, as he states in The Access Statement. The developer supplied an A4 sized plan giving minimal heights with no reference to adjacent properties from a non-accredited surveyor. The change of the hips will not lower the ridge to the correct height. It will make no difference to the overbearing flank walls at the rear of Ash Cottage and the rear of 17 Millstream. The rooves of plots 5 & 6 need to be removed and the brickwork removed 1:46m at the eve's level. He has carried on building hoping this is not required. The conservatories at the rear of plots 1 & 2 are not conservatories but full brick additions, (just another example of pushing the envelope and hoping no one would notice). Doors are added and internal design altered with limp excuses. These major changes go against Government Guide Lines and are required to be granted at the outset of permission. He is still continuing to build hoping to get it passed. He is making a mockery of your Planning Authority and they are ignoring all the information supplied by the residents in the area. This needs to go to a full planning meeting giving all interested parties as voice.
 - ii. I am concerned that the developer is trying to secure consent for altered plans which have been amended to fit what he has already built. The issues which this raises are very contentious and significant and therefore must not be dealt with by delegation to the planning officer. Please treat this objection as a formal request for this application to be taken before planning committee. From the start of this development the builder has been allowed to flout the Planning Consent and Conditions. The footings were dug before consent was granted. Hedges were grubbed out before consent or a landscaping plan was agreed and in contravention of the eventual planning consent which require that they be retained. The rooves are built too high again ignoring the planning consent detail. The builder and the delegated officer were informed of this issue over 7 weeks ago, however the builder has been allowed to carry on with the work, with no effective enforcement action being pursued by the LPA. No amount of hip roof will change a fundamental contravention of consent for 'roof height'. As the roof height is wrong what other heights are also wrong? Surely the significant alterations to the consented scheme cannot be dealt with by a variation application. In the Variation of Planning Condition 2 Application Statement dated Feb 2016 the blame for the finished height error at PLOTS 3-6, is attributed to being 'Due

to difference in level between new ground level and neighbouring garden of Ash Cottage' The levels were the same height before digging took place. The reason the height is wrong is insufficient earth was removed at the start of the development and no measurements were taken at ground level or pad level. The pitches to the dormers have not been changed, apart from the time (late January) we informed the builder and Planning Officer that the front dormer heights were some 400mm too high when they were first installed. The next day the builder accepted they were wrong and had them lowered. The rear dormers are higher than consent by some 10mm due to timber thickness. The foot prints and size of plots have vastly changed from the outline indicative scheme, seemingly unnoticed by the Officer, who was more interested in the building types, rather than their altered locations. The builder has built hoping to get retrospective consent from a planning officer who has commented that he thinks the developer should be allowed to make something out of the plot. I don't believe that the builder's financial circumstances are a material planning issue, and I find it worrying that this appears to have been a consideration for the officer. This will be at the local resident's expense and to Shropshire Councils cost in the future, as it sends the wrong message to other Developers which is: Breaches of consent are allowed in Shropshire. This Application should be taken to full planning committee; in advance of this the full planning committee should attend the site to understand what has taken place and enable a full realisation of the situation on the ground. Local residents also wish to address the committee when it sits to consider this application.

- iii. The development site at the above is surrounded by bungalows, cottages and a Grade II Listed building. What is being built is out of character with the area and has rendered the living conditions of the adjacent neighbours unacceptable. At the outset. Amendments have been made continuously, since the Outline Planning Application was approved, in breach of planning and without consent. These amendments are in no way directly linked to the site conditions, improvements to internal layout nor meeting building regulations. This latest application 16/00952/VAR basically is NOT variation but a retrospective planning application as a lot of the so-called amendments were built from the outset so no alterations have occurred. Adding hips to all of the roofs will NOT reduce the height of the ridges in any way and certainly not by the 0.46m over height on the semi-detached houses. Nor will all the landscaping in the world soften the effect of the overbearing flank walls which impact negatively on the adjacent neighbours. Minimum distances between overlooking principle rooms has also not been complied with. Including heights of houses from redundant plans, on 812/15/12C, is irrelevant. It would be more relevant to include the heights of the original bungalows to show the actual increases in height. There should now be a full and detailed independent survey carried out by an accredited surveyor and the results uploaded as a relevant document for the application. Every house in this development has been aligned incorrectly. The semis have been pushed back by nearly 5m and the detached houses have changed according to plan 812/15/26. These misalignments must surely be in breach of planning. There are gross omissions on plan 812/15/4D. If, due to Building Regulations, fire walls are necessary where gas tanks are underground then surely there should be fire walls for every gas tank. There are six such tanks - one for each house - but only 3 fire walls appear on the plan. The gas tanks are not drawn on the plan so judging whether the walls are in the correct place is impossible. A correct plan must include the position of each gas tank and the distances between them and the fire walls. There are no fire walls on Plot 1 and Plot 2; the former giving me great concern since there

is no protection for Stourton Cottage. This plan must be corrected for it to be a viable document. In an email from the Planning Officer dated 04/03/2016 it was stated that: 'In the period prior to determination of the variation application the developer has been advised that work should cease on the conservatories and this has occurred'. This is NOT the case. Several days after this stop was issued, sills were put into place on the rear conservatory windows in blatant breach of the planning notice. To date there have been no sanctions imposed on the developer. In fact the Planning Authority has ignored breach after breach of the Planning, allowing the developers to carry on building just they please. The consequences of all this mismanagement is far-reaching and detrimental to the well-being and livelihoods of all who live in the area. In conclusion I would like to place on record my very strong objections to this variation application on the grounds that there are considerable inaccuracies and gross omissions. I would ask, therefore, that the Planning Authority refuse this application.

- iv. The effect of this on neighbours, particularly nos 16 and 17 Millstream, which I consider to be intolerable. There needs to be a practical solution acceptable to the neighbours and the wider community and I suggest the following are considered:
- Lowering the roofline, possibly by using a flat top or a Gambrel design roof - perhaps with sloping end(s).
 - Eliminating windows overlooking immediate neighbours.
 - Compensation payable to the severely affected neighbours for their loss of amenity and reduction in the value of their properties.

This application should be referred to the Planning Committee as it is contentious and there are significant issues relating to the handling of this project by the planning officers. It is not obvious from the plans how seriously the neighbouring properties are affected. I suggest that the planning committee make a site visit.

- v. From my perspective it is the height of the buildings. As we are new to the area we were aware that houses were going to be built. Unfortunately it is only when buildings are built that you see the full impact. It is too late now, however bungalows would have suited the area far more than houses. It is unfortunate that planning permission was granted for this development in the first place, as in my view it is not in keeping with the surrounding bungalows and cottages. The height towers over existing properties and in our case overlooks a bedroom. Whilst landscaping may go a little way to provide some screening, and I am sure the aim was to provide a small development, it does not escape the fact that the houses appear to be too large and too high for the area.
- vi. Since the Planning Application was approved, the developer has continuously ignored and shown total disregard to the planning consent and conditions he should be adhering to. The Planning Officers were made well aware of the residents' concerns in relation to these breaches at a very early stage of the build but they failed to respond to a succession of letters, emails and telephone calls from residents, their representatives and our Local Councillor. They have failed to support the local residents at a most critical time and this is totally unacceptable. By the time representatives from the Planning Department did react and take time to visit the site, building had continued at a pace. Only at this point in time were they able to see first-hand the total disregard that the developer has shown to the Rules and Regulations of the Planning consent. The buildings are very obtrusive and in extremely close proximity to the neighbouring properties and due to the developer flouting planning

regulations he has caused the residents untold distress and inconvenience, impacting severely on their daily lives. Building work has continued outside the times specified in the original planning consent, the siting of the houses has been moved, roof ridge heights are higher than was agreed, conservatories not being built to approved plan, extra doors have appeared on the side of the detached houses which are not on the original plan etc. We fully support the comments made by Mr and Mrs Cass, Mr and Mrs Ritchie, Ms Merryweather, Mr Payne, Mrs Welham, Mr Williams and the Parish Council.

- vii. I am co-owner of no: 17 Millstream, the property that is bordered on 2 sides by the current housing development. Last November, I recorded my objections "on-line" to the planning department. I observed that on the builder's plans, the houses were larger, and had been set further back than on the approved Shropshire Sheltered Housing plans that had outline planning permission. Also that we would lose privacy to our sun room/guest bedroom. Fast forward to the present day, and we are having to live with that reality! The way forward? As far as I am concerned, one positive aspect about what has happened is as follows: we will have a bit more privacy and less noise if the brick wall on our side of the "conservatory" is left as it is! Hopefully our concerns will now be listened to, and the current situation will be brought to a satisfactory conclusion.
- viii. I fail to understand how, by adding a hip to the gable of a roof, reduces the height of the ridge. The developer has not complied With the approved plan and must therefore rectify, otherwise it makes A mockery of the planning system.

5.0 THE MAIN ISSUES

- Principle of development and policy context;
- Assessment of the proposed variations;
- Environmental implications of the proposed variations.

6.0 OFFICER APPRAISAL

6.1 Principle of development and policy context:

6.1.1 The principle of residential development on this site has been accepted with the grant of outline planning permission 13/05121/OUT. The details of the development have also been approved as part of the reserved matters permission 15/04032/REM and by 2 associated discharge of conditions approvals. The current application seeks retrospective approval for some variations to the approved details. The current variation application does not require a reassessment of the principle of providing 6 houses of the currently approved design on this existing housing site. Instead, the committee must consider the extent to which the proposed variations can be accepted as amendments to the approved scheme.

6.1.2 Worthen forms part of a community cluster where principle of additional infill residential development is accepted under SAMDev policy S2. The current scheme also represents a redevelopment of the site which formally accommodated a larger number of single storey housing association bungalows. It was therefore possible to accept the principle of redevelopment at the outline stage. The site had also been disused for a few years and there was a potential risk of further deterioration. Hence, there was a recognised need to re-develop the site.

- 6.1.3 A scheme for 6 houses was proposed at outline stage and with 2 detached and 4 semi-detached properties and was subsequently refined at the reserved matters stage. Details discussions took place between the developer and the case officer at both stages and the design was amended as follows at the reserved matters stage:-
- i. Ridge Heights: All first floor windows are were changed to semi dormers, enabling ridge heights to be lowered by 400mm. The overall reduction in ridge height from scheme proposed originally in the reserved matters submission for four houses was 1400mm for the detached houses and 900mm for the semi-detached houses.
 - ii. Ground Levels: Ground levels of each plot were reduced as much as possible without compromising drainage levels, services, tree and hedge roots. On average levels were reduced by about 500mm below the present ground level.
 - iii. Landscaping: Proposed trees to the north of Stourton Cottage were replaced with small ornamental trees.
 - iv. Layout: The semi-detached properties (plots 5&6) were moved 3.6m to the north-west in order to provide front gardens with space to accommodate essential utilities whilst preserving parking.
- 6.1.4 The reserved matters layout incorporating the above provisions was subsequently approved. However, during the course of the construction works a number of changes were implemented as listed in section 2.2 above. The developer is seeking to regularise these through the current variation application.
- 6.1.5 It is necessary to consider whether the proposed variations to the approved reserved matters scheme remain compliant with relevant planning policies and guidance or whether they would amount to unsustainable development in conflict with policies Core Strategy policies CS6, CS17 and SAMDev policies MD2, MD12 and MD13. The individual changes are assessed below:
- 6.2 Assessment of the proposed variations
- 6.2.1 Ground levels at plots 3-6: One of the main concerns by objectors is that the finished floor level of plots 3-6 (the semi-detached properties) has been raised by 440mm relative to the approved level in the reserved matters scheme. This has resulted in a corresponding increase in ridge heights for these properties which objectors consider has led to an overbearing appearance for these properties. The officer negotiated an overall reduction in ridge height of 1400mm for the detached houses and 900mm for the semi-detached homes during the course of processing the reserved matters application and the need to adhere to these levels was further emphasised a planning condition requiring a survey of levels to be provided.
- 6.2.2 However, due to the sloping nature of the site and the difference in levels between the site and Ash Cottage the applicant encountered difficulties in excavating the base level of the semi-detached properties. Substantial volumes of soil were excavated from the site and this is emphasised by the presence of excavated banks exceeding 1.5m on the north-west and north-east boundaries of the site. It is considered that

the concerns of objectors regarding height were exacerbated by the fact that the previous structures on the site were low-level housing association bungalows.

- 6.2.3 The planning authority received a complaint from an adjoining local resident when the timber frame of plot 6 was erected to the level of the gable and immediately reminded the developer of the need to comply with the ground survey condition. Unfortunately there was a delay of a further month before this information was provided to the Council, at which stage a 0.44m discrepancy in height for plots 4-6 was established. A meeting subsequently took place between with the developer at which the officer indicated that the levels were unauthorised. The developer advised that a retrospective variation would be sought immediately and further ways of mitigating any impact associated would be investigated as part of this process. The application would also incorporate the other aspects listed in section 2.2 above. The officer advised that any subsequent work pending resolution of the situation would be at the developer's own risk. The officer also instructed that work on the detached conservatories should cease (see below). Since this time work has continued on the main properties.
- 6.2.4 The developer has proposed to add hipped rooves on external-facing gables of the development to give a 'recessive' effect to the rooves. Enhanced landscaping works around the site boundaries are also proposed as part of the current variation application in order to assist in mitigating for the increase in levels for plots 3-6. In addition, the developer is intending as part of private agreements with the respective owners:
- i. To gift a strip of land above the excavation slope to the occupant of Ash Cottage (north east of plot 6) and to fund / undertake appropriate landscape planting of this area.
 - ii. To gift an area of land adjacent to the site access to the owner of Stourton Cottage to the immediate west.
- 6.2.5 Objectors maintain that the proposed landscaping measures do not go far enough to remedy the initial breach of planning control. The officer considers however that the proposed mitigation measures are sufficient to address any loss of amenity as a consequence of the 0.44m height increase at plots 3-6. The officer considers that the hipped gables do succeed in reducing the prominence of the rooves as seen from adjoining properties and that the proposed landscaping measures, yet to be implemented, will also assist significantly in integrating the properties into their surroundings. This includes the proposal to plant a number of 3.5m high shrubs / trees around the site margins.
- 6.2.6 The Parish Council has remarked that the houses appear discordant with other rooves as seen from higher ground to the north. The officer notes however that public views towards the development from the north are quite limited. The presence of mature trees, other nearby 2 storey properties and the general slope of the land serves to visually integrate the development from external viewpoints and this will be further assisted by the proposed landscaping. It is also noted that the 0.44m height discrepancy amounts to less than 1/17th of the overall height of plots 3-6. It is not considered therefore that this variation in height for plots 3-6 would result in any materially discernible increase in visual impact relative to the approved scheme from available public viewpoints. It should also be noted that before it was amended, the

original reserved matters plans included proposals for ridge heights which were 0.46m higher than the current situation for plots 3-6.

- 6.2.7 The officer does not consider that the increase in height of 0.44m for plots 3-6 would be likely to result in any material adverse visual impact to the surrounding area relative to the approved scheme. The increase in height may result in some increase in visibility of the development locally and the development would be more visible than the 9 small bungalows which previously occupied the site. However, this does not necessarily amount to an adverse impact. The applicant has confirmed that it would not have been economically feasible to re-develop the site with bungalows.
- 6.2.8 It is an established principle of UK planning law that there is no private 'right to a view'. It is considered that the proposed variations would not result in significant and demonstrable harm on amenities or an overbearing impact relative to the approved scheme. This is having regard also to the proposed landscaping measures. Acceptable spatial relationships would continue to be maintained between the development and existing properties as would mutual privacy and levels of natural light.
- 6.2.9 The applicant has confirmed that the proposed planting works are likely to be carried out by the end of June, with on-site irrigation provided. Tall specimens will be planted and it is considered that this will provide meaningful visual mitigation from an early stage. The removal of scaffolding is also likely to assist in reducing the visibility of the development. The applicant's intention to gift land with planting to 2 of the nearest residents is a private matter and would not affect the above conclusions. It is acknowledged however that, if this is delivered, it would hopefully assist further in addressing local concerns. (Core Strategy Policy CS6, 17, SAMDev Policy MD2, 12, 13)
- 6.2.9 Other changes to plots 3-6: In addition to the hipped rooves referred to above the pitch of the dormers has been reduced in order to compensate visually for the raised roof level. The gable to the dormers was also amended from lead to brick. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.10 Amendments to conservatories (plots 2 and 3): The position of the conservatories has been amended to move them further away from the plot boundaries. A brick wall has also been provided in place of the originally proposed side window on the external facing conservatory facades. This change had been requested and is supported by the nearest resident as providing increased privacy. The width of the end window of both conservatories has also been reduced in order to comply with building regulations.
- 6.2.11 Substitution of brickwork for glass gives a more 'solid' appearance to the conservatories, thereby contributing to the overall ground floor mass of the detached properties. The officer does not however consider that this would result in an unacceptable development. The conservatories are still registered as such and would not be a dominant feature from any external viewpoints. There would be some improvements in privacy relative to the approved scheme.

- 6.2.12 Other changes to plots 1-2: One bathroom window has been omitted, the position of the porch and front door has been amended and the ear exit door has been moved to the side elevation. These changes are due to an internal alteration to layout. The base of the chimney has been amended to accommodate a wood burner. The pitch of the dormers has amended and a hip added to one side of roof to match plots 3-6. The gable to dormers have also been amended to brick. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.13 Amendments to site layout: The parking areas to plots 3-6 have been amended in order to accommodate underground gas tanks. Low brick walls, 500mm high have also been added to front boundaries, to act as a fire wall to gas tanks under building regulations requirements. The boundary to plot 6 has been amended to provide a low brick retaining wall supporting an 1800mm high close boarded fence with 300mm trellis above. This is in order to provide greater screening for Ash Cottage. The landscaping drawing has been amended to accommodate these layout changes. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.14 Layout – alignment of plot 6: A resident living to the north-east of plot 6 has objected that plots 5 and 6 have moved further to the north-west between the original block plan and the final approved block plan for the reserved matters application. It is stated that this increases the visual prominence of the north-east gable of plot 6 from this property relative to the original block plan. This is because a greater length of the gable end is available and this has become a more significant component of views from the resident's garden.
- 6.2.15 The parish council was consulted on and did not object to the revised / approved block plan during the reserved matters application. The plan was also available for inspection online for over a month prior to the determination of the reserved matters application. The revised layout forms part of the approved scheme. It is not therefore be a valid grounds for objection to the current variation application as no further change to layout is proposed. It should however be noted that whilst Shropshire Council does not have an adopted policy for separation distances the standard which is generally adopted nationally is for a minimum separation distance of 12m between a principal elevation and a blank gable. At 17.6m the spatial separation between Plot 6 and Ash Cottage significantly exceeds this, notwithstanding the landscaping which is proposed for this boundary.

6.3 Environmental implications of the proposed amendments

- 6.3.1 The officer does not consider that the proposed variations will result in any additional impacts on the environment. No technical consultees have objected and there would be no implications in terms of drainage, highways or public protection. The proposed landscaping measures would result in a biodiversity enhancement relative to the currently approved scheme.

6.3.2 For the reasons stated above, it is not considered that the variation would lead to an unacceptable visual impact or an overbearing development when compared with the currently approved scheme. The officer considers that the proposed landscaping measures and removal of scaffolding and laydown areas will significantly enhance the visual amenity of the development within a short timescale.

6.4 Affordable Housing

6.4.1 No contribution is due as the proposals relate to the replacement of dwellings on an existing residential site.

7.0 CONCLUSION

7.1 The proposed variation application seeks to regularise some amendments to the scheme which have occurred during the development phase. It would have been preferable for these changes to have benefitted from prior planning approval and the retrospective nature of the application has underscored local objections. However, the applicant has worked closely with the planning authority in order to seek to regularise the situation.

7.2 The proposed amendments would result in a development which does not differ materially from the current approved scheme. The proposed landscaping measures and roof design changes would mitigate the impact of the increased height for plots 3-6. Acceptable standards with respect to spacing, privacy and natural light would also be maintained. It is not considered that amendments would result in any unacceptably adverse impacts relative to the approved scheme, either individually or in combination.

7.3 It is considered that the proposals are sustainable in environmental, social and economic terms and are compliant with the NPPF, Core Strategy Policy CS6, SAMDev Policy MD2 and related policies and guidance. Permission is therefore recommended, subject to appropriate conditions.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

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

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

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

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

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning History:

RELEVANT PLANNING HISTORY:

- PREAPP/11/01525 Redevelopment of site to provide open market housing PREAIP 27th January 2012
- 13/05121/OUT Outline application for the erection of 6 no. dwellings and associated works to include access and layout following demolition of 8 no. existing dwellings GRANT 18th March 2014
- 15/04032/REM Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to permission 13/05121/OUT PDE
- 15/05411/DIS (surface treatments) and 16/00345/DIS (drainage, landscaping, external lighting and ecology).

Relevant Planning Policies:

Central Government Guidance:

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

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

and every decision’. The framework sets out clearly what could make a proposed plan or development unsustainable.

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

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

10.2 Core Strategy:

- CS6: Sustainable Design and Development Principles:
- CS17: Environmental Networks
- CS4 - Community hubs and community clusters
- Policy CS5: Countryside and Green Belt;
- Policy CS7: Communications and Transport;
- Policy CS8: Facilities, services and infrastructure provision.
- CS11 - Type and affordability of housing;

10.3 SAMDev:

- MD1 – Scale and Distribution of Development
- MD2 – Sustainable Design
- MD3 - Managing Housing Development
- MD7a – Managing Housing Development in the Countryside
- MD8 –Infrastructure Provision
- MD12: The Natural Environment

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O3DJGLTDL0E00>

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

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member: Cllr Mrs Heather Kidd

Appendices: Appendix 1 – Conditions

APPENDIX 1

Planning Conditions

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

1. Condition 2 of permission reference 15/04032/REM is hereby varied in order to substitute the drawings approved under the above permission (numbers 812/15/4B, 812/15/10A and 810/15/11A) with drawing numbers 812/15/4D, /12B, /15C, /19D, /20C, /26, /27 and ADL143b which are approved under the current variation.

Reason: To define the approved scheme as varied.

INFORMATIVES

1. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
2. All other conditions imposed on the original reserved matters planning permission dated 8th December 2015 remain in full force and are unaffected by this notice.
3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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Committee and date

South Planning Committee

21 June 2016

Development Management Report

LPA reference	15/04453/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Andrew & Kate Hardy
Proposal	Erection of two storey side extension together with balcony and internal remodelling
Location	Powkesmore Holding Ashfield Road Ditton Priors Shropshire WV16 6TW
Date of appeal	24.4.16
Appeal method	Fast Track
Date site visit	18.5.16
Date of appeal decision	25.5.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00459/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Andrew Badlan
Proposal	Erection of one dwelling
Location	Land Adjacent To Castle Meadow Linney, Ludlow Shropshire, SY8 1EE
Date of appeal	28.01.16
Appeal method	Written Representations
Date site visit	18.05.16
Date of appeal decision	27.05.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/01245/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Ian Lewis
Proposal	Erection of 1No dwelling and garage; installation of package treatment plant
Location	Car Park At Penny Black Inn Knowbury, Ludlow
Date of appeal	26.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	03.06.16
Costs awarded	
Appeal decision	Allowed

LPA reference	15/01238/FUL
Appeal against	Refusal
Committee or Del. Decision	Comittee
Appellant	EBS Energy LLP And GD Bach Limited
Proposal	Erection of ground mounted solar farm along with associated infrastructure, landscaping and ancillary structures on agricultural land
Location	Whitton Solar Farm Caynham, Shropshire
Date of appeal	02.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	07.06.16
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/01472/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	KS SPV 39 Ltd
Proposal	Formation of a solar farm comprising the installation of (circa) 22,000 ground mounted solar panels; 4 inverter buildings; one centre station comprising one transformer building, one gear building and one DNO cabinet; 21 x 3m high pole mounted CCTV cameras; 2m high security boundary fencing; landscaping scheme
Location	Proposed Solar Farm To The West Of Squirrel Lane Ledwyche, Shropshire
Date of appeal	04.11.15
Appeal method	Hearing
Date site visit	05.04.16
Date of appeal decision	08.06.16
Costs awarded	
Appeal decision	Allowed

LPA reference	15/00359/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs A Anthony
Proposal	Erection of detached dwelling to include first floor balconies at front and rear elevations; formation of parking/turning areas and new vehicular access; insertion of septic tank drainage system
Location	Proposed Dwelling North Of Belair Berryhill, Craven Arms Shropshire
Date of appeal	04.02.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	09.06.16
Costs awarded	
Appeal decision	Allowed

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Appeal Decision

Site visit made on 18 May 2016

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

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

Decision date: 25 May 2016

Appeal Ref: APP/L3245/D/16/3148105

Powkesmore Holding, Ashfield Road, Ditton Priors, Shropshire, WV16 6TW

- 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 and Mrs Hardy against the decision of Shropshire Council.
 - The application Ref 15/04453/FUL, dated 6 October 2015, was refused by notice dated 12 February 2016.
 - The development proposed is extension and internal remodelling.
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The proposal is described on the application form as *extension and internal remodelling*, and on the decision notice and appeal form as *erection of two storey side extension together with balcony and internal remodelling*. The latter is a more precise description and I have determined the appeal on that basis.
4. The appeal property is a detached two storey house in a large plot of land in open countryside accessed by a long drive from Ashfield Road. Its basic footprint is L-shaped, with a single storey element on the northwest side. The latter appears to have been something of an afterthought because of its relationship with the main L-shape and its steep monopitch roof. It is, however, constructed of the same natural rubble stone brought to courses and red brick quoins and window surrounds and is likely to date from a similar period as the main house.
5. I consider that the house has a distinctive and substantial appearance within its setting because of the stone walls, the strong emphasis of the fenestration, including the gabled dormers, and the fairly steeply pitched hipped roof. The surrounding area is rural in character, with a mix of woodland and fields, and apart from the nearby cottage, the house is isolated from other residential properties. The cottage is of a similar style and construction.

6. The Council refers to the building as a non-designated heritage asset, noted on the HER as a 19th century farmstead. The National Planning Policy Framework (the Framework) requires the significance of such assets to be considered in determining applications for development affecting them, having regard to the scale of any loss or harm.
7. Several policies in the Shropshire Local Development Framework Adopted Core Strategy 2011 (the Core Strategy) are relevant in this case. Policy CS5 seeks to protect the countryside by strict control over new development. The supporting explanation stresses, among other things, the importance of high quality design which is appropriate to the locality and in its scale and use of materials, particularly in the AONB.
8. Policy CS6 seeks to ensure that development is designed to sustainable principles and also that it respects and enhances local distinctiveness and is appropriate in scale and design in the local context. Policy CS17 relates to the protection and enhancement of the natural, built and historic environment, including heritage assets and the AONB.
9. These policies pre-date the Framework, but are consistent with it in encouraging sustainable development while protecting and enhancing natural and heritage assets.
10. Also relevant are the following policies in the Shropshire Sites Allocations and Management of Development (SAMDev) Plan 2015. Policy MD2 expands on Core Strategy policy CS6 in requiring development to contribute to and respect locally distinctive character by reflecting, among other things, locally characteristic design, materials, form and colour, together with scale and proportion, and to protect, conserve and enhance the character, significance and setting of heritage assets. It also encourages the use of contemporary design solutions which take reference from and reinforce distinctive local characteristics.
11. Policy MD12 seeks to protect natural assets such as the AONB from development which would have a significant adverse effect on their special qualities. MD13 relates to the impact of development on heritage assets.
12. The proposed extension would consist of two distinct elements projecting from the northeast elevation which faces the approach along the access from Ashfield Road. The lower element enclosing a new dining room and entrance hall would be finished in cedar cladding and full height glazing and incorporate a balcony at first floor level along the northwest side of the extension serving a new first floor bedroom. The upper element would comprise a bedroom and ensuite and would be clad in standing seam zinc with a flat roof. It would be cantilevered over the ground floor element and include a square zinc framed bay window. The extension would also contain a new staircase.
13. In my view, this proposal does not respond appropriately to its context and the contemporary design and materials do not take reference from or reinforce the distinctive local characteristics of this stone built vernacular building. The flat roof would break through the eaves of the existing house and overall, the extension would be sited in an awkward asymmetrical relationship with the hipped roof form. The variety of window openings would add further discordant features to the building.

14. Whilst, as a non-designated heritage asset, the building has less significance than a listed building, I consider that it has some value as an example of a rural farm house characteristic of this part of Shropshire, which apart from the modern windows, appears to be relatively unaltered.
15. The property lies within a valued landscape, the Shropshire Hills AONB. The surroundings are an attractive, mainly agricultural area characterised by large open fields interspersed with mature woodland. Public views of the property are limited by its isolation from the road, but a Public Right of Way runs through the site from which the proposed extension would be partially visible.
16. In my opinion, the proposal would neither contribute positively to nor enhance the landscape because it would introduce a new element which would be out of keeping with the existing simple form and hipped roof of the original house and constructed of a design and materials which do not reflect the character of the original house.
17. I acknowledge the appellants' need to improve the practicality of the accommodation in terms of size and circulation, the intention to construct an energy efficient extension to the property, and the constraints of the building in terms of the ability to achieve adequate headroom and allow the brick quoins to continue to be expressed. I also consider that there are circumstances in which a contemporary approach to the extension of a house such as this can be appropriate and successful without resorting to pastiche.
18. However, this is a non-designated heritage asset in the AONB. Although its status carries less significance than a listed building, it nevertheless has some historical significance as an example of a vernacular style characteristic of the farming landscape of the Shropshire Hills. This must be weighed in the balance in the determination of this appeal. In my opinion, the proposal would cause unacceptable harm because it would not respond to the character of the house itself or its rural setting, in terms of its materials, massing, design and relationship between the two awkwardly juxtaposed boxy elements and the overall form of the original house and roof.
19. The benefits of the proposal to the appellants are outweighed by the harm to the character and appearance of the building and the wider area. I believe that the house could be satisfactorily extended to provide a long term sustainable development but I am not persuaded that this is an appropriate solution.
20. The Council's policies are clear in their aims to ensure that new development is sustainable and of a high quality, while safeguarding the distinctive qualities of the built environment and the landscape. They are consistent with the corresponding aims expressed in the Framework.
21. I conclude that the proposal would harm the character and appearance of the area contrary to Core Strategy policies CS5, CS6 and CS17 and SAMDev policies MD2 and MD12 and the Framework.
22. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

PAG Metcalfe

INSPECTOR

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Appeal Decision

Site visit made on 18 May 2016

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

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

Decision date: 27 May 2016

Appeal Ref: APP/L3245/D/16/3141221

Land adjacent Castle Meadow, Linney, Ludlow, Shropshire, SY8 1EE

- 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 Andrew Badlan against the decision of Shropshire Council.
 - The application Ref 15/00459/FUL, dated 30 January 2015, was refused by notice dated 22 September 2015.
 - The development proposed is earth sheltered low-impact dwelling on unused scrub land.
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site is a roughly rectangular area of land which slopes steeply down from the Linney above. The latter is a relatively narrow road, made more so by cars parked along much of its length near the site. The site lies adjacent to and outside the development boundary for Ludlow. It is in the Ludlow Conservation Area and on the lower slopes of the hill on which Ludlow Castle was built. In views from the north it forms part of the setting of the castle and the Town Walls, both Scheduled Ancient Monuments, and St Laurence's Church, a Grade I listed building.
4. I consider that the following policies of the Shropshire Local Development Framework Adopted Core Strategy 2011 (the Core Strategy) are relevant in this case. Policy CS3 provides for housing and employment development within the development boundaries of market towns, such as Ludlow, which respects the distinctive character of each town and in the case of Ludlow, its historic character. Policy CS5 aims to exercise strict control over new development in the countryside.
5. Policy CS6 encourages high quality design to achieve high standards of resource and energy efficiency and an ability to adapt to climate change, and an environment which respects and enhances local distinctiveness. It also seeks to ensure that all development protects, restores, conserves and enhances the natural, built and historic environment. Policy CS17 relates to the protection and enhancement of the natural and historic environment.

6. These policies pre-date the National Planning Policy Framework (the Framework), but are consistent with it in focusing new housing development, encouraging high quality design and sustainable development and protecting and enhancing heritage assets.
7. Since the Council determined the application it has adopted its Sites Allocations and Management of Development (SAMDev) Plan (December 2016). This sets out the Council's up-to-date policies including those of relevance in this appeal, namely the development strategy for Ludlow in policy S10, and its policies relating to sustainable design, MD2, and the historic environment, MD13.
8. Policy S10 sets out where new housing will be delivered within Ludlow, together with allowance for additional infill and windfall development within the town's development boundary. It further states that all development should protect, conserve and enhance the setting and significance of the historic core of the town and recognise the national and international significance of Ludlow Castle.
9. Policy MD2 expands on Core Strategy policy CS6 in requiring development, among other things, to protect, conserve and enhance the historic context and character, significance and setting of heritage assets. It also encourages the use of contemporary design solutions, the use of sustainable drainage techniques and suitable landscaping.
10. Policy MD13 builds on Core Strategy policies CS6 and CS17 to ensure that proposals avoid harm or loss of significance to heritage assets and their settings, and where there would be harm, this would only be justified if public benefits outweigh that harm.
11. The proposal is for a three bedroom dwelling over two floors, set into the slope and earth covered. The submitted plans indicate that the existing level of the land would be built up in a mound with a higher profile than the existing slope, which would be levelled off towards the top to meet the level of the road.
12. The visible section of the accommodation, that is, the glazed section of the upper floor and a smaller part of the glazing to the lower floor would appear as an elliptical shape a short distance below the foot of the existing hedge/fence on the boundary with the road. This visible section would be up to 9 metres wide and 3-5 metres high and set in from the front face of the mound at a maximum of approximately 4.5m.
13. At the time of my visit, the sloping part of the site was covered in grass with a variety of wild flowers and weeds. It was not unduly overgrown and has a natural semi-rural appearance. There was an assortment of building and other materials scattered along the lower, flat part of the site which gave it a somewhat untidy appearance. When viewed from the north, the site forms a distinct break with the built up area to the east and has a natural semi-rural appearance forming a transition to the wooded slopes around the castle and the trees along the Linney above.
14. The appellant argues that the proposal would amount to a 'windfall' development on an infill site which would contribute to the Council's five year housing in accordance with paragraphs 48 and 49 of the National Planning Policy Framework (the Framework). The recently adopted SAMDev Plan clearly defines the development boundary for Ludlow. The site lies outside it and the

proposed new dwelling would be contrary to Core Strategy policies CS3 and CS5 which restrict development to within the development boundary and exercise strict control over development in the countryside outside settlements. It would also be contrary to SAMDev Plan policy S10 which sets out in more detail the Council's housing allocations for the plan period and which refers to windfall sites within the existing town boundary.

15. Although there is a reference to the consideration of windfall development in the delivery of housing in paragraph 3.18 of the explanation to policy SAMDev Plan MD3, it is also stated both within that paragraph and the policy itself that this should be done having regard to the policies of the local plan. Similarly, policy MD1, which relates to the scale and distribution of development, states that sustainable development will be supported in the Market Towns, again having regard to policies including CS3 and S10.
16. In my opinion, the emphasis in these policies is on focusing housing development in the allocated sites and within settlements, and additional sites outside settlement boundaries would only come into play if the housing guideline is unlikely to be met or there were other over-riding material considerations. As the SAMDev Plan has only very recently been adopted and sets out the Council's policies for meeting its housing needs, I see no reason to allow the development of sites outside those allocated in the policies unless there would be a clear public benefit which outweighs the policy considerations.
17. I conclude that the proposal would harm the character and appearance of the area insofar as it would extend development to a site outside the development boundary and fail to respect locally valued character. It would be contrary to Core Strategy policies CS3 and CS5 and SAMDev Plan policies S10 and MD2.
18. The site lies approximately 150 metres from the nearest edge of the town centre and its shops and other facilities. In this respect it is in a sustainable location in terms of reducing the need to travel by car for such services. The proposal would be constructed of energy efficient materials. The provision of one new dwelling would make a small contribution to the overall housing stock in Shropshire and consequently a small beneficial impact on the long term social and economic quality of Ludlow.
19. On the other hand, the site is within the setting of Ludlow Castle, which is a heritage asset of high significance both nationally and internationally. It is also within the setting of two other heritage assets, the Town Walls and St. Laurence's church, also of high significance, and it is within the Ludlow Conservation Area.
20. The appeal site is in a transition zone between the built up area of the town, which has gradually extended westwards along the side of the hill below the Town Walls, and the wooded slopes below the castle. The latter occupies a very prominent position in views from the sports fields on the plain below and the walls and church are also clearly visible as a backdrop and frame to the skyline. Views are partially obscured in places by the netting of the tennis courts and some trees. Further development westwards beyond the most recently constructed house (Castle Meadow) has been resisted in the recent past by the Council and Historic England, and in my view, the confirmation of the town

boundary in the SAMDev Plan reinforces the Council's previous policy that the area west of town should be protected from further development.

21. I have given careful consideration to the visual impact of the proposal on this sensitive area and to the appellant's analysis of the townscape and heritage setting. The construction of a new dwelling would alter the character of the area by extending development into what at present appears as a natural, undeveloped part of the hillside. The extensive earthworks would alter the natural slope of the bank and introduce an artificial looking mound with a somewhat alien flatter area over the roof just below road level.
22. Although it would have a lower profile than the immediate neighbour to the east, it would still be visible because of its location above the valley floor. The impact of the development would not be as marked as that of a conventional dwelling because of its earth cover and I accept that the impact could be reduced by new landscaping. However, the latter would take a long time to mature and I am not wholly persuaded that it would be effective. The site is raised above the low lying plain and the eye would be drawn to it against the backdrop of the town walls.
23. I consider that the proposal would not meet the tests in the Framework for the conservation of heritage assets. The castle, walls and church are all assets of great importance and great weight must therefore be given to their conservation. The proposal would not enhance their significance and the present natural appearance of the site is in keeping with the wooded surroundings and causes no harm. Although the proposal would not cause substantial harm, I consider that the harm it would cause to the historic environment would not be outweighed by the limited public benefit to the social and economic well-being of the town of a new single dwelling.
24. I conclude that the proposal would harm the character and appearance of the area because it would fail to protect, conserve or enhance the setting of important heritage assets. In this respect it would be contrary to Core Strategy policies CS6 and CS17 and SAMDev Plan policies S10, MD2 and MD13.
25. The appellant has drawn my attention to appeal decisions relating to housing developments outside Ludlow and at West Felton, but their circumstances are very different from this case. Those two sites are for much larger scale development than that proposed here and were considered to deliver greater benefits than would be the case in this instance. The decisions addressed the Council's housing strategy at some length, but in each case, although they took account of the emerging SAMDev Plan, the appeals were determined before it was adopted and the presumption in favour of sustainable development expressed in the Framework took precedence. The proposals were considered to be sustainable in social and economic respects and both were found to be in areas which had no conservation restrictions or designated landscape of value and therefore were acceptable in environmental terms.
26. On balance, I do not consider that the provision of one small dwelling would result in significant public benefits sufficient to overcome the fundamental objection in principle to new development outside development boundaries. The harm to the setting of highly significant heritage assets adds further weight

against the appeal. Although I have found the site to be in a sustainable location, this is insufficient to outweigh the other considerations.

27. The Council refers in its appeal statement to Core Strategy policy CS11 which requires a contribution to affordable housing. It has introduced this at a late stage and has put forward no supporting documentation other than the policy. I note the appellant's willingness to make a contribution, but since I have found the proposal unacceptable on other grounds, I have not addressed this matter any further.

28. In determining this appeal, I have given careful consideration to all representations made and all matters raised and none of them outweigh my findings on the main issue. I have determined it on its own merits in the context of local and national planning policy. I conclude that the proposal would harm the character and appearance of the area and the setting of the heritage assets in particular and that it would be contrary to Core Strategy policies CS3, CS5, CS6 and CS17, SAMDev Plan policies S10, MD2 and MD13 and the Framework.

29. For the reasons given above, I conclude that the appeal should not succeed.

PAG Metcalfe

INSPECTOR

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Appeal Decision

Site visit made on 9 May 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 3 June 2016

Appeal Ref: APP/L3245/W/16/3144703

Car park at the Penny Black, Hope Bagot Lane, Collybrook, Knowbury, Shropshire SY8 3LL

- 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 Ian Lewis against the decision of Shropshire Council.
 - The application Ref 14/01245/FUL, dated 18 March 2014, was refused by notice dated 9 October 2015.
 - The development proposed as set out on the planning application form is dwelling and garage.
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Procedural Matters

1. The Site Allocations and Management of Development, Development Plan Document (the SAMDev) was adopted in December 2015. The Council has confirmed that as a result Policies SD3 and SD4 of the South Shropshire Local Plan no longer apply. I have considered the appeal on this basis.
2. The Council has added "installation of package treatment plant" to the description of development set out above and this is how the development is described on the appellant's Response to the Council's Appeal Statement, March 2016. I have considered the appeal on this basis.

Decision

3. The appeal is allowed and planning permission is granted for a dwelling and garage; installation of package treatment plant at the car park at the Penny Black, Hope Bagot Lane, Collybrook, Knowbury, Shropshire SY8 3LL in accordance with terms of the application Ref 14/01245/FUL, dated 16 March 2014 and subject to the conditions set out in the attached Schedule.

Main Issue

4. The main issue is whether the site is suitable for residential development having regard to the Development Plan and the principles of sustainable development.

Reasons

5. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission is determined in accordance with the Development Plan (DP) unless material considerations indicate otherwise. The DP for the area now consists of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (the CS) and the SAMDev. The National

Planning Policy Framework (the Framework) is a material consideration. The evidence before me indicates that the Council can demonstrate a five year supply of deliverable housing sites and I have no reason to suppose the DP is out of date. The evidence suggests there is a substantial degree of reliance on windfall sites to enable the delivery of housing in accordance with the CS and the SAMDev.

6. The Framework seeks to significantly boost the supply of housing and both the Framework and Policy MD3 of the SAMDev contain a presumption in favour of sustainable development. This is defined in the Framework as satisfying environmental, social and economic dimensions. The environmental dimension includes protecting our natural, built and historic environment. The site is in the countryside. Paragraph 17 of the Framework recognises the intrinsic character and beauty of the countryside as a core planning.

Environmental dimension

7. Planning permission was granted for the conversion of the Penny Black into a house in 2009. The appeal site is the car park that served the Penny Black Public House and its tarmac surface is deteriorating. It falls within the definition of previously developed (brownfield) land as set out in Annex 2 of the Framework.
8. The site is in the Shropshire Area of Outstanding Natural Beauty (the AONB). Paragraph 115 of the Framework says that great weight should be given to conserving the landscape and scenic beauty of AONBs and these aims are reflected in Policy CS17 of the CS and Policy MD12 of the SAMDev. The Council raises no objection to the appearance of the proposed dwelling or garage and considers that the design is of an appropriately high standard as required in the AONB and I see no reason to reach a different conclusion.
9. To the north and west the site is bounded by a mature wooded area. To the south are the buildings of Penny Black and Bennetts End public house and across Hope Bagot Lane is Bennetts End Cottage. The proposed development would restore the land to beneficial use and improve the appearance of the site and the area. It would not encroach onto cultivated agricultural land or appear unduly prominent in the landscape.
10. There would be some harm to the openness of the countryside by the introduction of buildings but the site is physically and visually well contained. Although outside the areas preferred for development under Policies CS1, CS4 and CS5 of the CS and MD1 and MD7a of the SAMDev which seek to direct rural development to Community Clusters/Hubs and the proposal is not for a countryside worker or affordable housing, I conclude that the proposed development would help regenerate and improve the site and therefore the character of the local countryside. Accordingly I conclude that the proposal does not conflict with the strategic approach set out Policies CS1, CS4, CS5 and CS17 of the CS, Policies MD1, MD7a and MD12 of the SAMDev or those principles of the Framework that seek to protect the countryside.
11. The site is close to the functioning Bennetts End Public House with its bowling green. It is about 950m from the village hall at Knowbury, where there is a bus stop with a limited bus service, and about 1.5km from the church. Clee Hill with its range of services is about 3km away. Although I acknowledge that future occupiers of the proposed dwelling would rely to some degree on the

private vehicle for day to day services and facilities the site is not completely isolated from facilities.

12. Moreover, the proposal would also have a reasonable degree of consistency with Policy MD3 of the SAMDev as windfall development on brownfield land. It would also be in accordance with those aspects of Policies CS6 and CS10 of the CS and a core principle of Paragraph 17 of the Framework that seek to make the most effective use of land and to reuse previously developed land.
13. Taking all the above strands together on balance I conclude that the proposal meets the environmental dimension for sustainable development.

Social and economic dimensions

14. The appeal was originally accompanied by a signed Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 which provides for a contribution towards affordable housing to meet the requirements of Policy CS11 of the CS. This was withdrawn following a decision by the Court of Appeal which upheld the appeal of the Secretary of State against a previous High Court judgement of 31 July 2015¹ in relation to planning obligations and affordable housing and tariff style contributions². The more recent decision supports national policy as set out in the Written Ministerial Statement of 28 November 2014 which exempts sites of 10 or less dwellings from affordable housing obligations. This is a material consideration of substantial weight warranting a decision other than in accordance with Policy CS11, and the Council now considers there is no significant material planning reason to justify continuing to seek an affordable housing contribution in this case. Accordingly I give the absence of an obligation providing for affordable housing no weight in this appeal.
15. To the extent of future occupiers using local facilities the proposal would assist to a small degree in maintaining the local public house, the church and the bus service and services and facilities in Clee Hill. The proposal would make a limited contribution to the local economy during construction; could be a self build project; and as a windfall site would fulfil the social role of providing a very modest contribution to housing supply. Even though these benefits would also apply to similar sites not in the countryside, in these aspects the proposals would meet the social and economic dimensions of sustainable development.

Other matters

16. Although not part of the reason for refusal, the Council has expressed concern that allowing the proposal might set a precedent for development elsewhere that would affect the open character of the countryside. I have not been given specific examples of similar sites nearby where such a precedent might apply. Each application and appeal should be determined on its own merits and I do not consider the concern expressed would be sufficient reason to dismiss the appeal before me.

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government CO/76/2015 [2015] EWHC 2222 (Admin)

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

17. There is a public footpath crossing the site that may require diversion. However, there are other means for addressing this and it would not be a reason for refusing an otherwise acceptable proposal.

Final conclusion and conditions

18. As set out above there are some consistencies and some conflicts with some of the Policies in the DP. Future occupiers would rely to some extent on the private vehicle for many services and facilities; the location is not one where development is specifically encouraged under the strategic approach set out in Policy CS1 of the CS and there would be some harm to the openness of the countryside. However, I have concluded the proposal would bring previously developed land into beneficial use; would have a beneficial effect on the character and appearance of the site, the countryside and the AONB, would have some limited social and economic benefits and future occupiers would not be totally isolated from facilities.
19. Taking all the above matters into account I conclude that the proposed development accords with the DP taken as a whole. Accordingly I conclude that the site is suitable for residential development having regard to the DP and the principles of sustainable development.
20. I have assessed the conditions proposed by the Council against the tests in paragraph 206 of the Framework and against the national Planning Practice Guidance. In the interests of visual amenity it is necessary and reasonable to require the development to be carried out in accordance with the submitted plans, that external materials are agreed and that the proposed landscaping is provided. In the interests of public health it is necessary to ensure satisfactory drainage is provided. In the interests of protecting bats conditions for bat boxes and the control of lighting are necessary.
21. For the reasons set out above and taking into account all relevant matters raised I conclude the appeal should succeed.

SDHarley

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans and drawings Ref 1411/1, 1411/2 and 1411/3.
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 completed before the development is occupied.
4. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of

landscaping, which shall include:

- Details/schedules of proposed planting
 - Details of the type/construction, height and alignment of all new and retained walls, fences, retaining structures and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation.
5. The landscaping works shall be completed in accordance with the approved details. Thereafter, all fences, walls, hardstandings and other hard landscaping features shall be maintained in accordance with the approved details. Any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 6. No above ground works shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details and thereafter maintained.
 7. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.
 8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

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Appeal Decision

Site visit made on 4 April 2016

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

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

Decision date: 07 June 2016

Appeal Ref: APP/L3245/W/15/3141378

Land lying to the south of Whitton House, Ludlow

- 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 EBS Energy LLP and GD Bach Limited against the decision of Shropshire Council.
 - The application Ref 15/01238/FUL, dated 18 March 2015, was refused by notice dated 1 July 2015.
 - The development proposed is the erection of ground mounted solar panels with an electrical output of 4305kW along with associated infrastructure, landscaping and ancillary structures on agricultural land.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form did not contain a site address. I have used the address given on the appeal form for the header above.

Planning Policy

3. Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy March 2011 (the Core Strategy) states that development should be designed to a high quality using sustainable design principles which respects and enhances local distinctiveness and mitigates and adapts to climate change. Development should make the most effective use of land and safeguard natural resources including high quality agricultural land. Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, December 2015 has similar aims and states that development should contribute to, and respect locally distinctive or valued character. Core Strategy Policy CS5 strictly controls new development in the countryside, allowing such development only where it would not harm the vitality and the character of the countryside and where it would improve the sustainability of rural communities. Policy CS17 seeks to ensure that all development protects and enhances the high quality and local character of Shropshire's natural environment and does not adversely affect the visual and ecological values of these assets.
4. Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change, including renewable energy generation where this has no significant adverse impact on recognised environmental assets. Policy MD12 of the SAMDev seeks to ensure that proposals likely to have a significant adverse

effect on landscape character and local distinctiveness will only be permitted where there is no satisfactory alternative means of avoiding such impacts and the social or economic benefits of the proposal outweigh the harm to the asset. Policy MD8 states that applications for new energy infrastructure will be supported where its contribution to agreed objectives outweigh the potential for adverse impacts, including visual amenity, and landscape character.

5. The National Planning Policy Framework (the Framework) states that planning plays a key role in supporting the delivery of renewable energy and associated infrastructure, which is central to the economic, social and environmental dimensions of sustainable development. When determining applications, local planning authorities should, unless material considerations indicate otherwise, approve the application if its impacts are, or can be made, acceptable.
6. The Government's Planning Practice Guidance (PPG) considers that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. It also notes however that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively.

Background and Main Issue

7. The appeal proposes the construction of a 4305kW solar farm, and follows a previous scheme for an 8600kW scheme on the same overall site area. The solar panels for the previous scheme covered a larger proportion of the site; the scheme was refused and a subsequent appeal was dismissed¹.
8. The main issue in this case is whether the benefits of the proposal, including the production of energy from a renewable source, outweigh any harmful impacts, having particular regard to the effect on the character and appearance of the landscape, including views into and out of, or the setting of the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the effect of the proposal on best and most versatile agricultural land.

Reasons

Benefits

9. The proposed panels would be expected to save approximately 58,228 metric tonnes of carbon dioxide over their lifetime, and would supply approximately 98,698 MWh of electricity, sufficient to power around 1,000 homes a year. I place meaningful weight on these benefits.
10. The proposal also includes on site biodiversity enhancement, including the creation of species rich grassland, wildflowers and hedgerow planting and improvement. The enhancement of the grassland through less intensive management will increase plant diversity and structure and the new hedgerow planting will enhance the hedgerow network and create new wildlife links to existing ones. Economic benefits would also be accrued largely through installation and manufacture of the panels, and through farm diversification. The proposal would allow G D Bach Limited to continue to diversify their business and add to the current main business of cereal crops and beef fattening. The appellant outlines how risks in the form of cattle TB and fluctuating weather patterns can make the business vulnerable. The proposal

¹ APP/L3245/W/15/3014413, Appeal dismissed 22/03/16

would diversify the business and provide a guaranteed fixed income to assist the overall farm business. When taken together I place average weight on the economic and biodiversity benefits of the proposal.

Character and appearance

11. The appeal site lies between the villages of Caynham to the south west and Knowbury to the north east. The whole site covers a number of fields, although the proposed panels would be located within just 2 of the 4 fields shown on the location plan.
12. The site lies within the National Character Area 65, Shropshire Hills. At County level the Shropshire Landscape Typology describes the area as being within the Principal Settled Farmlands landscape type. This has key characteristics of mixed farming land use and a varied pattern of sub-regular, hedged fields. The more detailed Shropshire Landscape Assessment states that the land falls within landscape description unit (LDU) SH/81. This is described by the Assessment as having moderate strength of character, poor condition, moderate visual sensitivity, moderate inherent sensitivity and moderate overall sensitivity to change. The boundary of the Shropshire Hills AONB is located around 445-450m away to the north east.
13. The appellant's Landscape and Visual Impact Appraisal (LVIA) notes that the site lies in an area of undulating landscape with higher ground to the north west which rises towards the Clee Hills and lower ground to the south east which falls towards the Teme Valley. I agree with this assessment; on my site visit I noted that the land forms the backdrop and the setting to the dramatic Shropshire Hills to the east and is characterised by rolling hills, and well established hedgerows and trees. The landscape is criss-crossed by public footpaths; three such paths pass relatively close to the appeal site, to the south and south west. Two of these paths follow contour ridgelines. I also agree with the view expressed in the LVIA that the condition of the local landscape appears better than that described for SH/81 as a whole, with field boundaries on site and in the surrounding landscape generally in good condition.
14. On my visit I walked along part of the closest boundary of the AONB from Wooton towards Knowbury. Views from this closest boundary of the appeal site were restricted by high hedgerows and mature trees, with only fleeting glimpses of the site possible. The size of the proposal covering two fields would enable the scheme to be accommodated within the landscape and the distance between the site and the AONB is such that I do not consider that the scheme would have an adverse effect on views into and out of, or the setting of Shropshire Hills AONB.
15. Closer in the site would be more noticeable within the largely agricultural rural landscape. The proposal would be well screened in views from the north and from the local road network; however, and despite the reduction in size from the previous scheme, the proposal would be clearly visible from the footpath and bridleway to the north (Nos 0564/16 & 0564/15), and to a lesser extent, from aspects of the path to the west (0564/6a & 0514/6A). The footpath and bridleway both track along ridge lines in the landscape, allowing attractive and far reaching views across the site towards the Shropshire Hills.

16. The introduction of the proposed solar panels, facing towards these paths, the transformer kiosks, substation and 2.2m high security fencing would all combine to give the 2 fields a semi-industrial feel, at odds with the character of the surrounding undulating landscape, and adversely affecting the attractive views from footpath 0564/16 and bridleway 0564/15.
17. To counter these effects the LVIA proposes substantial and wide ranging landscaping planting including proposals to fill any existing gaps in the hedgerows surrounding the site, and to maintain these hedges at heights of around 3-3.5m. On the southern fringes of the site an area of existing scrub is proposed to be supplemented and established at a height of some 5m. Furthermore, a new hedgerow is proposed along the southern side of footpath 0564/15 and maintained at a height of some 2m. This hedgerow would be planted along the line of a former field boundary as shown in an accompanying Heritage Impact Assessment in Ordnance Survey maps from 1885 and 1954.
18. The LVIA demonstrates that the proposed planting would shield many of the views from the footpath and bridleway to the north of the site, although clear views would still be possible from photograph location 21. The increased height of the hedgerows directly bordering the site would also have a small effect on views from the rights of way to the south.
19. It is stated that the native hedgerow planned for the north side of the footpath would take around 6 years to reach the height of 1.8m, although it may be longer for the hedgerow to become sufficiently thick for views to be fully mitigated. Whilst 6 years is not a substantial amount of time, in the context of the time scale of the scheme it still represents quite a significant percentage of the time that the proposal would be in place for.
20. I am also not convinced that such a scheme would be desirable. Whilst I note the historic evidence relating to a field boundary in the same location as the proposed hedge, there is no indication of what form this field boundary took or its height. The proposed hedge would, in shielding views of the appeal site, also shield views of much of the surrounding countryside. Such far reaching views of the undulating countryside add considerably to the enjoyment of the users of the footpath and the hedge along the partial length of the path would remove some of this enjoyment. The field is not particularly large at present and any benefits of creating, or re-creating, a smaller scale sub regular field pattern would be minimal in this respect.
21. The appellant states their concern over the Inspector's findings in the previous appeal that the harm caused by the proposal would be significant, when by their nature they consider that the localised harm caused could only be considered as moderate at worst in LVIA guidelines. Nevertheless, I consider that the current proposal would still cause considerable harm to the character and appearance of the local landscape, and material harm to the enjoyment of the users of the affected public rights of way. Whilst the evidence submitted demonstrates that mitigation could be employed to shield some of these effects, I am not convinced that such mitigation would be established in required time scales or that all such mitigation is necessarily desirable.
22. I therefore consider that the proposal would be contrary to the objectives of Policies CS6, CS5, and CS17 of the Core Strategy as well as Policy MD2 of the SAMDev; whilst the proposal would mitigate and adapt to climate change and would improve the sustainability of the rural community it would not respect,

and enhance local distinctiveness and would harm the high quality and local character of the countryside.

Best and most versatile agricultural land

23. An Agricultural Land Classification (ALC) report indicates that the appeal site consists of ALC Grade 3, with a mix of subgrades 3a and 3b. The Framework defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the ALC. Roughly 55% of the appeal site is described as falling within Grade 3a, and thus in the category of best and most versatile land.
24. However, the impact of the proposal on the ground, by plant, the panel frame posts, kiosks and substation would equate to 0.0188ha of Grade 3a land being required for the project, with such plant, equipment and infrastructure being removed at the end of the project. The proposal also seeks to continue to use the site as pastureland for grazing. In the context of paragraph 112 of the Framework I do not consider therefore that the proposal would result in the significant development of agricultural land, and given the timescale of the scheme, the proposal would also not result in the *irreversible* loss of the best and most versatile agricultural land on the appeal site.

Other considerations

25. I note that the Council Officer recommended approval of the proposal, but that the decision to refuse the application was taken by the Council's planning committee. However, Council members are entitled to take such a view and the Council have supported this decision in their appeal statement. The appellant also raises queries over the approach the Council have taken to their assessment of the proposal and the relationship between the Development Plan and the Framework and the approach of the Planning Committee. I have dealt with the proposal on its planning merits.

Conclusions

26. Decisions must be made in accordance with the development plan unless there are material considerations that indicate otherwise. I place meaningful weight on the benefits of the proposal that I have identified above. The Framework identifies as a core planning principle that planning should support the transition to a low carbon future in a changing climate and encourages the development of renewable energy. I also ascribe benefits to the proposal from farm diversification and biodiversity.
27. I have not found that the proposal would have an adverse effect on views into and out of, or the setting of Shropshire Hills AONB or that the proposal would result in the irreversible loss of best and most versatile agricultural land.
28. On the other hand, for the reasons identified above I consider that the proposal would considerably harm the character and distinctiveness of the local countryside. The proposal would be contrary to a further core planning principle of the Framework that planning should recognise the intrinsic character and beauty of the countryside and to the PPG, as the proposal would have a negative impact on the rural environment, particularly in such an undulating landscape. The proposal would also cause material harm to the enjoyment of the users of the public rights of way identified above. For the reasons given above I also do not consider in this respect that the proposal would be well-screened and the impacts would thus not be properly addressed

within the landscape. The screening, once established, would reduce the effect on the visual amenity of the users of the public rights of way of the proposal but would also cause harm in removing the far reaching views of the wider countryside currently available. When taken in the round the harm caused by the proposal would be substantial.

29. When considering all this together I consider that the proposal, as well as being contrary to the development plan policies that I have identified in paragraph 22, would also be contrary to Policies MD8, MD12 of the SAMDev and to Policy CS8 of the Core Strategy in that, whilst providing supported renewable energy, the social and economic benefits of the proposal would not outweigh the harm on landscape character, local distinctiveness and visual amenity. In this respect I appreciate that the scheme before me is considerably smaller than the previous proposal and hence any adverse effect would also be reduced. However, on the same basis the benefits of the proposal in terms of renewable energy generation are also reduced, by around 50%.
30. The appellant refers me to a decision by the Secretary of State for a site at Thorpe Mandeville² and an appeal decision at Bradley, Basingstoke³ as examples where harm has been found but that the benefits of the proposals in each case would outweigh this harm. I do not have the full details of these schemes so am unable to consider whether they are directly comparable. In any event each case must be dealt with on its own merits, and whilst I note the contents of these decisions they do not lead me to a differing conclusion in this case on the harm and the benefits of the proposal before me.
31. I therefore conclude that the benefits of the proposal, including the production of energy from a renewable source, do not outweigh any harmful impacts, having particular regard to the effect on the character and appearance of the landscape.
32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR

² APP/Z2830/A/11/2155999

³ APP/H1705/A/14/2217110

Appeal Decision

Hearing held on 5 April 2016

Site visits made on 5 and 6 April 2016

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 08 June 2016

Appeal Ref: APP/L3245/W/15/3132946

Land to the west of Squirrel Lane, Ledwyche, Shropshire.

- 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 KS SPV 39 Ltd against the decision of Shropshire Council.
 - The application Ref: 15/01472/FUL, dated 1 April 2015, was refused by notice dated 14 August 2015.
 - The development proposed is the construction of a solar park with attendant infrastructure including centre station, inverters, cameras, fencing and associated landscaping.
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Preliminary Matters

1. The address of the appeal site has been variously described as being Henley Hall, Ludlow Road, and land to the west of Squirrel Lane. The latter is more appropriate and I proceed on that basis.
2. The proposed development was amended during its consideration by the Council and the area of the solar park was reduced by removing the area immediately adjacent to the southern boundary of Henley Hall Park. As a result the quantum of solar panels it is proposed to install has reduced to some 18788 from the previous total of almost 22000.

Decision

3. The appeal is allowed and planning permission is granted for the construction of a solar park with attendant infrastructure including centre station, inverters, cameras, fencing and associated landscaping on land to the west of Squirrel Lane, Ledwyche, Shropshire in accordance with the terms of the application, Ref: 15/01472/FUL, dated 1 April 2015, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

4. The main issues in the appeal are:
 - (a) The effect of the proposed development on the character and visual amenity of the surrounding landscape;
 - (b) The impact of the proposed development on the historic environment;
 - (c) The impact of the proposed development on leisure and tourism in the area;

- (d) Whether it has been shown that the proposed development is justified by reference to the quality of the agricultural land comprising the appeal site.

Policy Background

5. The decision notice issued by the Council contained policy references from the adopted Core Strategy (CS) which was adopted in 2011. However, since the appeal was lodged the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan has been adopted. I have been provided with policies from that document which sit alongside and complement CS policies.
6. Policy CS5 seeks to control development in the countryside in accordance with national policies, but is permissive of development on appropriate sites which (amongst other matters) maintain and enhance countryside character. Amongst other things Policy CS6 requires development to be designed to a high quality and to respond to the challenge of climate change whilst protecting, restoring conserving and enhancing the natural, built and historic environment taking into account local context. The policy also requires safeguarding of high quality agricultural land. Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change where this has no significant impact on recognised environmental assets, including the provision of renewable energy. Policies CS13 and CS16 include objectives to encourage economic growth and prosperity, encourage rural business and the tourism and leisure industry. Amongst other matters Policy CS17 requires all development to protect and enhance the diversity, quality and character of the natural, built and historic environment. In a general sense these policies follow the thrust of the National Planning Policy Framework (NPPF) which post dates the CS. However, some CS policies are worded in such a way that the balancing exercise inherent in NPPF policies is absent or diluted. This reduces the weight of CS policies in such cases.
7. SAMDev policies, on the other hand, were adopted after publication of the NPPF and therefore largely include the requirement to balance development proposals – weighing impacts against benefits. Policy MD8 is supportive of new strategic energy development (amongst others) where the contribution to agreed objectives outweighs the potential for adverse impacts. Policy MD12 (which refers back to CS Policies CS6 and CS17) seeks to avoid harm to Shropshire's natural assets. Any development with a significant adverse effect will only be permitted if there is no alternative or benefits outweigh harm. Policy S10 applies to the Ludlow area and seeks to ensure, amongst other things, that the importance of the town as an historic asset, and its setting, are recognised and protected.

Reasons

Character and Visual Amenity

8. The appeal site lies within National Landscape Character Area 65 (NCA 65) – Shropshire Hills. At a more local level it falls almost wholly within the Estate Farmlands Landscape Character Type (LCT) with a small proportion in the Principal Settled Farmlands LCT. There is overlap between the defining characteristics of NCA 65 and the relevant LCTs. In particular, landscape character is created by the interaction between irregularly shaped arable and pasture fields, hedgerow and tree belts, scattered woodland blocks, streams

and rivers with their intersecting valleys, all set within a rolling varied topography. Settlement is both nucleated in places, such as Ludlow, and more scattered and loose knit in smaller villages, with many isolated farmsteads and country houses. It is a diverse and physically attractive landscape, though it has no formal landscape designation. The Shropshire Hills Area of Outstanding Natural Beauty (AONB) lies a short distance to the north and east.

9. I do not see this landscape as exhibiting a character which could not accept development of the type proposed in principle. It would depend entirely on the location and design of the scheme in question. Indeed there is nothing in planning policy and guidance which indicates that greenfield land is not acceptable for solar development, though it is clear that brownfield land is to be preferred where possible. In this case I agree with the sensitivity analysis carried out on behalf of the Appellant, which indicates that the landscape character in this area is one of high sensitivity to change. But I bear in mind that there are features locally which detract from landscape character, including the large substation nearby, and the Park and Ride site to the west. The appeal site is sufficiently far from the AONB that there would be no noticeable impact on the character of that area.
10. In the context of LCA 65 and the local LCTs the magnitude of the effect of the proposed development, or its impact on landscape character, is mitigated by a number of factors. These include that the development would be sited on land which is quite well enclosed by topography and vegetation, resulting in the minimisation of the geographical impact of the development. Hence the impact on character is limited to a small part of both NCA 65 and the more local LCTs. That is not to say that there would be no impact. At close range the character of the landscape would be significantly affected by the rows of panels and associated infrastructure. But that impact would diminish very quickly with distance and as a result its overall effect on landscape character would be minor and adverse.
11. Just as the landscape character is sensitive to change, so I agree that it is visually sensitive. This reflects the fact that there are nearby residents and users of the local footpath network (including the Shropshire Way) who must be regarded as highly sensitive receptors (or viewers). Similarly tourists visiting the area for the purpose of following leisure pursuits in the countryside are sensitive receptors. There is no doubt that local residents and others value the landscape highly in spite of it not having any formal designation.
12. I was able to see the appeal site from many vantage points during my site visits. As I noted above the site is relatively well contained. There are some views into parts of the site, but in the main these are limited. From the west, at the Park and Ride site, or on the adjacent section of the Shropshire Way, there would be visibility of the panels and infrastructure on the higher part of the site. But this would be in the context of a view which takes in the large electricity substation in the foreground, and with the noise of the A49 close by, which reduces any sense of tranquillity. At this vantage point the distant views to Clee Hill dominate the visual experience.
13. Moving eastwards and dropping into the valley the site becomes less and less visible, and the substation becomes more so until it is left behind. The impact of the site here, from publicly accessible land, is very small. This is also true when the viewer continues through Lower Ledwyche and further along the

Shropshire Way. The trees and topographical undulations in the vicinity of Squirrel Lane mean that it is unlikely that the development would be perceived. There would, though, be visibility to some extent from Squirrel Lane itself. The solar panels closest to the lane would be seen through the lane side trees and across the grassland margin proposed. These localised views would interrupt the generally unspoilt nature of the countryside and would be seen as harmful to many people. But the panels would fall away to the west, restricting their visual impact. Taken overall I consider that the views into the site from the closest accessible public areas would be so restricted as to amount to no more than a minor adverse impact on the visual quality of the area. I deal with the views from private land later in this decision.

14. From further afield it would be possible to glimpse parts of the development from some of the extensive network of footpaths in the area. Of particular note are the footpaths on the rising ground to the south, culminating in the elevated viewpoint at Caynham Camp. Here there would be intermittent views into part of the site, depending on topography and vegetation. But even at its clearest I was not able to discern any location where there would be more than a limited visual impact caused by the higher parts of the site being in view at some distance. Again it is my judgement that the impact would be minor and adverse.
15. Even further afield the views from such locations as Mortimer Forest and Clee Hill would have a lesser impact. I firmly believe that it would be difficult to make out the development at all in most circumstances. The self contained nature of the site coupled with distance means that any visual impact from such locations would be negligible. I am also satisfied that there would be no material impact from the tower of the Church of St Laurence, Ludlow, which I visited as requested.
16. The fencing around the site, security measures, and cabinets within the site, would all have some visual impact though would not have any material effect on the character of the area. Fencing would be relatively tall, equivalent to the type of fencing around deer enclosures. This in itself would not be highly visible from most locations and could be mitigated by appropriate planting. Security measures would include CCTV sites on poles periodically around the enclosure and again would not be of significant visual impact given the limited nearby viewpoints. For these 2 items any impact would occur primarily in short distance views from Squirrel Lane, and here there is already much filtering vegetation.
17. The cabinets within the site may be a little more evident from the Shropshire Way, but in my judgement the fact that they would be set against rising ground would mitigate any such impact. The main control cabinets would be tucked away in a relatively inconspicuous location and would therefore have a minor visual effect at worst.
18. In cumulative terms there are currently no solar parks within the immediate vicinity which would be visible simultaneously with that proposed here. I note that the proposal at Whitton has been dismissed on appeal though the decision was still in the challenge period at the time of the hearing. I am therefore not aware of any possibility of cumulative impact even were Whitton to ultimately go ahead.

19. In summary on this issue it is my judgement that the proposed development would have a minor adverse impact on both the character of the area and its visual amenity. This finding is to be incorporated into the final balancing exercise.

Historic Environment

20. There is no dispute that there would be no direct physical impact on any heritage asset. It is therefore agreed that any impact would be to the setting of such assets. In my judgement the assets which come into play are Henley Hall Registered Park and Garden (RPG) together with the listed structures within the RPG, Caynham Camp Scheduled Monument (SM), and the general setting of the historic town of Ludlow.
21. Henley Hall RPG lies to the north of the 'red line' extent of the site. The amendments to the proposal referred to above removed solar panels from the area adjacent to this asset so that there is a relatively wide gap between the proposed panels and the RPG boundary. There would also be intermediate landscaping works carried out along the new northern boundary of the extent of the solar panels, and this would help to mitigate any impact on the setting of the RPG and the listed buildings within it.
22. In any event the setting of the RPG is very much self-contained. The southern boundary of the park is delineated by a strong hedgerow and tree line, and there are no obvious designed views either into or out of the park from the south. The advice of Historic England makes clear that this southern boundary could be reinforced to reduce any impact. That accords with my judgement that the significance of the RPG therefore appears to lie in its inward looking relationship with Henley Hall and other buildings inside the park. The proposal does include the opportunity to further strengthen the landscaping between the appeal site and Henley Hall. In this way the significance of the setting of the RPG and listed buildings would not be much affected by the proposed development. I am satisfied that the impact on the setting of the heritage assets at Henley Hall would be less than substantial.
23. Caynham Camp is a hill fort located to the south. Unlike Henley Hall it is obviously designed so that its flanks look outwards over the surrounding countryside and its elevated position gives it commanding views in most directions. There is a clear visual relationship with the surrounding land, possibly for defensive purposes. Whatever the exact reason for the location the setting of the camp clearly encompasses the extensive hinterland over which it has views. The reverse is also apparent, in that the higher ground of the camp is visible from much of the surrounding area. This interrelationship is an important element of the significance of the asset.
24. It is possible, when standing on the perimeter of the camp, to understand the nature of the place, build some appreciation of why it is located there, and recognise the important link between the camp and the land surrounding it. One sector of the views out from the camp includes the area around Ledwyche and the appeal site. But I was able to see at my site visit that views of the appeal site itself are severely limited by filtering vegetation and topography. From the majority of the camp there would be no views at all of the appeal site. Additionally the views out from the camp are such that the eye is drawn to more notable features, such as Clee Hill. Furthermore the development in the area around The Sheet, and the electricity substation to the south-west of

the appeal site are prominent features. This all leads me to a judgement that the appeal development, to the extent that it would be visible at all from Caynham Camp, would have a very limited impact. It would be low on the scale of less than substantial impact.

25. Ludlow is acknowledged as an important historic town. Its central historic core lies due west of the appeal site, but is separated from it by a ridge. This means that from Ludlow the appeal site is not visible. Ludlow patently has a relationship with its surroundings, and it is not difficult to understand that relationship. The Church of St Laurence and castle are focal points and the former in particular is prominent in some long views towards Ludlow. But the significance of the land to the east in the setting of Ludlow is diminished by the fact that it is separated by the A49 bypass, and by topography. Whilst the presence of the Church is apparent from some areas, it is by no means as prominent as from other directions.
26. I do not seek to diminish the historic relationship between Ludlow and the surrounding countryside, but in my view the relationship is weaker on the eastern side, and its significance much reduced. When passing through the area these 2 elements are perceived as separate – there is a strong sense of leaving Ludlow and being in the countryside to the east after crossing the A49, and the influence and significance of the relationship between the two quickly dilutes. The same is true in the opposite direction because Ludlow does not exert much influence until the viewer is almost upon it. In any event the appeal site is not a major component of this part of Ludlow's setting, and its topography means that it would play little, if any, part in the understanding of the relationship between town and country. As requested I visited the top of the tower at the Church of St Laurence but again the intervening topography and vegetation means that the appeal site would have negligible or no impact. I therefore find that any impact on the setting of Ludlow would be minor, would not affect the historic core (to which Policy S10 refers) and would be less than substantial in terms of the NPPF judgement required.
27. My duty under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. The NPPF also advises that great weight should be given to the conservation of historic assets, including registered parks and gardens and scheduled monuments. In the case of less than substantial harm to the setting of heritage assets, as here, that harm nevertheless attracts significant importance and weight in the planning balance, which I come to later.

Leisure and Tourism

28. I heard from a number of people who have concerns that the proposed development would deter visitors and negatively impact upon the leisure and tourism industry, which is an acknowledged and important part of the local economy.
29. It is necessary to treat any threat to the local economy seriously, but I am struck by the lack of substantive evidence of harm, either in this locality or elsewhere. I have been made aware of surveys which suggest little impact would result, but as these were carried out in other locations their relevance is limited. I do accept that some people who visit this locality for walking or

other country pursuits would not welcome the development, but I find it hard to accept that a development with the limited impacts described above would result in a decision to go elsewhere. It must be recognised that the development would affect a very small part of the extensive rural areas hereabouts. The site has no public access and any fleeting glimpses of the development would be unlikely to undermine enjoyment of the locality.

30. I heard that a neighbour of the site would like to establish a tourist focused facility, and that the development would put that at risk. However, there is no firm proposal before me of that facility, and whilst I accept that it is the firm intention to establish it, it would not be reasonable to preclude this appeal development (if otherwise acceptable) on the basis of another person's future plans.
31. Taken in the round I have insufficient evidence to be able to conclude that there would be any material impact on the tourism and leisure industry in this locality and as a result the concerns expressed cannot weigh against the proposal.

Land Quality

32. The NPPF is clear that in making decisions which impact on the natural environment the economic and other benefits of the best and most versatile (BMV) agricultural land should be considered. BMV land is defined as that of grades 1, 2 and 3a. In this case the Appellant's evidence is that the appeal site is formed of grade 3b land.
33. The investigations into land quality have been criticised, and I accept that there is some justification in that criticism in that there are inconsistencies in the reports prepared. Nonetheless the overall results are clear, and I have no grounds for doubting that the sampling and testing was carried out properly. I am therefore satisfied that it has been shown that the land is correctly graded as 3b. Even so, it has clearly been in agricultural production and the loss of productive land has been criticised. On the other hand the Appellant has explained the constraints to finding appropriate locations for solar farms, which includes avoiding BMV land. I accept that previously developed land is preferable in principle (as advised by Planning Practice Guidance) but the availability of such land in suitable locations is a further constraint to development.
34. Furthermore the PPG does not rule out the use of non BMV land (or even wholly rule out use of BMV land) and encourages continued agricultural use where greenfield land is utilised. That is the case here. I am also conscious of the fact that a solar farm, though intended to be established for a significant period, is capable of reverting to its former use.
35. Taking these matters as a whole I am satisfied that the land does not fall within the definition of BMV land, and that there is insufficient evidence to conclude that development should be refused on the grounds that it would reduce agricultural capacity.

Other Matters

36. I deal here with some other matters which have been raised in writing or at the hearing.

37. The immediately adjacent neighbour to the south-west breeds and keeps alpacas, and I understand the worries that the solar farm might have some impact on that business. However, there is no evidence which suggests that the static solar panels would be harmful to the alpacas. The main control building for the solar farm would be close to the common boundary but again I do not have any evidence that this would be harmful. It was clear to me that the solar farm would be visible from the fields associated with the keeping of alpacas, though filtered to some extent through existing vegetation. However, this boundary could also be the subject of further landscape mitigation and could be required by condition.
38. In relation to the living conditions of neighbours some concerns have been expressed in respect of potential noise disturbance and the possibility of glint and glare from the panels. So far as noise is concerned the control buildings are not expected to produce a sound level which would be detected at nearby property. This could in any event be controlled by condition. Glint and glare depend on the interrelationship between the light source and the angle of the panels. In this case the study carried out on behalf of the Appellant indicates that glint and glare are unlikely to be experienced.
39. The site has been shown to be of limited ecological value at present and the scheme before me would enable a good deal of enhancement to biodiversity. The panels would be surrounded by species rich grassland and new hedgerows of native species. Further planting is also proposed. Subject to the imposition of conditions controlling ecological matters, which would overcome any potential for harm to protected species, I am satisfied that the scheme would be of ecological benefit.
40. Transport matters could equally be controlled by condition. The access to the site is taken from a narrow lane, but the construction period would be relatively short. Thereafter visits to the site would be infrequent for maintenance purposes. I do not accept that transport matters should weigh against the proposal.
41. The western boundary of the site follows the Ledwyche Brook, but no panels would be located in the area where the banks may occasionally be overtopped. The panels would of course shed water during periods of rainfall, but that should be easily absorbed into the grassland between and beneath the panels. I do not see any potential for increased flood risk as a result of this proposal.
42. A number of other appeal decisions have been brought to my attention. I do not deal with them individually but it is clear that each responds to the particular circumstances of the case. In particular, the landscape judgements made reflect the situation local to the individual case, and the Inspectors concerned have addressed the merits of the cases in relation to their unique circumstances. I therefore find that these decisions are of limited assistance in this case.

Planning Balance and Development Plan Conclusions

43. I turn, then, to the overall planning balance.
44. The scheme is for a solar farm with a capacity up to 5MW. That has not changed even though the area over which the panels are proposed has been reduced. That is because the panels themselves can be installed with different

generating capacities. Hence the quantum of renewable energy generated has not diminished. However, I do accept that installed capacity does not equate to output. Even so, the production of renewable energy is a significant benefit and would assist in meeting the challenge of climate change and the requirement to meet international obligations for the production of renewable energy. The proposal gains support from Policies CS6 and CS8 in that it is seeking to respond to the challenge of climate change and provide renewable energy. There would also be some benefit in ecological terms, as I have pointed out above, and this would accord with Policy CS17 in that it would enhance diversity in the countryside.

45. Set against the principal benefit of producing renewable energy are the impacts I have noted above. The impact on the landscape character and visual quality would be limited but nonetheless cannot be regarded as following the requirements of Policy CS5, though any conflict is tempered by the lack of a balancing requirement in the policy. The impact is not significant and therefore I find no conflict with Policy MD12. The impact on heritage assets would be less than substantial though of great importance and weight. This is in conflict with Policy CS17, though again the lack of a requirement to balance harm and benefits reduces the weight of this policy. There is no conflict with Policy S10 insofar as it seeks to protect, conserve and enhance the setting and significance of the historic core of Ludlow. There are no other identified impacts which are sufficient to weigh against the proposal and I find no conflict with Policies CS13 and CS16 so far as impact on business, tourism and leisure is concerned, nor with that element of Policy CS6 which seeks to safeguard high quality agricultural land.
46. One of the core planning principles of the NPPF includes supporting the transition to a low carbon future by encouraging the use of renewable resources. It is recognised that even small scale projects can make a valuable contribution to cutting greenhouse gas emissions. This proposal is greater than small scale and therefore brings benefits commensurate with its scale. The NPPF goes on to indicate that applications should be approved if the proposal's impacts are (or can be made) acceptable. Planning Practice Guidance recognises that the impacts of a well planned and well screened solar farm can be properly addressed if planned sensitively.
47. Taken overall it is apparent that the development plan pulls in 2 directions. However, it is my judgement that the provision of renewable energy and the benefits associated with it, and the enhancement of biodiversity, when assessed against the low levels of impact identified, result in a proposal in which the benefits clearly outweigh the impacts. I am satisfied that there would be no demonstrable and significant adverse impacts which would be sufficient to outweigh the benefits of the scheme. As such the proposal accords with Policy MD8 which requires such a balanced assessment to be made.

Conditions

48. In the event of planning permission being granted a number of conditions were suggested and agreed by the Appellant and the Council. Because the plans were amended it is necessary to specify those on which this decision is based. In order to ensure a satisfactory standard of development, adequate landscaping mitigation, and appropriate protection of ecological features,

conditions are necessary which control all of those matters. In order to record any archaeology found on site a condition is required which establishes a suitable programme of work. To protect the living conditions of the nearest residents a condition specifying maximum noise levels is necessary, along with an agreed mechanism to deal with any complaints. In order to ensure that the land is returned to its current state a condition is also necessary which would ensure decommissioning of the development at the end of its intended life, or sooner if no longer operational. Where necessary I have amended the wording of conditions to improve precision.

Overall Conclusion

49. For the reasons given above I conclude that the benefits of the proposed development outweigh the impacts and as a result the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - P14-1450-EL01 – Location Plan
 - KS101-EM-01 – basic design 1 of 2 (8/7/2015)
 - KS101-EM-01 – basic design 2 of 2 (8/7/2015)
 - P14-EK01 – inverter station
 - P14-EK04 – centre station
 - P14-EK05 – security details
 - P14-EK06 – camera
 - P14-EK07 – access and maintenance roads
 - 14490 – topographical survey (5 sheets)
- 3) Prior to the commencement of the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority, in which the route along the highway for the delivery of materials and plant shall be identified along with measures to minimize the impact on the local highway network.
- 4) Prior to the commencement of development full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. The scheme required by this condition shall include measures for filling in localized gaps in the hedgerow defining the boundary between the site and the Henley Deer Park and ensuring a robust visual screen for the duration of the development hereby permitted and for strengthening other boundaries to minimise visual impact. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales.

- 5) Planting and seeding shall be undertaken within the first available planting season following the completion of construction works and in accordance with a scheme which shall be submitted for the approval in writing of the local planning authority. The scheme shall be implemented in accordance with the approved details. The developer shall notify the local planning authority in writing of the date when planting and seeding under the terms of condition 4 above has been completed.
- 6) All new planting within the site shall be subject to aftercare/maintenance for a period of 5 years following planting, including weeding and replacement of failures.
- 7) All existing trees on the site shall be retained throughout the development phase and shall be protected throughout the period of development works in accordance with BS5837: Trees and Development. No development hereby permitted, including ground disturbance, siting of plant, equipment, buildings or bunds, shall take place within 2 metres of any hedgerow, without the prior written approval of the local planning authority.
- 8) Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted and agreed in writing by the local planning authority Tree Officer. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.
- 9) The approved measures for the protection of the trees as identified in the agreed tree protection plan (Tree report ref. 2069-24-A TSE) shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation shall be made from the approved tree protection plan without the written agreement of the local planning authority's Tree Officer.
- 10) Prior to the commencement of works an ecological management plan shall be submitted to and approved in writing by the local planning authority. The submitted plan shall include the following:
 - i) The corridor/buffer strip along the length of the watercourse clearly showing distances separating the development from the watercourse;
 - ii) Measures to allow connectivity through the site for wildlife (i.e. additional new hedge planting, access points for terrestrial mammals along the fence line);
 - iii) A management plan using grazing to increase species diversity;
 - iv) Planting plans, including wildlife habitat and features;
 - v) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
 - vi) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties) in the wildlife areas;

- vii) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- viii) Ecological trends and constraints on site that may influence management;
- ix) Aims and objectives of management;
- x) A works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be reviewed every 5 years);
- xi) Personnel responsible for implementation of the plan;
- xii) Monitoring and remedial/contingency measures triggered by monitoring.

The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

- 11) Prior to the commencement of work on site a 10m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on a site plan submitted to and approved in writing by local planning authority.
- 12) Prior to the commencement of development, demolition or site clearance procedures, a Reasonable Avoidance Method Statement with respect to Great Crested Newts shall be obtained and submitted to and approved in writing by the local planning authority for the proposed work. The method statement should be prepared by an experience licensed ecologist. Work shall be carried out strictly in accordance with the approved scheme.
- 13) A minimum of 10 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site in positions to be agreed with the local planning authority prior to first use of the proposed solar farm hereby permitted.
- 14) A minimum of 5 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site in positions to be agreed with the local planning authority prior to first use of the development hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.
- 15) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter be 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. Work on site shall be excluded between one hour before sunset and one hour before sunrise.
- 16) Fencing shall be provided strictly in accordance with the details shown on the approved fencing plan reference P14-EK05.
- 17) Site security shall be provided in accordance with the specifications detailed in the approved drawing reference PK14-EK06.

- 18) No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the local planning authority prior to the commencement of works.
- 19) The rating level of noise immissions from the solar farm, as measured at ground floor level of any existing residential property in free field conditions, shall be limited to a maximum of 5dBA above existing background noise during the operational phase of the development.
- 20) Prior to the development commencing the developer or operator shall submit for the approval of the Local Planning Authority a complaint procedures scheme for dealing with noise and other amenity related matters. The submitted scheme shall set out a system of response to verifiable complaints of noise received by the local planning authority. This shall include:
 - i) Investigation of the complaint;
 - ii) Reporting the results of the investigation to the local planning authority;
 - iii) Implementation of any remedial actions agreed with the local planning authority within an agreed timescale.
- 21) No replacement of any solar panels within the site at the end of their planned design life shall take place under the terms of this permission.
- 22) All photovoltaic panels and other structures constructed in connection with the approved development shall be physically removed from the site within 30 years of the date of this permission and the site shall be reinstated as an agricultural field, in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority within the 12 month period preceding the expiry of the 30 year period of this permission. The local planning authority shall be provided with not less than one week's notice in writing of the intended date for commencement of decommissioning works under the terms of this permission.
- 23) In the event of the permanent cessation of the use of the solar farm, or if the solar farm has not produced electricity for a continuous period of six months, the solar farm and its ancillary equipment shall be permanently removed and the site restored to its former condition in accordance with a scheme submitted to and approved in writing by the local planning authority within 3 months of the cessation of use of the solar farm. The solar farm operator shall provide operational data for the solar farm to the local planning authority on reasonable request.

APPEARANCES

FOR THE APPELLANT:

Mrs H Nicholls MRTPI	Planning Manager, Laurence Associates
Mr I Matthew	Laurence Associates
Dr A Arcache	Kronos Solar
Mr C Bohne	Kronos Solar

FOR THE LOCAL PLANNING AUTHORITY:

Mr G French	Principal Planner, Shropshire Council
Mr M Lynch MRTPI	Consultant
Mrs S Stevenson	Business Support Officer

INTERESTED PERSONS:

Mr A Boddington	Shropshire Councillor, speaking in a personal capacity and on behalf of 3 other Councillors
Mr P Norman	Local resident
Mrs P Atkinson	Local resident
Mrs M Giles	Local resident
Mr P van Duijvenvoorde	Local resident
Mrs J Benbow	Local resident
Mrs K Norman	Local resident
Mrs J van Duijvenvoorde	Local resident
Mr Turner	Shropshire Councillor

DOCUMENTS HANDED IN AT THE HEARING

DOC 1	Transcript of representations from Mr Norman
DOC 2	Copy of SAMDev Policy MD8 from the Council
DOC 3	Copy of SAMDev Policy MD12 from the Council
DOC 4	Copy of SAMDev Policy S10 from the Council
DOC 5	Appeal decision APP/L3245/W/15/3019429 from the Council
DOC 6	Appeal decision APP/L3245/W/15/3014413 from the Council
DOC 7	Agricultural Land Classification Report of 3 June 2015 Version 3 from the Appellant
DOC 8	Appeal decision APP/L3245/W/15/3022913 from the Appellant
DOC 9	Bundle of photographs from the Appellant

Appeal Decision

Site visit made on 9 May 2016

by **S D Harley BSc(Hons) MPhil MRTPI ARICS**

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

Decision date: 9 June 2016

Appeal Ref: APP/L3245/W/16/3143403

Belair, Watling Street, Berrymill, Craven Arms SY7 8BX

- 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 and Mrs A Anthony against the decision of Shropshire Council.
 - The application Ref 15/00359/FUL, dated 26 January 2015, was refused by notice dated 15 September 2015.
 - The development proposed is dwelling, formation of vehicular and pedestrian access and septic tank/land drains.
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Procedural Matters

1. The Site Allocations and Management of Development, Development Plan Document (the SAMDev) was adopted in December 2015.
2. The red line showing the planning application site has been reduced in size as described in the footnote to the Grounds of Appeal and as shown on the plan provided at the site visit. I have considered the appeal on this basis.

Decision

3. The appeal is allowed and planning permission is granted for a dwelling, formation of vehicular and pedestrian access and septic tank/land drains at Belair, Watling Street, Berrymill, Craven Arms SY7 8BX in accordance with the terms of the application Ref 15/00359/FUL, dated 26 January 2015, and subject to the conditions set out in the attached Schedule.

Main Issue

4. The main issue is whether the site is suitable for residential development having regard to the Development Plan and the principles of sustainable development.

Reasons

5. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission is determined in accordance with the Development Plan (DP) unless material considerations indicate otherwise. The DP for the area now consists of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (the CS) and the SAMDev. The National Planning Policy Framework (the Framework) is a material consideration. The evidence before me indicates that the Council can demonstrate a five year supply of deliverable housing sites and I have no reason to suppose the DP is out of date. The evidence suggests there is a substantial degree of reliance on

windfall sites to enable the delivery of housing in accordance with the CS and the SAMDev.

6. The Framework seeks to significantly boost the supply of housing and both the Framework and Policy MD3 of the SAMDev contain a presumption in favour of sustainable development. The Framework defines sustainable development as satisfying environmental, social and economic dimensions. The environmental dimension includes protecting our natural, built and historic environment.

Environmental dimension

7. The site is in the countryside. Policies CS1, CS4 and CS5 of the CS seek to direct residential development to within town development boundaries, to allocated sites and to Community Clusters and Hubs and to strictly control new development in the countryside. Policy CS5 goes on to limit new housing in the countryside to that needed to house essential rural workers, affordable housing to meet local needs and conversion of existing buildings. The proposed dwelling would be for the appellants to avoid the need for institutional care for their son who has a severe disability. It would also, as a windfall site, in a very limited way add to the overall supply of housing.
8. Paragraph 17 of the Framework recognises the intrinsic character and beauty of the countryside as a core planning principle and Policy CS5 of the CS seeks to protect the character of the countryside. The appeal site is part of the open garden area associated with the appellants' house, Belair. The site is a rectangular plot in a short ribbon of dwellings fronting the line of the old Roman road, Watling Street, now a truncated spur off the A49 trunk road (Shrewsbury Road).
9. Open countryside lies to the west and east of the Watling Road properties. The area currently has a rural character although along the Shrewsbury Road are two sites designated as employment areas by Policy S7.1b of the SAMDev. Mature hedgerows with interspersed trees form the main boundary treatment for the adjacent dwellings.
10. There would be some harm to the openness of the countryside as a result of the proposal. However, the site is physically and visually well contained within the existing row of buildings and the development would read as part of this group. It would not protrude into the countryside, encroach onto cultivated agricultural land or appear unduly prominent within the landscape. Accordingly, the harm to the character and appearance of the countryside would be limited.
11. There is a large Oak near to the site which is the subject of a Tree Preservation Order and a copper beech within the site. The proposed dwelling would be positioned so as to avoid undue disturbance to the trees.
12. The Council raises no objection to the scale, form and massing of the proposed dwelling which is considered to be well scaled, appropriate in the location and in accordance with Policy CS6 of the CS which requires a high quality of design. I have no reason to come to a different conclusion.
13. For the above reasons I conclude that, although the proposed development would have some harmful effect on openness, it would not unacceptably detract from the character or appearance of the area. It would therefore not

- conflict with those aspects of Policies CS3 or CS5 of the CS; Policy S7.1 of the SAMDev or the Framework that seek to protect the countryside.
14. The appeal site is about 1km north of Craven Arms which is identified as a market town/key centre in Policy MD1 of the SAMDev and is a designated primary growth point. Although not directly adjoining the Craven Arms settlement it is about 1km south of the Grove, a main employment area for Craven Arms. Close by are the sites EL R053 and EL R055 designated as employment areas by Policy S7.1b of the SAMDev. There is a bus route along the A49 with a bus stop close to the Watling Street junction. There is a public footpath which links Craven Arms with the Grove employment site.
 15. Planning permission has been granted for a dwelling adjoining the appeal site in part of the garden of the Larches Ref 14/02915/OUT. The Officer report in relation to the Larches planning application states there are numerous services, facilities and employment opportunities available within comfortable walking distance and Council Officers identified the Larches site as sustainable in February 2015. From what I saw at my site visit this appeal site is as accessibly located as the Larches site, whether or not the position with regard to housing land supply has changed.
 16. I acknowledge that the site is not within the Craven Arms settlement boundary. However, it is not isolated and, for the reasons set out above, I conclude there would be reasonable access to services and facilities without undue reliance on the private vehicle. Accordingly the proposed development would not conflict with those aspects of Policies CS3 and CS5 of the CS; Policies MD1 and MD7a of the SAMDev or those principles of the Framework that require development 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 reduced.
 17. Taking all the above strands together on balance I conclude that the proposal meets the environmental dimension for sustainable development.

Social and economic dimensions

18. Originally the appeal was accompanied by a signed Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 providing for a contribution towards affordable housing to meet the requirements of Policy CS11 of the CS. This was withdrawn following a decision by the Court of Appeal which upheld the appeal of the Secretary of State against a previous High Court judgement of 31 July 2015¹ in relation to planning obligations and affordable housing and tariff style contributions². The most recent decision supports national policy as set out in the Written Ministerial Statement of 28 November 2014 which exempts sites of 10 or less dwellings from affordable housing obligations. This is a material consideration of substantial weight and warrants a decision other than in accordance with Policy CS11. Accordingly I give the absence of an obligation providing for affordable housing no weight in this appeal.

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government CO/76/2015 [2015] EWHC 2222 (Admin)

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

19. To the extent of future occupiers using local facilities the proposal would assist to a small degree in maintaining the services and facilities in Craven Arms. The proposal would make a limited contribution to the local economy during construction; could be a self build project; as a windfall site would fulfil the social role of providing a very modest contribution to housing supply and would meet a specific identified local need. In these aspects the proposal would satisfy the social and economic dimensions of sustainable development.

Final conclusions and conditions

20. As set out above there are some consistencies and some conflicts with some of the Policies in the DP. There would be some harm to openness and the location is not one where development is specifically encouraged under the strategic approach set out in Policy CS1 of the CS. However, I have concluded the proposal would assist a local family with a specific need, would have a low impact on the character of the countryside, would have some limited social and economic benefits and future occupiers would have reasonable access to day to day services and facilities without relying on a private vehicle.
21. Taking all the above matters into account I conclude that the proposed development accords with the DP taken as a whole. Accordingly I conclude that the site is suitable for residential development having regard to the DP and the principles of sustainable development.
22. I have assessed the conditions proposed by the Council against the tests in paragraph 206 of the Framework and against the national Planning Practice Guidance. Where appropriate I have amended the wording of conditions. In the interests of visual amenity it is necessary and reasonable to require the development to be carried out in accordance with the submitted plans, that external materials are agreed, landscaping is provided, and that tree protection measures are put on place. As the site is close to the Roman road and other historic remains a scheme for archaeological investigation is required. In the interests of public health it is necessary to ensure satisfactory drainage is provided. Future development on the site should be controlled in the interests of the appearance of the countryside.
23. For the reasons set out above and taking into account all relevant matters raised I conclude that the appeal should succeed.

SDHarley

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans and drawings Ref 449/14/1; 449/14/2 showing the site extending to the fence at the back of the plot only; and the tree constraints plan.

3. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
4. Notwithstanding the provisions of the Town and Country Planning (General
5. Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no freestanding buildings, extensions, additions or alterations to the roof or porches shall be erected other than those expressly authorised by this permission.
6. 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 completed before the development is occupied.
7. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
 - Details/schedules of proposed planting
 - Details of the type/construction, height and alignment of all new and retained walls, fences, retaining structures and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation.
8. The landscaping works shall be completed in accordance with the approved details. Thereafter, all fences, walls, hard standings and other hard landscaping features shall be maintained in accordance with the approved details. Any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
9. No above ground works shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details.
10. Where the approved plans and particulars indicate that construction work is to take place close to the Root Protection Area (RPA) of any retained tree(s), large shrubs or hedges, prior to the commencement of any development works, a Tree Protection Plan (TPP) detailing how the retained trees will be protected during the development, shall be submitted and approved in writing by the Local Planning Authority before the commencement of any ground clearance, demolition, or construction work
11. Before the commencement of any ground clearance, demolition, or construction work other than the installation of tree protection measures,

the applicant or their agent shall notify the Local Planning Authority in writing of the full establishment of the tree protection measures.

12. Where the approved plans and particulars indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees, large shrubs or hedges, prior to the commencement of any development works, an Arboricultural Method Statement (AMS) detailing how any approved construction works will be carried out, shall be submitted and approved in writing by the Local Planning Authority. The AMS shall include details on when and how the works will take place and be managed; and how the trees, shrubs and hedges will be protected during such a process.