



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

Date: Monday, 5 September 2016

**Committee:**  
**South Planning Committee**

**Date:** Tuesday, 13 September 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**

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](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 4)

To confirm the minutes of the South Planning Committee meeting held on 19 July 2016.

Contact Linda Jeavons (01743) 257716.

## 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, 8 September 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 Land Off Tanyard Place, Shifnal, Shropshire (14/04245/FUL) (Pages 5 - 30)

Erection of 5 no. dwellings; formation of new access and associated drainage works following demolition of derelict outbuilding (amended description).

## 6 Proposed Dwelling South Of Cargan, All Stretton, Shropshire (15/04383/FUL) (Pages 31 - 46)

Erection of one detached dwelling, double garage with terrace over; alteration to existing access.

## 7 Stone House, Corve Street, Ludlow, Shropshire (16/02033/FUL) (Pages 47 - 100)

Demolition of office building and partial demolition of stable block; erection of (part) three storey building comprising 44 retirement apartments; conversion of, and extension to, stable block to provide four dwellings; access, car parking and landscaping.

## 8 The Willows, Long Lane, Craven Arms, Shropshire, SY7 8DU (16/02115/AGR) (Pages 101 - 108)

Timber agricultural building to provide covered area for silage.

## 9 Schedule of Appeals and Appeal Decisions (Pages 109 - 204)

## 10 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, 11 October 2016, in the Shrewsbury Room, Shirehall.



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## Committee and Date

South Planning Committee

16 August 2016

## **SOUTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 19 July 2016**

**2.00 - 2.41 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

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

### **Present**

Councillor David Evans (Chairman)

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

## **22 Apologies for Absence**

Apologies for absence were received from Councillors Gwilym Butler (Substitute: Cecilia Motley) and Richard Huffer.

## **23 Minutes**

At this juncture, the Solicitor informed Members that, as a rule, the Planning Committee Minutes are not a verbatim record of the meeting but are to capture the salient points raised in the debate and the decision.

### **RESOLVED:**

That the Minutes of the meeting of the South Planning Committee held on 21 June 2016 be approved as a correct record and signed by the Chairman.

## **24 Public Question Time**

There were no public questions received.

## **25 Disclosable Pecuniary Interests**

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

With reference to planning application 16/01723/FUL, Councillors Andy Boddington and Robert Tindall declared that they were members of The Shropshire Hills AONB Partnership.

With reference to planning applications 16/01723/FUL, Councillors Cecilia Motley and David Turner declared that they were members of The Shropshire Hills AONB Partnership and The Shropshire Hills AONB Partnership Management Board.

**26 Land Adjacent To Telephone Exchange, Lower Galdeford (16/01156/FUL)**

The Chairman informed the meeting that this application would be considered at a future meeting.

**27 Barn South East Of Stoke Lodge, Stoke St. Milborough, Shropshire (16/01723/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit the previous day and had viewed the site and assessed the impact of the proposal on the surrounding area. In response to a question from a Member, he provided clarification on the planning history of the site.

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

Mr S Thomas, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. In response to questions from Members, he provided clarification on the footprint of the existing and proposed dwelling and what would be demolished and/or retained. He confirmed that the driveway would be constructed using permeable materials and a request from a Member for a meandering driveway would be acceptable.

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

- The proposal would have minimal impact on the surrounding landscape and the orientation of the fenestration would result in there being no glare;
- Shropshire Hills Area of Outstanding Natural Beauty (AONB) had raised no significant issues;
- Reliance upon vehicular modes of transit in this area would be unavoidable given that there was no public transport and the nearest train station was in Ludlow;
- The Core Strategy aimed to encourage families to remain in Shropshire;
- Stoke St Milborough had been designated as a Community Cluster; and
- The Parish Council supported the proposal.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers and Officers. Members considered that a local need had been identified, housing and development and retention of families was vital for the AONB to survive and thrive and the proposal would not be contrary to Core Strategy Policies.

**RESOLVED:**

That, contrary to the Officers recommendation, planning permission be granted, subject to:

- A Section 106 Legal Agreement to ensure that the dwelling remains tied to Stoke Lodge to ensure that it will not any time be sold, let or occupied as a separate unit of accommodation; and
- Planning Officers be given delegated powers to attach appropriate conditions to ensure that conditions relating to drainage, highways, conservation and ecology and any other conditions deemed appropriate are robust and adequate.

**28 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 19 July 2016 be noted.

**29 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, 16 August 2016 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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Committee and date

South Planning Committee

13 September 2016

## Development Management Report

### ADDENDUM TO COMMITTEE REPORT

Responsible Officer: George Candler, Director of Place & Enterprise

#### Summary of Application

<b><u>Application Number:</u></b> 14/04245/FUL	<b><u>Parish:</u></b>	Shifnal
<b><u>Proposal:</u></b> Erection of 5 no. dwellings; formation of new access and associated drainage works following demolition of derelict outbuilding (amended description).		
<b><u>Site Address:</u></b> Land Off Tanyard Place, Shifnal, Shropshire		
<b><u>Applicant:</u></b> Alastair Stewart, Saxonby Homes		
<b><u>Case Officer:</u></b> Lynn Parker	<b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Recommendation: Grant Planning Permission subject to the conditions set out Appendix 1 of the Committee Report dated 6<sup>th</sup> October 2015.**

#### 1.0 Background & Principle of Development

- 1.1 The South Planning Committee resolved to approve the above application for the erection of 5 no. open market dwellings at their meeting on 6<sup>th</sup> October 2015, subject to the prior signing and completion of a Section 106 agreement to secure the affordable housing contribution and to planning conditions. The application is still pending as the Section 106 Legal Agreement for the provision of a financial contribution in relation to affordable housing in line with policy CS11 'Type and Affordability of Housing' of the Shropshire Core Strategy has not yet been completed. The October 2015 Committee Report is attached as Appendix A..
- 1.2 Shropshire Council's Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for "A Flourishing Shropshire". The Shropshire Council policy requires anyone developing a new open market dwelling (subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision. However account must now be taken of the Written Ministerial Statement discussed below.

**2.0 Written Ministerial Statement**

- 2.1 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28<sup>th</sup> November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas.
- 2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31<sup>st</sup> July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 2.3 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11<sup>th</sup> May 2016. Consequently the WMS still applies and is reflected in amended NPPG of the 19<sup>th</sup> May 2016.
- 2.4 In addition to this the Housing & Planning Act gained Royal Assent on the 12<sup>th</sup> May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 2.5 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 Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000m<sup>2</sup> floor area in the majority of cases where the site is not located in a designated rural area.

**3.0 Conclusion**

- 3.1 This development proposes a provision of five dwellings, a net gain of five. The proposed development site is not within a designated protected rural area and, in any event, would be just below the threshold that still allows an affordable housing contribution to be sought in those designated areas. A significant number of new affordable dwellings are being delivered through the large housing developments currently underway in Shifnal. Therefore it is now considered that no Affordable Housing Contribution could be justified in this case, having regard to the material change in national policy discussed above.
- 3.2 Since the application was considered by the South Planning Committee in October 2015, the Site Allocations and Management of Development (SAMDev) Plan has been adopted. The policies in that then emerging Plan were taken into account in the Committee Report. While the 'saved' Bridgnorth District Local Plan policies referred to in that report relating to development boundaries (S1) and residential developments in main settlements (H3) no longer form part of the Development Plan, they have been replaced by SAMDev Plan policies MD3 relating to the delivery of housing development and policy S13 relating to Shifnal. The principle of open market housing development on this site within the Shifnal development boundary remains in accordance with the adopted Development Plan.

**4.0 Recommendation**

4.1 The application is recommended for approval without a Section 106 agreement in relation to the financial contribution for affordable housing. The Approval Decision can therefore be released if this recommendation is accepted.

**5.0 Appendices**

Appendix A – Report on application 14/04245/FUL to South Planning Committee, dated 6<sup>th</sup> October 2015.

**APPENDIX A**

**COPY OF OFFICER REPORT AND RECOMMENDATIONS - CONSIDERED 06<sup>th</sup> OCTOBER 2015 SOUTH PLANNING COMMITTEE**



Committee and date  
South Planning Committee  
6 October 2015

**Development Management Report**

Responsible Officer: Tim Rogers  
email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

**Summary of Application**

<b>Application Number:</b> 14/04245/FUL	<b>Parish:</b> Shifnal
<b>Proposal:</b> Erection of 5 no. dwellings; formation of new access and associated drainage works following demolition of derelict outbuilding (amended description).	
<b>Site Address:</b> Land Off Tanyard Place Shifnal Shropshire	
<b>Applicant:</b> Mr Alastair Stewart	
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 374779 - 307971



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Contact: Tim Rogers (01743) 258773

**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and S106 agreement to secure the requisite affordable housing contribution.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application as originally submitted proposed the erection of 6 no. open market dwellings including new vehicular access and associated drainage works on land off Tanyard Place, Shifnal, following demolition of a derelict outbuilding. The residential units would have comprised of 2 terraces of, 3 dwellings each as follows:

#### Western Block – Plots 1, 2 and 3

- 3 storey, 3 bedroom
- constructed as dual pitched with side gables, storm porch over front door.
- one dormer each on front and rear elevations, rooflight to rear
- ground floor = hall, WC, kitchen, living/dining area
- first floor = bed 2, bed 3, bathroom
- loft = bed 1 with ensuite and dressing room
- block = 16.43m wide x 8.32m in depth x 9.33m to ridge height, 4.65m to eaves
- footprint of each dwelling = 45m<sup>2</sup>

#### Eastern Block – Plots 4, 5 and 6

- 2 storey, 2 bedroom
- constructed as dual pitched with side gables, storm porch over front door
- ground floor = hall, WC, kitchen, living/dining area
- first floor = bed 1, bed 2, bathroom
- block = 16.43m wide x 7.3m in depth x 8.36m to ridge height, 4.65m to eaves
- footprint of each dwelling = 40m<sup>2</sup>

1.2 Various sets of amended plans have also been submitted during the application process in order to improve the design of the dwellings in relation to the surrounding Conservation Area and to find a balance between development and landscaping in relation to the trees at the site. The final set of amended plans submitted on 10<sup>th</sup> December for the Western Block and 23<sup>rd</sup> January 2015 for the Eastern Block show a reduction in the number of proposed dwellings from 6 to 5 with the direct removal of Plot 6, and include additional design details such as, corbelling below the eaves, stone headers and cills, dated stone plaque, venting details, stone band above ground floor windows, and more alignment of the openings.

Design and Access Statement Rev B dated January 2015 was also submitted on January 23<sup>rd</sup> 2015 to reflect the amendments made.

1.3 Access to the site would be via the existing estate road to the north serving Tanyard Place. Ten parking spaces (two spaces per dwelling) and a vehicle manoeuvring area would be located in a central courtyard between the two blocks.

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- 1.4 Materials are indicated to be facing brick and render walls, clay roof tiles, brick window head details and reconstituted stone cills, and the storm porches of timber. Hardstanding areas will be allocated as tarmac for the access/private drive, block paving for the parking, paving slabs for pathways, patios and 2m maintenance access to communal area.
- 1.5 Both foul sewage and surface water drainage are indicated to be disposed of via the main sewer as the use of soakaways, infiltration trenches, permeable paving, grassed swales, ponds and wetlands are inappropriate for this site due to its clay subsoils, the steep gradient and lack of available space within the development. Therefore, sustainable on site storage and attenuation for surface water disposal (SUDs) is to be incorporated. It is confirmed that finished floor levels will be set above the 1 in 100 year flood level (plus climate change) in accordance with EA guidelines.
- 1.6 Planting would form part of the central courtyard to create a sense of place. The existing area of green space to the west would be upgraded to create an amenity area, also allowing for flood water during extreme flood events.
- 1.7 In addition to the Design and Access Statement and during the course of the application several further supporting documents have been submitted at officer's request as follows:

Ecological Assessment dated October 2014

The proposed development will result in the loss of ecologically poor garage and hardstanding and will also involve the clearance of dense scrub and piles of vegetation. In order to protect bordering habitats and maintain and increase biodiversity of the site it is recommended the following mitigation measures and safe working methods are incorporated into the proposals.

The proposed areas of groundworks will need to be confined to areas that will not impact on the root systems of the retained trees. An appropriate buffer, as detailed in BS5827:2012, will need to be established prior to works commencing on site.

Proposed drainage will need to ensure that any polluted run-off water from the site does not enter the adjacent Wesley Brook. Methods to ensure there is no pollution and/or excessive run-off during development works will also need to be incorporated in the development / site management plan.

No evidence of protected species was found within or immediately adjacent to the proposed development footprint during the survey. There are however habitats with limited suitability for bats, badgers, otter; nesting birds, Great Crested Newts and reptiles within or adjacent to the proposed construction areas.

Tree Condition Report/Arboricultural Impact Assessment Pre-Design/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18<sup>th</sup> November 2014, received on 27<sup>th</sup> November 2014.

This document was amended to remove the 'Pre-Design' element and resubmitted on 23<sup>rd</sup> January 2015 as,

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Tree Condition Report/Arboricultural Impact Assessment/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18<sup>th</sup> November 2014.

- 1.8 An Affordable Housing Contribution Proforma has been submitted agreeing to pay a financial contribution of £62,880 towards off site affordable housing provision as the internal floorspace is identified as being over 93.156m<sup>2</sup> average (0.15 x 93.156m<sup>2</sup> x 900 x 5 dwellings = £62,880).

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The site falls within the development boundary of the Market Town of Shifnal approximately 200m north of the Town Centre and located within the Shifnal Conservation Area. The rectangular plot is located to the rear of no. 43 Broadway (which is the B4379) a Grade II Listed Building and within the former Medieval area of the town which is now of mixed tenure residential and commercial properties laid out as terraced or semi-detached on varying building lines. A number of more recent developments set behind the older building line which fronts Broadway, including Tanyard Place directly to the north of the site and Broadway Close beyond that.

2.2 The plot itself is level and includes significant levels of hardstanding with mature trees and landscaping around its perimeter. It is set at a lower level than no. 43 Broadway to the east and slightly lower than Tanyard Place to the north. A section of green space on the west side of the plot approximately 45m in depth slopes downwards to the Wesley Brook. The development beyond the brook in Maple Close is therefore also at a lower level. Land directly to the south is rear garden land within the ownership of no. 41 Broadway. There is currently no vehicular access into the site other than through no. 43 Broadway.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 Applications requested to be referred, by the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

**4.0 Community Representations**

4.1 - Consultee Comments

4.1.1 Shifnal Town Council (17-10-14) - At the Full Council meeting of Shifnal Town Council on Thursday 16th October, 2014, Councillors Rejected the above application.

Councillors were of the opinion that building 6 properties in the space provided would result in a high density of buildings and there would be insufficient car parking space, as detailed in the drawings.

Concern was also noted regarding the status of the land proposed for housing and questioned whether the land is in a Conservation Area.

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Shifnal Town Council – Re-consulted 29-01-15 on revised scheme of 5 units, to date no further comments received.

- 4.1.2 SC Affordable Housing (23-10-14) - As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The current affordable housing contribution rate for this area is 15% and as such a proposal for 6 new open market dwelling would be liable to make a contribution equivalent to  $6 \times 0.15$  of a whole affordable unit ( $6 \times 15\%$ ). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site affordable housing contribution. As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

SC Affordable Housing (29-04-15) – The contribution noted (£62,880) is correct for revised 5 dwelling proposal.

- 4.1.3 SC Conservation (05-11-14) - The site lies to the rear of a Grade II Listed Building and within the Conservation Area. The proposed dwellings are set back from the rear of the Listed Building with the block nearest the Listed Building being kept to two storey. As the land at this point is lower it is felt that the massing is acceptable in the context of the Listed Building, provided that the screening provided by trees on site remains. However the design of the proposed dwellings is considered to be unacceptable in this context. The proposed elevations, particularly of the taller block are felt to be hindered by a lack of consistency in the placement and proportions of the openings. New dwellings in the Conservation Area and within the setting of Listed Buildings must have a high quality of design and it is felt that the current scheme does not achieve this in its present form.

SC Conservation (19-12-14) - Revised plans have been submitted with revised design details. The revisions have addressed the previous concerns about the scheme in terms of design quality.

Some trees within the site are proposed to be removed with additional planting proposed in other areas to compensate. However there are some issues in terms of the layout proposed and the effect this will have on trees outside of the site. It has been recommended by the County Arboriculturalist that Plot 6 be removed to rectify these issues. From a conservation perspective the retention of trees within and around the site is recommended and will help any development to sit well within the site and minimise the impact on the Conservation Area. Two previous schemes for an apartment block on the site have been refused both giving the loss of trees and the associated effect on the Conservation Area as a reason for refusal. Therefore it is considered that the scheme should be reduced, removing Plot 6, to ensure the protection of boundary trees.

Previous refusal reasons have referred to the impact on Listed Buildings and the character and appearance of the Conservation Area. The current scheme uses an access from Tanyard Place rather than under the Listed Building as previous schemes, this reduces the impact on the Listed Building and Conservation Area by separating the development from the Listed Building and helping to assimilate it with the Tanyard Place development adjacent. The current proposals are also much

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reduced in mass and scale from the previous refused schemes and it is considered the current scheme, if reduced to 5 dwellings will have minimal impact on the setting of the Listed Building. It is considered that the scheme if reduced would be of a scale and form that would not appear overly dominant in the Conservation Area and with the additional planting and retention of boundary trees would help to preserve the character of the Conservation Area.

SC Conservation (12-02-15) - Following previous comments the scheme has now been reduced to 5 no. dwellings, which has minimised any impact on existing trees and therefore reduced the impact of the scheme on the Conservation Area. It is considered the scheme is now acceptable from a conservation perspective. Conditions suggested relating to samples of external materials, joinery details, conservation rooflights, roof materials and details.

- 4.1.4 SC Archaeology - The development site lies within the Medieval urban form (PRN 05359) of Shifnal, as defined in the Central Marches Historic Towns Survey. It also lies within a group of tenement plots (PRN 05012) which formed part of the planned town set out in the 13th to 14th century. The proposed development site can therefore be deemed to have some archaeological potential.

In view of this and in line with National Planning Policy Framework (NPPF), it is recommended that, depending on additional detail for the proposal, a programme of archaeological work be made a condition of any subsequent planning permission for the proposed development. Condition suggested.

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

As part of the development is within Flood Zone 3, a Flood Risk Assessment (FRA) should be produced where the developer should complete a FRA using Shropshire Councils Strategic Flood Risk Assessment (SFRA) documents for guidance.

As soakaways are not feasible, drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment, should be submitted for approval. Details should also be provide of how the surface water runoff will be managed and to ensure that the finished floor levels are set above any know flood level.

- 4.1.6 Environment Agency – Consulted 11-11-14, to date no response received.

- 4.1.7 SC Public Protection - Having considered the location of the proposed residential development it is noted that to the north there was historically a tannery and the current land use to the east of the site is a depot. As a result there is the potential for contamination to exist on the site and contaminated land conditions are therefore proposed.

- 4.1.8 SC Trees (30-10-14) - No objection to the principle of residential development at this site, but do object to the layout as currently proposed. The applicants intention to retain the majority of the trees is noted, but it is considered that this creates an

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unworkable juxtaposition of retained trees and new buildings. The proposed block plan (SA 16458/02 Rev A, Berrys, Aug 2014) shows the western terrace of three properties to be located immediately under the canopies of retained multi-stemmed trees. There is no arboricultural information submitted with the application, but having visited the site it is confirmed that the trees in question are multi-stemmed Horse Chestnut and Ash. The trees are semi-mature and not yet full grown. Even if it were possible to physically construct the proposed dwellings and retain the tree, they would completely overshadow the houses and gardens, creating an unliveable environment for the future occupants. This is not considered this to be sustainable development. There are also off-site trees adjacent to the southern boundary that could affect or be affected by the proposed development, raising similar issues to the Ash and Horse Chestnut mentioned above.

It is considered that this application should not be determined without the appropriate arboricultural information, which should be used to inform layout and design. A Tree Survey and Arboricultural Impact Assessment should be carried out by a competent arborist, describing the trees, their root protection areas, condition, suitability for retention and the constraints they pose to development. The impact assessment should detail the implications of the proposed development, showing how layout and design responds to the arboricultural constraints, taking account of any trees to be pruned or removed and any new planting in association with the development.

A Tree Protection Plan and Arboricultural Method Statement are also required. The former to show how retained / adjacent trees and hedges are to be protected from damage or harm during implementation of any approved development; the latter to show how works (including demolition, clearance, site levelling and construction) within, or that may affect, the root protection area of retained trees and hedges are to be designed, implemented and monitored so as to avoid damaging or harming those retained trees and hedges and their roots.

In the absence of this information refusal is recommended on the grounds of insufficient evidence to properly assess the impact of the proposed development on protected trees within and adjacent the site.

SC Trees (12-12-14) - The Tree Condition Report Arboricultural Impact Assessment Pre-design Arboricultural Method Statement Tree Protection Plan (Terry Merchant, Forester and Arborist Services Ltd, 18/11/2014) has been reviewed and the following comments provided.

It is noted that the report states that it is a pre-design document and as such the tree details (canopy spread and root protection area [RPA]) have not been overlaid on a site layout plan. However, comparison with the submitted block plan (SA 16458/02 Rev A, Berrys, Aug 2014) reveals that the RPA of several offsite trees extend a considerable distance into the site, across the whole of Plot 6.

Many of these offsite trees (including T1 yew, T2 ash, T3 Leyland Cypress, G1 group of 8 Leyland Cypress, T5 Ash, T6 Douglas Fir and T13 Western Red Cedar) are early-mature and currently only half their potential canopy height and spread. In the opinion of SC Trees, they will have an overbearing presence and cast an

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excessive amount of shade (as witnessed in the shadow length information in the report) on the closest property. Given also that the Arboricultural Impact Assessment for all these offsite trees states that there can be no excavation within the RPA, it is considered that their presence is incompatible with the submitted layout, in respect of Plot 6 in particular.

It is noted that the tree report suggests removal of a number of trees to enable the proposed development (T4 Ash, T14 Ash, T15 Ash, T16 Horse Chestnut and T17 Horse Chestnut). Although the latter four trees are relatively obvious in the vista, I consider that their loss to the proposed development could be adequately compensated by an appropriate planting scheme.

In summary, SC Trees object to the layout as submitted and recommend removing Plot 6 from the scheme, on account of the potential impact of the proposed development upon adjacent offsite trees and also the effect of the trees upon the proposed development, in terms of liveability for future occupants.

SC Trees (03-02-15) - The revised arboricultural information submitted in connection with this application has been reviewed, and satisfies the previously raised concerns. Therefore no objection are now raised to the application on arboricultural grounds, providing suitable tree protection measures are employed during demolition, site clearance and construction operations and subject to appropriate new planting being carried out.

With regard to the latter, the findings and recommendations of the Landscaping Works document (Forester & Arborist Services, 21.01.2015), are agreed with, but note that it provides two options for future planting of the communal waterside garden. For certainty and the avoidance of doubt, it is suggested that the applicant should decide which of the two options they wish to put forward for the site, prior to any LPA approval of the landscaping arrangements. Finally, it is suggested that the agreed planting specification should be supported with a planting plan based on an approved site layout. Such a plan does appear to have been submitted as yet. Conditions are recommended in relation to tree works, protection and a planting plan.

4.1.9 SC Ecology – Conditions recommended in relation to the provision of bat boxes and artificial nests, lighting re bats and that work is carried out in accordance with the submitted Ecological Assessment. Informative recommended in relation to nesting wild birds.

4.1.10 SC Highways – No comments received to date.

4.2 - Public Comments

4.2.1 One letter of public representation has been received from a neighbouring property to the south east and south of the site expressing the following concerns:

- o New development should not be built in a Conservation Area.
- o The loss of existing trees would be detrimental to the character and appearance of the Conservation Area.
- o The difference in the floor level of the proposed development and our land is over 2m, which would be unsightly and inappropriate.
- o The difference in height could cause a flood risk to our land and

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- o gardens to the south of the site.
- o The plot encourages wildlife such as birds, butterflies, foxes and hedgehogs.

**5.0 THE MAIN ISSUES**

- o Principle of development
- o Affordable Housing
- o Design, scale and character
- o Impact on neighbours/residential amenity
- o Impact on the historic environment
- o Drainage/flooding
- o Trees
- o Ecology
- o Access

**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 needs to be given weight in the determination of planning applications.
- 6.1.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.
- 6.1.3 For the purposes of the assessment of this application the development plan presently comprises the adopted Shropshire Core Strategy 2011, certain saved policies of the Bridgnorth Local Plan and a range of Supplementary Planning Documents.
- 6.1.4 Following on from the adoption of the Core Strategy in 2011, the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev,) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. Any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 6.1.5 Shifnal is identified within the Shropshire Council Core Strategy Policy CS3 as one of the Market Towns and other Key Centres in Eastern Shropshire which will maintain and enhance its role in providing a focus for development and for providing facilities and services to its rural hinterland. New housing provision of a scale and design that respects each town's distinctive character is one of the types

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of development potentially acceptable within the development boundary of a CS3 settlement. Levels of housing development in Shifnal are informed by CS3 and Settlement Policy S15 of the emerging SAMDev. A number of specific sites are allocated to accommodate the majority of housing development required within Shifnal over the Plan period. As this proposal is not one of these, it is regarded as a windfall site.

- 6.1.6 Under 'Saved' Policy H3 of the Bridgnorth District Local Plan residential development on appropriate sites within Shifnal's development boundary is also supported, including on unallocated sites and remains in force until the adoption of the Site Allocations and Management of Development (SAMDev) document.
- 6.1.7 In addition to Policy CS3, which sets out the principle in favour of new housing development in settlements including Shifnal, Policy CS6 seeks to ensure sustainable design and development. As such both of these local policies are in line with the presumption in favour of sustainable development expressed throughout the National Planning Policy Framework. Policy CS6 also requires all development to be of a high quality design and to mitigate climate change.
- 6.1.8 As the proposed site is within the development boundary and is identified as being within a CS3 settlement, the development of the site for residential purposes is acceptable in principle as it will constitute sustainable development of housing within an existing Market Town/Key Centre.
- 6.2 Affordable Housing
- 6.2.1 In order to meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target. As 5 dwelling are now proposed at the site, the contribution is expected to be financial. An affordable housing contribution proforma has been submitted during the course of the application indicating that the correct financial contribution in respect of affordable housing will be secured via the completion of a Section 106 Legal Agreement.
- 6.2.2 Regarding the need for an affordable housing payment, officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) advising against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the Statement and relevant part of PPG following a successful High Court challenge (as of the 31<sup>st</sup> July 2015) . The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD.
- 6.3 Design, scale and character
- 6.3.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate

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in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets.

6.3.2 Significant enhancements have been made to the overall design of the proposed dwellings during the course of this application as described in paragraph 1.2 above, in order to improve their visual appearance and to result in a higher quality development. Careful consideration has also been employed to ensure that the scale and positioning of the proposed development is improved from previously refused schemes, the overall mass and scale having been reduced and the access re-located to be gained from Tanyard Place to the north rather than from Broadway to the east resulting in a layout which better suites the pattern of the surrounding built environment

6.4 Impact on neighbours/residential amenity

6.4.1 It is felt there is sufficient space around the proposed residential blocks for any adverse impacts from overbearing to be unlikely and whilst the land slopes downwards to the west there is a distance of at least 60m between the proposed development and dwellings in that direction. Distances between the proposed dwellings and those in Tanyard Place are a minimum of 10m, and to the east 30m. Land adjacent to the south is long gardens serving dwellings on Broadway.

6.4.2 The proposed dwellings have been orientated with their front elevations facing into a central courtyard area and their rear elevations facing to the east and west where there are sufficient distances of at least 30m to any neighbouring properties. No side windows are proposed to either block. For these reasons the potential for overlooking of adjacent private amenity spaces will be minimal. There would be no conflict with Core Strategy policy CS6 which seeks to safeguard residential amenity.

6.5 Impact on the historic environment

6.5.1 There is a requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to have a specific duty to have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which they possess in the carrying out of statutory functions. The same Act requires special regard to be paid to the preservation or enhancement of the character or appearance of conservation areas and their setting by local authorities in the exercise of statutory functions. Unlike previous schemes which have raised issues over the impact of the development on the Listed Buildings to the east and on the character and appearance of the Conservation Area, the mass and scale of this proposal are comparatively reduced, and the access better located to enable the separation between the proposed dwellings and the Listed properties to be clearly defined. In lowering the number of dwellings from 6 to 5, the pressure on the mature trees at the site is reduced to minimise the impact on the Conservation Area. The reduced and visually enhanced scheme therefore is of a scale and form that will not appear overly dominant within the Conservation Area and will preserve the character and appearance of the

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historic environment. . It is considered that the revised proposals would not detract from the setting of listed buildings and would not have an adverse impact upon the character or appearance of the conservation area.

6.6 Drainage/flooding

6.6.1 Core Strategy Policy CS18 requires all new development to integrate measures for sustainable water management to reduce flood risk. The development would connect to the mains sewer for the disposal of foul drainage. SC Drainage have raised no objection to the proposal provided suitable surface water drainage can be secured through the agreement of further details, plans and calculations obtained through appropriate conditions.

6.7 Trees

6.7.1 Following revisions to the arboricultural information submitted, it is considered that suitable tree protection measures can be employed during demolition, site clearance and construction operations via conditions. The agent has confirmed in an email of 22<sup>nd</sup> April 2015 that Option 1 within the submitted Landscaping Works document will be employed. Again, it is felt that this landscaping and the associated planting plan can be secured by condition.

6.8 Ecology

6.8.1 SC Ecology are satisfied that work can be carried out in accordance with the submitted Ecological Assessment in order to reduce the impact on any European Protected Species that may be present at the site.

6.9 Access

6.9.1 The proposal demonstrates how the site would provide sufficient parking within the application site for 10 vehicles and a wide turning space. Access is an extension to the estate road onto Broadway which serves Tanyard Place on which it is not felt that 5 more dwellings will have significant adverse impact. The proposed access, parking and turning arrangements are considered to be in accordance with the Department of Transport Manual for Streets. The level of on-site parking provision would comply with the parking standards of the former Bridgnorth District Council which remain in force in south east Shropshire.

**7.0 CONCLUSION**

7.1 The nature and scale of the proposed development is considered appropriate for a windfall site within Shifnal, a Market Town/Key Centre as set out in Core Strategy Policy CS3. Consideration has been given to all the material planning considerations and concerns of adjacent residents. The development would respect the context of the site and would not be harmful to the residential amenities of nearby dwellings, to the setting of adjacent Listed Buildings or to the surrounding Conservation Area.

7.2 The site would provide for a modest development consistent with the objectives of SAMDev, and in accordance with the requirement of the NPPF and Core Strategy Policy CS6 in respect of scale and sustainability. The NPPF supports development in sustainable locations in and around settlements unless other material considerations lead to a different conclusion.

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- 7.3 The proposal is therefore supported and Planning Permission should be granted subject to the completion of a S106 Legal Agreement to secure the provision of off-site affordable housing.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

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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

Core Strategy Policies:

Policy CS1: Strategic Approach  
Policy CS3: The Market Towns and Other Key Centres  
Policy CS6: Sustainable Design and Development Principles  
Policy CS8: Facilities, Services and Infrastructure Provision  
Policy CS9: Infrastructure Contributions  
Policy CS11: Type and Affordability of Housing  
Policy CS17: Environmental Networks  
Policy CS18: Sustainable Water Management

Site Allocations & Management Of Development (Samdev) Plan Policies:

MD1: Scale and Distribution of development  
MD2: Sustainable Design  
MD8: Infrastructure Provision  
MD12: Natural Environment  
MD13: Historic Environment

SPD Type And Affordability Of Housing

'Saved' Policies in the Bridgnorth Local Plan:

S1: Development Boundaries  
H3: Residential Development in Main Settlements

RELEVANT PLANNING HISTORY:

BR/APP/08/0283 - Erection of a block of 11 apartments. Refused 24<sup>th</sup> July 2008.  
BR/APP/07/0892 - Erection of a block of fourteen apartments. Refused 23<sup>rd</sup> January 2008.  
BR/99/0821 – Residential development including siting and means of access after demolition of existing storage units. Refused 18<sup>th</sup> January 2000.  
BR/98/0840 – Residential development (including siting and design of buildings and means of access). Refused 2<sup>nd</sup> February 1999.

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South Planning Committee – 6 October 2015

Land Off Tanyard Place, Shifnal, Shropshire

BR/97/0840 – Residential development (siting, design and access included). Refused  
26<sup>th</sup> January 1998.

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

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

Amended Design And Access Statement (Rev B) dated January 2015

Ecological Assessment dated October 2014

Amended Tree Condition Report/Arboricultural Impact Assessment/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18<sup>th</sup> November 2014, received on 23<sup>rd</sup> January 2015

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Kevin Turley

**Appendices**

APPENDIX 1 - Conditions

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## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

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

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

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

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

3. Details of all the materials to be used externally on the dwellings and hard surfacing hereby approved, shall have been first submitted to and approved by the Local Planning Authority in writing before being used in the development. The development shall be carried out in accordance with the approval details.

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

4. Work shall be carried out strictly in accordance with the Ecological Assessment of 43 Broadway by Turnstone Ecology dated October 2014.

Reason: To ensure the protection of reptiles and water quality

#### **CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

5. As soakaways are not feasible on this site, no development shall take place until drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment should be submitted for approval have been submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory surface water drainage of the site and to avoid flooding. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

6. As the site is shown to be at risk of surface water flooding on the Pluvial Flood Map, details should be provided demonstrating how the surface water runoff will be managed and to indicate that the finished floor levels are set above any known flood level. The details should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

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Reason: To minimise the risk of surface water flooding. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

8. Contaminated land

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

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

Reason: The site is known to be in an area of archaeological importance therefore this information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

11. No development approved by this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- Means of enclosure
  - Hard surfacing materials
  - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
  - Planting plans
  - Written specifications (including cultivation and other operations associated with plant and grass establishment)

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

Reason: To ensure the provision of amenity afforded by appropriate landscape design. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

12. The development, including demolition, site clearance and construction activities, shall be carried out in strict accordance with the measures specified in the Tree Condition Report Arboricultural Impact Assessment Arboricultural Method Statement Tree Protection Plan (Forester & Arborist Services Ltd, 18/11/2014, amended and registered 23 Jan 2015), the Amended Tree Location & Protection Plan (registered 23 Jan 2015) and the BS 5837: 2012 Ground Protection and Figure 3 Tree Protective Barrier specification and drawing, both registered on the 23 Jan 2015. The tree protection measures should be installed in accordance with the above documents to the written satisfaction of the LPA, prior to commencement of development. Thereafter they shall be maintained in a satisfactory condition throughout the duration of the approved development. The area within the tree protective barrier shall be a construction exclusion zone and the barrier may only be moved or removed, even temporarily, with the prior agreement of the LPA.

Reason: This action is required prior to the commencement of the development as it relates to the protection of trees that contribute to the appearance of the site during implementation of the development, as such the measures need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

13. Prior to completion of development, the tree and shrub planting to be undertaken in association with the development shall be agreed to the written satisfaction of the Local Planning Authority. The planting shall be in accordance with the objectives and details provided in Option 1 of the Landscaping Works document (Forester & Arborist Services, 21.01.2015), to be supported by a detailed planting plan based on an approved site layout.

Reason: to ensure a satisfactory form of landscaping to enhance the setting and appearance of the development.

14. The planting shall be implemented in full as per the approved planting plan, prior to the end of the first available planting season (November February inclusive) following occupation of the first dwelling. Any tree or shrub, or replacement tree or shrub, which within the first three years following planting becomes seriously diseased, dies, or is otherwise lost or destroyed, shall be replaced by another of similar specification, to the written satisfaction of the Local Planning Authority.

Reason: to ensure a satisfactory form of landscaping to enhance the setting and appearance of the development.

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

Reason: To safeguard the character of the Conservation Area.

16. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the roof works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character of the Conservation Area.

17. Prior to occupation, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the local planning authority. The strategy shall: Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

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

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

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

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

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

20. The development hereby permitted shall not be brought into use/occupied until the car parking and access shown on the approved Block Plan no. 02 Rev C received on 23rd January 2015 has been provided, laid out and hard surfaced.

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

**CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1 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.

22 No windows or other openings shall be formed at first floor level on the north facing elevations of each block of dwellings hereby approved .

Reason: To preserve the amenity and privacy of adjoining properties.

**Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

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

3. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. Consent is required from the Environment Agency as the development is with 8m of a Main River.
6. Consent is required from the service provider to connect into the foul main sewer.

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

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

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

8. In determining the planning application the Local Planning Authority gave consideration to the following policies:

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

Core Strategy Policies:

Policy CS1: Strategic Approach  
Policy CS3: The Market Towns and Other Key Centres  
Policy CS6: Sustainable Design and Development Principles  
Policy CS8: Facilities, Services and Infrastructure Provision  
Policy CS9: Infrastructure Contributions  
Policy CS11: Type and Affordability of Housing  
Policy CS17: Environmental Networks  
Policy CS18: Sustainable Water Management

Site Allocations & Management Of Development (Samdev) Plan Policies:

MD1: Scale and Distribution of development  
MD2: Sustainable Design  
MD8: Infrastructure Provision  
MD12: Natural Environment  
MD13: Historic Environment

'Saved' Policies in the Bridgnorth Local Plan:

S1: Development Boundaries  
H3: Residential Development in Main Settlements

SPD Type And Affordability Of Housing

9. 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

Item

Public

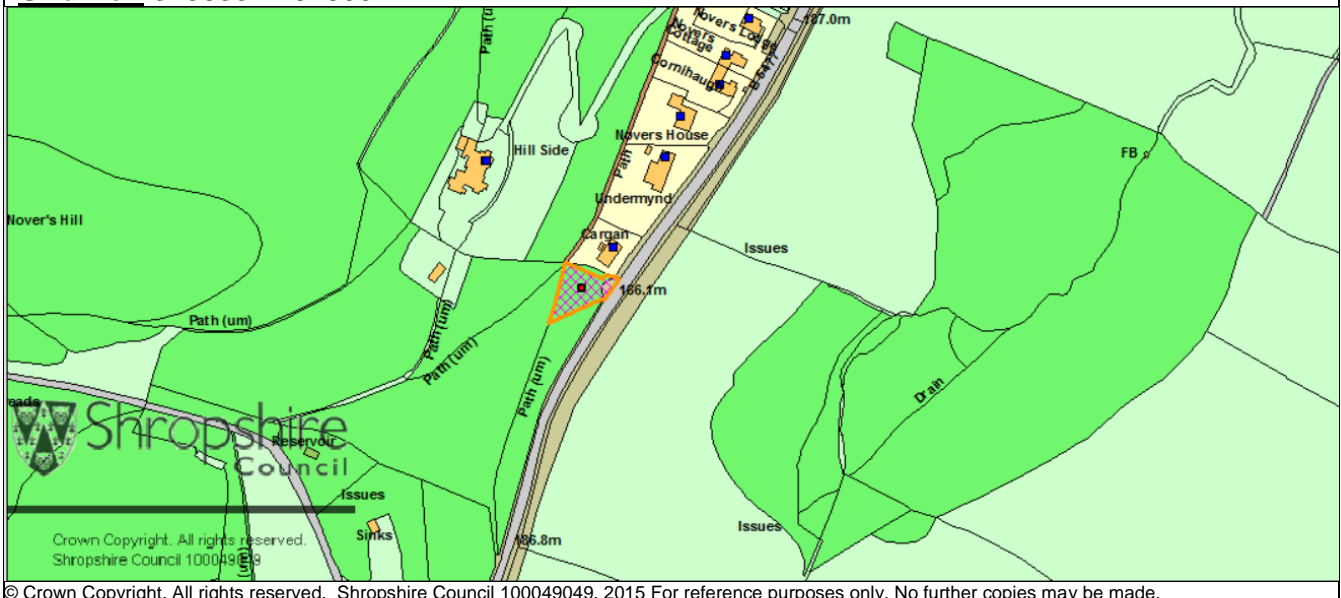
## ADDENDUM TO COMMITTEE REPORT

Responsible Officer: George Candler, Director of Place & Enterprise

### Summary of Application

<b>Application Number:</b> 15/04383/FUL	<b>Parish:</b>	Church Stretton
<b>Proposal:</b> Erection of one detached dwelling, double garage with terrace over; alteration to existing access		
<b>Site Address:</b> Proposed Dwelling South Of Cargan All Stretton Shropshire		
<b>Applicant:</b> Mr & Mrs Stratton		
<b>Case Officer:</b> Luke Ashley	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 345633 - 294900



**Recommendation:** Grant Planning Permission subject to the conditions set out in the minutes to the Committee meeting of 2<sup>nd</sup> February 2016, relating to materials, access, landscaping, drainage and the removal of Permitted Development Rights.

## 1.0 Purpose of report

1.1 Planning Committee Members considered this application, which seeks planning permission for the erection of a single dwelling, carport and alterations to an existing access at the South Planning Committee held on 02<sup>nd</sup> February 2016. At that meeting Members resolved that contrary to the Officer's recommendation, planning permission be granted, subject to:

- A Section 106 Legal Agreement to secure an appropriate affordable housing contribution;
- It being advertised as a departure to the Development Plan;
- Appropriate conditions with regard to materials, access, landscaping and drainage; and
- Removal of Permitted Development Rights.

1.2 The purpose of this report is for Members to consider whether to permit the scheme as a departure subject to appropriate conditions and removal of permitted development but without the S106 agreement to secure an affordable housing contribution. The original Officers report and recommendation considered at the February 2016 committee are attached to this report as Appendix A.

## 2.0 Affordable Housing Contribution – The Written Ministerial Statement

2.1 Members will recall the Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28<sup>th</sup> November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas.

2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31<sup>st</sup> July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.

2.3 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11<sup>th</sup> May 2016. Consequently the WMS still applies.

2.4 In addition to this the Housing & Planning Act gained Royal Assent on the 12<sup>th</sup> May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.

2.5 In addition the Planning Inspectorate has already confirmed that the WMS is a material consideration and gives significant weight to the WMS in planning appeals in accordance with the Secretary of State's view. The Court of Appeal confirmed this view that the WMS is policy (like the NPPF) and not simply guidance and that the Secretary of State is entitled to give greater weight to his policy if it conflicts with a development plan.

2.6 At this juncture Shropshire Council accepts that the WMS applies as a significant material consideration and the Council will not generally require an AHC for applications for 10 or less dwellings and less than 1,000sq m floor area in the majority of cases where the site is not located in a designated rural area. For Designated Rural Areas under section 157 of the Housing Act 1985, which now includes many rural parishes in Shropshire as well as the AONB, a lower threshold of 5-units or less is applied.

**3.0 Recommendation**

3.1 This site is within the Shropshire Hills AONB and proposes the erection of 1 dwelling, the floor area of which is below 1,000sqm. Members considered that the site is in a sustainable location, meeting the 3 dimensions of sustainable development (Economic, Social and Environmental). The minutes of the 02<sup>nd</sup> February 2016 meeting give no indication that the Affordable Housing Contribution was a significant factor in the reasoning as to why members determined to grant planning permission as a departure to the development plan.

3.2 A recent appeal decision for residential development on land adjacent Yew Tree Inn, Shrewsbury Road, All Stretton (Ref 15/04737/OUT (APP/L3245/W/16/3149461)) should be noted when considering this application and the affordable housing contribution. In allowing the appeal the Planning Inspectorate in their decision letter of 19<sup>th</sup> July 2016 also concludes the settlement of All Stretton to be sustainable. Although an outline application, the allowed appeal was supported by an indicative site plan showing 4 dwellings and it should be noted that the permission is allowed without a requirement to submit an affordable housing contribution.

3.3 In view of the above factors and given that substantial weight must be attached to the WMS, it is considered the Council would have little defensible case to refuse the application for one dwelling on the basis of the lack of an affordable housing contribution. Members therefore may still wish to permit the proposal as a departure without the submission of an Affordable Housing Contribution.

**APPENDIX A**

**COPY OF OFFICER REPORT AND RECOMMENDATIONS - CONSIDERED 02<sup>ND</sup> FEBRUARY 2016 SOUTH PLANNING COMMITTEE**



Committee and date  
 South Planning Committee  
 2 February 2016

**Development Management Report**

**Summary of Application**

<b>Application Number:</b> 15/04383/FUL	<b>Parish:</b> Church Stretton
<b>Proposal:</b> Erection of one detached dwelling, double garage with terrace over; alteration to existing access	
<b>Site Address:</b> Proposed Dwelling South Of Cargan All Stretton Shropshire	
<b>Applicant:</b> Mr & Mrs Stratton	
<b>Case Officer:</b> Luke Ashley	<b>email:</b> planningdmc@shropshire.gov.uk



**Recommendation:- Refuse subject to the conditions sets out in Appendix 1.**

**Recommended Reason for refusal**

1. The proposed development, by virtue of its open countryside location outside of any settlement identified as suitable for open market residential development, is considered to be contrary to adopted and emerging development plan policies in the South Shropshire Local Plan, the Shropshire Core Strategy, and emerging Site Allocation and Management of Development (SAMDev) policies and allocations (which are now given very significant and substantial weight immediately prior to formal adoption). The

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settlement of All Stretton is not a settlement identified for the development of open market housing, and the proposal will accordingly conflict with policy CS5 of the Shropshire Core Strategy, S5, MD1 and MD7a of SAMDev and the national guidance contained within the NPPF.

2. The proposal, by way of its location at the south of All Stretton, would encroach towards the nearby settlement of Church Stretton, and it is considered that the visual harm amounting from this erosion of the gap between the two settlements would have a detrimental impact upon the intrinsic character of the Shropshire Hills Area of Outstanding Natural Beauty. The proposals are subsequently considered to conflict with the principles of policy CS17 of the Shropshire Core Strategy, S5 and MD2 of SAMDev and the guidance contained within the NPPF

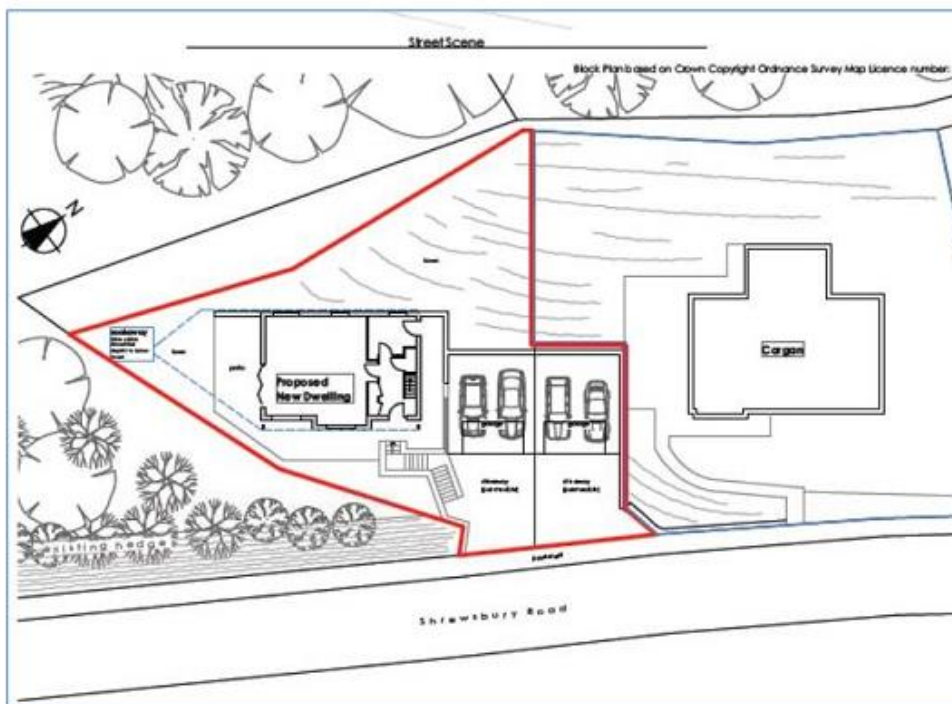
### REPORT



- 1.0 THE PROPOSAL
- 1.1 The application proposes the erection of a single dwelling, with a carport to include alterations to existing access.
- 1.2 The application is to build a house in the residential garden of Cargan at the southern extremity of All Stretton village. It occupies the same footprint as an earlier application to build a house (14/05689/FUL) which was refused earlier this year. The design has been changed from a four to a three bedroom house and the three dormer windows in the previous design have been replaced by one dormer and two rooflights with the dwelling set on a prominent position on Shrewsbury Road (B5477). The plot is raised from the main road and the building will sit in an elevated position with steps leading down to an attached garage sharing a party wall with the neighbouring garage building.
- 1.3 The dwelling will measure 11m wide and 7.5m in depth, with a ridge height of 7.6m

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2.0 SITE LOCATION/DESCRIPTION



2.1 The site related to this application is situated on the periphery of All Stretton, situated to the South West of the dwelling known as Cargan. The site is currently occupied as garden land serving Cargan. Cargan is a detached one and a half storey property; with a single window on the front elevation the property appears from the street scene to be more single storey in form.

2.2 The site sits in an elevated position from the main road frontage, which whilst being a common form along Shrewsbury Road, the site and adjoining Cargan appear more elevated.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view contrary to the Officer recommendation and when the previous application was last heard at committee (14/05689), it was requested that any subsequent application be determined by Committee. The Committee Chairman in consultation with the Area Planning Manager has agreed that the application is to be determined by Committee.

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4.0 Community Representations

- Consultee Comments

4.1 SC Affordable Housing - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.2 SC Drainage – no objections

4.3 SC Rights of Way - Public Footpath 83 Church Stretton, abuts the western boundary of the site but will not be directly affected by the application. The attached plan shows the legally recorded line of the path. Please ensure that the applicant adheres to the criteria stated below:

- The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
- Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.
- Building materials, debris, etc must not be stored or deposited on the right of way.
- There must be no reduction of the width of the right of way.
- The alignment of the right of way must not be altered.
- The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
- No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

4.4 Shropshire Hills AONB – no comment

4.5 SC Ecology – no objections subject to the following informatives

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

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- Advice should be sought from an experienced ecologist if large numbers of reptiles are present.
- Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.
  - No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).
  - All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.
  - 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 close fitting 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.
  - On the site to which this consent applies the storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.
- 4.6

Strettons Civic Society:

1. The site is prominent and highly visible to the public and is within the Shropshire Hills AONB where it would have an adverse impact on the character and appearance of the area.
  2. It would extend the ribbon development along the west side of Shrewsbury Road and would almost close the already narrow gap between All Stretton village and Church Stretton town. The limited green space between the two would be diminished.
  3. In 2012 the Government introduced a Planning Policy Framework which included new guidance on building in residential gardens. In effect it abolished the brownfield designation of residential gardens which withdrew the presumption that they are suitable for development. Instead it said that such applications should not be allowed if they are inappropriate, for example when development would harm the local area. This is a case where an unacceptable degree of harm would be caused because the house would occupy such a highly visible position in the limited remaining green space on an important route to the Conservation area of Church Stretton and the approach to the National Trust's popular Cardingmill valley of the Long Mynd.
- 4.7

- Parish Council: No objection. The latest design, within the garden of Cargan, is far more in keeping with the existing dwelling. As it is in the garden, it does not encroach on the open countryside.
- 4.8

Natural England: – no objection

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Public Comments

4.9 A total of 2no. supporting comments have been received in relation to this application, details of which have been précised below;

- Single plot small scale development of this nature can be accommodated within this sensitive landscape
- The development will finance road improvements on this stretch of highway to the benefit of the wider community
- Other such single plot developments have been approved within All Stretton and this should follow suite.
- Additional housing will provide much needed accommodation for 'The Strettons'.

One public objection has been received, details of which are taken verbatim from the Strettons Civic Society response and for brevity have not been duplicated.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping

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. The development plan for Shropshire is the Council's Adopted Local Development Framework Core Strategy, the associated 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and 'saved' policies from the preceding local plans. The Council is also in the process of formally adopting a Site Allocations and Management of Development Plan (SAMDev). Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given significant weight in the determination of planning applications.

6.1.2 In this instance the principle of the proposed development is judged in relation to the National Planning Policy Framework (2012) and the Council's adopted Core Strategy. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is attached significant and substantial weight in accordance with paragraph 216 of the NPPF as the SAMDev documents have been assessed by the inspector whom has approved the final round of modifications. The Council is now due to formally adopt this policy in December of this year.

6.1.3 The Council is also satisfied that it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev

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document and through provision of housing across the county through the community hub and cluster approach, with the current five year supply standing at 5.53 years. The Council therefore considers the housing policies contained within the Core Strategy are up to date and should be attached full weight.

- 6.1.4 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people. The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen. Such designations are being made via the SAMDev Plan, currently under examination.

Policy CS5 of the 'Shropshire Local Development Framework: Core Strategy states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. The policy goes on to state that;

*Proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, the policy identifies specific types of development including dwellings for agricultural, forestry or other essential countryside workers or other affordable housing / accommodation to meet a local need.*

SAMDev policy MD7a pays regard to Core Strategy Policies CS5 and CS11, and states that;

- 6.1.5 *New market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs, other relevant policy requirements.*

*New housing development will be focused in strategically agreed locations (as set out in Core Strategy Policy CS1) and Community Hubs and Clusters as identified in MD1. Local Plan policies however, also allow exception site dwellings and residential conversions in the countryside as sustainable housing solutions to meet recognised local housing needs or to help secure the future of buildings which are valued as heritage assets.*

SAMDev Policy S5.1 (Church Stretton Town) of SAMDev provide the following guidance for decision makers;

- 6.1.6 1. *Church Stretton will provide a focus for development in this part of Shropshire, with a housing guideline of about 370 dwellings and about 1 ha of employment land for the period 2006-2026.*

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2. *New housing development will be delivered through the allocation of greenfield sites together with windfall development which reflects opportunities within the town's development boundary as shown on the Proposals Map. The allocated housing sites are set out in Schedule S5.1a and identified on the Proposals Map.*
3. *Further to Policy MD3, the release of further greenfield land for housing will be focused to the east of the A49 on sustainable sites adjoining the development boundary.*

This policy goes further to explain the importance of maintain the existing high value landscape of the village and its surroundings and states that;

*The high quality environment provides a significant constraint to development in the town, particularly to the west of Shrewsbury Road and the High Street and on the higher slopes of the Stretton Hills to the east ... The separation of the two smaller settlements of All Stretton and Little Stretton from Church Stretton is greatly valued by the community*

6.1.7 The application site is located outside of the nearby Church Stretton settlement which has opted into the community hub/cluster designation, and the site would therefore be classified as 'countryside' for planning policy purposes, where new development is strictly controlled in accordance with national and local planning policies. New housing would therefore only be permitted in exceptional circumstances in accordance with Policies CS5 and CS11 of the Council's Core Strategy.

6.1.8 The abovementioned policies establish a presumption against the principle of the development. The new dwelling will be set outside of the settlement development limits associated with the nearby village of Church Stretton. The host village, All Stretton, has not opted into the community hubs and clusters approach to new housing as prescribed within SAMDev and as relevant policies do not support new open market housing within this village. The proposal does not relate to an affordable unit and none of the other policy exceptions for new housing in a 'countryside location' in CS5 are relevant.

6.1.9 The proposals are relatively small scale in nature and relate to an existing garden plot surrounded on 3 sides by mature vegetation and in a sustainable location with respect to local amenities. The improved design with reduced visual impacts has been acknowledged by the Parish Council who are not objecting. Further localised landscaping could in principle also be provided on the eastern boundary to provide comprehensive visual containment of the development. The improvements to existing parking arrangements are also recognised by highway officers.

6.1.10 Notwithstanding this, the principle of development cannot be justified in this location. The proposal is therefore recommended for refusal as it runs contrary to policies CS4, CS5 and CS11 of the Core Strategy and policies MD1, MD7a and S5 of SAMDev, and the guidance contained within the NPPF, with particular regard paid to the protection of the open countryside.

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- 6.2 Siting, scale and design of structure
- 6.2.1 Core Strategy Policy CS6 states that;

*To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness.*

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.*

Core Strategy Policy CS17 goes further in regard to protecting natural 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.*

SAMDev Policy MD2 states that to 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

- 6.2.2 Although the proposal has been altered to better reflect the character of the area and the prominent position of the site above the highway, it is a concern of the Local Planning Authority that the proposal will result in an urbanised creep along this ribbon of properties. Policy S5 of SAMDev pays particular regard to the high value of the surrounding environment and the importance of maintaining the open rural aspect which currently separates both All Stretton and Little Stretton from the main urban environment of Church Stretton. The policy is explicit in its statement that the separation of the two smaller settlements of All Stretton and Little Stretton from Church Stretton is greatly valued by the community and the addition of 1no dwelling would run in total contradiction to this policy statement.

- 6.2.3 The proposal for an additional unit on the end of this ribbon development will encroach further upon the green spacing between these two settlements, with the raised and therefore prominent location of the development site further exacerbating this urban creep.

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6.3 Visual impact and landscaping

6.3.1 The site is located within the Shropshire Hills Area of Natural Beauty. The impact upon the character and appearance of the Shropshire Hills Area of Natural Beauty is an important consideration when assessing the environmental implications of the scheme. It is accepted that the site would be situated adjacent to an existing form of development. However, development in this area has clearly begun to coalesce in a ribbon like form along the main roads leading out of All Stretton and Church Stretton. It is necessary to consider the visual impact of this form of development both individually and cumulatively and the extent to which this can lead to a wider impact on the character and appearance of the AONB.

6.3.2 Whilst this proposal is set within an area where development exists, the council does not consider that this alone can provide sufficient justification for the proposals. This is having regard in particular to the location of the site on the edge of a strategic gap between settlements within the AONB.

7.0 CONCLUSION

7.1 In view of the above it is considered that the proposals are contrary to the Shropshire Core Strategy and the SAMDev Plan. The settlement of All Stretton is not identified for the development of Open Market housing, and will subsequently conflict with policy CS5 of the Shropshire Core Strategy.

7.2 Furthermore, the site, by way of its location at the south of All Stretton would encroach towards the nearby settlement of Church Stretton, it is considered that the visual harm amounting from this erosion of the gap between the two settlements would have a detrimental impact upon the intrinsic character of the Shropshire Hills Area of Outstanding Natural Beauty. The proposals are subsequently considered to conflict with the principles of policy CS17 of the Shropshire Core Strategy.

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.

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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

Core Strategy:

- CS4 - Community Hubs and Community Clusters
- CS5 - Countryside and Greenbelt
- CS17 - Environmental Networks

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SAMDev Plann:

- MD1 - Scale and Distribution of Development
- MD12 - Natural Environment
- MD7A - Managing Housing Development in the Countryside
- Settlement: S5 - Church Stretton

RELEVANT PLANNING HISTORY:

- 14/05689/FUL Erection of one dwelling and car port; alteration to existing access REFUSE 14th September 2015
- 15/04383/FUL Erection of one detached dwelling, double garage with terrace over; alteration to existing access PDE

11. ADDITIONAL INFORMATION

<b>List of Background Papers:</b> Application 15/04383/FUL and associated documents and plans
<b>Cabinet Member (Portfolio Holder):</b> Cllr M. Price
<b>Local Members</b> Cllr. Lee Chapman Cllr David Evans
<b>Appendices</b> None

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Committee and date

South Planning Committee

13 September 2016

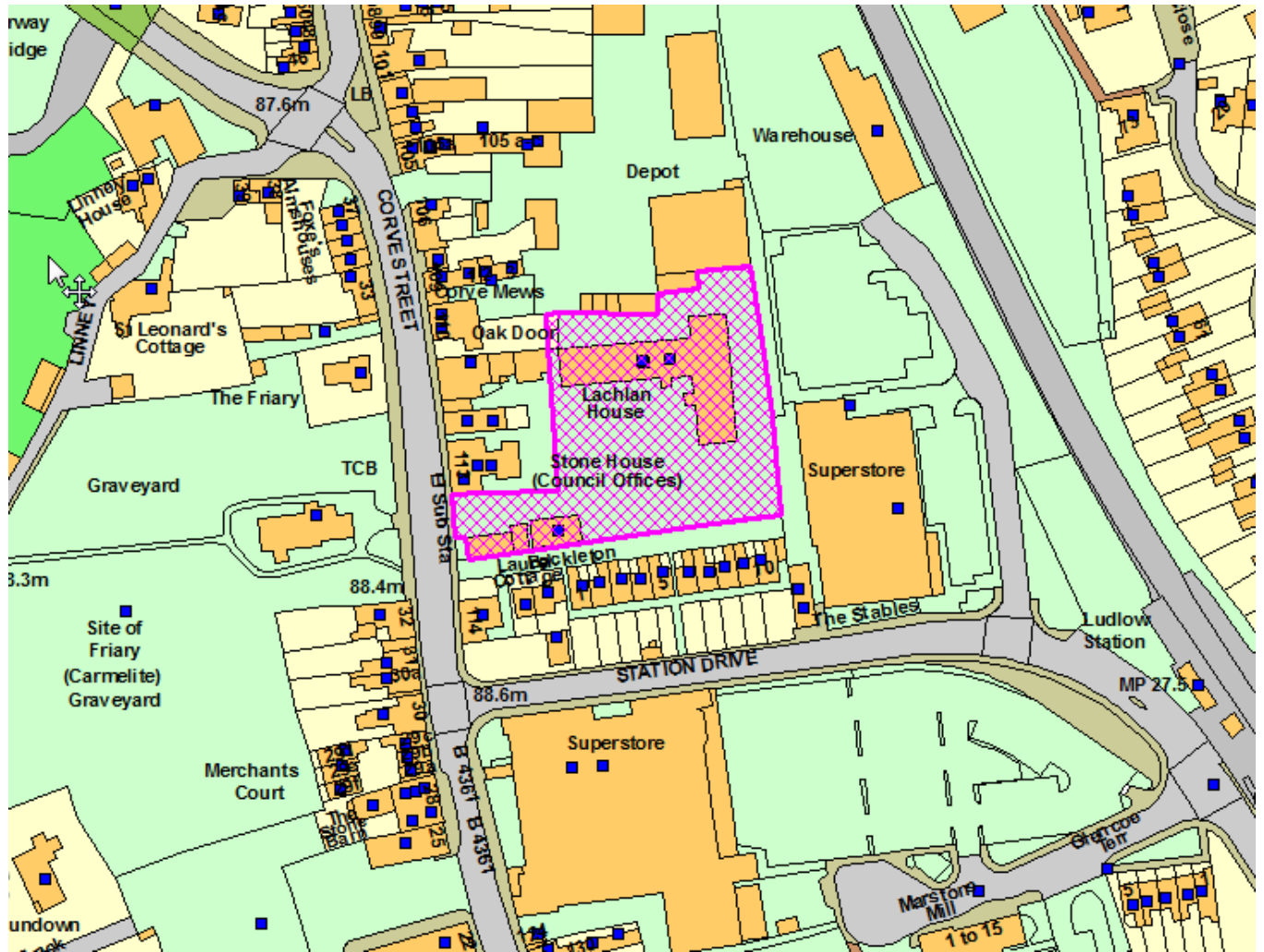
## Development Management Report

Responsible Officer: George Candler, Director of Place & Enterprise

### Summary of Application

<b><u>Application Number:</u></b> 16/02033/FUL	<b><u>Parish:</u></b> Ludlow Town Council
<b><u>Proposal:</u></b> Demolition of office building and partial demolition of stable block; erection of (part) three storey building comprising 44 retirement apartments; conversion of, and extension to, stable block to provide four dwellings; access, car parking and landscaping.	
<b><u>Site Address:</u></b> The Stone House, Corve Street, Ludlow	
<b><u>Applicant:</u></b> Churchill Retirement Living	
<b><u>Case Officer:</u></b> Mark Lynch	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>

**Grid Ref:** E351181 N275108



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**Recommendation: - Grant full planning permission subject to the completion of a Section 106 Agreement to secure the four dwellings contained in the stable conversion as affordable dwellings and subject to the conditions set out in Appendix 1.**

## REPORT

### 1 THE PROPOSAL

- 1.1 This is a full planning application for the demolition of the existing vacant office building on the site that was previously occupied by South Shropshire District Council and the redevelopment of the site as a retirement complex.

- 1.2 The development will comprise a new part two and part three storey building that is 'L-shaped' located close to the northern and eastern boundaries of the site. The front of the building will face a communal amenity area which will contain a number of trees and areas of lawn. The edges of the amenity area will contain a two rows of parking spaces.
- 1.3 The site contains a stable block adjacent to the site entrance onto Corve Street and this will be retained and extended. It will be used to provide four one bedroomed residences which will be transferred to a Register Provider as affordable housing units.
- 1.4 The main building has been designed to have a variation in its roof-scape, with reduced two storey elements close to the western end of the building where it is in closer proximity to the listed buildings along Corve Street. The eastern wing of the building will be three storeys in height in the north-eastern corner. From that point, the building steps through two and half storeys to two storeys, utilising space in the roof to create additional living accommodation. Materials proposed are influenced by existing materials used locally. These include red brick, painted brickwork, slates and plain tiled roofs. The design of the building includes steeply pitched roofs, pitched roof dormer windows with each building segment separated by raised gabled divisions.
- 1.5 The stable block will be retained and converted to form four affordable dwellings. At present, it is a one and a half storey structure with two flat roofed front dormer windows and a single storey side extension that projects forward of the original building. This existing extension will be removed and replaced with a longer extension stretching along the southern boundary. Both the retained building and the proposed extension will share common architectural features and materials. The existing dormers will be changed to have pitched roofs and the extension will also incorporate a pair of front-facing dormers. The roof will also include a number of modest sized roof lights to the front and back roof slopes. The resultant building will be subdivided so that it accommodates four one bedroom starter homes.
- 1.6 The development proposes 48 dwellings comprising 44 self-contained retirement apartments and 4 affordable dwellings. The apartments will be a mix of one and two bedrooms (26 and 18 respectively).
- 1.7 The main structure is a wide building being 18m deep. This is necessary to accommodate the number of apartments whilst reducing the overall building height to a level commensurate with the character of the local area. This produces a roof profile with a 'W' shape incorporating a double ridgeline separated by a central valley.
- 1.8 The site will be accessed via the existing access onto Corve Street, which leads into a parking area and landscaped area in front of the main building. The edges of the site will be landscaped through a combination of retaining existing planting and introduction of new planting. The existing right of way enjoyed by 111 Corve Street will also be retained.

- 1.9 The Planning Statement explains Churchill Retirement Living has specialised in the provision of purpose built apartments specifically designed for the elderly, since 1998 and have similar new developments located throughout England. The accommodation is specifically designed to meet the needs of independent retired people, and provides self-contained apartments for sale contained within a single block.
- 1.10 The apartments are sold with a lease containing an age restriction which ensures that only people of 60 years or over, or those over this age with a partner of at least 55, can live in the development. The accommodation will be managed by Millstream Management Services Ltd, an in house Company which specialises in the management of retirement developments.
- 1.11 The proposed development includes a range of communal facilities for the support of and enjoyment by the residents. The Planning Statement summarises these as follows:
- A Lodge Manager employed by the Management Company to provide assistance and security for the owners of the apartments and in charge of the day to management of the entire premises.
  - A video entry system which is linked to the owners' televisions in their apartments. This system allows complete security and instant recognition of the person who is calling at the main entrance door.
  - An Owners Lounge is provided for use by all residents and their guests within the building.
  - A communal lift is provided for use by all residents and visitors. The lift is fitted with an emergency call system and seat. The lift is wide enough to accommodate a wheelchair if necessary.
  - A high quality communal landscaped garden area is provided which is maintained by the Management Company.
  - A guest suite is provided for use by relatives of owners who wish to stay overnight.
  - A communal toilet is provided adjacent to the lift for use by relatives and visitors.
  - A communal bin store is provided for use by residents.
  - A communal car parking area is provided for use by those residents who have cars on a first come first served basis.
  - A safe and covered area for housing and recharging battery buggies is also provided.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the former South Shropshire District Council offices, which closed in 2013. It is a regular shaped site enclosed by walls and fences. It is set behind the buildings fronting Corve Street and Station Drive and currently contains the two storey red brick and tiled former local authority office buildings. These include a low level two storey former stable block adjacent to the site entrance onto Corve Street.

- 2.2 The main existing building on the site is 'L-shaped' and is of functional and utilitarian appearance. The area to the front of the building is dominated by hard-surface parking and turning areas with modest areas of planting around the site edges. There are a number of trees in front of the building and around the boundaries with a large Ash adjacent to the entrance, which is protected by virtue of a Tree Preservation Order.
- 2.3 The site lies within the Ludlow Conservation Area and Corve Street contains a number of Grade II and Grade II\* listed buildings. The majority of buildings along Corve Street are two storeys in height and include a mixture of mediaeval and Georgian buildings. There are a number of three storey buildings in the locality, the most prominent of which is no. 113 Corve Street to the immediate north of the site entrance. In its listing details, this building is described as a substantial Grade II\* listed building, three storeys in height, rendered and painted off white on the front elevation with exposed stone sides and rear elevations. The building has an opulent stucco front dating from the mid-19th century, with a late 18th century core. The 3-window range consists of vertical sash windows in moulded architraves with modillion pediments on enriched consoles and large Corinthian pilasters. The rear wing has a half-hipped roof with lantern, a rear gable and coped parapet. There is also a stone stack with brick above the roof level. Stone House was used in the mid-20th century as part of the former South Shropshire District Council offices. Following a period of vacancy from the 1990s, the house was converted to residential use in 2011.
- 2.4 To the north of the site is a yard associated with a commercial haulage use known as Lloyds of Ludlow. The two sites are separated from one another by a high stone wall and two single storey buildings.
- 2.5 The land to the east is elevated above the application site and contains the recently completed Aldi retail store building and its associated car parking and delivery areas. Beyond this site runs the Shrewsbury railway line.
- 2.6 To the south beyond the redbrick boundary wall is a row of two storey redbrick cottages that face Station Drive. The domestic curtilages to the rear of these dwellings are short and face the application site across an access drive that runs the length of the terrace.
- 2.7 There is a three storey red brick building close to the corner of Corve Street and Station Drive beyond which is a car sales premises. Directly opposite on the other side of the intersection is the Ludlow Tesco store.
- 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION
- 3.1 The application is reported to the planning committee because of the scale and nature of the proposal, the degree of public concern, local elected Member interest and because the local authority is the current owner of the site.

4.0 **Community Representations  
- Consultee Comments – comment.**

4.1.1 Ludlow Town Council – Comment on the **original** scheme:

Objection - Members agreed that whilst the new scheme is an improvement they still felt that the overall architectural approach is not fitting with the current street scene. The development is still too dense, parking and access is still an issue therefore Ludlow Town Council is unable to support the scheme in its current design.

Comment on the **revised** scheme:

- i) Members felt that their original concerns had not been addressed by the developer
- ii) Members reiterate their original concerns
- iii) Further to the restatement of their original concerns members also felt that the developer failed to appreciate the importance of emergency vehicle access to a retirement development

4.1.2 SC Drainage – comment on the **original** scheme:

The proposed drainage details, plan and calculations should be conditioned if planning permission is granted.

1. The surface water drainage proposals are acceptable in principle, however, the following drainage calculations/ information should be submitted for approval:

- i. The Environment Agency has updated the guidance on Climate Change in March 2016 and should be used for residential development in the Severn catchment.
- ii. Confirmation is required that Urban Creep has been taken into account in the drainage calculations.
- iii. Information on the proposed maintenance regime for the Cellular Storage tank should be provided.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

2. No drainage details for the access road have been provided. Highway gullies are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required that the gullies will be able to convey the 100 year plus 35% storm to the proposed surface water drainage system.

Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. Exceedance flow path should



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

3. Informative: The Applicant should consider the use of rain gardens for the roofs and access road in the green/ amenity space available on site.

Comments on the **Revised** scheme:

The amended site plan does not alter our Drainage Comments dated 24 May 2016, which remain as before.

#### 4.1.3 SC Ecology – Comments on the **original** scheme:

Recommendation: Additional information is required in relation to bats. In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

Comments on the **revised** scheme:

A Preliminary Bat Roost Assessment was carried out on this site in September 2015 by Red Kite. This was followed by a dawn re-entry survey in July 2016 by Star Ecology.

#### Bats

There are 4 buildings on the site, a mature lime tree and semi-mature trees.

Buildings B (Office), C (Meeting Room) and D (Stable Block) and the mature lime tree were considered to have low bat roosting potential. Red Kite recommended an activity survey on these features to confirm likely presence/absence.

Building A (Lachlan House) and the remaining trees on the site were considered to have negligible potential to support roosting bats and no further survey work was required.

On 25th July, a dawn re-entry survey was carried out. Static bat detectors were also positioned to the north and the south of Building D. No emergences were recorded, nor was any foraging or commuting activity recorded.

Contractors should be vigilant during the demolition work. If a bat is found at any stage then works must cease and a suitably qualified ecologist contacted for advice.

To enhance the roosting opportunities for bats, bat boxes/bricks should be erected on (or incorporated into) the new building/s.

New lighting on the site should be sensitive to bats and follow the Bat Conservation Trust's guidance.

## Birds

Red Kite did not record any evidence of nesting birds during their bat survey.

The buildings and trees provide potential nesting opportunities for birds. Demolition works and tree removal should ideally take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if any active nests are present, works must cease until the young birds have fledged.

There are swift nests 55m and 100m from Stone House and another dozen within 250m.

Swifts are an Amber listed bird of conservation concern and Ludlow is a stronghold for the species.

This development represents a major opportunity to provide nesting sites for swifts. SC Ecology recommends that a minimum of 20 swift bricks are incorporated into the new building. There are lots of placement opportunities on the west elevation (as there are lots of gables and not many windows) and some opportunities on the north elevation.

Information on the types of swift bricks available can be found here: [https://www.rspb.org.uk/Images/swift-bricks\\_tcm9-397697.pdf](https://www.rspb.org.uk/Images/swift-bricks_tcm9-397697.pdf). Information on siting swift bricks can be found here: <http://www.swift-conservation.org/index.htm>.

The Ludlow Swift Group have offered guidance and I recommend that the developer for this site liaises with the group.

## **Conditions and informatives**

The following conditions and informatives are recommended for inclusion on the decision notice:

### Provision of swift bricks

A minimum of 20 artificial swift nests of integrated 'brick' design shall be incorporated into the building(s) during construction. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority before commencement of the development, and the scheme shall then be undertaken in accordance with the agreed details.

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

### Erection of bat roosting boxes

Prior to the first occupation of the buildings hereby permitted, 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. The type and location of the boxes 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 roosting opportunities for bats.

#### Lighting plan

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's *Bats and Lighting in the U.K.* guidance.

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

#### Informative: Ecology – Bats

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all building renovation, demolition and extension works there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0845 601 4523) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

#### Informative: Ecology – Nesting wild birds

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

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

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

#### 4.1.4 SC Housing Officer – Comment:

Policy CS 11 of the Core Strategy requires all open market residential development to contribute to the provision of affordable housing. The details for such contributions are embedded in the SPD Type and Affordability of Housing. The housing target rate for the site area is 15%. The ability for the Council to require 15% on this development is reduced due to the Written Ministerial Statement which introduces a vacant building credit to be used in the calculation of the affordable housing provision.

The onsite provision is reduced from 7 dwellings to 4 as a result of this change. The onsite affordable housing provision should comprise the four dwellings in the former stable block. There should be a requirement for these four dwellings to be transferred to a Registered Provider and remain as rented tenure in perpetuity.

These affordable dwellings should be allocated in accordance with the Councils adopted allocation policy and let through the Choice Based Letting Scheme. A S106 Agreement is required to safeguard the tenure and allocation of the affordable dwellings, in addition to the provision of an affordable housing contribution (to account for the percentage left over from the onsite contribution).

#### 4.1.5 SC Public Protection – Comment on the **original** scheme:

##### Noise:

Having considered the noise assessment mitigation is required. As a result I propose the following condition:

At facades corresponding to Loc1 using 4/12/4mm double-glazing and hit & miss trickle ventilators within living rooms and 10/12/6mm double glazing and acoustically treated trickle ventilators within bedrooms. At Loc2 using 4/12/4mm double glazing and hit & miss trickle ventilators within living rooms and bedrooms. Loc1 and Loc2 are specified within noise report ref LH0601162NR submitted with this application.

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

##### Contaminated Land:

Public Protection has not identified the site as potentially contaminated land and this was reflected in the Pre-App in that we did not consider further assessment was necessary.

However, the Phase 1 Study recommends that an intrusive investigation is undertaken to clarify potential risks to the identified receptors and assess the results of made ground soils at the site.

Having reviewed the available reports I do not disagree with the above recommendation and therefore I recommend the following condition if permission is granted:

- a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.
- e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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

Comment on the **revised** scheme:

I have no additional comments or conditions to recommend having considered changes to the site plan and floor plans recently submitted. Conditions in relation to contaminated land and noise are still recommended as previously stated.

#### 4.1.6 SC Archaeology – Comment on the **original** scheme:

The proposed development site lies within the Medieval Town of Ludlow (PRN 06293) as defined by the Central Marches Historic Towns Survey and within a group of tenement plots (PRN 06185) of possible Medieval date. Previous evaluations and trial trenching at the Tesco supermarket site 75m to the south, revealed archaeological deposits and remains at relatively shallow levels.

A Heritage Statement has been submitted with the application. The application site appears to be an amalgamation of three burgage plots of 12th century origin, with potential for medieval and later domestic occupation and industrial activity on site. Stone House appears to have been constructed in the 17th century on the three existing plots, possibly on the site of properties that were damaged during the Civil War. By the late 19th century historic Ordnance Survey maps indicate the area to the rear of Stone House was used as an orchard and garden with three small structures/outbuildings depicted by 1902; outbuilding foundations have been recorded to the rear of Stone House. The statement also notes the potential for 18th and 19th century cellarage along Corve Street. The report concludes that the application site has medium evidential value to inform our understanding of past human activity.

The present Stone House site consist of a large open area of hard standing, with a historic stable and mid-20th century building along the southern boundary, and a substantial former Council office block constructed over two storeys, with a basement level. Within the basement is a Cold War nuclear bunker; it is understood that this will not be retained as part of the re-development of the site. Prior to the construction of the existing 20th century buildings, the site previously housed temporary council offices with two ranges along the southern boundary and an L-shaped range in the north-east corner. These buildings were demolished in the late 1980s and rebuilt in c.1989 to the form the present site. The successive phases of 20th century demolition and construction on site, together with the digging of subsequent service trenches, are therefore likely to have disturbed or partially truncated earlier below ground archaeological features or deposits which may have existed on the site.

In view of the above, the proposed development site is deemed to have moderate archaeological potential.

#### Recommendation:

Please note the Conservation Officer will provide comments on the impact of the proposed development on the built heritage, and on the character and appearance of the Conservation Area.

The recommendations made below therefore only relate to the archaeological interest of the proposed development site.

In view of the above, and in relation to Paragraph 141 of the NPPF and Policy MD13 of the SAMDev component of the Shropshire Local Plan, we recommend that a phased programme of archaeological work be made a condition of any

planning permission for the proposed development.

This should comprise a pre-commencement trial trenching exercise, and provision for further archaeological mitigation as appropriate. It should also comprise a historic building recording exercise to Level 2 standards as defined in Historic England's Understanding Historic Buildings A guide to good recording practice 2006, of the Cold War nuclear bunker prior to its demolition, and recording of the historic stable block prior to and during any alterations to historic fabric.

An appropriate condition of any such consent would be: -

No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased 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 site is known to hold archaeological interest.

Comment on the **revised** scheme:

Previous comments remain unchanged.

#### 4.1.7 SC Tree Officer – Comment on the **original** scheme:

Constraints: Conservation area, T1 protected by TPO SC/00244/15

The applicant has provided a satisfactory tree protection plan and arboricultural method statement (CBA10367.02A TPP & CBA1036\_2016v2 AMS) the satisfactory delivery of the tree protection measures requires the applicant to maintain an arboricultural advisor throughout the development and we recommend that this be conditioned and the that the be TPP & AMS documents be sited in the case officers report as part of the approved plans and particulars.

Recommended conditions:

#### Tree protection notification

No works will commence until the Local Planning Authority has approved in writing that the Tree Protection Measures have been established in compliance with the final approved tree protection plan (Photographs of it in place might suffice)..

Reason: To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan.

#### Tree protection

The approved measures for the protection of the trees as identified in the agreed tree protection plan and arboricultural method statement (Ref. CBA10367.02A TPP) 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. The agreed arboricultural Method Statement (CBA1036\_2016v2 AMS) shall be followed in full during the progression of the development. No

material variation will be made from the approved tree protection plan and method statement without the written agreement of the Planning Authority.

Reason: To safeguard retained trees and/or hedgerows on site and prevent damage during building works, and to protect the natural features and amenities of the local area that are important to the appearance of the development.

Tree protection (Site supervision)

Notwithstanding any details submitted on other approved plans and particulars, works or development shall not take place until a scheme of supervision for the arboricultural protection measures (tree protection plan) has been approved in writing by the local authority tree officer.

This scheme will be appropriate to the scale and duration of the works and may include details of:

- (a) Induction and personnel awareness of arboricultural matters.
- (b) Identification of individual responsibilities and key personnel.
- (c) Statement of delegated powers.
- (d) Timing and methods of site visiting and record keeping, including updates.
- (e) Procedures for dealing with variations and incidents.

Reason: To ensure satisfactory delivery of tree protection measures on site

Comment on the **revised** scheme:

With the exception of the reference to the amended site plan 30030LL.P002 these Tree Service comments remain the same as those submitted on 24th May 2016.

The applicant has provided a satisfactory tree protection plan and arboricultural method statement (CBA10367.02A TPP & CBA1036\_2016v2 AMS). The satisfactory delivery of the tree protection measures requires the applicant to maintain an arboricultural advisor throughout the development and we recommend that this be conditioned and that the TPP & AMS documents be cited in the case officer's report as part of the approved plans and particulars.

The previously recommended conditions still stand.

#### 4.1.8 SC Highways – Comment:

No Objection - Subject to the development being carried out in accordance with the approved details and the following conditions/informative. The proposed development is considered to be acceptable from a highway perspective, as the likely residential traffic activity is unlikely to exceed the previous activities of the site, when it was a former Council Office.

It is recommended that conditions relating to the following matters are attached to any permission granted:

1. Details of construction and drainage for the access
2. Parking and manoeuvring areas within the development site
3. Submission of a Construction Method Statement and Traffic Management Plan addressing the following matters:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials



- storage of plant and materials used in constructing the development
  - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - wheel washing facilities
  - measures to control the emission of dust and dirt during construction
  - a scheme for recycling/disposing of waste resulting from demolition and construction works
  - a construction traffic management and routing plan to minimise local disruption and conflict
4. Retention of parking and turning spaces for the approved purposes and use by the occupiers of and visitors to the site

#### Informatives

1. Works on, within or abutting the public highway
2. This planning permission does not authorise the applicant to:
  - construct any means of access over the publicly maintained highway (footway or verge) or
  - carry out any works within the publicly maintained highway, or
  - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
  - 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.

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 with a list of approved contractors, as required.

#### 4.1.9 Historic England – Comment on the **original** scheme:

##### Historic England Advice

Historic England welcomes the retention of the 19th century stable block and reduction in the number of buildings proposed when compared to the recent application on this site. As we have previously highlighted, the re-development of this sensitive site within the setting of the Grade II\* listed Stone House provides an opportunity to improve and enhance this historic environment. Corve Street is an extraordinary historic route in the town and a vital part of the wider significance of Ludlow and the conservation area. If you are minded to approve this application then we would recommend that careful attention is given to matters of layout, scale and massing and particularly the potential impact upon views into the site from the side of Stone House. Given its sensitive location and historic setting the success of any scheme here will depend considerably upon the use of quality and appropriate design, materials and finishes. We would recommend therefore that any such details are approved by your expert conservation advisers.

##### Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy

guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

Comment on the **revised** scheme:

Historic England Advice

Historic England recognises the further amendments made to the scheme to reduce the overall proposed scale, massing and proximity to the Grade II\* listed Stone House and considers them to be further minor improvements. The additional analysis of close and long distance views is also helpful in illustrating the proposed building in the context of the wider conservation area and significant vistas therein. As we have previously highlighted, the redevelopment of this sensitive site provides an opportunity to enhance or better reveal the significance of this historic environment, as is required under paragraph 137 of the NPPF.

Therefore, if you are minded to approve this application then we would recommend that close attention is given to matters of design, landscaping, materials and finishes for the approval of your expert conservation advisers so as to assure the high standard of development this important setting warrants.

Recommendation

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

4.1.10 SC Conservation – Comment on the **original** scheme:

Background and planning history:

The proposal for the demolition of the existing modern office buildings on this site, and for the conversion of the historic stables building at the entrance has been refined as a result of long ongoing negotiation between the LPA and the applicant, taking into account feedback from Historic England, LCAAC and other consultees.

Constraints:

The site forms the former garden and orchard to the Grade II\* listed property known as the Stone House, and adjacent rear burgage plots of the Grade II listed buildings along Corve Street. It is wholly within the Ludlow Conservation Area and is bounded on its southern edge by the row of terraced properties at Station Drive, which are non-designated heritage assets. The following designated assets are considered within this constraints analysis:

- Conservation Area
- Grade II\* listed Stone House
- Grade II listed 114 Corve Street
- Friary Chapel and site to West of Corve Street

Methodology applied:

Consideration of the significance of on-site heritage assets and of the contribution that setting makes to their significance together with the impact of any proposed works to those assets and their settings, should be undertaken in line with guidance contained within the EH/HE publications including Conservation Principles (2008), Seeing the History in the View (2011) and The Setting of

Heritage Assets Historic Environment Good Practice Advice in Planning: 3 (2015) and any other relevant guidance documents to be notified by Historic England. This should be proportionate to significance, and include as a minimum:

- Desk based assessment
- Map regression analysis
- Site survey with photographic recording

It is noted that the heritage statement has been partially updated to take into account the revised proposals, and that further key views CGIs have been prepared.

Policy context:

The proposal is within the Ludlow Conservation Area and comprises an outbuilding and modern offices within the former garden of The Stone House, a Grade II\* listed building. In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable including policy CS6 'Sustainable Design and Development' and CS17 'Environmental Networks' of the Shropshire Core Strategy, MD2 governing sustainable design and MD13 'The Historic Environment' of the adopted SAMDEV plan, as well as with national policies and guidance, particularly Chapter 12 of the National Planning Policy Framework (NPPF) published in March 2012 and its accompanying guidance in NPPG. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 apply. The Guidance documents Good Practice Advice Notes produced by Historic England governing assessments of significance, setting and views analysis should also be taken into consideration, as they provide the current context for heritage impact assessment, replacing previous planning practice guidance.

Design context:

The design of the proposed development has evolved to the current scheme for the provision of retirement apartments and a number of age restricted affordable town cottages in the converted stable building adjacent to Stone House. It is disappointing that the work over the past months on all sides has not been incorporated more into the refinements for the new build element, which still appears somewhat overbearing in the context of the historic urban grain and pattern of this part of the Conservation Area, although the removal of the southern row of cottages (to the rear of the properties that lie along Station Drive) has resulted in an opportunity to make a positive enhancement to that side of the site via landscaping and the appropriate restoration of the historic boundary features. The height of the proposed new buildings has been reduced to take into account impacts on the setting of the adjacent and nearby listed buildings, although the roof lines are not residential enough in nature to reflect appropriately the context of this setting and should still be amended to include chimneys as ventilation stacks to end and dividing gables between built elements. The impact on the footprint, making the building line push forward and become double gabled, has had a potentially negative effect on the setting of the rear gardens and elevations of adjacent listed buildings on Corve Street. This should be kept to an absolute minimum, or be mitigated through improvements to the access way between the properties, and the treatment of private space within the scheme for the benefit of these properties. The drawings submitted are unclear as to whether this is sufficient to ensure that the proposal does not further harm the integrity, character or setting of the listed buildings adjacent to the site.

Assessment results:

Through a process of negotiation and design reiteration the scheme, resubmitted and re-designed to provide apartments and associated communal living space for the over 55s, has reached a point at which the refinements necessary to integrate this development into the historic environment of the previously developed back land plot to the Grade II\* listed Stone House and associated Grade II listed buildings along Corve Street, can be achieved through a series of pre-commencement conditions relating to the quality of all materials and finishes, which should incorporate sustainable natural materials as far as practically possible, including hard and soft landscaping material. This is to ensure that the development conforms to policies at a national and local level for the protection of the historic environment and the promotion of lifetime homes through high quality design and Building in Context.

The retention and re-use of the only extant historic building, The Stables, on the site is welcomed, and as this provides a well-defined, visible street frontage to the scheme, materials and finishes here should be traditional in the use of timber in all joinery and matching brick and natural slate for roofing, providing an appropriate frontage of this outbuilding as it connects and contextualises the site with the slate front elevation of the main west facing wing of the new buildings.

There are further opportunities to preserve and enhance the historic character of this former garden site, as referenced in my colleagues' archaeology response. Further enhancement should include the planting of the gardens with historic specimen fruit and shrubs, naming the site appropriately with reference to historic former owners, and the restoration of historic boundary features using traditional materials and methods. The date stone in the garden to the current office building should be reinstated within the scheme, and it has been agreed that gates and railings shall be retained.

Recommendation and conditions:

We require, as a result of this work, to be satisfied that the revised proposals can be deemed to enhance, have negligible or less than substantial harm on the significance of these assets, and that any residual impacts can be satisfactorily mitigated. Therefore we would recommend that conditions are applied for pre commencement approval, as follows:

## External materials and finishes

- Horizontal banding should stop on painted units to enhance their vertical emphasis
- Lintels, sills and slates should be in natural materials
- Window and door openings should have sufficient recesses and not be fitted flush
- Details of all rainwater goods

Comment on the **revised** scheme:

No further comments.

4.1.11 Ludlow Conservation Advisory Committee – Comments on the **original** scheme:

New scheme, with presentation by the developers and architects. The proposal is now a development of retirement homes by Churchill. The stable block is to be converted to units and extended in equal and like style. While the building would in

fact be more bulky than the previous proposal, considerable care had been taken to reduce apparent scale by the disaggregation of forms and the arrangement of roofs. On the whole the Committee was approving of the proposal, although there were a number of detailed points that the architect agreed to revisit. These included the fenestration – reducing scale on higher floors, altering sizes and orientations in places and a stronger external expression of the communal spaces.

Comments on the **revised** scheme:

The Committee noted the revised plans which did not appear to have dealt with its criticisms of the proposals when presented to it informally. These included the fenestration - reducing scale on higher floors, increasing the window sizes in many places to make a better and more traditional balance between the proportions of fenestration and solid wall and a stronger external expression of the communal spaces which were masked in external by features expressive of internal arrangements on the upper floors. It was also felt that more could be done to reduce the apparent overall mass of the building. No objection to the stable block element.

#### 4.1.13 Public Comments:

A total of eighteen letters of objection, one in support and one neutral have been received.

**Objections:** Comments on **original** drawings (four letters):

#### Traffic, Parking and Transport

- Access for fire engines is required at the rear of no's. 110 – 113 Corve Street.
- Access to the parking area at the rear of Corve Street will be constrained by the development.

#### Heritage

- The historic significance of nearby heritage buildings has been underplayed by the developer.
- The Heritage Statement contains inaccuracies – 112 Corve Street is a single dwelling and not two as mentioned.
- The building will encroach too closely on nearby listed buildings.

#### Amenity

- The stable block extension is too high and will block out light to and cause overlooking of our rear garden.
- The main building is too tall and will cause loss of amenity for neighbours.

#### Design, Scale and Appearance

- The building has an unattractive 'army barracks' style.
- The building is too large and should be limited to two storeys only.

- Materials are inappropriate for a conservation area.

#### Other Matters

- The Drainage Statement is incorrect. Existing foul and surface water sewers on the site course to sewers underneath 111 and 112 Corve Street. All drainage needs to be via new drains.
- Soakaways are inadvisable as there are cellars beneath 110 – 113 Corve Street.
- There is a conflict of interest as the Council owns the site and is being asked to grant planning permission for the development.

Comments on **revised** drawings (eleven letters – including four from two individuals):

- The building footprint has moved significantly further south and impinges even more on the back of 112 Corve Street obstructing access and overshadowing the rear of the property.
- The Council marked the ground to prevent any interference with or impediment to the right of way serving the rear of 112 Corve Street by painting yellow hatching. Any building or other cars parked on our right of way and in the yellow hatched area, would impede our ability to steer our car into the access to our property.
- The current car parking spaces (marked out white) by the Council start 6.4 metres from the boundary wall of 113 Corve Street. The edge of the yellow hatching from the rear of 111 Corve Street is a similar distance and in line with the existing white marked parking spaces (see attached photograph which also shows NO ENTRY, along this 6.4 metre width). This was the safe width that you felt necessary to prevent damage to cars and buildings. The proposed development plan scaled up allows only for a width of 4.5 metres.
- There are concerns regarding access for emergency vehicles to the rear of 110, 111 and 112 Corve Street and to the North side of the proposed development.
- The housing density remains unreasonable for this environment and context.
- The three storey parts are totally out of keeping with the buildings in the neighbourhood and its proximity to the existing buildings on Corve Street is unacceptable.
- With the exception of the Stone House (113 Corve St), all nearby residential properties on the east side of Corve St are two storeys. A three storey block of the height & mass proposed would detrimentally dominate the immediate surroundings.
- Many of the photographs are misleading, particularly in the panoramic views.
- The existence of listed buildings on Corve St has not been taken into account, nor their age and therefore potential vulnerability.
- The design and particularly the colours are inappropriate for such a development.
- Insufficient consideration has been taken of the existing houses.
- Increasing the footprint in itself is not a problem but this needs to be done in

a more central manner and not by impinging on existing properties.

- The scheme underestimates the requirement for parking spaces for the retirement units and therefore will result in an undesirable increase in on-street parking.
- There is a steep hill which residents would have to walk up to reach shops and services. This will encourage them to continue to drive. Local evidence suggests that topography rather than distance determines the way in which older people decide how to travel.
- The public transport provision locally is lacking. There are no bus service during the evenings. At other times the service is patchy and it is impossible to travel to locations that are quite close.
- Parking is insufficient at present even for a reduced number of apartments. The leases are for individuals who have reached the age of 60+ with partners of 55+. Each apartment could have more than one car, there will be visitors and there should be provision for disabled spaces. There should probably be 45 car spaces provided for my proposed reduced scheme not including the four for affordable housing.
- The site slopes from east to west which is not reflected in the elevational drawings.
- The amended Design and Access Statement seems to minimise the Tudor origins of Lower Corve Street. By minimising the historic nature of the local area, the proposal, possibly, hopes to draw attention away from the fact that the development, more visible than the current buildings, will do nothing to enhance the visual and architectural environment.
- The proposed development should be two storey only to fit in with the existing environment and limited to 30 apartments.
- It is a shame that the design does not reflect the character of the area especially the proximity of beautiful listed buildings but is a standard design for this type of development that is rolled out across the country.
- The increase in height over the existing office block would have a significant negative impact on the garden of 108 Corve St causing a loss of privacy through overlooking by the north facing second floor windows and loss of sunlight during the winter months.

### **Support:**

#### Wrekin Housing Trust:

These supporting comments are made on behalf of The Wrekin Housing Trust and our role in helping to address the shortage of affordable housing in Ludlow.

We have been in discussion with Purcell Developments and (subject to planning permission) are proposing to acquire the four affordable homes that they are providing within the stable block element as part of their Section 106 planning obligation.

These are self-contained homes which would be made available by

Wrekin for general needs housing on an affordable rent basis. They would operate independently of the retirement apartments and be allocated to local people through the Council's Housing Register (Shropshire Home Point).

**Others:**

Letter from Mr. Philip Dunne MP for Ludlow forwarding comments by Dr R and Dr A Laishley of 112 Corve Street, Ludlow.

The Ludlow Swift Group:

The Ecological Appraisal concludes that the existing site has low to negligible ecological value and that the development offers the chance for a modest improvement. The improvement could in fact be significant for swifts, which are known to nest in this area of Ludlow and which are amber listed due to a significant decline in numbers in recent years. Most nest sites are in older houses but during renovations the birds are often excluded. This development in Corve Street is therefore an important opportunity to provide new nest sites in the form of bricks or boxes that can readily be incorporated into the structures and meet building regulations. We urge the council and the developers to include such sites for swifts (and indeed bats and garden birds that are also in the area and can easily access the buildings). Ludlow Swift Group is happy to offer advice on placement of new swift nest sites.

## 5.0 THE MAIN ISSUES

The main planning issues concern the following:

1. Principle of development.
2. Siting, scale and design of the development.
3. Visual impact, amenity and landscaping.
4. Traffic and Transport.
5. Heritage Impact
6. Drainage and Flood Risk.
7. Impact of the proposed development on the amenities of local residents.
8. Ecology.
9. Affordable Housing
  
10. Sustainable Development and the Planning Balance



## 6.0 OFFICER APPRAISAL

### 6.1 Principle of Development

- 6.1.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.
- 6.1.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy 2011 and the adopted Site Allocations and Management of Development Plan (SAMDev Plan) 2015.
- 6.1.3 The SAMDev Plan is the second part of the Local Development Framework for the county. The Core Strategy policies are complimented by the SAMDev Plan DPD, which provides additional detail to the over-arching policies contained in the Core Strategy. Following its adoption on 17<sup>th</sup> December 2015 previously saved policies of the South Shropshire District Local Plan have been superseded.
- 6.1.4 Other material planning considerations also have to be taken into account when assessing the proposals. One such material planning consideration is the National Planning Policy Framework (the Framework). In March 2012, the Framework replaced all previous PPG's and PPS's and confirmed the Coalition Government's commitment to a presumption in favour of sustainable growth and development. In terms of decision making, this means approving developments that accord with the development plan 'without delay' and, where the development plan contains either no relevant policies or where those policies are out of date, granting planning permission unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted'.
- 6.1.5 The Framework sets out a presumption in favour of sustainable development. There are three dimensions to this, namely: an economic role, a social role and an environmental role. These roles are mutually dependent. However, where specific policies in the Framework indicate development should be restricted, such as those relating to designated heritage assets, the "presumption in favour" is tempered. This will be considered in more detail under the Heritage Impact section of this report.
- 6.1.6 Policy CS1 of the Core Strategy establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, other identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth. SAMDev Policy MD1 supports sustainable development within Shrewsbury, having regard to other policies contained in the

## Core Strategy and the SAMDev Plan.

- 6.1.7 Ludlow is classified as a Market Town under Policy CS3 and is one of the most sustainable settlements in the county. It will be the focus for new development in South Shropshire over the lifetime of the development plan. Settlement Policy S10.1 (Ludlow Town Development Strategy) states that new housing development will be delivered primarily on the allocated housing sites east of the A49, set out in schedule S10.1a and identified on the Policies Map, alongside additional infill and windfall development within the town's development boundary. The site lies within the settlement development boundary for the town and its development for alternative uses is acceptable in principle.
- 6.1.8 Policy CS3 of the Core Strategy supports new housing development in appropriate locations in the market towns, including that which meets the needs of particular groups such as older people. Paragraph 4.31 of the explanatory text to that policy states that the ageing population is a particular issue in the county where 28.4% of the population is expected to be over the age of 65 by 2026. This represents a rise from 50,100 persons in Shropshire over the age of 65 in 2006 to 93,600 by 2026. The elderly are more dependent on local services and public transport than the population as a whole, giving added impetus the achievement of accessible centres that can provide a good range of services.
- 6.1.9 The provision of extra care housing in the county is key to meeting the housing needs of the district's older residents. An affordable housing element of 4 dwellings located within the existing stables and the proposed extension, which is considered appropriate by the Housing Officer. These units will be conveyed to a Registered Provider upon completion of the scheme.
- 6.1.10 The current Ludlow Town Plan identifies a number of priority areas and objectives which, in relation to elderly people, includes the provision of adequate and improved services for this expanding and ageing group.
- 6.1.11 According to the applicant's Planning Statement, the latest 2011 Census statistics show that currently approximately 1 in 6 people in the population of England and Wales are over 65 years of age. Furthermore the census also revealed that there are now nearly half a million people over the age of 90. What is most important to note from the Census information is that the over 65 year old age group is by far the quickest growing age group.
- 6.1.12 The National Planning Practice Guidance includes a section on housing for older people. It states that the need to provide housing for older people is *"critical given the projected increase in the number of households aged 65 and over accounts for more than half of the new households (Department for Communities and Local Government Household Projections 2013). Plan makers will need to consider the size, location and quality of dwellings needed in the future for older people in order to allow them to move. This could free up houses that are under occupied. The age profile of the population can be drawn from Census data. Projections of population and households by age group should also be used. The future need for older persons housing broken down by tenure and type (e.g. sheltered, enhanced sheltered, extra care, registered care) should be assessed and can be obtained*

*from a number of online tool kits provided by the sector. The assessment should set out the level of need for residential institutions (Use Class C2)."*

- 6.1.13 The site currently contains a range of buildings last used as local authority administration offices, which falls into Use Class B1. Paragraph 51 of the Framework specifically mentions commercial buildings with a clear target to satisfy the growing demand for housing. Unless there is clear economic evidence there is a presumption in favour of redevelopment. Paragraph 51 of the Framework states: *"Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers. They should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate."*
- 6.1.14 The development plan contains policies that are intended to protect certain employment uses and land so that settlements and communities have an appropriate balance of various uses and facilities. Office accommodation is included in the definition of employment land (Core Strategy Glossary). Policy CS13 states that managing a responsive and flexible supply of employment land and premises comprising a range and choice of sites in appropriate locations to meet the needs of business is an objective of the Plan. Policy CS14 establishes the identification and maintenance of a portfolio of employment land and premises within the county.
- 6.1.15 The SAMDev Plan contains Policies MD4 and MD9, which are concerned with protecting and managing the development of existing employment land and premises within, for example, market towns such as Ludlow. Settlement Policy S10.1 sets out the development strategy for Ludlow and explains that appropriate brownfield opportunities for employment use within the town will be supported and existing employment areas are to be safeguarded for employment use in accordance with Policy MD9. This ties in with the approach set out in CS14.
- 6.1.16 The application site is not allocated for employment development and nor is identified as a retained employment site. Policy MD9 still identifies it as an employment site and its use for an alternative purpose needs to be assessed against Table MD9.1. Protection is extended to sites not currently identified by MD9, including their redevelopment for other uses; and this will be proportionate to the significance of the employment area in the hierarchy in Table MD9.1. The site has the characteristics of a "key Shropshire site" and remains within Use Class B1 despite being currently unoccupied. Alternative uses for such premises or land are required to be assessed against five criteria set out in MD9. These are as follows:
- i. availability of other suitable development sites in the settlement or suitable sites on lower tier employment areas in the settlement or in rural locations;
  - ii. effect of the redevelopment on the quality, character and critical mass of the existing employment area: **and**
  - iii. impact on the range and choice of employment land and premises in terms of location, quality, type and size;

- iv. business case for the proposed use including location, accessibility, commercial environment, trade links to suppliers and access for customers and employees;
- v. potential for conflict with neighbouring uses on or adjacent to the proposed use especially the effect on key employers.
- 6.1.17 Considering the five tests above, the SAMDev Plan provides two specific site allocations for new employment land adjacent to the Ludlow Eco Park are set out in Schedule S10.1b and identified on the Policies Map. They are capable of accommodating a range of employment uses including B1 offices. It is considered that the loss of the offices on the application site will be compensated by the new allocations.
- 6.1.18 The protected employment area immediately to the north of the site will not be affected by this development proposal. However, there will be an effect on the range and choice of employment land and premises in terms of location, quality, type and size. That being the case, the SAMDev also explains that other forms of 'employment generating' uses should not be discounted. To be acceptable on existing employment areas, redevelopment proposals for other 'employment generating' uses preferably should provide products or services to other businesses or services to domestic properties (but not the sale of products) to remove the need for access for visiting members of the public. Importantly, it states that these alternative uses may include Use Classes A, D, C1, C2 or C2A and proposals for these or other uses are expected to satisfy the tests in this policy. The proposed development falls within Use Class C2 and, in principle, would be an acceptable use for the site.
- 6.1.19 The application site represents an appropriate site for the proposed sheltered residential accommodation. It is within close proximity to the town centre and all of its services. These are within walking distance as is the railway station, which reduces demand for on-site car parking. The development would be likely to add significantly to the vitality, vibrancy and viability of the area. For example, the scheme for 44 sheltered units would introduce to the town further residents who traditionally shop locally and daily which would add to the local patronage of the amenities, services and facilities within Ludlow Town Centre. The development will also be likely to benefit local businesses ranging from taxi firms to cleaning firms to gardening contractors.
- 6.1.20 It is unlikely that the proposed residential use will create potential conflict with neighbouring uses on or adjacent to the proposed use. The haulage yard to the north has some potential to cause nuisance for future residents arising from vehicular movements at unsociable hours. The Noise Report submitted with the application has adequately assessed potential sources of noise. The Public Protection Officer has considered this issue and has no objections provided the windows on the facades facing potential noise generators (including the retail store) are fitted with high specification acoustically designed double glazed windows, as recommended in the Noise Report.
- 6.1.21 In conclusion, it is considered that the redevelopment of the site for sheltered accommodation would not contravene Policies MD4 or MD9. It is also consistent

with the advice in the Framework referred to above in relation to reusing empty office buildings for residential purposes. It is considered, therefore, that the principle of redevelopment of this site for elderly residential accommodation is acceptable and that it accords in general with Policies CS1 and CS3 of the Core Strategy and MD1, MD3, MD4, MD9 and S10.1 of the SAMDev Plan.

## 6.2 **Siting, Scale and Design of the Development**

- 6.2.1 Section 7 of the Framework is concerned with promoting good design and re-affirms previous national guidance that permission should be refused for development of poor design. It advises planning policies and decisions should not seek to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. It is necessary for new development to function well, establish a strong sense of place, have a suitable balance between built form and space, respond to local character and history, create a safe and accessible environment and be visually attractive. It also states, however, that permission should not be refused for development because of concerns about incompatibility with an existing townscape (notwithstanding effects on designated heritage assets, which may justify a refusal), especially where that development promotes high levels of sustainability. It requires that new developments make a positive contribution to their surroundings. In terms of design and layout, the form of the proposed development has been described above in Section 1.
- 6.2.2 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by Policy MD2 of the SAMDev Plan. In summary, these policies expect new development to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping. The application site lies within a conservation area and is adjacent to a number of important listed buildings; all of which will exert an influence upon the design and appearance of the development. These particular matters are assessed in the 'Heritage Impact' section below.
- 6.2.3 The proposed development entails the removal of the existing former local authority building that is 'L-shaped' in layout and which is positioned in the north-eastern part of the site. The building was designed to accommodate administrative offices and its form follows that function. It contains little architectural quality. Although built as recently as 1989, it does little to contribute positively to the character or appearance of the conservation area or the setting of the adjacent listed buildings on Corve Street. The site is dominated by both the building and the extensive and relatively open hard surfaced areas devoted almost exclusively to car parking and turning space.
- 6.2.4 The scale of the proposed 'L-shaped' building will be larger than the existing in terms of footprint. However, the site is considered to be of sufficient size to accommodate the proposed building. In terms of design, the building will follow the form and layout of the existing building and its position on the site will also be similar. The two wings have slight variations in order to add some visual interest, notwithstanding the fact that the building accommodates apartments with

attendant communal floor space.

- 6.2.5 The western wing steps up from a two storey structure with a double pitched roof where it is closest to the rear of 111 Corve Street. This part of the building is lower than the existing office building and is set back a further 2m from the rear boundary line of the properties on Corve Street. It has a flat roofed two storey projection on the front the purpose of which is to accommodate kitchens for the ground and first floor apartments at the front of the building. The plans show the building set 2m closer to the northern boundary of the site compared to the existing building. The added width of the proposed building means it will also extend a further 4.5m (approximately) southwards overall. This creates a usable amenity area between the building and the northern boundary wall for future residents of the development.
- 6.2.6 The building steps up along the western wing to include a second floor set within the roof space. There are four front bays each topped with a pitched roof dormer. A similar flat roofed two storey projection is included offset to the right of the front elevation.
- 6.2.7 The next segment of the building is also three storeys in height and the ridge line drops slightly but the eaves level increases so that the roof is more compressed. This ridge line runs through the remainder of the building.
- 6.2.8 The south wing follows this ridge line before stepping down very slightly about halfway along its length. The southern part of this wing contains five pitched roof dormers and two of the flat roofed two storey projections.
- 6.2.9 The rear elevations of the building are more uniform in appearance and the massing is relieved by either flat roofed dormers or three storey pitched roof projections.
- 6.2.10 The main building will be constructed from red brick and plain tiles. Portions of the elevations will be painted brickwork in homage to several existing buildings along Corve Street. Slate is also proposed on part of the roof as a reflection of the character of Corve Street. The mix of materials will assist in relieving the overall mass of the building. All of these details will require further refinement and should be subject of conditions if planning permission is granted.
- 6.2.11 The amended design is considered to represent an appropriate form of development in this location. The site already accommodates a building of similar arrangement and design, so the replacement with something similar will not be out of keeping. The proposed development approximates the form and profile of the existing building, notwithstanding the fact that it is taller, wider and the two wings are longer. The variations in the elevations, fenestration and roof profile add visual interest compared with the existing building. The mix of building and roofing materials will also relieve the massing of the building adding a vibrancy that is missing in the present building. It provides an enclosed and protective environment which will be especially valuable to the residents likely to occupy it in the future. In line with paragraph 58 of the Framework, it is considered to function well and establishes a strong sense of place with a suitable balance between built

form and space.

- 6.2.12 In respect of the other components of sustainable design set out in Policies CS6 and MD2, the proposals include a sustainable drainage scheme, level access for users of the facilities, high levels of energy efficient construction methods (this will be addressed through the Building Regulations) and has been designed to be highly energy efficient. The new building is reasonably significant in terms of size although it is considered that the size of the proposed building is appropriate in this context. Subject to appropriate conditions relating to matters including materials, landscaping and drainage, it is considered that the siting, scale and design of the proposed development is in accordance with Policies CS6 and MD2.

### 6.3 Visual impact and landscaping

- 6.3.1 The site is located in the urban area of Ludlow, within the central conservation area. The Framework places high value on the importance of enhancement of the natural, built and historic environment, especially where heritage assets are concerned. It asserts that the aim should be to encourage the effective use of land by re-using land that has been previously developed where practical. Policies CS6 and MD2 state that development should be designed to take account of the local context and character and opportunities should be taken to promote a positive sense of place which will include appropriate levels of high quality landscaping within all new developments.

- 6.3.2 The design of the building and its relationship with the site and wider area have been considered above. From rising land to the east along Hillside, including the 'Victorian Conservation Area', it is currently possible to view elements of the vacant office buildings despite the recently developed Aldi food store. Given its location, it is likely that the proposed building will be also be visible in views from beyond the site to the east. The building will be partly screened from westward views by the recently completed supermarket building. It is also set at a level approximately 2m below that of the supermarket which assist with reducing its visual impact. The incorporation of traditional roofing materials and red brick on the rear elevations and retention of existing planting along the boundary line will further reduce its visual impact in views from the east.

- 6.3.3 From the south, the existing two storey terraced dwellings arranged along Station Drive will largely obscure the new development from public views.

- 6.3.4 The application site is set to the rear of Corve Street, the main thoroughfare into the town from the north. The street is mediaeval in its origins and is characterised by traditional two and three storey buildings set at the back of the footpath being at the front of historic burgage plots that run at right angles away from the road. The site is visible from Corve Street via the entrance that serves the existing office car park. There is a mature tree and a single storey former stable building located adjacent to the entrance opposite the Stone House. Notwithstanding these features there are views into the site from the retained entrance onto Corve Street, although these are constrained by the presence of the three storey Stone House to the left of the entrance and the protected tree and former stable block to the right-hand side. The proposed south wing of the main block will be visible from this

position, especially as it protrudes further into the field of view when compared with the present office building. However, the backdrop to this view is made up of the supermarket building and the housing development on the skyline at the summit of the hillside to the east. The view also contains a number of trees within the site and it is proposed that these are to be retained.

6.3.5 The site is proposed to be comprehensively landscaped, to include the retention of many existing trees along the southern and eastern boundaries and the planting of new trees around the northern and eastern boundaries. The trees immediately outside the front of the existing building will be removed. These silver birches have a limited lifespan and cannot be retained as part of the development due to the siting of the new building. The retention of existing trees and the planting of new trees along the southern boundary in particular would also assist in softening the impact of new development within the area and may be secured via a suitable set of planning conditions. The Council's Arboricultural Officer has confirmed that the degree of tree removal and compensatory planting is justified in this instance.

6.3.5 The protected tree adjacent to the site entrance is to be retained and protected during the development phase. The Council's Arboricultural Officer has been closely involved in the evolution of these proposals and has confirmed that the retention and protection measures are appropriate. These requirements should be secured through a number of recommended planning conditions.

6.3.6 It is considered that the combination of design, screening, materials and landscaping will result in a development that would not adversely affect local visual amenity. It would, therefore, be consistent with Policies CS6 and MD2 of the Development Plan.

#### 6.4 **Highways and access issues**

6.4.1 The Framework promotes the use of sustainable transportation with an emphasis on alternatives to the private motorcar.

6.4.2 Policy CS6 requires development proposals that are likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced. It requires new development to make appropriate levels of car parking provision to serve the development.

6.4.3 The focus of development within locations with good quality choices of how people are able to move around is a recognised method of achieving this. The site is located on the edge of the town centre close to bus stops on Corve Street. It is also within easy walking distance of the Ludlow railway station and shops and services that are available within the town centre. In particular, there are two supermarkets within very easy walking distance of the application site.

6.4.4 The proposals will provide 44 sheltered apartments within the main building to be occupied by persons over the age of 60 and partners over the age of 55. The car parking demand for retirement accommodation has historically been viewed as being significantly less than is required for other types of residential development,



due to the fact that as people age they are less inclined to travel using their own private car. The proposal includes 20 car parking spaces for the sheltered apartments. This equates to a parking space ratio of 0.46. This is more than the usual parking space ratio of 0.32 spaces per unit, which is normally provided by the applicant in other similar developments in equally accessible locations, and accepted by other local planning authorities. The proposal also includes 4 car parking spaces for the 4no. one bedroom dwelling houses.

- 6.4.5 The application site lies on the edge of the town centre in a sustainable and accessible location. Future residents will be able to access the services and shops on offer in Ludlow by a choice of transport means, besides relying upon the private motorcar.
- 6.4.6 The Highway Authority has considered the proposals and raises no objections. The level of car parking is regarded as being appropriate to the type and nature of development proposed. A number of planning conditions and informatives are recommended relating to construction and drainage for the access, parking and manoeuvring areas within the development site and the submission of a Construction Method Statement and Traffic Management Plan. These are considered to be reasonable and necessary to ensure that the development is acceptable in terms of highway safety.
- 6.4.7 The site remains accessed via the entrance and egress point onto Corve Street adjacent to the Stone House. No alterations to this access are proposed. The Highway Authority considers the access to be appropriate for the development proposed.
- 6.4.8 Ludlow Town Council has expressed concerns that the means of access is unsuitable for emergency vehicles, but the access also served the former local authority offices for approximately 25 years and was considered to be acceptable. It is not, therefore, considered to be of a sub-standard design or of an inappropriate layout to serve the proposed residential development.
- 6.4.9 The right of vehicular access to the rear of 110-113 Corve Street has been accommodated within the development. The owners of these properties have expressed concern that the access to the back of these properties would be impeded by the development. A set of amended drawings has been submitted that shows the building relocated 2m further north where it sits adjacent to this access so that it clears the access and provides increased manoeuvring space compared even to the existing arrangement.
- 6.4.10 In addition, the access way that leads to the rear of 110 – 113 Corve Street has been widened to c.5.15m, thereby enhancing the access along the back of Corve Street. This is considered to be a significant improvement and will benefit neighbouring properties.
- 6.4.11 The owners of the property are also concerned that access for emergency vehicles would be impeded. Emergency vehicles would be unable to access the rear of these properties at present as they would have to park on the site of the former Council offices. This arrangement would continue with space available

within the new development close to the back of these properties to accommodate emergency vehicles and a clear and wider access route provided along the back of the Corve Street properties.

6.4.12 The proposals are considered to be in accordance with the Framework's guidance and Policy CS6 of the Core Strategy.

## 6.5 **Heritage Impact**

6.5.1 The application site lies within the Ludlow Conservation Area and close to a number of listed buildings. These include the following:

- Ludlow Conservation Area
- Grade II\* listed Stone House
- Grade II listed 114 Corve Street
- Friary Chapel and site to West of Corve Street

All of these are designated heritage assets. The row of terraced dwellings to the south on Station Drive are considered to be non-designated heritage assets. Section 12 of the Framework places high importance on the conservation and enjoyment of the historic environment. Both Historic England and the Conservation Officer have been consulted and their views are set out in detail in Section 5 of this report. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty in the exercise of planning functions so that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. This also extends to listed buildings and the local planning authority is required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.5.2 Policy CS6 of the Core Strategy requires new development to protect, restore, conserve and enhance the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance, landscape character assessments and ecological strategies, where appropriate. The supporting text explains that the quality and local distinctiveness of the county's townscapes are important assets and the new development is expected to complement and relate to its surroundings to maintain and enhance the quality of Shropshire's environment as an attractive, safe, accessible and sustainable place in which to live and work. Heritage assets require careful consideration and management where change is proposed.

6.5.3 Policy CS16 similarly sets out to promote and preserve the distinctive historic, heritage brand and values of Ludlow.

6.5.4 SAMDev Policies MD2 and MD13 reflect this approach to preserving and enhancing heritage assets, by ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings. Support is provided for development proposals which deliver positive benefits to heritage assets, as identified within the Place Plans.

Support will be given in particular, to proposals which appropriately conserve, manage or enhance the significance of a heritage asset including its setting, especially where these improve the condition of those assets which are recognised as being at risk or in poor condition.

- 6.5.5 The proposals involve removal of a functional modern office building from the site. This has been assessed in the Heritage Impact Assessment and the building is considered to be of no historic or architectural merit and detracts from the setting and character of the Conservation Area and the setting of adjacent listed buildings. This approach has been endorsed by Historic England and the Council's Conservation Officer has also supported removal of these structures.
- 6.5.6 The fact that the site lies within a conservation area and is close to listed buildings does not mean that the site should not be developed; even where a degree of harm may arise. The Framework and the adopted development plan policies accept the principle of change within such sensitive locations. The test is to ensure that any change is appropriate to its setting and the degree of change minimises harm to the significance of the asset and maximises the opportunities for making positive contributions to local character and distinctiveness, including substantial public benefits that may outweigh the harm, where relevant. It is considered that the replacement of a modern building in this historic context with another building has potential to give rise to some harm to the significance of the heritage assets. In this instance, such harm is considered to be less than substantial as explained below. On the other hand, as recognised in the Framework, new development also has potential to enhance heritage assets, which is considered below.
- 6.5.7 As outlined in the Consultation Section above, the Conservation and Design Officer has been engaged in a process of negotiation and refinement of the design of the scheme from an early stage in its inception, which has resulted in the present amended scheme. It is considered that the proposals have reached a point where the development may be acceptably incorporated into the historic environment of the previously developed back land plot to the Grade II\* listed Stone House and associated Grade II listed buildings along Corve Street. This is, however, dependent on implementation of a series of pre-commencement conditions relating to the quality of all materials and finishes, which should incorporate sustainable natural materials as far as practically possible, including hard and soft landscaping material. This is to ensure that the development conforms to policies at a national and local level for the protection of the historic environment and the promotion of sustainable development. The recommended conditions are appended to this report.
- 6.5.8 The retention and re-use of the only extant historic building on the site, the Stables, is welcomed by the Conservation Officer. As this provides a well-defined visible street frontage to the scheme, materials and finishes here should be traditional in nature and include the use of timber in all joinery and matching brick and natural slate for roofing providing, as advised by the Conservation Officer, "an appropriate frontage of this outbuilding as it connects and contextualises the site with the slate front elevation of the main west facing wing of the new buildings."

- 6.5.9 There are further opportunities to preserve and enhance the historic character of this site and its effects upon the setting of the conservation area, as referred to in the comments received from the Council's archaeologist. Further enhancement should include the planting of the gardens and amenity areas with appropriate shrubs and the restoration of historic boundary features using traditional materials and methods. The date stone in the garden to the current office building should be reinstated within the scheme, and it has been agreed that gates and railings shall be retained. All of these may be secured through appropriate planning conditions.
- 6.5.10 There are several important listed buildings that border the application site to the west along Corve Street. The impact of the scheme on these heritage assets is an essential consideration. The Stone House, which is Grade II\* listed, is likely to be the only one of these buildings capable of being viewed in the same context as the application site from the public domain. There are private views available to occupiers of neighbouring listed buildings on Corve Street and the unlisted (non-designated heritage assets) dwellings on Station Drive, but none are likely to be as prominent in public views into the site.
- 6.5.11 The impact on the Stone House would be most apparent in views into the site from the site entrance. The new building will extend further into this line of sight compared with the existing building. The building will, however, be set a considerable distance into the site from the entrance point and it has been designed to step down in height. A gap to the southern boundary will be retained which preserves the impression of the historic burgage plot that existed on the site. Its design and appearance are considered to be an improvement compared to the existing office building and will contribute to the character and setting of the conservation area and the setting of the Stone House by creating a more interesting back drop to views into the site.
- 6.5.13 The buildings immediately to the north of the Stone House are listed Grade II. These are Nos. 111 and 112 Corve Street and are mediaeval in origin. These dwellings were substantially renovated in the late 1970's and their rear curtilages face the new development site. Both properties have two storey rear wings that project at right angles from the main building. The rear wing at 111 Corve Street stretches to the rear boundary line leaving a narrow gap between its end elevation and that of the existing two storey office building on the site. The wing at the rear of 112 does not extend as far into the curtilage.
- 6.5.14 The wing at 111 is the most likely to be affected by the development. The end elevation of this wing is blank and contains no openings. Its setting is already affected by the existing two storey building on the application site, which extends further south beyond the corner of this wing. The proposed development will increase the width of the gap between it and the new building by 2m, thereby improving the setting of this heritage asset. The new building will extend around 4.5m further south on the site compared with the existing building and it is of lower height. The additional encroachment southwards is not considered to adversely affect the setting of the asset to any significant degree. The improvement in the design and appearance of the new building compared to the existing is an additional element that weighs in its favour in this respect.

- 6.5.15 In respect of the effect on the setting of the designated heritage assets it is considered that the impact is less than substantial and relates primarily to the additional encroachment of built form within the setting of the listed buildings on Corve Street. The assessment of harm concerns principally the degree of additional encroachment as the site already accommodates a tall, substantial building of utilitarian appearance close to the listed building. The additional encroachment combined with a more appropriate design set back further from the assets and of a lower height leads to the conclusion that the harm caused is less than substantial.
- 6.5.16 Paragraph 134 of the Framework requires the local planning authority to weigh this “less than substantial harm” to the significance of the designated heritage assets in the planning balance against the public benefits that will ensue as a consequence of the development. This balancing exercise is considered in more detail below.
- 6.5.17 It is considered, therefore, that the proposed development will contribute to the preservation and enhancement of the conservation area, as required under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Its effect upon the adjacent listed buildings has also been assessed as required by S66 of the Act and it is considered it will not cause unacceptable harm to the setting of the adjacent listed buildings.
- 6.5.18 In respect of archaeological interests on the site, the Council’s Archaeologist has advised that the site has moderate archaeological potential. His comments are set out above in the consultations section of the report. In summary, it is acknowledged that the present Stone House site consists of a large open area of hard standing, with a historic stable and mid-20th century building along the southern boundary, and a substantial former Council office block constructed over two storeys, with a basement level. Within the basement is a Cold War nuclear bunker; it is understood that this will not be retained as part of the re-development of the site. Prior to the construction of the existing 20th century buildings, the site previously housed temporary council offices with two ranges along the southern boundary and an L-shaped range in the north-east corner. These buildings were demolished in the late 1980s and rebuilt in c.1989 to the form the present site. The successive phases of 20th century demolition and construction on site, together with the digging of subsequent service trenches, are therefore likely to have disturbed or partially truncated earlier below ground archaeological features or deposits which may have existed on the site.
- 6.5.19 In view of the above, the archaeologist has recommended a condition requiring a phased programme of archaeological work to be carried out as part of the proposed development. There is, therefore, no objection to the proposed development on archaeological grounds.
- 6.6 **Drainage and Flood Risk**
- 6.6.1 The Framework is concerned with climate change and its effects. It is particularly concerned about locating new development in areas that are at low risk of flooding and are capable of being developed without contributing to flood risk elsewhere. A

key element of this is ensuring the development can be drained effectively.

- 6.6.2 Policy CS18 of the Core Strategy requires developments to integrate measures for sustainable water management to reduce flood risk, to avoid adverse impacts upon water quality and quantity and to provide opportunities for biodiversity, health and recreation enhancements. Policy MD2 of the SAMDev Plan encourages the incorporation of sustainable drainage techniques in new developments. Policy MD8 refers to the provision of water treatment infrastructure and the need to consider impacts on water quality and on the sewerage network.
- 6.6.3 The application is accompanied by a full Flood Risk Assessment which takes into account the presence of the course of the River Corve to the north and west. The application site lies in Flood Zone 1, which is the lowest risk category.
- 6.6.4 The proposed buildings and access and parking areas will be located 26m above the 1 in 1000 year flood event levels, according to the Environment Agency Flood Map for the area.
- 6.6.5 Groundwater information has been acquired from the British Geological Survey and the ground conditions are anticipated to be impermeable and not applicable for infiltration techniques. The groundwater level at the site is anticipated to be 30m below ground level. Flooding from groundwater is therefore considered to be low. The site is also at low risk from sewer and reservoir flooding with no public sewers present within 200m of the site boundary.
- 6.6.6 A high level surface water drainage strategy has been developed as part of the FRA. The strategy utilises Sustainable Drainage System techniques to control runoff rates and enhance the water quality of the surface water before discharge to the ordinary watercourse. It is proposed that the water stored in Stormcell B could also be used for irrigation of the gardens southwest of the main building.
- 6.6.7 The Council's Drainage Team has commented on the application and has raised no objection subject to a satisfactory method of foul and surface water drainage being submitted for approval. A set of appropriate planning conditions is recommended to ensure that the development is properly served by suitable drainage system. In addition, concerns have been raised by local residents about drainage runs at the rear of the Corve Street properties. Informatives are recommended drawing the developer's attention to these matters to ensure that they are safeguarded from damage during the development process. With these measures in place there is no objection to the proposal on drainage grounds.
- 6.6.8 Concerns have also been made by local residents about routing services beneath the properties on Corve Street. However, the applicant has confirmed that all services will utilise the existing routes that run beneath the existing access from Corve Street and there will be no impact on these properties arising from the proposals.
- 6.6.9 The proposed development is considered to be in accordance with the advice on flood risk contained within the Framework and policies CS18 and MD2 of the adopted Development Plan.

**6.7 Impact of the proposed development on the amenities of local residents**

- 6.7.1 The Framework is particularly concerned with the impact that new development may have on the amenities of local residents. Amongst the core land use planning principles that it embodies, those that affect this particular issue include the need to secure high quality design and a good standard of amenity for all existing and future occupants. Core Strategy Policy CS6 also requires new development to contribute to the health and well-being of communities, including safeguarding residential and local amenity.
- 6.7.2 The nearest residential properties likely to be affected by the proposed development are located to the south and west on Station Drive and Corve Street. Such effects are most likely to manifest themselves in terms of overlooking and overshadowing as a result of window positions, the siting of the building and the effects of height and massing.
- 6.7.3 Residential properties on Corve Street and Station Drive back onto the site so that their private sides face inwards towards the development. The dwellings on Station Drive are separated from the site by a lane that provides access to the dwellings. The boundary is marked in part by the rear elevations of the retained stable block and the proposed extension to it and in part by a 1.8m high brick wall. The previous withdrawn planning application (15/05509/FUL) for the demolition of existing office building and stables, and erection of 25 dwellings including three affordable units on the site, included a range of new two storey dwelling houses along the southern boundary of the site. These were considered to be especially harmful to the residential amenity of residents of the dwellings on Station Drive.
- 6.7.4 The current application has removed these dwellings and the relative impact between the two schemes is such that the current proposals are considered to be an improvement. The direct impact on Station Drive is diminished as a result.
- 6.7.5 The eastern wing of the proposed main building will be sited c. 8m further south than the existing office building. In so doing, it has the potential to adversely affect the amenities of Station Drive residents occupying the most easterly of the two terraced blocks, numbers 6-10. The distance separating the new building from the rear elevations of these dwellings varies between 17m/17.80m to the back of the single storey outrigger extensions on these dwellings, and 20.80m/21.30m to the main two storey rear elevations of the dwellings. Whilst there is no longer a set standard contained within the adopted Core Strategy and SAMDev Plan, in the past a common approach adopted by local planning authorities sought minimum separation distances between neighbouring buildings. For example, where the end elevation of one two storey building faced the main elevation of another on level ground the degree of separation should be a minimum of 13m. For buildings that exceed this height the separation distance should correspondingly be greater to account for the increase in height. This is determined to be the distance where the overbearing and overshadowing effects of a new building are considered to be reasonable. In this case, despite there no longer being a standard, the separation distance exceeds the minimum contained in previous policies and guidance and the new building is unlikely to exert an unacceptable impact in terms of overshadowing or overbearing effects on the amenities of Station Drive residents.

- 6.7.6 Furthermore, the building steps down towards this point from three to two storeys with rooms within the roof space. The amended drawings show a number of windows at first and second floor (in the roof space), which directly face the rear elevations of 6 – 10 Station Drive. It is difficult to relocate these windows as they serve principal habitable rooms in the apartments concerned. The solution is to obscure glaze these windows and control any degree of opening to prevent overlooking of the neighbouring dwellings. A condition is required to ensure that this remains the case in perpetuity. Notwithstanding this, many of the trees that line the southern site boundary at the back of 3-10 Station Drive, several of which are of substantial size, will be retained. These provide a marked degree of screening and their retention will be of benefit to existing and future residents.
- 6.7.7 The conversion and extension of the former stables building has potential to affect the pair of semi-detached dwelling houses immediately to the rear of that building. The conversion of the retained building will not increase the height of the building nor introduce any new openings to the back of the building. There will be no discernible difference to the structure when viewed from the two semi-detached dwellings. The proposed extension to the east replaces an existing building which extends further eastwards. The height of the extension will be lower than that of the retained stable building and is similar to that of the building to be replaced. No openings are proposed to the rear and it is considered that the building will not adversely affect residential amenity.
- 6.7.8 The proposed block plan also shows a modest buggy store and a plant room structure close to the southern boundary wall. No details of the design and appearance of these structures have been submitted as part of the application. Whilst it is unlikely that the buildings will be of substantial height, the plant room has potential to create a noise nuisance and further details should be required by condition before works on site commence. This will enable the local planning authority to influence its design in the interests of controlling any noise that emanates thereby protecting the amenities of existing residents on Station Drive.
- 6.7.9 The second group of dwellings likely to be affected by the main building lie to the west along Corve Street, namely 110 – 113. These are all listed buildings. The western wing of the new building is the part of the development most likely to have an impact on the amenities of these four properties. No 113 (the Stone House) has been extended in the past at the rear. This is a three storey rearward projection which currently overlooks the car park and turning area of the offices on the site. This relationship will not change materially as a result of the proposed development. It is considered, therefore, that the impact on occupiers of this property will remain much as it is at present.
- 6.7.10 No.112 Corve Street is attached to the Stone House immediately to the north. It also backs onto the development site and is occupied as a single dwelling house. It has a two storey outrigger extension facing the development site. There is a vehicular access at the back and a small outdoor amenity space which at present is an enclosed space due to the presence of other buildings to the north, south and north east and a 2m boundary wall at the rear. The existing trees along the rear boundary also contribute to this sense of enclosure. It is also overlooked by the two storey outrigger to the north at the rear of 111 Corve Street.



- 6.7.11 The outlook from the rear of 112 and its immediate neighbour at 111 is already affected by the presence of the office building. At this point, the existing office building is two storeys with a steeply pitched roof. Its height is 10.60m to the ridge line and 6.75m to the eaves whereas the new building, which will be a further 2m away from the Corve Street properties, will be 8.85m in height to the ridge line at this point. The new building will extend further south on the site compared with the existing building by approximately 4.5m. It will encroach upon the outlook from the back of this property more so than at present. However, the new building will be set further back from the rear boundary of 112 creating a gap of almost 18m and the overall height of the building is significantly lower than that of the existing building. The additional encroachment across part of the rear of 112 Corve Street is acknowledged. However, this is not considered to be unreasonable given the character and context of this tight-knit and relatively urban environment. It is unlikely that the new building will materially reduce the level of amenity currently enjoyed by the occupiers of these buildings.
- 6.7.12 The end elevation of this wing includes a number of windows. These provide natural light to corridors and en-suite bathrooms and any potential overlooking could easily be controlled through conditions requiring the windows to be permanently obscurely glazed.
- 6.7.13 The adjacent property at 111 Corve Street is within the same ownership as No.112. It has been extended at the rear in the form of an extensive two storey outrigger that projects all the way to the rear boundary. The end elevation of this extension is blank and contains no openings. The new building will be set slightly further back from this compared to the existing situation which is considered to be an improvement. The property has a very small outdoor amenity area which is unlikely to be significantly affected by the increased projection southwards of the new building. The main rear elevation of the property will be separated from the end elevation of the new building by a gap of more than 24m. The same conditions apply in respect of the obscure glazing that should be used in the new windows of the new building to prevent any actual or perceived overlooking of the rear of this property.
- 6.7.14 The proposed development is unlikely to have a direct impact in terms of visual intrusion or overlooking due to the degree of separation and intervening landscape features. Local residents are likely to be affected by potential noise and disturbance during the construction phase. This may be addressed through a suitable construction management condition controlling hours of deliveries and construction activity as well as keeping the accesses clear of construction vehicles and materials.
- 6.7.15 Other potential impacts may arise from future lighting on the site and a condition is also proposed that requires submission and implementation of an appropriate lighting scheme.
- 6.8 **Ecology**
- 6.8.1 The Conservation of Habitats and Species Regulations 2010 requires local authorities to give due weight to the presence of protected species on a development site. Planning permission may be granted provided there is no

detriment to the maintenance of the species population at favourable conservation status in their natural range. The Regulations advise that if any detriment would be caused by the proposed development, planning permission should only be granted provided:

- There is no satisfactory alternative; and
- The development is in the interests of public health and safety, or other imperative reasons of over-riding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

6.8.2 The Framework places high importance on protection of biodiversity interests and new development should minimize impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided.

6.8.3 Policies CS12 and MD12 of the Core Strategy and SAMDev Plan respectively are concerned with the conservation and enhancement of the district's biodiversity resources. New development will be expected to contribute a net gain in biodiversity where appropriate. Any adverse impacts upon designated sites will be resisted unless they are unavoidable and can fully mitigated.

6.8.4 The development site occupies a brown field site within an urban setting. The site itself is of limited ecological importance, as explained in the Ecological Appraisal Report. The Council's Ecologist has agreed that the site's ecological importance is limited to potential bat foraging around the existing trees and recommends that any grant of planning permission includes a condition requiring provision of two bat boxes and 20 swift boxes.

6.8.5 The proposed development also involves the demolition of the main office building, the removal of an extension on the side of the stables block and the conversion of the retained stables into residential accommodation. Each of these buildings has potential to provide bat roosts. The Council's Ecologist has been engaged in negotiations with the applicant over concerns about the potential effects of the development upon bats. Following her recommendations, a comprehensive bat survey was carried out, as explained in the Consultations Section above. These have shown that the existing buildings do not support bat roosts and these conclusions have been accepted by the Ecologist who has no objections to the proposed development subject to the imposition of a number of suitable planning conditions.

6.8.6 As such, it is not considered that the proposed development will adversely affect European Protected Species or their habitats. The development is therefore considered to be in accordance with Policies CS6 and CS17 of the Core Strategy and MD12 of the SAMDev Plan.

## 6.10 **Affordable Housing and Developer Contributions**

6.10.1 The proposed development is subject to developer contributions towards infrastructure improvements; many of which will be delivered through the Community Infrastructure Levy. In respect of affordable housing contributions, the proposal generates a requirement of 4 units and an additional financial contribution. The applicant has agreed to these contributions and a draft S106

planning obligation has been submitted to the Council in respect of this. Four units will be for social rent and will be transferred to Wrekin Housing Trust, a register provider.

6.10.2 The Wrekin Housing Trust has commented on the application and is fully in support of it as it will assist them in their role in helping to address the shortage of affordable housing in Ludlow. In their comments set out above in this report they confirm that the four affordable units will be self-contained homes which would be made available by Wrekin for general needs housing on an affordable rent basis. They would operate independently of the retirement apartments and be allocated to local people through the Council's Housing Register (Shropshire Home Point).

6.10.3 The proposed development will make a small but important contribution to meeting local affordable housing needs and is, therefore, considered to be in accordance with Policy CS11 of the Core Strategy.

## 6.11 **Sustainable Development and the Planning Balance**

6.11.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The starting point must be the Development Plan and then other material considerations must be considered. The Framework reaffirms the primacy of an up to date Development Plan in the decision making process.

6.11.2 Policy CS3 defines Ludlow's broad role in delivering sustainable growth over the Plan period and provides strategic guidance on how and where new development should take place. It is clear that the policy envisages new housing development taking place within the limits of defined development boundaries and on allocated sites. The SAMDev plan reflects the strategic objectives of CS3 and defines a development boundary for the town and allocated sufficient sites to meet an agreed housing guideline set out in Policy S10 of c. 875 dwelling units to be delivered over the Plan period.

6.11.3 The appeal site lies within the development boundary and the redevelopment of the site for residential purposes is consistent with these policies. In respect of the three aspects of sustainable development set out in the Framework, the following benefits are identified.

6.11.4 The analysis carried out above in this report is based upon the definition of sustainable development set out in the Framework and encompasses matters of principle as well as matters of detail and development impact.

6.11.5 In respect of the three dimensions to sustainable development contained in the Framework, it is considered that the delivery of housing is a contributor to economic growth. The development represents a substantial investment in the town and will generate employment during the construction phase and during the occupation of the building following completion. Further on-going financial benefits will be generated in terms of expenditure by residents in local shops and on services as well as the continuing servicing and maintenance of the site. The

development will also qualify for the New Homes Bonus and Community Infrastructure Liability, thereby resulting in direct local economic benefits.

- 6.11.6 The proposals will fulfil a social role by delivering a mix of affordable and open market housing to meet current and future needs with a range of tenures. The development will replace a functional and utilitarian office building with a new building of more interesting and diverse appearance. As a residential use, the development is likely to have a more integrated relationship with its surroundings compared with the former use as an office building.
- 6.11.7 The site is adjacent to the town centre where future residents will have access to a variety of cultural, leisure and entertainment facilities. The development is considered to contribute to the government's aim of supporting strong, vibrant and healthy communities.
- 6.11.8 The proposed development will have an environmental impact in the form of a substantial new building. However, there will be several environmental benefits accruing from the scheme, including retention of existing trees on the site, implementation of a comprehensive landscaping plan, provision of nesting boxes for protected species, the removal of extensive swathes of hard surfaced parking and turning areas; all of which have a positive environmental effect.
- 6.11.9 The proposed building will be larger than the existing building that it will replace and its impact on the amenities of adjacent neighbours will be different. In terms of scale and size, the proposed building will be bigger and taller and by introducing a residential use the relationship with the surrounding development will change. The addition of windows above ground floor level especially on the ends of the building has the potential to generate adverse impacts. The increased height and larger floor area of the building means that the perception of encroachment on the amenities of existing residents is more pronounced. However, the site is of sufficient size that a larger building is capable of being accommodated without causing an unacceptable degree of impact.
- 6.11.10 The site is a previously developed parcel of land located within a tightly grained urban area where a degree of compromise is not unusual. The perception of overlooking is capable of resolution through the application of conditions to control the type of glazing used in those windows. The level of car parking and manoeuvring space is considered to be appropriate and the provision of affordable housing contributions on and off the site is a welcome benefit of the scheme.
- 6.11.11 The design is considered to be appropriate to the historic setting within the conservation area and in close proximity to a number of listed buildings. This is subject to the quality of construction materials and the colour finishes of the development; all of which will be subject to conditions.
- 6.11.12 The development is considered to represent sustainable development and is consistent with development plan policies and the guidance set out in the Framework.

## 7.0 CONCLUSION

- 7.1.1 The National Planning Policy Framework provides for a presumption in favour of sustainable development. The site is a previously developed site located within the settlement boundary for the town of Ludlow. New development in such areas is supported in principle by the Framework, the Core Strategy and the SAMDev Plan, subject to the environmental impact of the development being acceptable.
- 7.1.3 The Framework promotes the presumption in favour of sustainable development which involves seeking positive improvements in the quality of the built, natural and historic environment. There are three dimensions to sustainable development, namely the economic, social and environmental roles, that the Framework advocates should be sought jointly and simultaneously if sustainable development is to be achieved.
- 7.1.4 Having carefully considered the proposal against adopted planning policy and guidance, taking into account all other material considerations, on balance it is considered that the proposed development would not have an unreasonably unacceptable impact upon the wider environment and that any negative impacts identified could be overcome by the imposition of appropriately worded planning conditions. It will deliver economic, social and environmental benefits associated with new investment in the town, design and materials of high quality along with biodiversity enhancements.
- 7.1.5 Subject to appropriate conditions, the development is unlikely to adversely affect the amenities of local residents in terms of loss of privacy or through noise and disturbance. It can also be safely accessed.
- 7.1.6 It is, therefore, considered that the proposed development accords with the provisions of the Framework, the Core Strategy and the SAMDev Plan. The development proposed is therefore considered to preserve and/or enhance the character and appearance of the Ludlow Conservation Area and the setting of the nearby listed buildings.

## 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.

## 11. Background

### National Planning Policy Framework:

The following paragraphs are considered to be relevant:

7, 14, 17, 28, 56, 58, 115, 118, 120, 123, 128, 134 and 141.

### Shropshire Adopted Core Strategy:

Policies CS1, CS5, CS6, CS13, CS16, CS17 and CS18.

### Shropshire Adopted SAMDev Plan:

Policies MD2, MD3, MD4, MD9, MD11, MD12, MD13 and S10.

**RELEVANT PLANNING HISTORY:**

15/05509/FUL Demolition of existing office building and stables, and erection of 25No dwellings including 3No affordable units - Stone House Corve Street Ludlow Shropshire SY8 1DG. Withdrawn.

11/02188/FUL 2011 Conversion of office building to form a single residential property, artist's gallery and studio – Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

11/03213/FUL 2011 Erection of a second floor extension to north elevation and creation of a walled garden – Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

SS/1/3185/P 1993 Erection of a public convenience – Council Offices Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

SS/1989/558/P 1989 Demolition of existing offices and erection of a two storey office block – Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

SS/1978/190/P 1978 Replacement of flat roofs with pitched roofs to two temporary office blocks – Rear of Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

SS/1/1978/D/ 1978 Refurbishment of part of the office accommodation – Stone House Corve Street Ludlow Shropshire SY8 1DG – Approved

SS/1976/555/P 1977 Proposed alterations – Stone House Corve Street SY8 1DG – Approved

SS/1975/479/P/ 1975 Erection of a single storey extension to Treasurer's Function and alterations to existing office accommodation – Stone House South Shropshire District Council Corve Street Ludlow Shropshire SY8 1DG – Approved

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O6Z3LJTDM7J00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr A. Boddington
Appendices APPENDIX 1 – Recommended Planning 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 hereby permitted shall be carried out in accordance with the following approved drawings:

- 30030LL: P002 Rev B Proposed Block Plan
- 30030LL: P003 Main Building Proposed Ground Floor Plan
- 30030LL: P004 Main Building Proposed First Floor Plan
- 30030LL: P005 Main Building Proposed Second Floor Plan
- 30030LL: P006 Main Building Proposed Roof Plan
- 30030LL: P007 Main Building Proposed Elevations (1)
- 30030LL: P008 Main Building Proposed Elevations (2)
- ZEB968/020 Stable Building Proposed Conversion Details
- ZEB968/021 A Stable Building Proposed Extension
- ZEB968/001 A Site Location Plan

### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development (excluding demolition) shall take place until samples of materials to be used in the construction of the external surfaces of the development, including all facing bricks, mortar jointing/bonding, stonework, roofing materials, fascias, soffits, rainwater goods, windows, doors, paving and surfacing materials and colour finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.

**Reason:** To ensure the materials are appropriate in the interests of visual amenity having regard to the location of the site within the Ludlow Conservation Area.

4. No development (excluding demolition) shall commence on site until a sample wall panel, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

**Reason:** In the interests of visual amenity and the character and appearance of the Ludlow Conservation Area.



5. No development (excluding demolition) shall commence on site until full details of the proposed buggy store and plant room shown on the approved site layout plan have been submitted for the written approval of the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the site.

**Reason:** In the interests of visual and residential amenity.

6. No development (excluding demolition) shall take place until details of the construction and drainage of the access, internal private roads, turning areas and parking spaces have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

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

7. The hereby approved development shall not commence until a Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority, which shall include the following details:-
- a). the method of demolition of existing buildings and structures on the site;
  - b). the method and duration of any pile driving operations (expected starting date and completion date);
  - c). the hours of work, which shall not exceed the following: Construction and associated deliveries to the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
  - d). pile driving shall not take place outside 09:00 to 16:00 hours Mondays to Fridays, nor at any time on Saturdays, Sundays or Bank Holidays;
  - e). the arrangements for prior notification about commencement of work to the occupiers of potentially affected properties;
  - f). the responsible person (e.g. site manager / office) who should be contacted in the event of complaint;
  - g). a scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The approved dust suppression measures shall be maintained in a fully functional condition for the duration of the construction phase;
  - h). details of installation and maintenance of wheel washing facilities. All construction vehicles shall have their wheels cleaned before leaving the site;
  - i). a scheme for recycling/disposal of waste resulting from the construction works;
  - j). the parking of vehicles of site operatives and visitors;
  - l). the loading and unloading of plant and materials;
  - m). the storage of plant and materials used in constructing the development; and
  - n). the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate; and
  - o). a demolition/construction traffic management and routing plan to minimise local disruption and conflict.

All works shall be carried out in accordance with the approved details. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

**Reason:** In the interests of highway safety and local amenity.

8. No development (excluding demolition) shall commence until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatments (including gates and railings) to be retained, repaired or erected. The boundary treatments shall be completed in the approved form before the development is first occupied and thereafter retained as approved.

**Reason:** In the interest of visual amenity and to ensure a suitable relationship with adjacent development.

9. Details of existing ground, proposed ground levels and the level of proposed floor slabs shall be submitted to and be approved in writing by the local planning authority before any development on the site first commences. The details so approved shall be implemented in full and shall not be altered without the further approval of the local planning authority.

**Reason:** To ensure that any change in ground level and the height of the buildings is acceptable given the nature of the site and the use of adjacent land.

10. Development (excluding demolition) shall not commence on site until full details of foul and surface water drainage have been submitted for the written approval of the local planning authority. The approved drainage scheme shall be implemented in full prior to the first occupation of the development.

**Reason:** In the interests of satisfactory drainage for the site and to prevent pollution of adjoining land including the adjacent Local Wildlife Site.

11. Development (excluding demolition) shall not commence until full details of all external plant and apparatus, including air conditioning and extraction equipment, to be used in the development have been submitted for the written approval of the local planning authority. The approved details shall be implemented and retained in the approved form before the approved development is first brought into use, unless the local planning authority agrees in writing to any variation in advance.

**Reason:** In the interests of visual and residential amenity and to ensure that the development is in keeping with the character and appearance of the surrounding Ludlow Conservation Area.

12. No development (excluding demolition) shall take place until a scheme of landscaping has been submitted and approved. The works shall be carried out as approved, prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority, unless the local planning authority gives written consent to any variation. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- c) 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)
- d) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- e) Implementation timetables

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

13. The approved measures for the protection of the trees as identified in the agreed tree protection plan and Arboricultural Method Statement (Ref. CBA10367.02A TPP) 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. The agreed Arboricultural Method Statement shall be followed in full during the progression of the development. No material variation will be made from the approved tree protection plan and method statement without the written agreement of the Planning Authority.

**Reason:** To safeguard retained trees on the site and prevent damage during building works and to protect the natural features and amenities of the local area that are important to the appearance of the development.

14. Notwithstanding any details submitted on other approved plans and particulars, works or development shall not take place until a scheme of supervision for the arboricultural protection measures (tree protection plan) has been approved in writing by the local authority tree officer. This scheme will be appropriate to the scale and duration of the works and may include details of:

- (a) Induction and personnel awareness of arboricultural matters.
- (b) Identification of individual responsibilities and key personnel.
- (c) Statement of delegated powers.
- (d) Timing and methods of site visiting and record keeping, including updates.
- (e) Procedures for dealing with variations and incidents.

**Reason:** To ensure satisfactory delivery of tree protection measures on site.

15. No works will commence until the Local Planning Authority has confirmed in writing that the Tree Protection Measures have been established in compliance with the final approved tree protection plan.

**Reason:** To ensure that the Tree protection is set up and maintained in accordance with the Tree Protection Plan.

16. 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 site is in an area of potential archaeological significance.

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

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

18. No works shall commence on site until an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the nuclear bunker underneath the existing office building on the site. This record shall be carried out by an archaeologist/building recorder or an organisation with acknowledged experience in the recording of standing buildings which is acceptable to the Local Planning Authority. The recording shall be carried out in accordance with a written

specification, and presented in a form and to a timetable, which has first been agreed in writing with the Local Planning Authority.

**Reason:** To secure the proper recording of the non-designated heritage feature.

19. A schedule of all features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) to be removed and stored pending reinstatement shall be agreed in writing by the Local Planning Authority prior to works commencing on the Stable building. These features shall be recorded in photographs and/or scale drawings, and their sections and profiles accurately recorded and lodged with the Local Planning Authority.

**Reason:** To ensure the satisfactory preservation of the Stables building heritage asset.

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

20. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed die or become 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.

21. The car parking spaces and manoeuvring areas to be provided shall be kept available for the parking and turning of motor vehicles at all times. The car parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

**Reason:** To ensure an appropriate level of parking is provided for the lifetime of the development.

22. Prior to the first occupation of the buildings hereby permitted, 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. The type and location of the boxes 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 prior to the first occupation of the building.

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

23. A minimum of 20 artificial swift nests of integrated 'brick' design shall be incorporated into the building(s) during construction. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority before commencement of the

development, and the scheme shall then be undertaken in accordance with the agreed details.

**Reason:** To ensure the provision of nesting opportunities for swifts.

24. 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's *Bats and Lighting in the U.K.* guidance.

**Reason:** To control potential light pollution in the interests of local visual amenity and to minimise disturbance to bats, a European Protected Species.

25. The new sheltered accommodation building shall be served by a single communal TV aerial and satellite reception system, full details of which (including siting) shall be submitted to the local planning authority for approval in writing before commencement of development. The development shall be carried out in accordance with the approved details.

**Reason:** In the interests of visual amenity and to preserve and enhance the character of the surrounding Ludlow Conservation Area.

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

26. The access to the rear of 112 Corve Street shall be retained and no obstruction placed so that access and egress is impeded to the users of the access.

**Reason:** In the interests of highway safety.

27. At facades corresponding to Loc1 using 4/12/4mm double-glazing and hit & miss trickle ventilators within living rooms and 10/12/6mm double glazing and acoustically treated trickle ventilators within bedrooms. At Loc2 using 4/12/4mm double glazing and hit & miss trickle ventilators within living rooms and bedrooms. Loc1 and Loc2 are specified within noise report ref LH0601162NR submitted with this application.

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

28. The sheltered housing development hereby approved shall only be occupied by persons where at least one member of the household is aged 60, with any partner at least 55 years of age ("the qualifying age"), save that such restriction shall not apply to the continued occupation of any of the apartments by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

**Reason:** The development is of a higher density and with a lower provision of car parking than would otherwise be appropriate for an unrestricted form of residential development.

29. Notwithstanding what is shown on the approved drawings, all windows on the western and southern ends of the hereby approved sheltered accommodation building shall be obscure-glazed and non-opening and shall be maintained as such in perpetuity.

**Reason:** To prevent overlooking of adjoining properties in the interests of residential amenity.

30. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

**Reason:** To ensure architectural features are recorded during development.

## **Informatives**

### **Bats Informative**

All bat species found in the U.K. are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all building renovation, demolition and extension works there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working in roof spaces and removing roof tiles etc.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0845 601 4523) contacted for advice on how to proceed. The Local Planning Authority should also be informed

### **Nesting Birds Informative**

The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one that is being built, containing eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy and egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to September inclusive.

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

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

#### Private Drains Informative

The developer is advised that there may be private drainage runs close to the western boundary of the site beneath the access at the rear of 110 – 113 Corve Street. Care should be taken to ensure that damage is not caused to these drains during works carried out on the site.

#### Works on, within or abutting the public highway Informative

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- 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.

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 with a list of approved contractors, as required.





Committee and date

South Planning Committee

13 September 2016

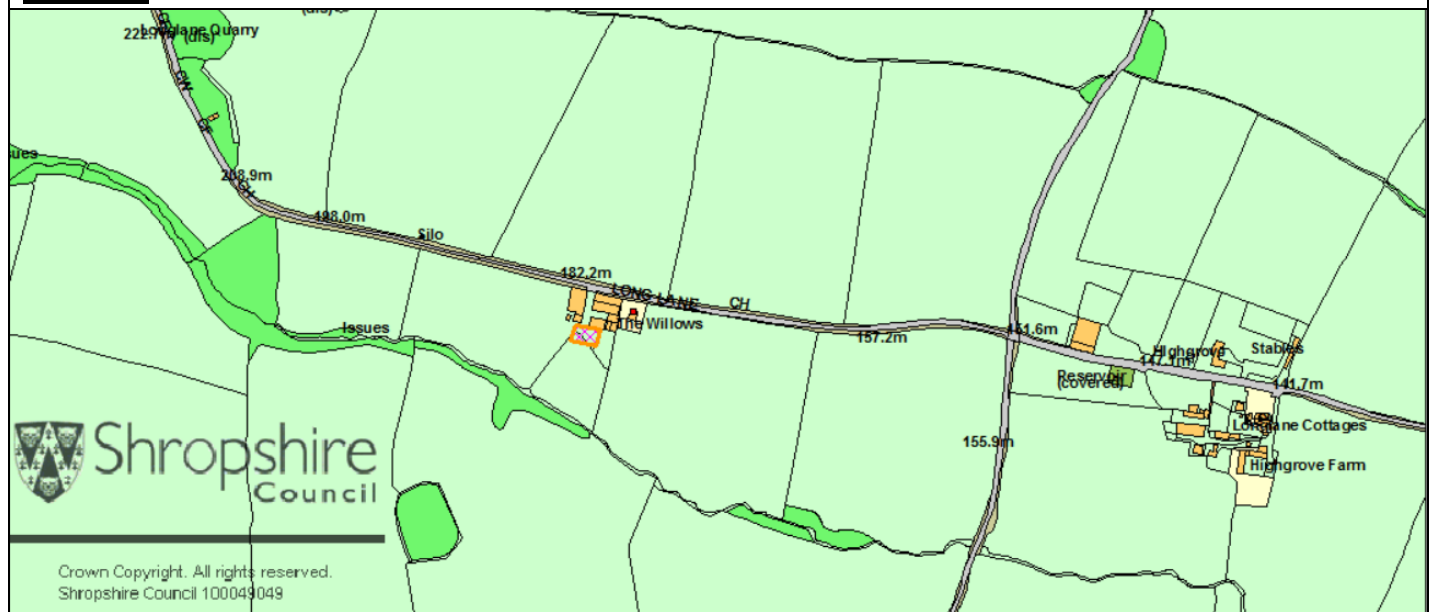
## Development Management Report

Responsible Officer: George Candler, Director of Place & Enterprise

### Summary of Application

<b>Application Number:</b> 16/02115/AGR	<b>Parish:</b>	Sibdon Carwood
<b>Proposal:</b> Timber agricultural building to provide covered area for silage		
<b>Site Address:</b> The Willows Long Lane Craven Arms Shropshire SY7 8DU		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Heather Bradley	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 341707 - 283903



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**Recommendation:- Prior Approval Required and Approved subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is for prior notification under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
- 1.2 The purpose of the prior notification system is to give the Local Planning Authority an opportunity to consider whether prior approval is required for details of the siting, design and external appearance of the proposal.
- 1.4 The scheme proposes to erect an agricultural building to provide a covered area for an existing silage store. The main purpose of the building is to provide a dry area for the silage to reduce dirty water run off in accordance with River Authority regulations.
- 1.5 In this case it was determined that prior approval would be required as further information was considered necessary to establish the exact design of the proposal and the finished colour of the building.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Willows is a tenant farm, located on the south side of Long Lane, around 1.5km to the west of Craven Arms. The farm house is a detached red brick property situated to the east of the farm yard which is comprised of a range of modern agricultural buildings. The farm yard and property are surrounded by open fields, the land slopes gently up toward the west and away from the rear of the yard down to a brook which flows toward Craven Arms.
- 2.2 The site is within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This application has been submitted by and relates to a farm holding owned by Shropshire Council. The proposal is not for a development required in-line with statutory functions and therefore in accordance with the Councils scheme of delegation this application requires consideration by the Planning Committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

- 4.1.1 N/A – Application for prior notification;

#### 4.2 - Public Comments

- 4.2.1 In accordance with the Class A, paragraph (iv)(aa) a site notice has been displayed at the site, the 21 days expiring 04<sup>th</sup> July 2016.

No response has been received.

## 5.0 THE MAIN ISSUES

- Permitted development' rights
- Siting, design and external appearance

## 6.0 OFFICER APPRAISAL

### 6.1 Permitted Development Rights

6.1.1 The farm land covers over 5 hectares and the proposed building would provide approximately 368sqm of floor space. The building is to provide a covered area for an existing silage store and the plans indicate the unit would be more than 20m away from a metalled road. There are no 'protected' (residential) buildings within 400m of the proposal.

6.1.2 The proposal and its purpose are required to support an existing agricultural business and is considered reasonably necessary to assist in supporting the viability of the farming enterprise. The proposed building meets the criteria set out in Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and therefore constitutes permitted development.

### 6.2 Siting, design and external appearance

6.2.1 NPPF Paragraph 115 requires great weight to be given to conserving scenic beauty within AONBs and other statutorily protected landscapes. This is reflected by the Council's own Core Strategy Policies CS5, CS6 and CS7 and SAMDev Policy MD7b, which expects new agricultural development to be well sited in relation to existing farm buildings and to be of an appropriate scale and design.

6.2.2 In this case the proposed building would cover an area used for silage storage and would be situated immediately to the rear of the existing farm yard. The proposed building and its materials are a standard, functional design to suit an agricultural use, constructed with timber walling and a corrugated metal sheet roof. The existing buildings which make up this farm yard are also of modern design and construction and as such the proposed building would not appear out of character with the adjacent buildings.

6.2.3 Originally the roof was proposed to be coloured grey, however following discussion with the Local Planning Authority the applicant has agreed to the use of a specific, darker colour, Slate Blue (BS18 B29). The use of this darker finish on the roof will assist in assimilating the building into the site and surrounding area.

6.2.4 The site and existing farm yard is visible from public view points along Long Lane, in particular when travelling towards Craven Arms from the west. The unit would be situated close to the group of existing farm buildings and reflects their existing scale, design and materials. The resultant building would therefore be viewed in connection with these buildings rather than as an isolated feature. It is not

considered that the scheme would represent inappropriate development in this location and the proposal would not cause demonstrable harm to the rural character of the area or detract from the character and natural beauty of this part of the Shropshire Hills AONB.

- 6.2.5 In addition the proposal would have some environmental benefits, particular to the local ecological habitats, through contributing towards the reduction in polluted surface water runoff dispersing into the river catchment area.

## 7.0 CONCLUSION

- 7.1 The proposed building satisfies the criteria set out in Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

- 7.2 Prior Notification was deemed necessary to obtain further detail as to the external appearance of the building. The additional information submitted demonstrates that the building is of typical agricultural construction and would not as a result of its siting or appearance detract from the existing rural character of the area. The character and natural beauty of the Shropshire Hills AONB would not be harmed and thus the scheme complies with the main objectives of the relevant development plan policy. It is therefore recommended there that prior approval is granted subject to the standard conditions as required by Part 6, paragraph 2 of the GPDO 2015.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

#### **Central Government Guidance:**

Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO)

National Planning Policy Framework (NPPF)

#### **Core Strategy:**

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS17 Environmental Networks

#### **Site Allocations and Management of Development (SAMDev) Plan**

MD2 Sustainable Development

MD7b General Management of Development in the Countryside

MD12 Natural Environment

RELEVANT PLANNING HISTORY:

SC/CC1999/0002 Construction of pitched-roofed general purpose agricultural building, and lean-to building for storage of hay and straw PERMIT 31st March 1999

SS/1/99/009580/CC Erection of two Agricultural Buildings. PERCON 12th February 1999

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O79O8TTD0GT00>

List of Background Papers 16/02115/AGR – Documents associated with this application can be viewed on the Planning Pages of the Councils website
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr. Lee Chapman & Cllr David Evans
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development shall be carried out within five years of this notice.

Reason: To comply with the provisions of Paragraph A.2 (2) (d) (vi) (aa) of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

2. The development shall be carried out in accordance with the following approved plans and details.

Reason: To comply with the provisions of Paragraph A.2 (2) (d) (v) (aa) of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, and to safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

3. Notwithstanding the details contained on the application form, the roof of the development hereby permitted shall be coloured externally in factory-finished material colour BS 18 B 29 (Slate Blue/Raven).

Reason: To safeguard the visual amenity of the Shropshire Hills Area of Outstanding Natural Beauty in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

4. The development shall be used solely for agricultural purposes as defined in section 336(1) of the Town and Country Planning Act, 1990, or for forestry purposes, and for no other purposes whatsoever.

Reason: To comply with the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

#### **Informatives**

NOTE TO APPLICANT: You are required by the Town and Country Planning (General Permitted Development) (England) Order, 2015 to notify the Local Planning Authority, in writing and within 7 days of the date on which the development was substantially completed.

If the use of the building or extension, for the purposes of agriculture within the unit, ceases within ten years from the date on which the development was substantially completed, then, unless the Local Planning Authority have otherwise agreed in writing, the building or extension shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before the development took place, or to such a condition as may have been agreed in writing between the Local Planning Authority and the developer.

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Committee and date

South Planning Committee

13 September 2016

## Development Management Report

### SCHEDULE OF APPEALS AND APPEAL DECISIONS AS AT COMMITTEE – 13 SEPTEMBER 2016

<b>LPA reference</b>	14/04056/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mrs K Conway
<b>Proposal</b>	Erection of one dwelling and 2-bay car port
<b>Location</b>	Barratts Hill Farmhouse Barratts Hill Broseley Shropshire TF12 5RH
<b>Date of appeal</b>	01.04.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	14/05717/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Professor Quentin Leiper
<b>Proposal</b>	Erection of a detached dwelling and associated garaging
<b>Location</b>	Land South Of Oldbury House Oldbury Road Bridgnorth Shropshire
<b>Date of appeal</b>	14.12.2016
<b>Appeal method</b>	Written representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	14/04215/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr P J Paddock
<b>Proposal</b>	Outline Application for the erection of five detached dwellings (all matters reserved)
<b>Location</b>	Development Land To The South Of Burway Lane, Ludlow Shropshire
<b>Date of appeal</b>	20.04.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	18.07.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	15/02459/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr John Webb
<b>Proposal</b>	Construction of a detached dormer bungalow
<b>Location</b>	Proposed Dwelling South Of Blue Ridge Alveley Shropshire
<b>Date of appeal</b>	14.04.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	18.07.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	15/01027/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs S Weaver
<b>Proposal</b>	Outline application for the erection of retirement housing to include means of access
<b>Location</b>	Elm Lodge Fishmore Road Ludlow, Shropshire SY8 3DP
<b>Date of appeal</b>	11.04.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	18.07.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	15/04737/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs P Bancroft
<b>Proposal</b>	Outline application (access for approval) for residential development
<b>Location</b>	Land NW Of Yew Tree Inn All Stretton Shropshire
<b>Date of appeal</b>	09.05.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	19.07.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	15/03707/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr I Beardsall
<b>Proposal</b>	Erection of detached dwelling and alterations to existing vehicular access
<b>Location</b>	39 Park Lane Shifnal Shropshire TF11 9HD
<b>Date of appeal</b>	03.02.2016
<b>Appeal method</b>	Written representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	19.07.2016
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	15/03024/COU
<b>Appeal against</b>	Conditions Imposed
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Griffiths
<b>Proposal</b>	Change of use of land for the siting of a holiday caravan
<b>Location</b>	Cwm Bydd Farm Cwm Clunbury Shropshire SY7 0QH
<b>Date of appeal</b>	28.07.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/03231/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs M Lord
<b>Proposal</b>	Siting of a temporary mobile home to establish a business
<b>Location</b>	Land At Stockhall Lane Stockhall Lane, Hopton Wafers Shropshire
<b>Date of appeal</b>	04.08.16
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/03024/COU
<b>Appeal against</b>	Conditions
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr & Mrs Griffiths
<b>Proposal</b>	Change of use of land for the siting of a holiday caravan
<b>Location</b>	Cwm Bydd Farm Cwm Clunbury Shropshire SY7 0QH
<b>Date of appeal</b>	28.07.2016
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/01919/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Percy Cox Properties Ltd
<b>Proposal</b>	Erection of residential development 12No dwellings, garages and roads design
<b>Location</b>	Land To The Rear Of 41 Furlongs Road Cleobury Mortimer Shropshire DY14 8AR
<b>Date of appeal</b>	04.05.2016
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	05.07.2016
<b>Date of appeal decision</b>	28.07.2016
<b>Costs awarded</b>	Yes
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	14/04354/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs B Perry
<b>Proposal</b>	Erection of six dwellings; creation of vehicular access and formation of parking area
<b>Location</b>	Land Adjacent The Dingle Hopton Wafers Shropshire
<b>Date of appeal</b>	01.08.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/03832/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Peter Dickin
<b>Proposal</b>	Erection of a dwelling and garage
<b>Location</b>	Proposed Dwelling North East Of North Farm Ludlow Shropshire
<b>Date of appeal</b>	08.08.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	16/01352/FUL
<b>Appeal against</b>	Non-Determination
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Peter Barrington
<b>Proposal</b>	Erection of a dwelling.
<b>Location</b>	Overdale Barn Caynham Road Clee Hill, Ludlow Shropshire, SY8 3JQ
<b>Date of appeal</b>	11.08.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/03606/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs N Philp
<b>Proposal</b>	Erection of a dwelling.
<b>Location</b>	Proposed Dwelling NW Of Quatford Wood House Chapel Lane Quatford Bridgnorth Shropshire
<b>Date of appeal</b>	03.05.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	15/00746/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Dave Dudley
<b>Proposal</b>	Outline Planning Permission for erection of two detached dwellings; including garages. Alterations to existing vehicular access. (All matters reserved)
<b>Location</b>	Proposed Residential Development Land East Of Simmonds Barn Buttonoak Kinlet Shropshire
<b>Date of appeal</b>	11.04.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	15/03389/DIS106
<b>Appeal against</b>	Non-Determination
<b>Committee or Del. Decision</b>	N/A
<b>Appellant</b>	Mrs A Mumford
<b>Proposal</b>	Proposed discharge of S106 Agreement which restricts the occupancy of the dwelling to an affordable dwelling relating to planning permission 1/07/19556/F Erection of an affordable dwelling (delegated matter)
<b>Location</b>	Yew Tree Cottage Bentlawnt Shrewsbury Shropshire SY5 0ES
<b>Date of appeal</b>	13.04.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	17.08.16
<b>Costs awarded</b>	Yes
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	15/00614/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Kevin Wright Kaw Projects Ltd
<b>Proposal</b>	Erection of one block of six apartments
<b>Location</b>	Land Adjacent To The Apartment Block The Woodlands Jackfield Shropshire
<b>Date of appeal</b>	03.03.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	26.4.16
<b>Date of appeal decision</b>	24.8.16
<b>Costs awarded</b>	No
<b>Appeal decision</b>	Dismissed



<b>LPA reference</b>	14/04019/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Selina Graham
<b>Proposal</b>	Outline planning application for mixed residential and employment development (all matters reserved)
<b>Location</b>	Proposed Development Land To The East Of Avenue Road Broseley Shropshire
<b>Date of appeal</b>	4.5.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	5.7.16
<b>Date of appeal decision</b>	31.8.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	15/03937/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Russells Caravan Park Ltd
<b>Proposal</b>	Change of use of part of recreational area for additional 30 pitches to extend existing caravan park
<b>Location</b>	Russells Caravan Park Kidderminster Road Quatford Bridgnorth WV15 6QJ
<b>Date of appeal</b>	06.07.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	30.08.16
<b>Date of appeal decision</b>	02.09.2016
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

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## Appeal Decision

Site visit made on 27 June 2016

**by H Butcher BSc (Hons) MSc MRTPI**

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

**Decision date: 7 July 2016**

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**Appeal Ref: APP/L3245/W/16/3145205**

**Barratts Hill Farmhouse, Barratts Hill, Broseley, Shropshire, TF12 5RH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Karen Conway against the decision of Shropshire Council.
  - The application Ref 14/04056/FUL, dated 4 September 2014, was refused by notice dated 13 October 2015.
  - The development proposed is the erection of a sustainable dwelling and carports.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The Shropshire Council Site Allocations and Management of Development (SAMDev) Plan was adopted 17 December 2015, after the Council made its decision on the application which forms the basis of this appeal. Nevertheless, policies in the SAMDev were referred to in the Council's reason for refusal. Consequently all parties have had the opportunity to comment on this in relation to their cases.

### Main Issues

3. The main issue is whether the site is a suitable location for housing, having regard to local and national planning policy.
4. I have also had regard to the statutory tests which require me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Broseley Conservation Area, and to have special regard to the desirability of preserving the setting of the Grade II Listed Barratts Hill Farmhouse.

### Reasons

5. The appeal site forms part of a wider site belonging to the Grade II Listed Barratts Hill Farmhouse which is located on the edge of the market town of Broseley. The farmhouse itself occupies a relatively small contained section of the site comprised of an area of land to the side which provides access to a garage, and a modest courtyard garden to the rear. Beyond these areas is a larger area of open land to the side and rear of the property which is semi-cultivated having raised vegetable beds, a chicken run and some disused pig stys. The land itself is relatively level on the east side of the site but rises very

- steeply towards the west. The proposal before me is to erect a dwelling on this land.
6. As per Policy CS3 of the Shropshire Local Development Framework: Adopted Core strategy (March 2011) (CS), new housing development within the development boundaries of market towns and other key centres, such as Broseley, will be supported. The appeal site, however, falls outside of the development boundary of Broseley where, according to Policy CS5 of the CS, development will be strictly controlled.
  7. Similarly, the newly adopted Policy MD1 of the SAMDev sets out that sustainable development will be supported in market towns and key centres but, as per Policy MD7A, new market housing in the countryside is to continue to be strictly controlled. Policy S4 of the SAMDev sets out the development strategy specifically for Broseley which includes the provision of 200 dwellings over the period 2006-2026.
  8. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal would conflict 'in principle' with Policies CS3 and CS5 of the CS and MD1, MD7a and S4 of the SAMDev which, broadly speaking, aim to manage development, making sufficient land available for housing within strategically agreed locations. The development plan is a starting point for decision taking. However, the National Planning Policy Framework (the Framework) is also a significant material consideration.
  9. At the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental, and I shall consider each of these in turn in relation to the appeal before me.
  10. The Council acknowledge that, whilst outside of Broseley's development boundary, the site is sufficiently close to the town to support its services and facilities. The proposed dwelling would add to local housing supply and contribute towards the Community Infrastructure Levy. In addition to this, the development would provide benefits in terms of generating employment during the construction period. Taken together, these provide modest social and economic benefits, although I note the Council's point that such benefits would be achieved from all new housing schemes irrespective of their location.
  11. I turn now to the environmental aspect of sustainable development which concerns the protection and enhancement of the natural, built and historic environment. No specific concern has been raised by the Council in respect of the natural environment and I find no reason to conclude otherwise in this respect. Despite initially raising concern over the design, scale and massing of the proposed dwelling, the amended scheme was considered acceptable by the Council's Conservation Officer. However, I note that, despite the changes in design, Barrow Parish Council remained concerned that the form, scale and character of the proposed dwelling would not preserve or enhance the appearance of the Broseley Conservation Area.
  12. The appeal site is located in an historic area of the CA where there are a number of traditional properties, not least the adjacent Grade II Listed Barratts Hill Farmhouse, and 28 Barratts Hill. Further to the south-west on higher ground there are a handful of properties which include The Old Vicarage. This

is an imposing three storey house whose principle elevation looks over the appeal site, and it is also included in the CA.

13. The proposed dwelling would have a very large footprint; far larger than the footprints of the nearest adjacent properties Barratts Hill Farmhouse and No 28, and would fill a large proportion of the level section of the site. Consequently the dwelling would appear overly large and bulky and would dominate both the site and the adjacent, more restrained, rural dwellings in this part of the CA. The proposed design sought to reflect an agricultural style to complement the adjacent Listed farmhouse, but, in my opinion, it does not achieve this. It would clearly have the appearance of a very large house. The high eaves, dormer windows, balconies, and large expanses of glazing are not what I would consider to be typical of an agricultural style of building. The materials, such as a colour washed smooth render for the main elevations, would also not be indicative of an agricultural style.
14. The proposed dwelling would be largely screened from public views from the highway. However, the creation of a new access drive would open up views of the wide front elevation of the proposed dwelling. In addition to this, the size and scale of the dwelling would be perceivable from the private views of surrounding properties in the CA. I accept that much of the dwelling would be screened from Barratts Hill Farmhouse by existing hedging and the single storey garage. Nevertheless, glimpses of what would be an overly large and incongruous development in its setting, would still be possible.
15. For these reasons the proposal would neither preserve nor enhance the character or appearance of the CA, and would also harm the setting of the Grade II Listed Barratts Hill Farmhouse. Consequently, in addition to the 'in principle' policy conflict with the development plan, the proposal would also conflict with Policies CS6 and CS17 of the CS. These policies require development to protect the local character of Shropshire's built and historic environment by not adversely affecting the heritage value of such assets or their immediate surroundings.
16. Although harmful to its immediate surroundings, in terms of the advice in the Framework paragraph 134, the harm to the CA and the Grade II Listed Building would be 'less than substantial'. This would, nevertheless, still represent a harmful impact, adversely affecting the significance of the CA and Barratts Hill Farmhouse as designated heritage assets. As per paragraph 134 of the Framework, less than substantial harm should be weighed against the public benefits of the proposal. However, the harm to the CA and the setting of the Listed building would clearly outweigh the public benefits outlined in paragraph 10 above.

#### *Other Matters*

17. The Council have stated that an affordable housing contribution is required as per policy CS11 of the CS. I note that the appellant has gone to great lengths to provide such a contribution. However, there is nothing before me to secure this. Nevertheless, I am mindful of the Court of Appeal's judgment of 11 May 2016 in respect of the Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441. Subsequent to this judgement the policies in the Written Ministerial Statement as to the specific circumstances where contributions for affordable housing and tariff-style planning obligations should

not be sought from small scale and self-build development must once again be treated as a material consideration. Notwithstanding the above, in light of my findings in respect of the main issues in this appeal it is not necessary for me to pursue this matter any further.

18. I note that the appellant has had on-going communications with the Council and withdrew a previous application (ref 14/04056/FUL) in order to reapply with a revised design following officer's advice and can understand the appellant's frustration at their planning application being refused when officers had indicated that it would be granted planning permission. These matters do not, however, override the harm I have identified above. I also note the appellant's concerns in respect of the changes in the Council's development plan policies around the time of their application. Nevertheless, the development plan, at the time of making a decision, is the basis on which planning decisions have to be made. In addition to this, weight can be given to emerging plans, depending on how advanced the stage of preparation is, which the Council did in this case.

### **Conclusion**

19. The appeal site's location outside of the development boundary of Broseley conflicts with the development plan and its approach to housing delivery. In addition to this, the proposal would neither preserve nor enhance the character or appearance of the Broseley Conservation Area, and would also be harmful to the setting of the adjacent Grade II Listed Barratts Hill Farmhouse. The proposal would therefore not constitute sustainable development. Consequently, having regard to all matters raised, the appeal is dismissed.

*Hayley Butcher*

INSPECTOR

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## Appeal Decision

Site visit made on 20 May 2016

**by R C Kirby BA (Hons) DipTP MRTPI**

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

**Decision date: 07 July 2016**

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**Appeal Ref: APP/L3245/W/15/3139585**

**Oldbury House, Oldbury Road, Bridgnorth, Shropshire WV16 5HA**

- 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 Professor Quentin Leiper against the decision of Shropshire Council.
  - The application Ref 14/05717/FUL, dated 19 December 2014, was refused by notice dated 24 September 2015.
  - The development proposed is new three bedroom house and associated garaging.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Professor Quentin Leiper against Shropshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. Since the planning application was determined, the Site Allocations and Management of Development Plan (SAMDev) has been adopted by the Council. The Bridgnorth District Plan referred to in the Council's decision notice no longer forms part of the development plan. The development plan for the area comprises the Shropshire Local Development Framework: Adopted Core Strategy (CS) and the SAMDev.
4. The Appellant has provided a Unilateral Undertaking (UU) pursuant to Section 106 of the Act providing for a financial contribution to be made towards the provision of affordable housing. This is considered later in my Decision.

### Main Issues

5. The main considerations are:
  - whether a new dwelling in this location would be consistent with the principles of sustainable development, having particular regard to its impact on the character and appearance of the area and the access the intended future occupants would have to services and facilities in the area; and
  - the appropriateness or otherwise of contributions sought towards the provision of affordable housing.

## Reasons

### *Principles of Sustainable Development*

6. The appeal site comprises part of the garden of Oldbury House. There is no dispute between the main parties that the appeal site is located outside of any defined settlement boundary. Whilst it is located within the settlement of Oldbury and there is residential development within the vicinity of the site, for planning policy purposes, the site is located within open countryside.
7. Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. These areas are identified within Policy MD1 of the SAMDev. Oldbury is not identified within this policy. There are however exceptions to this strict control including dwellings to serve a local housing need; housing for essential rural workers; limited conversions and replacement dwellings. Policy CS5 of the CS has a similar objective of strictly controlling development in the countryside, subject to a number of exceptions.
8. The appellant has drawn my attention to the Shropshire Local Development Framework: Strategic Housing Land Availability Assessment (SHLAA) published in July 2014 which identified Oldbury as being part of Bridgnorth and having long term potential for new development. Whilst this may have been the case at that time, it is clear from the SAMDev that the village is not designated as a Community Hub or Community Cluster and as such is classed as countryside, where new development is strictly controlled. I therefore attach little weight to the SHLAA referred to which pre-dates the adoption of the SAMDev in any event.
9. The appellant considers that the note at the end of Policy MD1 of the SAMDev supports the appeal proposal. This note states: *'There is a further level of the settlement policy framework in the form of other 'recognisable named settlements' where Policy CS11 permits exception schemes for local needs housing on suitable sites'*. Although I acknowledge that Oldbury is a recognisable named settlement, the proposal for a market dwelling would not comprise an exception scheme for local needs housing.
10. The appellant's desire to move into a smaller, more manageable house with high energy efficiency would not fall within any of the exceptions set out in either SAMDev Policy MD7a or CS Policy CS5 and accordingly there would be conflict with these development plan policies. The Council's decision notice makes reference to CS Policy CS4. This policy relates to Community Hubs and Community Clusters. As Oldbury is not identified as either of these, I find that this policy is not relevant to the scheme before me.
11. The Framework is clear at paragraph 12 that the development plan is the starting point for decision making. Where proposed development conflicts with an up-to-date Local Plan, it should be refused unless other material considerations indicate otherwise.
12. The appellant submits that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and has calculated that only 4.97 years supply can be demonstrated. In such circumstances paragraph 49 of the Framework states that relevant policies for the supply of housing should not be



considered up-to-date. A number of planning decisions<sup>1</sup> to support the appellant's case have been brought to my attention. Whilst noting these decisions, they pre-date the adoption of the SAMDev. Furthermore, from my observations, these sites are located nearer to Bridgnorth than the appeal site and as such these examples are not directly comparable to the scheme before me and I afford them limited weight. Moreover, a Council's position on the supply of deliverable housing sites is constantly evolving, and I am required to assess the most up-to-date information presented.

13. The Council has provided me with a copy of its published Five Year Housing Land Supply Statement (28 August 2015), which indicates a 5.75 years supply of deliverable sites. An updated Housing Land Supply Calculation has also been submitted which adopted the methodology used within the Inspector's Report on the SAMDev. This report identifies that the Council can demonstrate a lower supply of deliverable sites at 5.53 years.
14. On the basis that the appellant has not provided me with detailed calculations to support his assertion, I have no reason to doubt the Council's published findings that it can demonstrate a 5 year supply of deliverable sites. As such its policies for the supply of housing (in this case Policy CS5 of the CS and Policy MD7a of the SAMDev) are not out-of-date.
15. Although acknowledging that the appeal site is within the countryside, the appellant asserts that the appeal site is in a sustainable location. The proposal would make a contribution to the Government's objective of boosting significantly the supply of housing.
16. The National Planning Policy Framework (the Framework) advises that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example where there are groups of smaller settlements, development in one village may support services in villages nearby.
17. Oldbury has a limited range of services and facilities. Mention is made of a church, village hall and nursing home. Bridgnorth is located approximately a mile away from the appeal site where there are a range of shops, services and facilities, including schools and a railway station.
18. It is likely that future occupiers of the new dwelling would support the church and village hall in Oldbury, and the services and facilities in Bridgnorth. However, and in the absence of substantive evidence to demonstrate otherwise, I find that the contribution one new dwelling would make to the vitality of the rural community would be unlikely to be discernible. Local jobs would be likely to be created when the dwelling was being constructed, however this would be a short term benefit.
19. The sale of the appellant's current home would be unlikely to have a significant effect on the local economy or community over and above the contribution the appellant and his family have made over time and continue to make. I therefore attach neutral weight to this matter in my overall Decision.

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<sup>1</sup> Refs: 14/03360/FULO; APP/L3245/A/13/2205748; APP/L3245/W/15/3032664

20. In light of the above, I find that the social and economic benefits of a new dwelling in this location, including the contribution that would be made to the supply of housing in the area, the contribution that would be made towards affordable housing provision and the employment that would be provided during the construction phase would be limited. Furthermore, these benefits would be likely to be so regardless of where the new house was constructed. Given the recent adoption of the SAMDev, these benefits could be achieved on sites within Community Hubs, Community Clusters, Market Towns, Key Centres or in Shrewsbury in accordance with the development strategy of the SAMDev and CS, rather than on sites that would conflict with this strategy, as would be the case with the appeal scheme.
21. Whilst not a significant distance away from the appeal site, Bridgnorth is located at the bottom of a hill relative to Oldbury. The walk or cycle into this town may well be attractive to some of the intended future occupiers of the new dwelling. I note that the appellant walks to Bridgnorth several times a week. However, the steep incline on the return journey is unlikely to be attractive to most, particularly if carrying shopping bags. My attention has not been brought to a bus service serving the village.
22. The route over the fields by the church to Bridgnorth is in part unsurfaced. It would be unlikely to be an attractive route into Bridgnorth and the schools, early in the morning when there was dew on the grass, in inclement weather or when it was dark, or for those pushing a pram or in a wheelchair. Similarly the route up Manor Farm Lane would be unlikely to prove an attractive option to pedestrians given that it is unlit, with no pavement along the stretch of road. I accept that cyclists may find this route convenient though, as it is a designated cycle route, although again, as the route is unlit it is likely that it would be unattractive during the hours of darkness or in inclement weather.
23. As a result of my findings above, I find that local services and facilities, apart from the village hall and church within the village would not be readily accessible from the appeal site. The new dwelling would result in an increased reliance on the private car to access even basic day to day services. It would be of limited appeal to those who did not enjoy that type of personal mobility. This would be in conflict with the social and environmental roles of sustainability. My attention has been drawn to a milkman delivering groceries and supermarket deliveries to the area. However, such deliveries are likely to be made by vehicles larger than a private car, and I have attached limited weight to this matter in my overall Decision.
24. The environmental role of sustainability includes using natural resources prudently and I note that the new dwelling would be sustainably constructed and would meet the current and future needs of the appellant. This matter weighs in favour of the proposal.
25. I do not share the Council's concern that the new dwelling would erode the intrinsic value of this part of the countryside, as the appeal site comprises part of the existing built up area of this part of the village. The site is physically and visually separate from the open, undeveloped fields on the opposite side of the road and is contained within the boundary of the appellant's garden. A new dwelling on the site would not be harmful to the character and appearance of this rural area. There would be no conflict with the protection and restoration

of the natural and built environment objectives of CS Policy CS6 or the local distinctiveness objective of CS Policy CS17 in this regard.

26. A further aspect of the environmental role of sustainability is contributing to protecting and enhancing the natural, built and historic environment. The appeal site is located within the Oldbury Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In this respect national policy on heritage assets, which includes conservation areas, is set out in the Framework. At paragraph 131, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
27. The Council considered that the proposal would not be harmful to the character or appearance of the conservation area. I have no reason to reach a contrary view in this respect. There would be sufficient separation between Oldbury House and the new dwelling, and whilst of a different design and form to other dwellings in the locality, it would be of a high quality design and would not be prominent in the streetscene or wider landscape. The character and appearance of the conservation area would be preserved. There would be no conflict with the environmental role of sustainability in this respect, or with the character and local distinctiveness objectives of CS Policies CS6 and CS17.
28. In light of the foregoing there would clearly be economic, social and environmental benefits associated with the proposal. However, there would also be conflict with each of these roles. The Framework makes it clear that the three roles of sustainability should not be undertaken in isolation, because they are mutually dependent.
29. The Council has drawn my attention to a number of appeal decisions it considers are relevant to the consideration of the appeal proposal, as set out in its statement. I was not provided with the individual circumstances of these cases and I am unable to ascertain if they are directly comparable to the scheme before me. I have therefore afforded them limited weight in my overall Decision. In any event, each application and appeal must be determined on its individual merits and this is the approach that I have taken.
30. I therefore conclude that the proposal would result in new market housing within the countryside in conflict with CS Policy CS5 and SAMDev Policy MD7a. The relationship of the appeal site to the nearest shops and services in Bridgnorth and the scheme's high dependency on the private car to serve even the basic day to day needs of the intended future occupiers of the new dwelling results in the proposal not comprising sustainable development. In reaching this conclusion, I have taken into account the appellant's personal circumstances and his desire to remain in the village. However these matters do not outweigh the conflict with up-to-date development plan policy or justify unsustainable development in this location.

#### *Contributions to Affordable Housing*

31. Policy CS11 of the CS requires, amongst other matters for new market housing to make an appropriate contribution to the provision of local needs affordable

housing. Although the appellant asserts that the new dwelling would be a self-build and no financial contribution towards affordable is necessary, I have not been provided with a mechanism to control this. Furthermore, he has submitted a completed UU with the appeal which would make provision for a financial contribution to be made towards affordable housing. I have therefore taken the UU into account in my Decision.

32. I am satisfied that such a contribution is reasonable and necessary to make the development acceptable and as such there would be no conflict with CS Policy CS11, the Supplementary Planning Document entitled 'Type and Affordability of Housing', or paragraph 204 of the Framework. However, the obligations contained within the UU do not outweigh the harm that I have identified.

### **Conclusion**

33. I have found that the proposal would not comprise sustainable development and that there would be conflict with local and national planning policies. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

*RC Kirby*

INSPECTOR

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## Appeal Decision

Site visit made on 27 June 2016

**by H Butcher BSc (Hons) MSc MRTPI**

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

**Decision date: 18 July 2016**

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**Appeal Ref: APP/L3245/W/16/3147470**

**Land at Burway Lane, Ludlow, SY8 1DT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr P J Paddock against the decision of Shropshire Council.
  - The application Ref 14/04215/OUT, dated 15 September 2014, was refused by notice dated 2 October 2015.
  - The development proposed is the erection of 5 detached dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Shropshire Council Site Allocations and Management of Development (SAMDev) Plan was adopted on 17 December 2015, after the Council made its decision on the application which forms the basis of this appeal. Policies in the SAMDev were referred to in the Council's reason for refusal. Consequently all parties have had the opportunity to comment on these in relation to their cases.
3. The application was submitted in outline with all matters reserved. However, works to the access, including the widening of part of Burway Lane and the formation of a turning head, have been included with the application. The Council considered the application as being in outline with approval sought for access also. I have therefore considered the appeal on this basis.

### Main Issues

4. The main issues are:
  - Whether the site is a suitable location for housing, having regard to local and national planning policy, and;
  - The effect of the development on the character and appearance of the surrounding area.

### Reasons

5. The appeal site is an open parcel of land, used for agricultural purposes, at the end of a ribbon of development on the south side of Burway Lane. This is a narrow single track lane which provides access to the residential properties

along it, and a cricket club. It is proposed to erect five detached dwellings here to form a continuation of the existing ribbon of development.

6. Policy SC4 of the Shropshire Local Development Framework: Adopted Core Strategy (March 2011) (CS) seeks to 'rebalance' rural communities, making them more sustainable by allowing development, such as housing, in identified Community Hubs and Community Clusters. The Ludlow Area is a Community Hub as per Policy MD1 of the SAMDev and Policy S10 sets out the Ludlow Town Development Strategy. The appeal site, however, falls outside of the Ludlow Area Community Hub in an area of countryside where, as per Policy CS5 of the CS, new development will be strictly controlled. New housing is only to be permitted in certain circumstances, none of which apply to the proposal before me.
7. Policy MD1 of the SAMDev sets out that sufficient land will be made available during the plan period to enable the delivery of housing planned in the Core Strategy under Policy CS1. Upon adoption of the SAMDev the Council have a 5 year supply of housing which includes a 20% buffer to meet previous undersupply. I note the appellant's concerns regarding the delivery of housing in the area. However, I have no substantive evidence before me to conclude that these targets cannot be met.
8. The appellant points out that Policy MD3 of the SAMDev allows for flexibility and sets out in its supporting text the importance of windfall development in the countryside on greenfield sites, where this is sustainable. The appellant makes the case that the whilst the proposed development is on a greenfield site in the countryside it is in close proximity to Ludlow and as such should be considered a sustainable location for development.
9. Ludlow is within walking distance. Upon reaching the main road there are cycle, pedestrian and bus routes into the town and the train station. However, Burway Lane itself is narrow, and the road uneven, and there is no provision of pavements and relatively little street lighting. The conditions of Burway Lane and the distance to the main road (some 515m) are such that future occupants of the development would be unlikely to rely on walking as a regular mode of transport, particularly persons with young children in pushchairs or those who use mobility scooters, or have difficulty walking.
10. Policy C6 of the CS, amongst other things, requires 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 can be reduced. This policy accords with the National Planning Policy Framework (the Framework) which similarly seeks to manage patterns of growth to make the fullest possible use of public transport, walking and cycling. The continuation of development along Burway Lane, given the existing conditions, away from the main road and town centre, is not a sustainable form of development as it would require increased reliance on private transport.
11. Whilst the development would form a continuation of an existing ribbon of development it would, nevertheless, represent an encroachment of the built form into what is an attractive and open rural landscape which provides the wider setting of Ludlow. Burway House, a rural farmhouse located to the north-west of the site, by its nature, is visually and physically detached from the settlement of Ludlow by the buffer of landscape between, which in part, is

formed by the appeal site. The existence of Burway House does not in itself justify allowing the creep of development into the countryside.

12. Although views of the site are largely restricted to Burway Lane, this is a well-used Public Bridleway which forms part of the Shropshire Way and affords its users views over the countryside surrounding Ludlow and of Ludlow Castle, which can be clearly seen from the appeal site. Any development across the site would, without question, impede these views, even if restricted to five dwellings, and with the introduction of a 'mirador' to allow views through the site. The proposal would therefore cause harm to the character and appearance of the surrounding area and as such would conflict with Policies CS5 and CS17 of the CS and MD2 and S10 of the SAMDev. These Policies, amongst other things, seek to protect and enhance Shropshire's natural, built and historic environment. Similarly the Framework seeks to conserve the natural environment and heritage assets. I note the appellant's suggestion of a landscaping condition, but I am not persuaded that this would satisfactorily mitigate the harm that I have found.

#### *Other Matters*

13. Although not a reason for refusal and no objection was raised by highway officers I note third party concerns raised in respect of access and highway safety. As set out above, the proposal includes improvements to Burway Lane which would include a public turning space. This would be a benefit reducing reversing movements down the lane. A contribution towards the proposed works is to be provided by way of a Unilateral Undertaking, but there is nothing before me to that effect. However, as I am dismissing on other grounds, it is not necessary for me to pursue this matter further.
14. There is discussion regarding the development making a contribution towards affordable housing. However, following the Court of Appeal's judgment of 11 May 2016, in respect of the Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441, the policies in the Written Ministerial Statement as to the specific circumstances where contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self-build development, must once again be treated as a material consideration. In light of this the Council are no longer automatically requiring an affordable housing contribution for the scale of development before me.
15. I note that the appeal site was considered for inclusion in the SAMDev and is again under consideration in the current Strategic Housing Land Availability Assessment (SHLAA). According to the appellant, the site assessment for the SHLAA identifies it as being of Low Landscape Value and as scoring positively in respect of proximity to bus stops. This assessment is not before me. In any event, it is only a technical study. As such this matter can only be afforded limited weight.
16. The appellant has provided a number of appeal decisions. I have not been supplied with full details therefore I am unable to make any meaningful comparisons. However, I note that all pre-date the adoption of the SAMDev, with the exception of the site at Cross Houses, Shrewsbury, but this is a materially different development; the site having been formerly used as an overspill car park and caravan site. Similarly, I have limited details with

respect to the reasons or circumstances behind the planning permission for a single dwelling just to the east of the site, but I do note that this was for a materially smaller development than that which is before me. In any event, I have determined this appeal on its own planning merits.

### **Conclusion**

17. The appeal site's location outside of the Ludlow Area Community Hub conflicts with the Council's development plan and its approach to housing delivery. In addition to this, the proposal would result in an unsustainable form of development which would require reliance on private transport, and would also cause harm to the character and appearance of the surrounding area. I have had regard to all matters raised, including the need to significantly boost the supply of housing as set out in the Framework, as well as the fact that the proposal aims to deliver single self-build plots that would be able to be taken up for development at an early stage, and the inclusion of sustainable design elements such as solar energy. These matters do not, however, outweigh the harm I have found. The appeal is therefore dismissed.

*Hayley Butcher*

INSPECTOR



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## Appeal Decision

Site visit made on 21 June 2016

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

Decision date: 18 July 2016

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**Appeal Ref: APP/L3245/W/16/3143284**

**Blue Ridge, Alveley, Bridgnorth, Shropshire WV15 6NG**

- 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 John Webb against the decision of Shropshire Council.
  - The application Ref 15/02459/FUL, dated 1 June 2015, was refused by notice dated 28 August 2015.
  - The development proposed is construction of a detached dormer bungalow.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The appeal site has been the subject of a previous, unsuccessful application for the erection of a detached dormer bungalow (Ref: 14/04236/FUL). The application which is subject of this appeal sought to address the reasons for refusal in the earlier application. That reason for refusal stated: "*Insufficient space would be maintained between the existing bungalow (Blue Ridge) and the bungalow proposed. The proposed bungalow would as a consequence appear cramped in the street scene and as such would unduly harm the visual amenity of the area. Accordingly the proposal would be contrary to Shropshire Local Development Framework: Adopted Core Strategy (March 2011) policy CS6 and the National Planning Policy Framework paragraphs 56-58.*"

### Main Issues

3. The main issues are:
  - The effect of the proposal on the character and appearance of the area.
  - Whether the proposal should make a contribution to the provision of affordable housing and if so, whether the proposal would make a satisfactory contribution.
  - Whether the proposal would provide a suitable site for housing, having regard to the principles of sustainable development.

### Reasons

#### *Planning Policy Context*

4. The appeal site previously fell within the development boundary of Alveley Village as set out in the saved policies of the Bridgnorth District Local Plan

2006. However, those saved policies have now been superseded by the Council's Site Allocations and Management of Development Plan (SAMDev), adopted in December 2015 prior to the submission of this appeal. The SAMDev no longer imposes boundaries to Alveley, instead the settlement is considered to be located within open countryside.

5. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) directs the majority of new development to Market Towns and Community Centres. In addition, development is to be directed to Community Hubs or Cluster Settlements. Outside those settlements, housing development will only be allowed to meet the needs of the local communities for affordable housing. Alveley is not identified as a Market Town, Key Centre, Community Hub or Cluster Settlement within the SAMDev.
6. Policy CS5 of the CS states that proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. The policy lists types of appropriate housing in the countryside including dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing to meet a local need.
7. The appeal proposal would not be for any of the types of housing listed in Policy CS5 nor would it provide housing to meet the needs of the local communities for affordable housing. As a result, the proposal would conflict with Policy CS1 and Policy CS5 of the CS.
8. However, the National Planning Policy Framework (the Framework) is an important material consideration. Paragraph 47 of the Framework requires the supply of housing to be boosted significantly. At the heart of the Framework is a presumption in favour of sustainable development. Paragraph 7 of the Framework sets out three dimensions of sustainable development – the economic, social and environmental roles. The roles are to be considered as mutually dependent. Paragraph 49 of the Framework requires proposals for housing development to be considered in the context of the presumption in favour of sustainable development.

#### *Character and Appearance*

9. The appeal site comprises the side garden area of an existing detached dwelling fronting the highway. The land is bound by timber post and wire fencing and adjoins fields to the south and west. Opposite the appeal site is open countryside. The existing property, Blue Ridge, is the most southerly property in a linear strip of dwellings on the western side of the road.
10. The existing property is a single storey dwelling constructed of brick with a tiled, hipped roof. The properties along this stretch of the road present a generally coherent pattern of similarly designed single storey properties. Given the single storey nature and relatively generous widths, the properties have a distinctly horizontal emphasis. Plot widths in this area are also generous - the Council suggest the average plot width of the closest properties is around 14.68m. There are also large gaps between dwellings. Consequently, the street scene is one of spacious and open character, which provides a gentle transition between the built environment and the rural surroundings beyond.

11. I note that efforts have been made to address the concerns of the Council from the previously refused scheme, particularly in terms of spacing. I also note that the proposal would reflect the appearance of the adjacent properties with the use of a rectangular shaped footprint, hipped roofs and chimney detailing. However, the gap between the appeal property and Blue Ridge would still be relatively narrow at just 2m. Moreover, the proposal would result in a plot width of just 10.4m. This would be in stark contrast to the wider, open plots and the generous spacing between properties which characterise the area. The proposed dwelling would have a width similar to that of the neighbouring properties which, whilst offering a degree of conformity, would nevertheless result in built form covering a considerable proportion of the plot. As a result, the proposed dwelling would appear unduly cramped and create an incongruous addition to the street scene.
12. I conclude, therefore, that the proposal would have a significant harmful effect on the character and appearance of the area. The proposal would, consequently, conflict with Policy CS6 of the CS which states that development should be designed to a high quality.

#### *Affordable Housing*

13. Policy CS11 of the CS seeks to ensure that all new open market housing developments make an appropriate contribution to the provision of local needs affordable housing. No such contribution was provided to the Council during the consideration of the application, though I note that whether or not the Council's pro-forma was completed and received is a matter of dispute between the parties. Nevertheless, there is no signed and dated agreement under S106 of the Act before me for consideration.
14. On 11 May 2016, however, the Court of Appeal upheld an appeal against a High Court judgement of 31 July 2015 relating to the Written Ministerial Statement (WMS) of 28 November 2014 and subsequent revisions to the PPG to remove paragraphs 12-23<sup>1</sup>. As a result, Government policy relating to affordable housing and tariff style contributions as expressed in the WMS and PPG is an important consideration. The PPG<sup>2</sup> now advises that "contributions should not be sought from developments of 10-units or less". This clearly establishes that Government policy does not require contributions to be sought in cases such as this. This change in policy post-dates Policy CS11 of the CS and the policy must therefore be viewed in that context, having regard to paragraph 215 of the Framework.
15. In the absence of an affordable housing contribution, the proposal would conflict with Policy CS11 of the CS. However, the proposal would fall below the threshold set out in the PPG and WMS indicating that affordable housing and tariff-style planning obligations should not be sought. This is a material consideration which, in my view, significantly outweighs the conflict with Policy CS11.
16. I conclude, therefore, that the proposal should not make a contribution to the provision of affordable housing and that such a contribution would not be necessary, directly related, and fairly and reasonable related in scale and kind

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<sup>1</sup> Planning Practice Guidance - 23b-012-20150326 - 23b-023-20150326

<sup>2</sup> Planning Practice Guidance - 23b-031-20160519

to the proposed development, in accordance with CIL Regulation 122, and paragraph 204 of the Framework.

### *Sustainable Development*

17. The proposal would result in an additional dwelling which would make a modest contribution to the supply of housing in the area. Moreover, it would also provide opportunity for local employment through the construction phase and would support the local economy through increased spending from future residents. The proposal would also make a contribution towards maintaining the level of services and facilities within the area. Consequently there would be some economic and social benefits.
18. Alveley is served by schools, shops and other facilities. There is no dispute between the parties that the site is within a reasonably accessible location. On the evidence before me, I have no reason to come to an alternative view. Nevertheless, accessibility is only one facet in assessing the environmental role of sustainability.
19. I have considered that satisfactory access and parking facilities would be provided, and I have no reason to consider the proposal would have a harmful effect on highway safety. In addition, I agree with the parties that the proposal would provide adequate outdoor living space for future residents. However, these are neutral factors and the lack of harm in respect of those matters does not count in favour of the proposal.
20. Whilst I acknowledge the site is not located within any particular area of landscape designation or within the setting of any designated heritage assets, the proposal would result in additional built development within the open countryside. Moreover, I have found that it would result in significant harm to the character and appearance of the area.
21. As a result, whilst the proposal would fulfil some of the economic and social dimensions of sustainable development, the proposal would not fulfil the environmental dimension of sustainable development. I conclude, therefore, that the proposal would not provide a suitable site for housing, having regard to the principles of sustainable development as set out in the Framework.

### **Conclusion**

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jason Whitfield*

**INSPECTOR**

## Appeal Decision

Site visit made on 21 June 2016

by **B Bowker Mplan MRTPI**

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

Decision date: 18 July 2016

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**Appeal Ref: APP/L3245/W/16/3145092**

**Elm Lodge, Fishmore Road, Ludlow, Shropshire SY8 3DP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs S Weaver against the decision of Shropshire Council.
  - The application Ref 5/01027/OU, dated 2 March 2015, was refused by notice dated 26 October 2015.
  - The development proposed is outline application for the redevelopment of existing haulage yard to provide secure over 55's housing.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The proposal is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis.

### Main Issues

3. The main issues are:
  - Whether the proposed development would provide a suitable site for housing, having regard to the proximity of services; and,
  - The effects on the living conditions of future occupants with regard to noise, odours and dust.

### Reasons

#### *Suitable site*

4. The appeal site comprises a gravelled haulage yard located to the immediate east of holiday accommodation and golf course at Elm Lodge. A large agricultural building runs across and close to the northern boundary of the site and forms part of Elm Farm. The site is accessed via a single lane private road which leads to Fishmore Road.
5. For planning purposes, the site is outside the development boundary of Ludlow as defined by Policy S10 of the Site Allocations and Management of Development Plan (SAMDev). Consequently, the site occupies a countryside location and Core Strategy (CS) Policies CS3, CS5 and SAMDev Policy MD7a apply. These policies seek to strictly control development in the countryside,

- but do include a number of exceptions. However, the proposal would meet none of these exceptions.
6. The proposed housing would be for the over 55s and would likely comprise approximately 20 bungalows. The site's access would be about 100m from the nearest dwelling to the south and the appellant would be willing to provide a direct lit footpath from the site through to Fishmore Road. In addition, daily consumable products such as bread and milk could be purchased by future occupants from the nearby golf shop. However, this alone would not meet all the basic needs for residents.
  7. I recognise a new section of lit footpath would be of benefit to new residents however, the initial section of highway closest to the appeal site does not benefit from street lighting. Furthermore when combined with the walking distance, it would mean bus services at Fishmore Road are unlikely to be a realistic alternative to the private car. In addition, the majority of essential services and facilities required by future occupants would be located in Ludlow town centre which is approximately 1.6kms from the site. Given the limitations of travel by public transport and on foot, future occupiers would be likely to primarily rely on the private car to access most essential services and facilities.
  8. Furthermore, the haulage use of the site currently generates traffic, which includes the coming and goings of staff vehicles, light commercial vehicles, and HGVs throughout the entire day and week. Also, during my site visit, I observed the effect of a HGV vehicle travelling through the residential area at Fishmore Road which is narrow in parts owing to vehicles parking partly on the street and pavement.
  9. However, I understand the appellant already has another yard where the haulage use would be moved to and therefore it would appear these benefits in terms of highway safety and consideration of existing vehicular journeys would not be dependent on the approval of the proposal. Consequently, the weight I afford these benefits is limited.
  10. Therefore the development would not provide a suitable site for housing having regard to the proximity of services. It would result in clear harm when considering the social and environmental dimensions of sustainable development. Consequently, the proposal would be contrary to Policies CS3, CS5 and CS6 of the CS, Policy MD7a of the SAMDev and paragraph 7 of the Framework. Insofar as they relate to this matter, combined these policies seek to ensure development is focussed within the development boundaries of market town's such as Ludlow, makes the fullest possible use of public transport and walking to avoid dependency on private car travel.

*Living conditions*

11. Despite having no openings directly facing the site and the intervening wooden panel boundary fence, during my visit, I could hear vehicular activity from the agricultural building. I also saw that Elm Farm includes a modern designed farm house close to the agricultural building, is well kept and a number of Llamas were grazing on the adjoining field. Therefore, I accept the current use of Elm Farm and the adjoining agricultural building may well be hobby in intensity. I also understand a large section of the holding has been lost to residential development.

12. However, the farm is some 80 acres in size and the agricultural building is used to house livestock with an outside area used for checking the welfare of animals. Agricultural activity is close to the appeal site, and owing to the size of the farm, has the potential to increase in intensity. Consequently, I have concerns regarding residential use being so close to a large agricultural building. I also note that paragraph 123 of the Framework states that nearby changes in land use should not result in unreasonable noise restrictions for existing business uses.
13. To that end sound insulation measures in excess of Building Regulation requirements and a satisfactory site layout could be achieved later on in the development process. However, irrespective of site layout and sound insulation, dust and smells would still arise from the agricultural building. Furthermore, during the summer months gardens are likely to be in use and windows open, thus further exposing future occupants to noise, dust and smells. These are factors which a site layout and sound insulation could not fully mitigate.
14. Whilst future occupiers may choose to live in a countryside location and so expect noise from farming activities, this does not justify nor remove the subsequent harm to living conditions. I also note that Elm Lodge is near the site and includes residential and tourist accommodation use. However, Elm Lodge is not as close to the agricultural building as the appeal site, so the effect on living conditions is not comparable.
15. Therefore I conclude that the development would be contrary to CS Policy CS5 and paragraph 17 of the Framework. Insofar as they relate to this matter, these policies require development to seek a good standard of amenity and wellbeing for future occupants.

#### *Planning balance*

16. I acknowledge the proposal would re-use a brownfield site, be delivered in a short period of time, create employment and provide independent housing for an ageing population. Indeed, the growth in elderly population is an issue acknowledged in the explanatory text of CS Policy CS3, and the proposal could free up other housing for the wider populace. In addition, no harmful effect has been identified with regards to highway safety, character and appearance and biodiversity.
17. However, the explanatory text of CS Policy CS3 also states that the elderly are more dependent on local services and public transport than the population as a whole. This reinforces my conclusion of harm arising from future occupants having unsuitable access to services. The development would be in an isolated location resulting in the inherently harmful social and environmental aspects I have identified above. This would be contrary to both local and national policy to which I give considerable weight. I have also identified harm to the living conditions of future occupants. Therefore, taking my findings in relation to the first two main issues into consideration, the proposal would fail to achieve the environmental and social dimensions defined and required by the Framework in order to be considered sustainable development.

18. In coming to that view I have considered an appeal decision<sup>1</sup> referred to by the Council which sets out the Council could not demonstrate five years of deliverable supply of housing land. I am informed that the Council have submitted a legal challenge to this appeal decision. Although, at the time of writing, the appeal decision remains extant. Nevertheless no information has been provided by either party with regards to an up-to-date position on housing land supply.
19. In that light, there is no dispute that the development would make a modest contribution to the supply of housing in the locality and there would be a small economic benefit during construction along with the other benefits discussed above. However, even if the Council were unable to demonstrate a five-year supply of deliverable housing sites, the adverse impacts in terms of access to services and the effect on the living conditions of future occupants would significantly and demonstrably outweigh the benefits. Consequently, the proposal would still be unacceptable when assessed against the policies of the Framework as a whole.

*Other matters*

20. The need for development to make an affordable housing contribution is outlined in the Council's Statement of Case. Notwithstanding the requirements of CS Policy CS11, the lack of contribution to affordable housing was not part of the Council's reason for refusal so this has not formed part of my considerations in determining the appeal. However, as I am dismissing the appeal for the reasons given above, I have not pursued this matter further.
21. A development of 94 dwellings within 500m to the south of the site has been referred to. However, I have no details of the development and I am not aware of the considerations relating to it. Moreover, this case has to be determined on its own individual merits.

**Conclusion**

22. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

*B Bowker*

INSPECTOR

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<sup>1</sup> APP/L3245/W/15/3067596, Land at Teal Drive, Ellesmere.



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# Appeal Decision

Site visit made on 5 July 2016

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

**Decision date: 19 July 2016**

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**Appeal Ref: APP/L3245/W/16/3149461**

**Yew Tree Inn, Shrewsbury Road, All Stretton, Shropshire SY6 6HG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs P Bancroft against the decision of Shropshire Council.
  - The application Ref 15/04737/OUT, dated 2 November 2015, was refused by notice dated 8 January 2016.
  - The development proposed is outline consent for residential development including access, with all other matters reserved.
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## Decision

1. The appeal is allowed and planning permission is granted for residential development including access, with all other matters reserved at Yew Tree Inn, Shrewsbury Road, All Stretton, Shropshire SY6 6HG in accordance with the terms of the application, Ref 15/04737/OUT, dated 8 January 2016, subject to the conditions in the attached Schedule.

## Procedural Matter

2. The application was submitted in outline with all matters reserved except for access. A layout plan showing 4 dwellings has been submitted for indicative purposes. Both parties have agreed that the decision was based on the plans YTI/PP/ -10 and 13. I have dealt with the appeal on this basis.

## Main Issue

3. The main issue is whether the proposed development would be sustainable, with particular regard to its location.

## Reasons

4. The site is situated in the All Stretton Conservation Area within the grounds of the Yew Tree Inn which is a Grade II Listed Building. The site comprises part of the pub car park and a landscaped area to the rear of the car park. It is within the village of All Stretton which has few day to day services and is outside of any settlement boundary. However, the village neighbours Church Stretton which is identified as a Market Town and Key Centre in the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, 2015.
5. The National Planning Policy Framework says that there are 3 dimensions to sustainable development – an economic role, a social role and an environmental role. The Framework is clear that there is a presumption in

- favour of sustainable development and that development proposals that accord with the development plan should be approved without delay.
6. Paragraph 17 of the Framework says that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. Paragraph 55 says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. It says that local planning authorities should avoid new isolated homes in the countryside.
  7. The Local Development Framework follows this advice by having policies in respect of the location of new development. Policy CS4 of the Shropshire Local Development Framework: Adopted Core Strategy, 2011 (CS) indicates that in the rural area, development will be focussed into settlements designated as Community Hubs and Community Clusters and that development will not be allowed outside these designated settlements unless it meets CS Policy CS5.
  8. CS Policy CS5 seeks to strictly control new development in the countryside in accordance with National Planning Policy. It says that development will be permitted where it improves the sustainability of rural communities by bringing local economic and community benefits.
  9. Policy MD1 of the SAMDev says that sufficient land will be made available to enable the delivery of housing and supports sustainable development in Shrewsbury, the Market Towns and Key Centres, including Church Stretton, Community Hubs and Community Cluster settlements. The site is not within any of these settlements.
  10. SAMDev MD3 says that in addition to supporting the development of allocated housing sites (the appeal site is not such a site), planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan, including, amongst others, the policies drawn to my attention by the Council CS4, CS5, MD1 and MD7a.
  11. The explanation to this policy says that windfall development on other sites is important, both within settlements and in the countryside, including Greenfield sites, where sustainable. It explains that settlement housing guidelines reflect the amount of development coming forward in a settlement. The guideline is not a maximum figure but development going beyond it by too great a degree could result in unsustainable development that stretches infrastructure and community goodwill. There is no suggestion by the Council that the proposed development would put a strain on infrastructure or the local community.
  12. SAMDev MD7a says that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.
  13. In summary, market housing outside the settlements is strictly controlled. Nevertheless, it is not expressly prohibited outside of the designated settlement and can be allowed outside them, including in the countryside, if the proposal would be sustainable and in accordance with other development plan

- policies. This approach is consistent with the Framework. Therefore, I shall now turn to whether or not the site is sustainable.
14. The site is not isolated as it is adjoined by a village hall, the Yew Tree Pub and other housing development. The site is a short distance to Church Stretton and I noted at my visit that there is a pavement with street lighting along the route to this market town. Therefore, in my assessment, people would easily be able to walk into Church Stretton to access local services. Cycling into Church Stretton would also be an option and whilst I was at my visit I observed a local bus service stopping outside of the site.
  15. Furthermore, in previous planning applications<sup>1</sup> Officer Reports specifically said that the site is "*in a sustainable location*". I appreciate that these planning permissions were for conversions rather than for new buildings but whether or not a site is in a sustainable location, i.e. in terms accessibility to day to day services such as schools and shops, is the same regardless of whether a site is proposed for conversion or new build. It is notable that these conversions were deemed to be sustainable in all three dimensions, i.e., economic, social and environmental. Furthermore, the Council has provided no convincing evidence that the site does not have good access to services.
  16. I find that the proposal would be sustainable in terms of all the 3 dimensions of sustainable development: It would have an economic role as the occupiers of the dwelling would help to enhance the vitality of the community in All Stretton (for example by using the pub and Village Hall) and would also support the services in Church Stretton. It would have a social role as it would make a contribution to the supply of housing in accordance with Paragraph 47 of the Framework which says that Local Authorities should boost the supply of housing. It would also have an environmental role by providing dwellings in a location which minimises the need to travel by car.
  17. I therefore conclude that the proposed development would be sustainable. Consequently, there would be no conflict with CS Policies CS4, CS5, SAMDev policies MD1, MD3 and MD7a or the Framework.

### **Other Matters**

18. The All Stretton Conservation Area is characterised by a linear settlement. There is little cohesive architectural character in the village and buildings are a mixture of ages in a range of size, style, height and shape. Densities of buildings are also varied – some are in very spacious plots and others are tightly together. The grass verge to the rear of the car park is not of any particular landscape merit and the hard-standing in the car park is not particularly attractive. The loss of part of the grass and the hard-standing would therefore not be of detriment to the character or appearance of the area. I therefore consider that the development of the site for dwellings, providing they are of a high standard of design, would preserve the character and appearance of the conservation area.
19. The dwellings would be sited some way behind and to the side of the Yew Tree Inn. This Listed Building is already experienced alongside other buildings. I consider that within this existing context, there would be ample separation

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<sup>1</sup> LPA ref 15/04756/LBC, 15/04755/FUL & 15/04757/FUL

between the Inn and the new development. Therefore, there would be no harm to the setting of the Listed Building.

20. The site is also within the Shropshire Hills Area of Outstanding Natural Beauty. Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in this respect. As the site is within the built-up envelope of the village and surrounded by other development, I consider that sensitively designed dwellings would not harm the character or appearance of the AONB.
21. I therefore find no conflict with CS Policy CS17 which seeks to protect the character of the natural, built and historic environment and their immediate surroundings.
22. Both main parties disagree about whether or not there is an up to date supply of land for housing. However, whether or not there is does not change my position as I find the development to be in accordance with the development plan.
23. I note the comments from interested parties. Boundary treatment and landscaping are subject to future approval by the Council at "reserved matters" stage. As the development would utilise an existing car park access, I consider that there would be no material effect upon highway safety.

### **Conditions**

24. I have considered the Council's suggested conditions in accordance with the Planning Practice Guidance. In addition to the standard implementation condition it is necessary in the interests of precision, to define the plans with which the scheme should accord. A condition in respect of the access road is imposed in the interest of highway safety. A programme of archaeological work is necessary as there is evidence that there might be archaeological remains around the site. Bird and bat boxes are required in the interest of biodiversity. A drainage condition is imposed in the interest of the prevention of flooding. I have not imposed a condition in respect of the height of the proposed dwellings as this is a matter that can be controlled at "reserved matters" stage and therefore such a condition fails the test of necessity.

### **Conclusion**

25. The appeal is allowed subject to the conditions below.

*Siobhan Watson*

INSPECTOR

### **Schedule**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: YTI/PP/ -10; -13.
- 5) The development hereby permitted shall not be occupied until the site access has been formed and surfaced in accordance with the approved plans and it shall remain as such thereafter.
- 6) No development shall take place within the site 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.
- 7) The dwellings shall not be occupied until a scheme for the erection of bird and bat boxes on the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any dwelling and shall remain thereafter.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided in writing to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

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# Appeal Decision

Site visit made on 7 June 2016

**by Paul Singleton BSc (Hons) MA MRTPI**

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

**Decision date: 19 July 2016**

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**Appeal Ref: APP/L3245/W/16/3143283**  
**39 Park Lane, Shifnal Shropshire TF11 9HD**

- 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 Beardsall against the decision of Shropshire Council.
  - The application Ref 15/03707, dated 25 August 2015, was refused by notice dated 8 December 2015.
  - The development proposed is erection of a four bedroom dwelling and parking off existing access.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Council's decision notice makes reference to both the Bridgnorth District Local Plan (2006) (BDLP) and the emerging Shropshire Council Site Allocations and Management Development Plan (SAMDev). The SAMDev Plan was adopted by the Council in December 2015 and now forms part of the statutory development plan for the area and can be given full weight. The BDLP has been fully superseded following the adoption of SAMDev.

## Main Issues

3. The main issues are: (a) whether there is any need to bring the site forward for development having regard to its designation as safeguarded land, and (b) whether the appeal site is an appropriate location for residential development having regard to the relevant local and national planning policies.

## Reasons

### *Safeguarded land*

4. The appeal site is included in a larger area of safeguarded land originally designated under the BDLP; this designation has been carried forward in SAMDev. SAMDev Policy S15 states that this land is safeguarded for development needs beyond the current plan period (to 2026) and that only development that would not prejudice its potential future use to meet Shifnal's longer term development needs will be acceptable. This approach is consistent with paragraph 85 of the National Planning Policy Framework (Framework) which states that development plans should make clear that safeguarded land is not for development at the present time and that planning permission for the

- permanent development of such land should only be granted following a Local Plan review which proposes the development.
5. The appellant asserts that, due to its relatively small size and position, the appeal site has no functional role as safeguarded land and that it could be developed without prejudice to the development of the larger area of safeguarded land to the east. I have seen no evidence to substantiate that contention and, in my experience, land with a frontage to the public highway can often be of strategic importance even when it is of relatively small size. The site's designation as safeguarded land has been confirmed in a recently adopted plan, which has been found to be sound, and this is not a matter which can be revisited as part of the determination of the appeal. Hence the proposal would be contrary to SAMDev Policy S15 and its development for housing at the present time would be justified only if a pressing need for additional housing development had been demonstrated.
  6. The Council's ability to demonstrate a 5 year housing land supply (HLS) was supported by the Examining Inspector following the examination into SAMDev and the Council's November 2015 update puts the supply figure at 5.53 years. A recent appeal decision in respect of a proposed development by David Wilson Homes at Teal Drive in Ellesmere (APP/L3245/W/15/3067596) has raised a significant question as to whether or not a 5 year HLS can satisfactorily be demonstrated. However, that decision is the subject of a legal challenge by the Council and cannot be afforded significant weight at the present time. Although the appellant questions the robustness of the claimed supply I have no evidence to show that a 5 year HLS does not exist. In addition, the Council's evidence, that the SAMDev housing guideline figure of 1250 new dwellings in Shifnal in the period to 2026 has already been exceeded, has not been challenged by the appellant.
  7. In light of that evidence I find that there is no pressing need for the site to be brought forward for housing development contrary to the SAMDev Policy S15 and paragraph 85 of the Framework.

*Suitability of the site*

8. The appeal site forms part of a ribbon development on the fringe of the town and lies outside of the defined development boundary for Shifnal; it is therefore classified as being within the open countryside. Policy CS5 of the Shropshire Local Development Framework Core Strategy (Core Strategy), adopted in 2011, states that development in the open countryside will be strictly controlled in accordance with national policies for the protection of the Green Belt and open countryside. Given its location on the edge of Shifnal the proposal would not result in the development of an isolated home in the countryside and would not conflict with paragraph 55 of the Framework in this regard. However, the proposal would not help to maintain or enhance the vitality of any rural community and the proposed development within what is currently a sizeable gap in the ribbon development along this part of Park Lane would cause some harm to the rural character of the surrounding area. There would also be clear conflict with paragraph 85 in respect of the development of safeguarded land.
9. Policy CS5 allows for development on appropriate sites which maintain or improve the vitality and character of the countryside where they improve the sustainability of rural communities but the proposal does not fall within any of



the examples of such development which are listed. I accept that this is not intended to be an exhaustive list but agree with the Council that Policy CS5 provides no express support for open market housing development in the open countryside. Accordingly I find that there would be significant conflict with Policy CS5. The proposal would be also be in direct conflict with SAMDev Policy MD7a which states that new market housing will be strictly controlled outside of the defined towns and settlements.

10. I do not accept the appellant's suggestion that the development boundary has been significantly weakened by the granting of planning permissions for new residential development on land to the north east of the appeal site. Those permissions were granted at a time when the Council could not demonstrate a 5 year HLS and when, for this reason, the development plan policies concerning the delivery of new housing had to be treated as being out of date. Decisions taken in those circumstances do not have any implications as to the longer term validity of the development boundary and any review of that boundary would need to be undertaken through the development plan process.
11. The Council's HLS has a fairly high dependence upon contributions from windfall sites but this aspect of the supply was considered as part of the SAMDev examination and the Plan was found to be sound. The Examining Inspector concluded that the assumed 598 units from windfall sites, with 67% of these being in the rural areas of the district, was proportionate and sound. In recognition of the significant windfall component of the HLS, SAMDev Policy MD3 states that, in addition to the development of the allocated sites, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan including Policies CS5 and MD7a. The explanatory text to the policy clarifies that the Council considers windfall development to be important both within settlements and in the countryside.
12. I have been referred to a number of appeal decisions which indicate some variation in approach taken by Inspectors to the interpretation and application of this part of MD3 and the Council has submitted a further explanatory note setting out how it thinks the policy should be applied. Having considered the submissions made by the parties, I find that the Policy MD3 does not give unqualified support for windfall sites outside of the defined settlement boundaries even where, as is the case in respect of the appeal site, they adjoin a large settlement and enjoy relatively good accessibility to local facilities and services and to public transport.
13. I do not think that the words "*having regard to*" should be taken to mean that a proposal must be in full compliance with other policies of the Plan but this part of the MD3 does, in my view, require the decision maker to give consideration to the degree of consistency or conflict that the proposal would have with other relevant policies. In view of my conclusions as to the significant conflict with Core Strategy Policy CS5 and SAMDev Policy MD7a, and the evidence that the settlement housing guideline for Shifnal will be exceeded, I find Policy MD3 does not provide any support for the site's development as a windfall housing site. The proposal would therefore conflict with the development plan as a whole.
14. I note the appellant's argument that Paragraph 47 of The National Planning Policy Framework (Framework) encourages local planning authorities to boost significantly the supply of housing. However, there is nothing in the

Framework which suggests that this objective should override its other policies concerning the protection of the countryside or in respect of safeguarded land.

15. Although the site would afford relatively good accessibility to services and facilities in the town centre the proposal would not constitute sustainable development having regard to its conflict with the development plan and the Framework policies that I have identified above.

### **Other Matters**

16. The occupier of the adjoining property has raised concerns with regard to loss of light to his property and the effect of additional traffic. Due to the separation distance between the proposed building and the adjacent dwelling, and the absence of any windows in the side elevation of the neighbouring property, there would be no risk of material harm in terms of loss of light and I consider that the additional traffic movements generated by the single dwelling proposed would be negligible. Neither is there any evidence to suggest that the proposal might affect the foundations of the adjacent property as is suggested in neighbour's objection.

### **Conclusions**

17. The proposal would bring some economic benefit through the construction employment it would support and would add to the overall supply and range of housing available in the district. However these benefits would be of very modest scale and would not amount to material considerations that would justify a grant of planning permission contrary to the provisions of the development plan.
18. For the reasons set out above and having regard to all matters raised I conclude that the appeal should be dismissed.

*Paul Singleton*

INSPECTOR

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## Appeal Decision

Site visit made on 5 July 2016

**by Paul Singleton BSc (Hons) MA MRTPI**

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

Decision date: 28 July 2016

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**Appeal Ref: APP/L3245/W/16/3147776**

**Land to the rear of 41 Furlongs Road, Cleobury Mortimer, Shropshire DY14 8AR**

- 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 Percy Cox Properties against the decision of Shropshire Council.
  - The application Ref 15/01919/FUL, dated the 28 April 2015, was refused by notice dated 4 December 2015.
  - The development proposed is residential development of 13 number detached and semi-detached houses including garages and road design.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of 13 number detached and semi-detached houses including garages and road design at Land to the rear of 41 Furlongs Road, Cleobury Mortimer, Shropshire DY14 8AR in accordance with the terms of the application, Ref 15/01919/FUL, dated the 28 April 2015, subject to the conditions listed in the schedule attached to this decision.

### Application for costs

2. An application for costs was made by Percy Cox Properties against Shropshire Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The application originally proposed a development of 12 houses on the site. Subsequent amendments made prior to the Council's determination of the application included the substitution of one of the proposed detached houses with a pair of semi-detached properties, thereby increasing the total number of dwellings to 13. I have considered the appeal on this basis of this amended scheme.

### Main Issues

4. The main issues are: (a) the effect on the local road infrastructure, (b) the effect on the living conditions of residents of properties fronting the roads on the approach to the site, and (c) the need for the form of housing proposed.

## Reasons

### *Road infrastructure*

5. Based on my observations on my site visit I consider that the proposed vehicular access from the head of the cul-de-sac section of Furlongs Road would be of adequate width and satisfactory geometry so as to enable the safe turning of vehicles, including large refuse vehicles, into and out of the appeal site. Visibility for vehicles leaving the site would also be satisfactory. The junction of Furlongs Road and Ronhill Crescent would also provide ample space for the turning of large vehicles and for good visibility in both directions for vehicles leaving the cul-de-sac.
6. The cul-de-sac currently serves 14 houses and connects to a wider local network of roads via New Road and Ronhill Crescent, which together serve around 120-150 houses. The traffic surveys show that existing traffic flows on this network are low and the appellant's transport assessment demonstrates that the increase in traffic generated by the development would be very modest. I have seen no evidence to contradict that report's conclusions that there would be no material impact on the link capacity of the local roads or on the operation of the junctions within that local network.
7. I note the concerns that this section of Furlongs Road is narrow but the carriageway width, at 4.25 metres (m), is sufficient to enable two cars to pass one another. All of the houses fronting the road appear to have provision for off street parking, in most cases for more than one car, and at the time of my site visit there was only one car parked on the road. Increased on-street parking might occur at other times of the day but the carriageway width would enable other vehicles to pass and, given the short length of the road, some element of on-street parking would be unlikely to give rise to any significant inconvenience or delay to drivers. As set out in the appellant's transport assessment, Furlongs Road and Ronhill Crescent would continue to operate within acceptable parameters even allowing for the effect of on-street parking.
8. The 2m wide footway on both sides of the cul-de-sac provides for safe pedestrian movements along the street but does not continue around the turning head at the top of the street. The appeal scheme would extend the footway on the south side and carry this across a raised table at the site access point to connect with the existing footpath that links Furlongs Road to Ron Hill Lane. Due to the short length of the road, the carriageway width, and the number of driveways which it serves, most drivers using this section of Furlongs Road are likely to travel at low speed and with appropriate caution. However, this proposal would result in a net benefit in terms of pedestrian safety notwithstanding that it would introduce more traffic movements along the street.
9. There are constraints on the local road network in respect of carriageway "pinch points" and the lack of a footway or pedestrian refuge at some locations. However, in view of the modest scale of the development proposed and the ready accessibility to local shops, schools and other services which the site affords, I agree with the Highway Officer's conclusions that the appeal proposal would not make those conditions significantly worse. The development would contribute some additional vehicle and pedestrian movements to the local

network and it is reasonable that the appellant should make a financial contribution towards making improvements where appropriate. However, if other developments, such as that which has been approved at the Box Works site, are also likely to generate additional movements on parts of the local network, it would be wholly unreasonable to expect the appellant to fund all of any desired improvements to that network.

10. The highways contribution offered by the appellant has been judged by the Highways Officer both to be of benefit and proportionate to the scale of development proposed and I have no reason to reject that conclusion. Given that the Council's concerns mainly relate to conditions on roads further from the site, rather than on the cul-de-sac itself, it is perfectly sensible that the drawing up of possible improvement works and consultation with the local community about those works should be done by the Highway Authority. I therefore reject the Council's criticism of the appellant in this regard.
11. Having regard to the above considerations, I conclude that the proposal would have only a modest effect on the safe operation of the local road network and that adequate mitigation could be provided by means of appropriate planning conditions and a financial contribution towards local improvement works. Accordingly, there would be no residual impacts which would warrant a refusal of planning permission having regard to the guidance at paragraph 32 of the National Planning Policy Framework (Framework).
12. The proposal is consistent with Policy CS3 of the Shropshire Core Strategy (Core Strategy) which expresses support for balanced housing and employment development of an appropriate scale and design and which balances environmental constraints with meeting local needs. It also derives positive support from Policy CS6, which encourages development in sustainable locations and requires that proposals should be designed to be safe and accessible to all, and from Policy CS7 in that the site's central location will provide future occupiers of the proposed houses with a range of choices as to how they make journeys to local services and facilities.
13. The proposal would also comply with Policies MD2(6) and MD8 of the Council's Site Allocations and Management of Development (SAMDev) Plan (2015) in that there is sufficient capacity in the local network to support the development and the financial contribution proposed would help alleviate existing constraints in that infrastructure.
14. *Living conditions*
15. The Council's appeal statement provides little clarification of that part of the reason for refusal concerning the effect of the traffic generated by the proposal on the living conditions of occupiers of residential property in the area; it states only that members had concerns about the amenity of residents fronting the access route. However no evidence has been submitted to demonstrate that such effects are likely.
16. With regard to the amenity of pedestrians using the network, the Institute of Environmental Assessment Guidelines, referred to in the transport assessment, suggest a doubling of existing traffic flows as the threshold for impact evaluation in terms of any effect on the "pleasantness" of the journey and that moderate impacts in terms of pedestrian delay are likely to occur with flows of over 600 vehicles per day with 10-15% HGV levels. The traffic flows following

completion of the proposed development would be substantially below those thresholds and there is, therefore, no evidence to suggest that any adverse effects would arise either in respect of residents when walking along the local roads or when within their homes.

17. Accordingly I find that that there would be no material harm to the living conditions of residents of properties fronting the local highway network and that no conflict would arise with Core Strategy Policies CS7 and SC8 or with any of the policies cited in the first reason for refusal in this regard.

*Need and housing type*

18. In defence of its second reason for refusal the Council relies upon Core Strategy Policy CS11 and SAMDev Policies MD2 and MD3 and I deal with each of these in turn.
19. Policy CS11 sets out a general objective of creating mixed, balanced and inclusive communities and a number of ways in which the Council, as local planning authority, will seek to achieve this. All but one of the following parts of the policy concern things that the Council will seek or support and set no specific requirements that must be met by individual development proposals. The only such requirement is that all open market housing developments should make an appropriate contribution to the provision of affordable housing; the appeal makes such a contribution and is, therefore, in accordance with the policy.
20. Policy MD2 requires that development should respond positively to local design aspirations, in terms of visual appearance and how a place functions, and should contribute to and respect the locally distinctive and valued character of the area. In this case, the Council has concluded that the site is in a sustainable location and that the design of the proposal is of an acceptably high standard having regard to its location at the heart of the Cleobury Mortimer Conservation Area; it follows that the Council also considers the proposal would preserve or enhance the character or appearance of the Conservation Area. In this context, and in light of my conclusions as to the capacity of the road infrastructure to accommodate the scale of development proposed, the proposal would not give rise to any conflict with Policy MD2.
21. Policy MD3 gives positive support to sustainable housing development on non-allocated sites and states that residential proposals should meet the design requirements of relevant Local Plan; the proposal is such a sustainable development that meets those design requirements. The policy also states that proposals on sites of five or more dwellings should include a mix and type of housing that has regard to local evidence and community consultation. The explanatory text at paragraph 3.20 indicates that it is the Place Plans that will provide information as to the different types of housing required at a local level.
22. The Cleobury Mortimer Place Plan (Place Plan) makes reference only to affordable housing as a clearly identified local need. The Council's statement indicates that there is a reference in the Place Plan to the need for bungalows but, on my reading of that document, the only such reference is in the summary of representations made to the SAMDev plan by the Stottesdon and Sidbury Parish Council; hence that comment appears to reflect a view as to what is needed in the wider area rather than in the town itself.

23. The Place Plan's identification of a need for more affordable housing is contradicted by the Cleobury Mortimer Parish Plan (Parish Plan) 2014, with the respondents to its questionnaire stating that no more social housing is needed in the town. The Parish Plan does state that no new bungalows have been built in the recent developments constructed or granted permission to meet the 350 dwelling Core Strategy target for the town; however, the Plan includes no information as to the number or size of bungalows for which a need has been established.
24. Neither the Place Plan nor the Parish Plan forms part of the development plan and, hence, these can only be afforded limited weight in the appeal. The officer report concludes that neither of these documents includes a specific reference to the need in the town for bungalows or smaller units and the Council appears to accept this at paragraph 4.5 of its appeal statement. I agree with that conclusion and consider that neither of these plans provides a sound basis for the application of part 1.ii. of Policy MD3 to the appeal proposal. I also agree with the appellant that the development of a larger number of smaller units or bungalows on the site would not be consistent with the need for the proposal to preserve or enhance the character of the Conservation Area.
25. The appellant has consulted both locally and with the Council and has made a number of changes to the proposal such that this does include a mix of larger and smaller semi-detached and detached properties that would provide for a range of housing needs. The S106 undertaking submitted by the appellant would also secure affordable housing provision in accordance with the Council's policies. In my view this is an appropriate mix of development and the proposal would comply with Policy MD3.

### **Other Matters**

26. The Council has not alleged any harm to the Conservation Area and this is not an area of dispute between the parties. I am satisfied from the observations made on my site visit that the layout and design of the proposed dwellings would be in keeping with the traditional form and style of the properties within this part of the conservation area and would not give rise to any harm in that respect. In its current condition the site has a mildly negative effect on the appearance of the Conservation Area and I consider that its development as proposed would not only preserve but would bring some degree of enhancement to the character and appearance of the area in this respect; this is therefore a positive benefit of the proposal.
27. A previous appeal in respect of a proposed development of 21 dwellings on the appeal site was dismissed in December 2002 on the grounds of highway safety and its effect on the Conservation Area. Whilst that previous decision is a material consideration the current proposal is for a significantly lower number of dwellings and I am satisfied that, in the context of current planning policy and guidance on the capacity of different standards of highway, the proposal is acceptable in highway terms. I also consider that, with the scale of development and design approach proposed, the current proposal would preserve the character and appearance of the conservation area.
28. The third party representations raise concerns about the provision of a vehicular access to the rear of the public house on Lower Street. Although there may have been some confusion as to the purpose of the proposed access

at the outset, the appellant has confirmed that this would be for the private use of the proprietor of those premises. I am satisfied that its use could be suitably restricted by means of a planning condition and that there would be no detriment in terms of the safe operation of the highway network or on residential amenity as a result of such a restricted use. Concerns have also been raised about the effect of the proposal on the outlook and living conditions of occupiers of properties in Furlongs Road and New Road but, based on my observations on my site visit, I find that there would be no risk of any significant harm in this respect.

### **S106 Planning Obligations**

29. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
30. A signed and completed S106 Agreement has been submitted which includes obligations relating to affordable housing provision in line with the Council's adopted policies on such provision and the payment of a financial contribution to help improve pedestrian and cycle links within the vicinity of the development in order to promote sustainable travel, to undertake localised highway improvements and to formalise parking arrangements in the vicinity of the site.
31. I am satisfied that the obligations contained within that agreement are necessary and directly related to the appeal proposal and are fairly and reasonably related in scale and kind to the development proposed, in accordance with CIL Regulation 122. I have therefore attached significant weight to the UU in reaching my decision.

### **Conditions**

32. I have considered the Council's proposed conditions as set out in the officer report and have made amendments to these in the interests of clarity.
33. As the planning permission hereby granted is a full permission and in the interests of certainty a condition is needed to tie the permission to the approved plans and drawings. Drawing No 2047-201-03 is approved only insofar as it shows the site location and red line but not in respect of the materials layout drawing as this was not updated to reflect the late changes to the site layout. The house type and garage plans are approved insofar as they show plans and elevations for these elements but not in respect of the plot references on these drawings as these do not tie up with Revision F of the site layout plan.
34. Conditions have been attached to require the submission and approval of a updated version of the materials plan together with full details of the materials to be used in the construction of the external surfaces of the houses and of the areas of hard surfacing within the development. These conditions are necessary, notwithstanding the information submitted with the application, to ensure a high quality of development commensurate with its location within the conservation area.



35. The application was accompanied by a drainage strategy but conditions are needed which require the submission of detailed proposals for foul and surface water drainage and setting out minimal requirements of such provision in the interests of ensuring a safe and acceptable standard of development. In light of the findings and recommendations of the desk top archaeological assessment which accompanied the application a condition is needed which requires that a scheme of investigation be submitted and approved and that an appropriate programme of archaeological works be carried out prior to the commencement of development.
36. A condition is needed to require the submission and approval of a construction method statement so that appropriate measures are agreed to minimise disruption on the local highway network and potential disturbance to the occupiers of nearby dwellings during the construction programme. Also in the interests of minimising potential noise and disturbance to nearby residents a condition limiting the hours of working during construction has also been attached.
37. Although means of access is approved as part of the permission a condition is needed, so as to ensure an acceptable standard of development, which requires the submission and approval of the engineering details of the access roads, footways and associated infrastructure and setting out requirements for the timing of these works. In the interests of ensuring a sustainable development and providing the future occupiers of the dwellings with a choice of travel options a conditions requiring the submission and approval of a travel plan is appropriate. A condition has also been attached that requires that the parking areas proposed within the development are provided and completed before any of the houses are occupied; this is necessary to ensure that adequate provision is made and that there would be no need for cars to park outside of the site.
38. Again to ensure a high standard of development, conditions are needed in relation to the submission and approval of a scheme of hard and soft landscaping works and in respect to the requirements concerning the implementation of those works. As details are not approved as part of the planning permission a condition is also needed which requires the approval of a lighting scheme before any such works are carried out. Finally in light of the recommendations of the Phase 1 Habitat Survey conditions setting out the requirements in respect of the provision of bird and bat boxes/ artificial nests are also needed.

### **Conclusions**

39. For the reasons set out above I conclude that the proposal would comply with the development plan and that, in accordance with paragraph 14 of the Framework, planning permission should be granted without delay. The appeal is therefore allowed.

*Paul Singleton*

INSPECTOR

**Schedule of conditions attached to appeal Ref APP/L3245/W/16/3147776**

- 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:

2047-20-03 - approved in respect on of Site Location Plan only

2047-20-02 Rev F            Site Layout Plan

2047-HTA-01                House Type A

2047-HTB-01 Rev A        House Type B

2047-HTD-01                House Type D

2047-THE-01                House Type E

2047-HTF-01                House Type F

2047-HTH-01 Rev A        House Type H

2047-DG-01                 Double Garage – Pitched Roof

2047-DG-02                 Double Garage – Hipped Roof

2047-DG-03                 Double Garage – Long Form

House type and garage plans are approved with respect to the proposed plans and details only as the plot references on these plans have not been updated to reflect Revision F of the site layout plan.

- 3) Notwithstanding condition 2, no above ground development shall be carried out until an amended version of Drawing No 2047-201-03 (Materials Layout) and full details of all external materials, including hard surfacing and fenestration, have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding condition 2, no development shall commence until a scheme to appropriately restrict vehicular access from the development site to the car park of the Old Lion Public House has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of any of the dwellings approved under this permission.
- 5) No development shall take place until plans for the disposal of foul sewage have been submitted to, and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details and before the development is first occupied.
- 6) The development hereby approved shall not commence unless details of the proposed surface water soakaways have been submitted to and approved in writing by the local planning authority. Percolation tests and the sizing of the soakaways shall comply with BRE Digest 365 and shall cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. The details shall include calculations and dimensions for the soakaways and confirmation of the location for the percolation tests.

- 7) Surface water shall pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.
- 8) If non permeable surfacing is used on the new access, driveway and parking area or the new access slopes toward the highway, a drainage system to intercept water prior to flowing on to the public highway shall be submitted to and approved in writing by the local planning authority prior to the commencement of those works. The works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling within the development.
- 9) If it is proposed to employ highway gullies for the disposal of the surface water runoff from the proposed highway within the site, the developer shall submit a highway water runoff disposal scheme for the approval of the local planning authority prior to the commencement of the development. This shall confirm that the proposed gullies will be able to convey the 100 year plus 30% storm to the soakaway system. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12. This requires that exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. The exceedance flow path should be detailed to ensure that any such flows are capable of being satisfactorily managed on site. The works shall be carried out in accordance with the approved details prior to the first occupation of any dwelling within the development.
- 10) No development shall commence until a programme of archaeological work has been carried out in accordance with a written scheme of investigation (WSI) which shall have been approved in writing by the local planning authority prior to the commencement of the works.
- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) the storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

- viii) ensuring that construction workers vehicles are parked on site at all times;
  - ix) ensuring that smaller vehicles are used whenever possible.
- 12) 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.
- 13) No development shall commence until full engineering details of the new access roads, footways, parking areas, highway surface water drainage, street lighting and carriageway markings/signs have been submitted to and approved in writing by the local planning authority. The works shall be fully implemented in accordance with the approved details with the estate roads, footways, vehicle manoeuvring and turning areas completed to at least base course macadam level and made available for use before any dwellings they serve are first occupied.
- 14) No development shall commence until a travel plan has been submitted and approved in writing by the local planning authority. . The travel plan measures shall relate to the entirety of the residential development, and shall reflect the phasing of occupation as appropriate. The travel plan shall be implemented in accordance with the approved details within one month of the first occupation of any dwelling approved under this permission.
- 15) No dwellings hereby approved shall be occupied until the car parking areas shown on approved plan have been constructed and surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority. The parking spaces and manoeuvring areas shall thereafter be kept clear and maintained at all times for that purpose.
- 16) No development shall commence until there a scheme of landscaping has been submitted to and approved by the local planning authority. The submitted scheme shall include:
- i) means of enclosure
  - ii) hard surfacing materials
  - iii) planting plans
  - iv) written specifications (including cultivation and other operations associated with plant and grass establishment)
  - v) schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
  - vi) a programme for implementation of the works.
- 17) All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the local planning authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced with

others of species, size and number as originally approved, by the end of the first available planting season.

- 18) 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.
- 19) A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.
- 20) 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.

**End of schedule of conditions**

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## Costs Decision

Site visit made on 5 July 2016

**by Paul Singleton BSc (Hons) MA MRTPI**

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

**Decision date: 28 July 2016**

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**Costs application in relation to Appeal Ref: APP/L3245/W/16/3147776  
Land to rear of 41 Furlongs Road, Cleobury Mortimer, Shropshire DY14  
8AR**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Percy Cox Properties Ltd for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for residential development for the erection of 12 number detached and semi-detached houses including garages and road design.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The word 'unreasonable' is used in its ordinary meaning and unreasonable behaviour can include failure by a planning authority to substantiate a stated reason for refusal of planning permission and a decision taken contrary to the authority's professional advice without reasonable grounds.
3. Very clear advice was given by officers to the Planning Committee that there were other appeal decisions where highway concerns, similar to those raised at the Committee meeting, had been found not to justify a refusal of permission and that a refusal on highway grounds may not be capable of being sustained on appeal. I accept that the absence of an objection from the Highways Officer does not prevent the Council's Planning Committee from reaching a different conclusion provided that that decision can be clearly substantiated.
4. In this case, however, the Council has not provided any evidence to substantiate the first ground of refusal. No technical assessment or analysis has been produced to demonstrate that the proposal would have an unacceptable impact on the local road infrastructure or that any harm would be caused to the living conditions of residents of properties fronting the local highway network. The Council's statement does little more than recite the general concerns that appear to have been raised at the Committee meeting in relation to these matters. The appeal statement is incorrect in saying that the

highway officer's advice did not take account of wider sustainability or amenity issues; those considerations would clearly have been part of that officer's assessment of the application proposal.

5. With regard to the second reason for refusal the Council's costs rebuttal states that the development would deliver mainly larger, detached houses when the local community has expressed a clear preference for smaller/affordable housing. However, that stated community preference is not clearly reflected in the documents that the Council relies upon to support the second reason; neither are there any adopted policies which specify a housing mix for developments such as that proposed. Indeed, the Council's Appeal Statement acknowledges that the proposals are not in clear contravention of an adopted Place or Parish Plan. There was no sound policy basis for the second reason for refusal and no evidence has been submitted to demonstrate what, if any harm, would be caused by the form and type of housing proposed by the appellant.
6. The decision to refuse permission against the professional advice of its officers and its subsequent failure to produce evidence to substantiate the reasons for refusal amount to unreasonable behaviour on the part of the Council. In consequence of that behaviour the appellant has incurred unnecessary and wasted expense through the costs of submitting and pursuing an appeal that should not have been necessary. A full award of costs is therefore justified.

### **Costs Order**

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Percy Cox Properties Ltd, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Shropshire Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Paul Singleton*

INSPECTOR



## Appeal Decision

Site visit made on 5 July 2016

**by G Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 17 August 2016**

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**Appeal Ref: APP/L3245/W/16/3148172**

**Land adjacent to Quatford Wood House, Chapel Lane, Quatford, Bridgnorth, Shropshire WV15 6QH**

- 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 & Mrs Nigel Philp against the decision of Shropshire Council.
  - The application Ref 15/03606/FUL, dated 14 August 2015, was refused by notice dated 14 October 2015.
  - The development proposed is a dwelling.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The original application was determined before the Council's adoption of the *Shropshire Council: Site Allocations and Management of Development Plan* ("SAMDev") on 17 December 2015. This is now part of the statutory development plan for the area, and as such I have a duty to determine the appeal in accordance with the plan unless material considerations indicate otherwise. As the appellants' statement refers to the relevant policies of the SAMDev, I am satisfied that no parties will be prejudiced by my determination of the appeal on this basis.

### Main Issues

3. The appeal site is within the Green Belt. I thus consider the main issues to be, firstly, whether or not the proposal would constitute inappropriate development for the purposes of local and national planning policy; secondly, the proposal's effects on the openness of the Green Belt; thirdly, the proposal's effects on the character or appearance of Quatford Conservation Area; and fourthly, if the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

## Reasons

### *Whether or not inappropriate development*

4. Located in the West Midlands Green Belt, the appeal site is an open field abutting Chapel Lane, a single track highway that winds its way upwards from its junction with the A442. The field is bounded by a mixture of mature hedgerow and fencing to the roadside, and fencing elsewhere. It marks a significant break in development from the pinch point of the cottages and former agricultural buildings to its south west, which hug the lane more tightly, and the more sporadic and dispersed development on its other side. Due to the undulating nature of the site and its surroundings, deep views across it are visible to the west and to the wooded crest of the hill to the south, which impart an intensely verdant and rural character.
5. The appeal scheme seeks to develop a two-storey, gable-ended, pitched-roof dwelling to the corner of the appeal site closest to 6 Chapel Lane. The proposal would be slightly set back from the lane, and a new access would be developed to the side of the existing hedgerow. Additional mixed thorn hedges would be planted to its side and rear boundaries.
6. Policy S3 of the *Bridgnorth District Local Plan* (Adopted July 2006) ("the Local Plan") lists a number of exceptional circumstances where development is permissible in the Green Belt. Of those listed none are directly relevant to the appeal site.
7. Policy CS5 of the *Shropshire Local Development Framework: Core Strategy* (Adopted March 2011) ("the Core Strategy"), sets out local policy in respect of the Green Belt and suggests that development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. The Policy is permissive of limited infilling within the Green Belt within Community Hubs and Community Clusters as identified in the SamDev.
8. Policy MD6 of the SAMDev states that development proposed in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt. The Policy re-iterates the support for limited infill development in Community Hubs and Clusters identified within Policy MD3, and sympathetic to the character of the settlement.
9. The National Planning Policy Framework ("the Framework") sets the national context for Green Belt policy. At paragraph 79 it makes clear that the "Government attaches great importance to Green Belts" and that the "essential characteristics of Green Belts are their openness and their permanence". According to the Framework, the Green Belt serves five purposes, of most relevance to this case is its assistance in safeguarding the countryside from encroachment.
10. The construction of new buildings is generally inappropriate in the Green Belt; however, paragraph 89 of the Framework outlines some exceptions to this which include, amongst others, "limited infilling in villages".
11. I note that, for the purposes of local policy that the appeal site is outside of a Community Hub or Cluster, and thus limited infilling would be contrary to the policies of the development plan. However, I am also mindful of the appellants' concerns with the way that Community Hubs and Clusters have

been identified and I will return to this issue more substantively later in this decision. However, in the context of Green Belts, the appellants drew my attention to a recent judgement of the Court of Appeal in regard to limited infilling<sup>1</sup>. Whilst mindful of the distinguishing features of that case and the current appeal, I have been cognisant of the judgement in my assessment of the appeal scheme in the context of paragraph 89 of the Framework.

12. I have no reason to disagree with the previous appeal decision<sup>2</sup> in relation to the site, which concluded, due to the scale of the proposal, and adjacency to other development that it would constitute limited infilling. However, more determinative in this instance is whether or not Quatford could be defined as a village for the purpose of national planning policy. Again, in this respect, my observations onsite gave me little reason to disagree with the previous Inspector's conclusions in this regard. The wider area of Quatford, although having a modest village hall, a fish and chip shop, public house, roadside café and cattery has no definable centre and is instead more characteristic of dispersed roadside development, of which the appeal site is at the periphery. The settlement is surrounded by open fields and hills, separating it from the town of Bridgnorth and thus has an intensely rural character. Consequently, I do not consider that it constitutes a village for the purposes of the Framework. The presence of caravan sites in the wider environs of Quatford does little to alter my conclusions in this respect.
13. Accordingly, the proposal would not constitute limited infilling in a village and in these regards would conflict with Policy S3 of the Local Plan; Policy CS5 of the Core Strategy; and Policy MD6 of SAMDev. The proposal would also constitute inappropriate development for the purposes of the Framework. Paragraph 88 of the Framework makes clear that inappropriate development is harmful to the Green Belt, which should be given substantial weight in decision making.

#### *Openness*

14. The concept of openness in terms of Green Belt policy requires not merely an assessment of a proposal's visual effects, but also its spatial ones. In essence 'openness' means that land in the Green Belt should remain, on the whole, free from development. Although to some extent visually related to the adjacent dwellings, the proposal would introduce a significant amount of development, both in terms of the proposed dwelling and the access arrangements, on a field which is currently significantly free from development. The proposal would thus have significantly harmful effect on the openness of the site. Consequently, the appeal scheme would have a harmful effect on the Green Belt, interfering with its purpose of protecting the countryside from encroachment and its aim to keep land permanently open as outlined in the Framework.

#### *Character and Appearance*

15. The site is within the Quatford Conservation Area. At my visit, I saw that the appeal site is a considerable gap, between the generally more intimate arrangement of cottages and other buildings to its west, and the more sporadic

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<sup>1</sup> *Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council* [2015] EWCA Civ 195

<sup>2</sup> APP/L3245/A/14/2225478

and dispersed developments on its other side, which are set back further from Chapel Lane. The cottages to the west of the appeal site, due to their orientation and enclosure of the lane form a strong punctuation in the streetscene, emphasising this change. The appeal site thus marks a transition between these development patterns, and due to its elevation, affords views through to open countryside that contribute to the rural setting of the conservation area.

16. The historic and aesthetic significance of this part of the conservation area thus resides to a substantial degree in the contrasts between the tighter lane-side development, and the more spaciouly plotted buildings beyond this, all responding to the steep gradients of the verdant surrounding landscape. I am aware that the Conservation Area Appraisal for Quatford does not identify any distinctive relationship between open spaces and built form; however, this is not conclusive that such a relationship does not exist.
17. Due to its setback from the highway, the appeal scheme would introduce development that would not relate well to either the more intimate pattern of buildings to its west or the more sporadic arrangement further up the lane. Moreover, it would degrade the conservation area's spacious rural character and be harmful to its significance in this regard.
18. Whilst I note that the design of the scheme would pick up cues from vernacular detailing of properties elsewhere in the area, its siting would interfere with the historic development pattern of the lane and the open, spacious and rural setting of its constituent buildings and would thus have a harmful effect on the character and appearance of the conservation area. With regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 the development would neither preserve nor enhance the character or appearance of the conservation area. Moreover, in these regards the proposal would conflict with the objectives of CS6 and CS17 of the Core Strategy.
19. I had regard to the Framework; due to the small scale of the proposal in the context of the wider scale of the conservation area, I have assessed that the proposal would cause less than substantial harm to its significance. Less than substantial harm does not mean, however, that less than substantial weight should be attached to it in the overall planning balance. In line with paragraph 134, I will consider whether any public benefits would outweigh this harm below.

#### *Other Considerations*

20. The appeal site would be outside of a Community Hub or Cluster for the purposes of the development plan, and thus residential development here would be contrary to its provisions. I note the appellants' concerns with the way that Community Hubs and Clusters were identified as part of the SAMDev process, and have been mindful of the Inspector's Examination Report, which was submitted with the appeal statement<sup>3</sup>. I am also cognisant of the Court Judgement, and recent appeal decisions that were brought to my attention by the appellants<sup>4</sup>. I have had regard to this evidence, the development plan and the Framework in reaching my decision. Within this context, I am also mindful

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<sup>3</sup> PINS/L3245/429/9

<sup>4</sup> *Wychavon District Council v Secretary of State for Communities and Local Government & Crown House Developments Ltd* [2016] EWHC 592 (Admin); Appeal Decisions: APP/L3245/W/15/300117; APP/L3245/W/15/3134152; APP/L3245/W/16/3143403 and APP/L3245/W/16/3144703

of paragraph 55 of the Framework, which emphasises the promotion of sustainable development in rural areas.

21. For the purposes of the Framework, sustainable development has three dimensions: the environmental; the social; and the economic.
22. Taking the environmental dimension first, the site is located on a single track road that slopes upwards from the A442. In the immediate environs of the appeal site, and elsewhere in Quatford, there were few facilities to meet the day to day needs of residents. I note the appellants' suggestion that there is regular public transport, however, I saw no bus stops on Chapel Lane itself, and have not been provided with a timetable of services. Moreover, the nature of Chapel Lane would not be conducive for carrying bags of heavy shopping from any bus stops on the A442 up towards the appeal site. There is a footpath to Bridgnorth, however, the distance from the appeal site would militate against its use on a day-to-day basis. I am aware of the presence of the caravan sites and the catering firm in Quatford, however, employment opportunities arising from these are likely to be minimal. Consequently, I have no reason to doubt that the occupiers of the appeal scheme would be heavily reliant on the private car for the majority of journeys. Whilst I am aware that the local area is serviced by deliveries from supermarkets I am not persuaded that such provision would be any more environmentally sustainable than car journeys to serve the same purpose by the future occupiers of the scheme. Consequently, this is a matter that would only carry very limited weight.
23. The appellants supplied a copy of the Department for Transport's *National Travel Survey : Average Trip Length by Trip Purpose 2013* table. I presume, and have not been directed otherwise, that the figures in the table refer to travels to and from the destination mentioned and are not merely one way trips. I have been supplied with Quatford's distance from Bridgnorth, but am unaware whether this is a distance as the crow flies or by road. Thus in the absence of comparative data relating to the site I am not persuaded that trips would be substantially less than the averages within this table. Consequently, I can give only limited weight to the data in this table in my assessment of the appeal scheme.
24. The Design and Access Statement suggests that the proposal would be built to level 3 of the Code for Sustainable Homes. However, such a level of environmental sustainability is not unusual in modern residential development, and would merely mitigate some of the environmental effects of the scheme rather than providing a positive benefit. Accordingly it is a matter that would only attract very limited weight in the overall planning balance.
25. Moving to the social aspect, the proposal would deliver modest social benefits through delivery of one additional dwelling, and potential contributions to the Community Infrastructure Levy. Additional residents could also help to maintain what limited services there are in Quatford, again, given the size of the proposal, this would likely be to a limited degree. However, these would be tempered to a significant degree by the appeal site's remoteness from services. The width and gradient of the lane would also serve to limit the accessibility of the proposal to people with mobility issues. Consequently, I do not consider that the site would be socially sustainable to any substantial degree. I therefore attach only limited weight to this matter.

26. In terms of the economic aspect, undoubtedly some benefits would flow from the proposed dwelling's construction. However, these benefits accrue wherever a new dwelling is built and would fade away after a comparatively short period of time. Residents of the proposed dwelling could increase spending to a modest degree in local businesses. However, the modest scale of these benefits would attract only limited weight in the overall planning balance.
27. Whilst mindful of the appellants' suggestion that some of the windfall housing supply to meet the needs of the County could come forward on Green Belt sites the proposal is for only one dwelling and thus would only make a very limited contribution to both the SAMDev's objectives in this respect and the Framework's objective of significantly boosting housing supply. Consequently, this is a matter to which I attach only limited weight.
28. The proposal could help the appellants to downsize within Quatford. This may be the case, but there is no reason that existing housing in the surrounding area could not also offer that opportunity. In any event this would again be a benefit to which I attach only limited weight.
29. I was supplied with a copy of a unilateral planning obligation to secure affordable housing contributions should development be forthcoming. The Minister for Housing and Planning issued a Written Ministerial Statement (WMS) on 28 November 2014, and subsequent alterations to the Government's Planning Practice Guidance (PPG) that outlined the circumstances when affordable housing contributions should not be sought from small-scale developments. The WMS states that "for sites of 10-units or less... affordable housing and tariff style contributions should not be sought".
30. At the time of the original planning decision in regards to this scheme the WMS was subject to a High Court judgement<sup>5</sup> and declaration Order, which confirmed that the policies within the WMS should not be given weight as material considerations in planning decisions.
31. However, the Secretary of State challenged the High Court's decision in the Court of Appeal, the judgement<sup>6</sup> of which, issued on 11 May 2016, overturned the previous judgement. Consequently, the WMS is once again a material consideration. Given that this is the most up to date expression of national policy on the matter it is a consideration to which I attach significant weight, and thus I do not consider that the appeal scheme would be required to make provision for affordable housing contributions. Consequently, I can attach only neutral weight to the provisions of the unilateral undertaking in this case.

### *Green Belt Balance*

32. The appeal proposal would constitute inappropriate development, and be harmful to the openness of the Green Belt; its purpose to safeguard the open countryside from encroachment; and its aim to keep land permanently open. The proposal would also cause less than substantial harm to the character of the conservation area. Paragraph 88 makes it clear that substantial weight should be given to any harm to the Green Belt and any other harm: "Very special circumstances' will not exist unless the potential harm to the Green Belt

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<sup>5</sup> *West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government* CO/76/2015 [2015] EWHC 2222 (Admin)

<sup>6</sup> *Secretary of State for Communities and Local Government v West Berkshire District Council* [2016] EWCA Civ 441)

by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

33. This is a high hurdle for a proposal to overcome, and it is clear that the benefits adduced for the scheme either individually or cumulatively would not clearly outweigh the substantial weight I have to give to the Green Belt harms. Neither would they constitute the public benefits necessary to justify the less than substantial harm to the significance of the conservation area. Consequently, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Thus the very special circumstances necessary to justify the development do not exist. In arriving at this conclusion I have had regard to the Court of Appeal judgement supplied to me by the appellants<sup>7</sup>, which suggests how policies that restrict the supply of housing, including Green Belt policy, should be considered in the planning balance.
34. Consequently, the proposal would be contrary to the Framework, and Policies CS3, CS5, CS6, CS17 of the Core Strategy; MD1, MD6, MD7 and MD12 of SAMDev; and S3 of the Local Plan.

#### **Other Matter**

35. I am aware of the appellants’ concern that positive comments of consultees in a previous application were attached no weight by the Local Planning Authority, whereas negative comments by these same consultees were given weight in the application that led to the current appeal. However, the relative weight given to considerations is a matter for the decision-taker. The proposal’s siting is a material change in this scheme that differentiates it from the previous case. Furthermore, I have reached a decision on the appeal based on the evidence put before me including the comments of the consultees in relation to this case.

#### **Conclusion**

36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G J Fort*

INSPECTOR

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<sup>7</sup> *Suffolk Coastal DC V Hopkins Homes Limited and Secretary of State for Communities and Local Government; Richborough Estates Partnership LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government* [2016] EWCA Civ 168

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## Appeal Decision

Site visit made on 21 June 2016

by **B Bowker Mplan MRTPI**

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

Decision date: 17 August 2016

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**Appeal Ref: APP/L3245/W/16/3146675**

**Land adjoining Simmonds Barn, Button Oak, Bewdley, Shropshire  
DY12 3AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Dave & Glenys Dudley against the decision of Shropshire Council.
  - The application Ref 15/00746/OUT, dated 12 February 2015, was refused by notice dated 24 November 2015.
  - The development proposed is erection of two detached dwellings and two garages.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings and two garages, at Land adjoining Simmonds Barn, Button Oak, Bewdley, Shropshire DY12 3AL, in accordance with the terms of the application Ref 15/00746/OUT, dated 12 February 2015, subject to the conditions in the attached schedule.

### Procedural matters

2. The proposal is for outline planning permission with all matters reserved. However, I understand the appellant intends to use, improve and share a vehicular access with the bungalow adjoining the site that is currently under construction. The Council have raised no concerns in relation to the access arrangements proposed and do not require approval of access in their suggested conditions. Therefore, matters of access have formed part of my considerations in determining the appeal, with appearance, landscaping, layout and scale reserved for later consideration.
3. Following the Court of Appeal's judgment of 11 May 2016<sup>1</sup>, comments were sought from the parties in relation to its effect on the appeal proposal. Consequently, in this case, the Council have confirmed they no longer seek a contribution towards affordable housing. Based on all that I have read and seen, I have no reason to disagree with the Council's revised stance on this matter. As such, this decision will focus on the main issues below.

### Main Issue

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

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<sup>1</sup>*West Berkshire District Council and Reading Borough Council v Department for Communities and Local Government* [2015] EWHC 2222 (Admin).

## Reasons

5. Policy CS4 of the Core Strategy (CS) seeks communities in rural areas to become more sustainable by focussing private and public investment into settlements such as Community Clusters and by preventing development outside settlements unless it meets Policy CS5. For planning purposes, the appeal site is located within the Community Cluster settlement of Button Oak as defined by the Sites Allocations and Management of Development Plan (SAMDev). As a Community Cluster, the SAMDev Plan outlines a housing guideline of five dwellings for Button Oak over the plan period. However, I am unclear on whether this housing guideline figure has been met. That aside, the Council's concern relates to the effect of the proposal on the character and appearance of the surrounding area.
6. The appeal site is part of a larger agricultural field and is surrounded by detached dwellings to its sides, including a detached bungalow currently under construction to its immediate west. Development in the surrounding area is predominantly of a linear pattern with properties fronting onto the B4194. A number of residential properties, including semi-detached dwellings, are opposite the site to the immediate north west.
7. During my site visit, I observed that Forest Cottage, Simmonds Barn, Clemantis Cottage, The Shack and adjacent semi-detached dwellings were separated from one another respectively by modest distances to their sides. The indicative site layout plan shows separation distances to the sides of each proposed dwelling and between the bungalow under construction and The Crabmill. The separation distances in the indicative plan are comparable with those I saw between surrounding properties.
8. Furthermore, owing to the large trees and vegetation to the front of the appeal site, views of the dwellings from the B4194 would be limited. Additional landscaping details, in particular to the east and western boundaries of the site could be secured at the reserved matters stage in order to further reduce views of the dwellings. The indicative plan shows the dwellings set back behind the bungalow and to the front of The Crabmil, thus complementing the linear development pattern of the immediate surroundings. In order to be in keeping with surrounding properties, acceptable design details such as layout, scale and wall and roof materials could be secured at the reserved matters stage.
9. Therefore the proposal would not have a harmful effect on the character and appearance of the surrounding area. Consequently, the proposal would meet the requirements of Policies CS4, CS6 and CS17 of the Core Strategy and SAMDev policies MD2 and MD12. Combined, these policies seek communities in rural areas to become more sustainable by focussing private and public investment into Community Clusters and development to be of a high quality design that responds appropriately to existing development and Shropshire's natural environment.

### *Other matters*

10. I note the objection from the Parish Council regarding precedent and the proposal not reflecting local housing need. However, I have no substantive evidence before me to outline what the local housing need is for the community. With regards precedent, each application and appeal must be

determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

*Conditions*

11. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording in the interests of precision and clarity in order to comply with advice given in the Planning Practice Guidance.
12. A condition requiring the submission of reserved matters, which includes landscape details, is required in view of the outline nature of the application. The Council suggests that the reserved matters should be submitted within 12 months of this decision but I see no justification for departing from the normal approach and timescale of 3 years.
13. A condition requiring parking and turning areas to be approved and completed prior to occupation of the dwellings is included for highway safety purposes.
14. I also note concerns in relation to surface water runoff and have included a condition based on the Council's recommended condition. Finally, conditions relating to bat boxes and details of external lighting are necessary in the interests of biodiversity.

**Conclusion**

15. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be allowed subject to the attached conditions.

*B Bowker*

INSPECTOR

Attached – Schedule of Conditions.

## **SCHEDULE OF CONDITIONS**

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans in respect of those matters not reserved for later approval: Site Location Plan scale 1:2500 dated 16.02.15, DD/01/2015.
- 5) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage and surface water, including details of the drainage system in relation to the access, driveway and parking area, shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 6) The dwellings hereby permitted shall not be occupied until the areas shown on the approved plans for the parking and turning of vehicles have been surfaced in accordance with details that have been previously submitted to and approved in writing by the local planning authority. The parking and turning areas shall be provided in accordance with the approved details and they shall not thereafter be used for any purposes other than the parking and turning of vehicles.
- 7) Prior to the occupation of the dwellings, details of 2 bat boxes to be erected on the site, must be submitted to and approved in writing by the local planning authority. The boxes shall be installed in accordance with the approved details and retained as such thereafter.
- 8) Prior to the erection of any external lighting on site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The external lighting shall be installed in accordance with the approved details and retained as such thereafter.

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## Appeal Decision

Site visit made on 9 August 2016

**by Jonathan Bore MRTPI**

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

**Decision date: 17 August 2016**

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**Appeal Ref: APP/L3245/Q/16/3143661**

**Yew Tree Cottage, Bentlawnt, Minsterley, Shropshire SY5 0ES**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
  - The appeal is made by Mrs A J Mumford against Shropshire Council.
  - The development to which the planning obligation relates is the erection of an affordable dwelling.
  - The planning obligation, dated 4 February 2008 and subject to deed of variation dated 6 February 2009, was made between South Shropshire District Council and Carl Edward Millington.
  - The application Ref 15/03389/DIS is dated 26 June 2015.
  - The application sought to have the planning obligation discharged.
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### Decision

1. The appeal is allowed. The planning obligation, dated 4 February 2008, made between South Shropshire District Council and Carl Edward Millington, no longer serves a useful purpose and is discharged.

### Application for costs

2. An application for costs was made by Mrs A J Mumford against Shropshire Council. This application is the subject of a separate decision.

### Main Issue

3. The main issue is whether the planning obligation is required for the continued maintenance of an affordable dwelling in this location.

### Reasons

4. Yew Tree Cottage was granted permission as an affordable dwelling at a time when the site was within South Shropshire District Council. Policy SDS3 of the South Shropshire District Local Plan 2002-2011 strictly controlled the development of open market housing, restricting it to certain urban areas and settlements, but Policy SDS7 of the same plan allowed for affordable housing throughout the district. A market dwelling would not have been permissible here, but the dwelling was granted planning permission as an affordable dwelling in accordance with Policy SDS7. The accompanying s106 planning obligation which is the subject of this appeal contained various mechanisms to ensure that, were the house to be sold, its price would be maintained at an affordable level below market rates.

5. The prevailing policy has changed. Bentlawnt is within the administrative area of Shropshire Council; market housing is now permitted in the village under Policy CS4 of the Council's Core Strategy because it is within a "Community Cluster" designated by Policy MD1 and Schedule MD1.1 of the adopted Site Allocations and Management of Development Plan (SAMDev Plan). A number of planning permissions have been granted for small scale market housing in this particular community cluster. The site is within the village and is surrounded by development and it is clear that a planning application today for a market dwelling on this site would be in accordance with planning policy.
6. It is not in dispute that there is a continued need for affordable housing in Shropshire. Policy CS11 of the Council's Core Strategy Policy and Policy MD7a of the SAMDev Plan explain how it is to be delivered: through open market housing development and what are termed 'exception schemes'. The dwelling was not constructed as an open market housing scheme with a quota of affordable housing, nor is it a rural exception site. The latter are defined by the National Planning Policy Framework as small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Whether or not it could have been considered a rural exception site when it was granted permission, it would certainly not be a rural exception site now, given that open market housing would be acceptable here.
7. The fact that planning policy has changed to allow market housing is an important material consideration and is a clear indication of changed priorities towards housing mix in this particular location. Even though the dwelling is in existence and is subject to restrictions that currently retain it as a unit of affordable housing, it would be wrong to disregard the current development plan policy framework. In effect the scheme would create a new unit of unrestricted market housing which is allowed for by Policy CS4. Were a proposal to come forward now for a dwelling on the site it would be unnecessary and unreasonable to require a restrictive planning obligation of the sort currently applied to the dwelling. It would be inappropriate and inequitable to single out this particular dwelling for continuing restriction when others may be built nearby without such restriction and indeed where an unrestricted dwelling could be built if the site had remained in the condition it was before the 2008 planning permission.
8. In the circumstances the obligation is not required for the continued maintenance of an affordable dwelling in this location.
9. The Council are concerned about the precedent set by this proposal, but the change in policy will only affect a proportion of dwellings subject to similar obligations since many of these dwellings remain outside the built up areas where planning permission would still not be granted for market housing. It is also the case that the former South Shropshire policy regime was not common to the whole of the County so the issue is only applicable to part of Shropshire.
10. I have considered all the other matters raised but they do not alter the balance of my conclusions. For all the above reasons, the appeal is allowed.

*Jonathan Bore*

INSPECTOR

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## Costs Decision

Site visit made on 9 August 2016

by **Jonathan Bore MRTPI**

**Decision date: 17 August 2016**

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**Costs application in relation to Appeal Ref: APP/L3245/Q/16/3143661  
Yew Tree Cottage, Bentlawnt, Minsterley, Shrewsbury, Shropshire SY5 0ES**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs A J Mumford for a full award of costs against Shropshire Council.
  - The appeal was against a failure to determine an application under Section 106A of the Town and Country Planning Act 1990 that a planning obligation should be discharged.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The applicant and her agent received poor service from the Council at the application stage, including difficulty in finding out how the application should be submitted, a late and inaccurate validation letter, and the absence of any Council contact thereafter despite four written communications from the appellant's agent. There appears to have been little proper input from the local planning authority at any stage of the application process. The consultation response from SC Affordable Homes was several months late and considered the application simply from the point of view of the housing officer. There is no evidence that the local planning authority carried out its own evaluation of the proposal against the policies of the development plan or considered the proposal in a balanced manner. As for the appeal, the local planning authority referred to the consultation response from SC Affordable Homes and made a general reference to the housing waiting list, but offered very little evidence to support its own position and did not properly evaluate the proposal against the development plan; this was unreasonable, particularly since the development plan context had changed.
3. The Council's behaviour has been unreasonable throughout the life of the application and the appeal. My conclusions on the merits of the application are set out in my appeal decision and the prevailing planning policy indicates clearly that the obligation should be discharged. The scheme should not have needed to come to appeal; the Council's unreasonable behaviour has led the appellant to incur unnecessary costs.

**Costs Order [where awarding costs]**

4. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Mrs A J Mumford, the costs of the appeal proceedings described in the heading of this decision.
5. The applicant is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Jonathan Bore*

INSPECTOR



## Appeal Decision

Site visit made on 26 April 2016

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

Decision date: 24 August 2016

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**Appeal Ref: APP/L3245/W/16/3142296**

**Land adjacent to The Apartment Block, The Woodlands, Calcutts Road, Jackfield, Shropshire TF8 7LG**

- 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 Kevin Wright, Kaw Projects Ltd against the decision of Shropshire Council.
  - The application Ref 15/00614/FUL, dated 9 February 2015, was refused by notice dated 1 December 2015.
  - The development proposed is 6 x 2 No. Bedroom Apartments.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Kevin Wright, Kaw Projects Ltd against Shropshire Council. This application is the subject of a separate Decision.

### Preliminary Matter

3. The appellant has submitted a Section 106 agreement with the Council in accordance with the Planning Act which would secure the proposed units as affordable rented housing. I have had regard to this matter in my decision.

### Main Issue

4. The main issue is the effect of the development on the living conditions of future occupiers of the apartments with particular regard to internal space and outdoor amenity space.

### Reasons

5. Based on information provided in the Council's and appellant's statements the internal floorspace of the new apartments would fall short of the minimum gross internal area standard of between 57 to 67 sqm which the Council encourages for two bedroom homes as set out within the Shropshire Type and Affordability of Housing Supplementary Planning Document 2012 (SPD).
6. The appellant refers to internal space standards in the National Planning Policy Framework (the Framework), however, from 1 October 2015 local policies on internal spaces should be interpreted by reference to the nearest new national

technical standards<sup>1</sup> introduced under a Written Ministerial Statement in March 2015. Decision takers should only require compliance with the new technical standards where there is a relevant Local Plan policy as is the case here. The relevant new standard is 61 sqm and so the appeal scheme also falls short of this similar standard.

7. Therefore, either way, whether it is in relation to the SPD or the new national standard, there would be a conflict with the aims of the SPD. This seeks to achieve set minimum standards and avoid cramped accommodation in keeping with the strategic objective in the Council's Core Strategy 2011 (CS) of promoting good quality sustainable and affordable housing development.
8. I note that it is not part of the appellant's case that a relaxation in the above standards would be justified, rather that a condition could be imposed to require a larger building. However the effect of this would be to significantly alter the scale of the development whilst denying third parties the opportunity of being consulted and potentially influencing such changes. I therefore consider that potential alterations to the proposal in order to achieve additional internal space would be too fundamental to reasonably secure through the requirements of a planning condition.
9. The outdoor amenity space serving the development would essentially comprise of a paved corridor between the building and retaining wall supporting the raised area of open space to the side and rear. Whilst this would allow for general access around the outside of the building and waste bin storage, the relative narrowness of the corridor combined with its sunken aspect in relation to the raised open land and its proximity to bedroom windows means that it would not form an attractive or enjoyable communal amenity area. I consider this would be in conflict with the SPD which seeks to avoid the provision of minimal outside amenity space. Whilst it would be possible to walk a short distance from the site and enjoy this rural location the development would fail to provide a safe, convenient and attractive amenity space for residents simply wishing to sit outside or for children's play.
10. It may be possible to utilise the raised open land as outdoor amenity space, however this area is currently shown as segregated by the retaining wall and there is no detail as to whether or how this area could be accessed. Furthermore the surface of this open land is very uneven and any details of changes required to transform it into a meaningful amenity space are currently lacking. As with any changes to the building, details of the layout, levels and accessibility of outdoor amenity space and its relationship to nearby buildings could result in significant changes to the scheme beyond which a planning condition could reasonably secure.
11. For the above reasons I conclude that the proposal would be harmful to the living conditions of future occupiers and as such would be in conflict with Policies CS6 and CS11 of the CS which seek amongst other things for development to safeguard residential amenity; to be designed to a high quality consistent with national good practice standards and to be able to adapt to changing lifestyle needs. It would also be in conflict with the Framework which seeks as a core principle to secure a good standard of amenity for future occupants of buildings.

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<sup>1</sup> Technical housing standards – nationally described space standard – March 2015 Department for Local Communities and Government.

*Other Matters*

12. I have taken into account various points raised by the appellant in support of the development. These include that the site is acceptable for residential development in principle, would add to the supply of affordable starter homes (secured through the planning agreement with the Council) on a previously used site and would utilise sustainable construction techniques. Whilst I attach some weight to these considerations they do not outweigh my negative findings on the main issue. I also acknowledge that the Council's planning officer made a positive recommendation on the scheme to the decision making Committee. However this did not prevent the Committee from taking a contrary view for the reasons given in the decision notice.
13. The appellant has expressed a grievance over the time taken by the Council to reach a decision on this proposal in the context of national decision targets. This is a matter between the Council and the appellant and would not have a bearing on the outcome of this appeal.
14. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of the Severn Gorge Conservation Area (CA). The design of the proposal would reflect the detailing of the adjacent apartment block and would preserve the character and appearance of the CA. Similarly it would not result in harm to the Ironbridge Gorge World Heritage Site.

**Conclusion**

15. For the reasons set out above, and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Roy Merrett*

INSPECTOR

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## Costs Decision

Site visit made on 26 April 2016

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 24 August 2016**

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**Costs application in relation to Appeal Ref: APP/L3245/W/16/3142296  
Land adjacent to The Apartment Block, The Woodlands, Calcutts Road,  
Jackfield, Shropshire TF8 7LG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Kevin Wright, Kaw Projects Ltd for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for 6 x 2 No. Bedroom Apartments.
- 

### Decision

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

### Reasons

2. Paragraph 030 of the Government's Planning Policy Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048 of the PPG states that *If it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation....If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.*
4. It appears that during the course of the application there has been an ongoing dialogue between the Council and the appellant with a view to achieving a satisfactory proposal. This involved the appellant making amendments to the scheme which gave rise to a requirement for further consultation.
5. Ultimately, having balanced the various issues, the planning officer was entitled to reach a view that the limited provision of amenity space within the scheme was acceptable. Equally the decision making Committee were entitled to take a contrary view based on guidance in the Council's development plan and having visited the site.
6. I am therefore unable to conclude that better communication with the appellant would have enabled the appeal to be avoided altogether. Whilst it did take the

Council longer to reach a decision on this application than would be expected by reference to target guidelines, it was open to the appellant to lodge a planning appeal against non-determination relatively early in the process if he was dissatisfied with the delays experienced, a course of action which he did not take.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Roy Merrett*

INSPECTOR

## Appeal Decision

Site visit made on 5 July 2016

**by Paul Singleton BSc (Hons) MA MRTPI**

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

**Decision date: 31 August 2016**

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**Appeal Ref: APP/L3245/W/16/3147519**

**Land off Avenue Road, Broseley, Shropshire TF12 5AS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by The Willey Estate against the decision of Shropshire Council.
  - The application Ref 14/04019/OUT, dated 3 September 2014, was refused by notice dated 6 October 2015.
  - The development proposed is an outline application for mixed residential and employment development (all matters reserved).
- 

### Decision

1. The appeal is allowed and outline planning permission is granted for mixed residential and employment development (all matters reserved) at Land off Avenue Road, Broseley, Shropshire TF12 5AS in accordance with the terms of the application, Ref 14/04019/OUT, dated 3 September 2015, subject to the conditions set out in the schedule to this decision.

### Preliminary Matter

2. The application originally sought approval to the details of the proposed site access as part of the outline permission but, following discussion with the local highway authority, the appellant agreed that these details should be reserved for subsequent approval. I have considered the proposal on that basis.

### Main Issues

3. The main issues are: (a) whether the appeal site is an appropriate location for residential development having regard to the relevant local and national planning policies, (b) the extent to which the proposal would result in the loss of part of the Broseley employment land allocation and, (c) whether the provision of a serviced access to the proposed area of employment development would be a material consideration of sufficient weight to justify a grant of permission contrary to the provisions of the development plan.

### Reasons

#### *Suitability of site*

4. Although the appellant company suggests that there has been some record of under-delivery in meeting housing land requirements and refers to the Teale

Drive, Ellesmere decision<sup>1</sup> it does produce any evidence which seriously challenges the Council's statement that a housing land supply of 5.53 years can be demonstrated. Moreover, in relation to Teale Drive, the Secretary of State has concurred that the decision should be quashed. Hence, I have no reason to regard the relevant development plan policies for the delivery of housing as being out of date having regard to the advice at paragraph 49 of the National Planning Policy Framework (Framework). The appellant has referred to the judgment in the Wychavon<sup>2</sup> case to argue that the principle of sustainable development referred to in paragraph 14 of the Framework should apply even where there is an up to date plan. However, the judge's remarks on that matter were made in obiter and there is no requirement that a decision maker should follow them.

5. The adopted Shropshire Local Development Framework: Adopted Core Strategy (2011) (Core Strategy) designates Broseley as a Key Centre. Policy CS3 states that the Key Centres will maintain and enhance their role in providing facilities and services to their rural hinterlands and that balanced housing and employment development will take place within the towns' boundaries and on sites allocated for development. The development boundary for Broseley has recently been amended through the adoption, in December 2015, of the Site Allocations and Management of Development Plan (SAMDev).
6. A rectangle of land in the appellant's ownership has been allocated under Policy 4.1 of that Plan for Class B1 employment use (Site ELR017) but the northern boundary of this allocation follows no field boundary or existing features on the ground. Neither does the allocated site include any land fronting on to Avenue Road although the Development Guidelines, on Page 121 of the Plan, state that the development will have access directly from that road. The revised development boundary has been drawn to include the employment land allocation but to exclude the appellant's ownership between that allocation and the site frontage to Avenue Road. The land excluded from the development boundary is classed as open countryside but the amended boundary has a rather contrived appearance in that it excludes a small rectangle of land which is enclosed on three sides by existing or proposed development and across which a new road would need to be built in order to access the employment allocation.
7. Although the application was submitted in outline, a development of 12 houses along the lines shown in the indicative layout plan would result in more than half of the proposed units being within the development boundary where residential development is positively supported by Core Strategy Policy CS3. The remaining units, and much of the site access road, would be within the area classed as open countryside, where Policy CS5 states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. Relevant national policy is found in the Framework.
8. Given the site's location and its easy accessibility to the wide range of shops and services in Broseley town centre, new housing on this part of the appeal

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<sup>1</sup> APP/L3245/W/15/3067596

<sup>2</sup> *Wychavon v SSCLG and Crown House Developments Ltd* [2016] EWHC 592 (Admin)



site would not constitute the development of isolated homes in the countryside and would not conflict with paragraph 55 of the Framework this regard. The Avenue Road frontage to the appeal site is heavily screened by mature trees and hedges with the trees being the subject of a Tree Preservation Order (TPO). Other than for the limited clearance required to facilitate the site access, this screening would be retained and the avenue character of the road would largely be preserved.

9. Having regard to the presence of that extensive screening and the enclosure of the appeal site by existing and proposed development, and to the Council's intention that an industrial access road be built across it, its development as proposed would result in a minimal encroachment into the open countryside and no material harm to the landscape character of the more extensive area of open land to the south. Accordingly, the proposal would not conflict with the Framework's Core Planning Principles with regard to the protection of the intrinsic character and beauty of the countryside.
10. I accept that Policy CS5 gives no express support for open market housing and that the proposal would not fall within the list of exceptions set out in that policy, although the policy does provide some support for the affordable housing element of the proposal. However, having regard to my conclusions as to the absence of any conflict with the national planning policies to which Policy CS5 defers, I find that the proposal would be consistent with that policy. The housing proposed on that part of the appeal site outside of the development boundary would, however, conflict with SAMDev Policy MD7a which states that new market housing will be strictly controlled outside of the designated locations; the proposed development on the open countryside component of the site would not fall within any of the exceptions listed in MD7a.
11. SAMDev Policy MD3 states that, in addition to the development of the allocated housing sites, planning permission will be granted for other sustainable housing development having regard to the policies of the Local Plan including Policies CS5 and MD7a. The explanatory text to that policy clarifies that the Council considers windfall development to be important both within settlements and in the countryside, including both on brownfield and, where sustainable, greenfield sites.
12. The Council advises that the development guideline of 200 new houses for Broseley is likely to be achieved and I have no information to suggest that existing sites with planning permission will not be delivered. However, the Council's reason for refusal accepts that the appeal site is in a sustainable location, that the proposal would contribute economically and socially by boosting housing supply, and that it would provide limited support for the existing services in the town. I agree with those conclusions and accordingly consider that the proposal would be a sustainable form of housing development of the type envisaged by Policy MD3 and, having regard to part 2 of the policy, that the addition of 12 dwellings to the supply of housing in Broseley would not result in any harm to the Council's overall spatial strategy. For reasons set out below I also consider that the proposal would not result in any other harm and would bring positive benefits in terms of opening up land for employment use.

13. I accept that part of the site is outside of the settlement boundary and that Policy MD3 does not give unqualified support for windfall sites in the open countryside but I do not think that the words "*having regard to*" should be taken to mean that a proposal must be in full compliance with other policies of the Plan. This part of the MD3, in my view, requires the decision maker to give consideration to the degree of consistency or conflict that the proposal would have with other relevant policies.
14. In this case, that part of the proposal relating to land outside of the development boundary derives support from Core Strategy Policy CS5 but conflicts with Policy MD7a. The other part of the proposed housing site falls within the SAMDev site reference ELR017 which is allocated for employment development under Policy S4.1. Although there is nothing in the wording of that policy that would preclude an alternative use, the development would potentially result in a smaller area of the allocated site being available for employment development; it would therefore conflict with the objectives of S4.1 in that regard. In light of this conflict and the lack of compliance with Policy MD7a I conclude that the proposal would give rise to some degree of conflict with MD3 and the development plan.

*Loss of employment land.*

15. SAMDev Policy 4.1 states that the allocated employment site extends to 1.3 hectare (ha), although the Broseley Town Plan shows a slightly smaller area. The appellant had some discussions with Broseley Town Council regarding the smaller area of land but no agreement exists between the appellant as landowner and the Council concerning the allocation of this land for employment use. The allocation includes the farm house and outbuildings at the Dunge Farm notwithstanding that the appellant has previously advised that these properties are not available for redevelopment. In addition, the evidence that the Council has granted permission for the conversion of the various outbuildings for residential use would seem to represent an acceptance that this part of the allocation will not be made available for employment use. The presence of existing and proposed residential uses on that land would require that a landscape buffer be provided to the employment site so as to protect the living conditions of existing and future residents.
16. Taking account of the exclusion of those properties and their curtilages, the requirement for a landscape buffer, and the development constraints imposed by the pylons and overhead cables within the site, the developable area of the employment site allocation is likely to be significantly less than 1.3 ha. I accept that the residual area might still be larger than the 0.46 ha proposed in the appeal scheme but, given that the employment component of the appeal proposal would be provided with an access road and services up to the site boundary, the net loss in developable area would be relatively small. Very little, if any, harm would therefore be caused in terms of the likely scale of employment development that could be achieved on the site.

*Serviced access to proposed employment land*

17. I agree with the appellant that the proposed employment allocation is likely to be in competition with established employment sites in Telford and the proposed new Business Park in Bridgnorth. The appellant also argues that

employment development alone would not fund the construction of the necessary access road and service connections for the development of the allocated site. No financial information has been submitted in support of that claim. However, given the requirement for the construction of a new road junction and of a serviced access road of over 50 metres in length with no frontage development, I consider the appellant's claim to be well founded. I accept that the allocation has only recently been confirmed via the adoption of SAMDev. However, based on my experience of such development proposals, and in the absence of any evidence as to the demand for or viability of a development as envisaged by the Council, I find that these challenges to the delivery of the employment allocation are unlikely to be overcome without cross subsidy such as that which the appeal proposal would provide.

18. The removal of the need to fund the access road would be likely to have a significant positive effect in terms of the viability of developing office or light industrial units on the employment land. The early construction of the site access in tandem with the residential component of the development would also increase the visibility of the employment site to potential users. I consider that these measures would be of considerable advantage in assisting the Council to bring new employment opportunities to the town at the earliest possible opportunity.
19. Subject to the provision of the access road and services being secured by means of a planning obligation, as proposed by the appellant, I find that the benefits associated with the provision of a serviced employment site of the size proposed are material considerations of substantial weight. The development would help boost the supply of housing within Broseley and support its role as a Key Centre and would provide social and community benefits through the inclusion of an element of affordable housing. The proposal would also have substantial economic benefits in terms of assisting the delivery of employment development, the employment created during the construction period, and the expenditure by future occupiers of the proposed dwellings in local shops and services.
20. In my view these benefits are more than sufficient to outweigh the limited conflict with the development plan that I have identified. In light of these benefits, the site's sustainable location, and the absence of any material harm to the countryside, the proposal would constitute sustainable development having regard to paragraph 7 of the Framework. This also weighs heavily in favour of a grant of permission.

### **S106 Planning Obligation**

21. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
22. A signed and completed Unilateral Undertaking (UU) has been submitted by the appellant which includes obligations relating to affordable housing provision, the provision and future maintenance of the proposed public open space, and

the construction of a serviced access road to the employment site within the appeal scheme.

23. As the proposal is for more than 10 dwellings it would generate a requirement for affordable housing provision. The UU obligation requires that the appellant provide this through a combination of on-site provision and financial contributions to off-site provision in line with the prevailing target rate for the provision of such housing which is in place at time of the submission of the last reserved matters for housing. This provision would meet the Council's policy requirements.
24. The scheme would also generate a requirement for open space provision in accordance with the Council's normal planning standards. The obligations set out in the UU deal satisfactorily with this matter by setting out a requirement for prior approval of the locations and areas of the public open space within the development and the means by which the land would be transferred either to the Town Council or a Management Company to secure its future maintenance. As set out in the reasons for my decision, the provision of a serviced access to the proposed employment site is a key benefit of the proposal and is critical to its acceptability in planning terms. The provisions within the UU require this infrastructure to be constructed and completed in tandem with the construction of that part of the road which serves the residential component of the development and would secure that key objective.
25. Having regard to the matters set out above, I am satisfied that the obligations contained within the UU are necessary and directly related to the appeal proposal and are fairly and reasonably related in scale and kind to the development proposed, in accordance with CIL Regulation 122. I have therefore attached significant weight to the UU in reaching my decision.

### **Conditions**

26. I have had regard to the draft conditions put forward by the Council and have amended these as appropriate to ensure that they reflect a grant of permission for residential and employment use and provide for a high standard of development.
27. As the proposal is in outline form conditions are needed to require that approval is sought for all reserved matters by means of subsequent applications to the local planning authority and to confirm that the permission does not give approval to any of the details shown in the illustrative plans that accompanied the application. In view of the importance of the employment component to the overall acceptability of the appeal proposal a condition is needed to require that the reserved matters application(s) should include land for employment uses of a minimum size of 0.46 hectares as indicated on the illustrative site layout plan. A condition is also required to limit the use of any building erected for employment use to uses within the B1 use class in line with the SAMDev employment allocation and in view of the presence of residential properties close to the site. A condition has also been added requiring that the access details provide for a new length of pavement on Avenue Road in the interests of the safety of pedestrians going to and from the development.

28. Conditions are needed to set out the full details required within the reserved matters application(s) for landscaping and the requirements with regard to the implementation of those works. These are needed to ensure an appropriate standard of landscape treatment which incorporates the retention of existing trees and the protection and enhancement of the site's ecology. A condition is also needed to ensure that the type and location of the affordable housing element of the development is set out in the reserved matters application(s) relating to layout.
29. A condition has been attached which requires the approval of details of traffic management works along Avenue Road prior to the commencement of development in order to ensure the continued safe operation of that major route. Conditions requiring approval of a Tree Protection Plan and Arboricultural Method Statement, and that any necessary works to the trees are carried out prior to any other construction works, are needed in order to ensure the protection of the TPO and other trees to be retained. The location of the site adjacent to a major local route and close to nearby housing requires that a condition be attached concerning the submission and approval of a Construction Method Statement to ensure that the works do not have any significant adverse effects on the safe operation of the road network or on the living conditions of nearby residents. In the interests of protecting amenity of residents of nearby houses I have also attached a condition to restrict the hours in which construction works can take place at the site.
30. The information available with regard to past mining in the area requires that conditions be attached setting out the need for site investigations and the actions to be taken if those investigations identify the need for any remedial works; these conditions are necessary to ensure that the development is carried out in a safe manner. For this same reason a condition requiring the submission and approval of a scheme of foul and surface water drainage is also needed. I have also attached a condition which requires that a soakaway test be carried out prior to the commencement of works.
31. In view of the potential archaeological interest in the site and its surrounding a condition is needed which requires a programme of investigation works to be undertaken prior to the commencement of development. Finally, in view of the location of the site and the information submitted in respect of the likely presence of bats a condition is needed requiring the approval of a lighting scheme for the site before any such works are carried out.

### **Other Matters**

32. Some third party concerns were raised about possible disturbance from employment development close to houses on Pound Lane. As the proposal is in outline form the existence of residential properties on Pound Lane would need to be taken into consideration at the reserved matters stage but my observations of the relationship of the site to nearby residential properties suggest that any risks of noise or disturbance could be minimised with an appropriate layout for the employment development.
33. Some parties have objected on highway and traffic grounds; however, the local highway authority has indicated that an access from Avenue Road is acceptable in principle and nothing I saw on my site visit would lead to me a different

conclusion. Again although only in outline at this stage, the indicative plans show that most of the trees around the boundaries of the site would be retained. With the protection afforded to many of these by the TPO and through the conditions attached to this decision I consider that concerns about significant harm to such trees are unfounded.

**Conclusions**

34. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be allowed.

*Paul Singleton*

INSPECTOR

**Schedule of conditions attached to Appeal Ref APP L3245/W/16/3147519**

- 1) Approval of the details of the appearance, means of access, landscaping of the site, layout and scale of the development (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) Nothing in this permission shall be construed as giving approval to the details shown on the plans accompanying this application.
- 5) The application(s) for reserved matters relating to the layout of the development shall provide for a minimum of 0.46ha of employment land in the general location indicated in the illustrative layout plan No SA165966/02/02A.
- 6) Any building constructed under this permission for employment use shall be used only for uses within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 7) The applications(s) for reserved matters relating to access shall include the provision of a 2.0 metre wide footway on the south side of Avenue Road, extending from the location of the new access junction north to the site boundary. The footpath shall be constructed in accordance with the approved details and shall be available for use before any of the dwellings or employment units hereby approved are first occupied.
- 8) The first submission of reserved matters shall include a scheme of landscaping and follow the recommendations given in the Turnstone Ecology (2014) report. The submitted scheme shall include:
  - i) Planting plans, including wildlife habitat and features and the landscape buffers to the boundaries of the proposed employment development;
  - ii) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment and the removal of invasive species);
  - iii) 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);
  - iv) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works; and

- v) Details of the location and design of 5 bat boxes or bricks suitable for nursery or summer roosting for small crevice dwelling bat species.
- 9) All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the local planning authority. Any trees or plants that, within a period of five years after planting, are removed die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.
- 10) The application(s) for reserved matters relating to layout shall specify the location of the proposed affordable housing units in accordance with the on site provision set out in the Section 106 obligation. No development shall commence until the location of affordable housing has been approved in writing by the local planning authority.
- 11) Prior to the commencement of development full engineering details of traffic management measures to be provided/modified along Avenue Road shall be submitted to and approved in writing by the local planning authority. The traffic management measures shall be implemented fully in accordance with the approved details prior to any part of the development being occupied or brought into use.
- 12) Prior to commencement of development, a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the local planning authority. The TPP shall be based upon a scaled final layout drawing and accurately plot the canopy spread and Root Protection Area (RPA) of trees and hedges on and adjacent the site, clearly showing those to be removed and those to be retained. It shall describe any tree works required to facilitate the development and show the location and specification of the tree protection barrier and / or other measures to be taken to protect retained trees and hedges from damage during development. The AMS shall describe how any works within, or that could affect, the RPA of retained or adjacent trees and hedges shall be designed, implemented and monitored so as to avoid causing damage or harm to those retained or adjacent trees and hedges.
- 13) The tree works shall be carried out and the tree protection measures installed prior to the commencement of any construction works, in accordance with the approved TPP. Thereafter, the tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development and shall not be moved or removed, even temporarily, without the prior permission of the local planning authority. The development shall be implemented strictly in accordance with the approved AMS.
- 14) 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 Statement shall provide for:

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

The approved Statement shall be adhered to throughout the construction period.

- 15) Demolition or construction works shall not take place outside the following times:
  - Monday to Friday 07:30hrs to 18:00hrs,
  - Saturday 08:00hrs to 13:00hrs,
  - Nor at any time on Sundays, bank or public holidays
- 16) Prior to commencement of any works on site, the following information shall be submitted to and approved by the local planning authority:
  - i) The submission of a scheme of intrusive site investigations for the mine entry for approval;
  - ii) The submission of a scheme of intrusive site investigations for the shallow coal workings for approval;
  - iii) A plan detailing the timetable and methods of undertaking of both of the schemes of intrusive site investigations;
- 17) In the event that the site investigations confirm the need for remedial works to treat the mine entry and areas of shallow coal mine workings to ensure the safety and stability of the proposed development, the following information should be submitted to and approved in writing by the local planning authority, or confirmation that such details are not required should be obtained in writing from the local planning authority:
  - i) The submission of a report of findings arising from both of the intrusive site investigations;
  - ii) The submission of a layout plan which identifies an appropriate zone of influence for the mine entry on site, and the definition of a suitable 'no-build' zone;
  - iii) The submission of a scheme of treatment for the mine entry on site for approval
  - iv) The submission of a scheme of remedial works for the shallow coal workings for approval;

- v) The remedial works shall be carried out in accordance with the approved details prior to the commencement of any development on site.
- 18) No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before any part of the development is occupied/brought into use (whichever is the sooner). Such a scheme shall include details of how the site meets the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.
- 19) Prior to the commencement of any drainage works a soakaway test shall be carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the local planning authority, and the agreed recommendations shall be implemented in full prior to the first occupation/use of any part of the development (whichever is sooner).
- 20) No development approved by this permission shall commence until a programme of archaeological investigation has been carried out in accordance with a written scheme of investigation which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of any investigation works.
- 21) 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 30 August 2016

by **Daniel Hartley MTP MBA MRTPI**

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

Decision date: 02 September 2016

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**Appeal Ref: APP/L3245/W/16/3151039**

**Russells Caravan Park, Kidderminster Road, Quatford, Bridgnorth WV15 6QJ**

- 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 Russells Caravan Park Ltd against the decision of Shropshire Council.
  - The application Ref 15/03937/FUL, dated 9 September 2015, was refused by notice dated 4 March 2016.
  - The development proposed is change of use of part of the recreational area for an additional 30 pitches to extend the existing site.
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### Decision

1. The appeal is dismissed.

### Main Issues

1. The main issues are:
  - i. Whether or not the proposal is inappropriate development in the Green Belt;
  - ii. the effect of the proposal upon the openness of the Green Belt and the purposes of including land within it;
  - iii. the effect of the proposal upon the character and appearance of the area; and
  - iv. if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

### Reasons

#### *Site and proposal*

2. The appeal site falls within land defined as Green Belt and comprises an area of predominantly open land which is mainly down to rough grassland. It is understood that the land is used as an area of open space and recreation (it includes goal posts) in association with the existing caravan park which is positioned on higher ground to the west (known as Russells Caravan Park). According to the appellant, there is an existing site licence for 155 static caravans on the existing caravan site which can be occupied between 1 January

and 30 November. To the south of the site is another caravan site (known as Hollins Park) and there is mature woodland to the north and east.

3. It is proposed to construct an engineered driveway (finished in hard core and tarmacadam) with thirty hard standing areas (including gravelled car parking areas) spaced regularly along its length to accommodate static caravans. It is proposed that the extended site would operate on the same basis as the existing site whereby clients would site privately owned static caravans on each pitch paying an annual rental charge. Existing trees and scrubland would be retained to the far south-east of the site.

*Whether the proposal would represent inappropriate development and openness*

4. The siting of thirty caravans (and including visitor vehicles) on hard standing areas, and including a new driveway, does not amount to the construction of a new building. The appellant considers that the development may not be inappropriate development in the Green Belt as the second bullet point of paragraph 89 of the National Planning Policy Framework (the Framework) refers to "*appropriate facilities for outdoor sport, outdoor recreations and for cemeteries*". However, this is not relevant in this case as it relates to buildings, and, in any event, it states that such development should "*preserve the openness of the Green Belt*". I return to the latter issue later in this decision.
5. The proposed driveway and hard standing areas would be constructed in an area which is predominantly open. I consider that this development amounts to engineering operations and Paragraph 90 of the Framework states that this type of development may also not be "*inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt*". The hard standing areas would be used to site thirty caravans and visitor vehicles. Whilst the siting of such caravans/vehicles may be to some extent intermittent, owing to their size and numbers, they would not preserve the openness of the Green Belt.
6. The land is predominantly open and green. I acknowledge that there is woodland to the north and east and that the existing caravan park, coupled with Hollins Park to the south, would partly screen the proposed development from longer distance views. However, the development as a whole would represent an encroachment into the countryside, and in that respect, the proposal would conflict with one of the purposes of Green Belt which is "*to assist in safeguarding the countryside from encroachment*". Whilst caravans may not always be on each pitch, it is likely that for the most part they would be. I consider that it is reasonable to conclude that the effect upon the openness of the Green Belt would be a relatively permanent one.
7. For the above reasons, I conclude that the siting of thirty caravans (with visitor vehicles) would not preserve the openness of the Green Belt, and hence the proposal would amount to inappropriate development in the Green Belt. In addition, the proposed development would lead to encroachment into the countryside. Therefore, the proposal would not accord with the Green Belt aims of Policy CS5 of the adopted Shropshire Local Development Framework Core Strategy 2011 (CS); Policy MD6 of the adopted Shropshire Council Site Allocations and Management of Development Plan 2015 (SAMDev Plan), and the Framework. This is a matter to which I afford substantial weight, as paragraph 88 of the Framework states that "*local planning authorities should*

*ensure that substantial weight is given to any harm to the Green Belt” and paragraph 87 of the Framework states that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.*

#### *Character and appearance of the area*

8. I have taken into account the appellant’s landscape and visual impact baseline report prepared by Berrys. Given the topography of the site, the woodland to the north and east, the existing caravan site, and Hollins Park to the south, I agree with the appellant’s assessment that there are limited views of the site from longer distance viewpoints. However, the appeal site is currently open and provides a green and soft edge to the existing caravan park and Hollins Park. I consider that in visual terms, the effect of the proposal would be more localised: the proposed caravans/vehicles (and hard standing areas) would be most visible from higher land close to some of the existing caravans/residences at Russells Caravan Park and from the lower and more peripheral land associated with Hollins Park. Whilst the overall effect upon the character and appearance of the area would not be a significant one when viewed from the wider area, there would nonetheless be some unacceptable localised harm: it could not reasonably be said that the development would not be visible from all areas.
9. I acknowledge that some existing trees/scrubland would be retained and that only part of the existing “open space area for recreation” would be developed. To some extent, this has helped to reduce the impact of the proposed development. However, the proposed layout would be such that in visual terms the caravans would appear very disconnected from the existing caravan park: they would be sited in such a way that they would create a very linear and elongated extension to the existing site protruding for some distance into the essentially open and rural landscape. In this respect, I consider that the proposal would not accord with Policy MD11 of the SAMDev Plan which states that *“tourism, leisure and recreation development proposals that require a countryside location will be permitted where the proposal complements the character and qualities of the site’s immediate surroundings”*.
10. For the above reasons, I conclude that whilst the development would not be visible from longer distance views, it would nonetheless be visible from some localised viewpoints. From these areas, the proposal would unacceptably detract from the essentially open and rural character of the area, and the linear nature of the layout of the pitches would be such that the proposal would not appear as a tight extension to the existing site. Overall, and taking into account all material planning considerations, I consider that moderate harm would be caused to the character and appearance of the area. Hence, the proposal would not accord with character and appearance aims of Policies MD2, MD11 and MD12 of the SAMDev Plan; Policies CS6 and CS17 of the CS, and Paragraph 58 of the Framework.

#### *Other considerations*

11. I have no reason to doubt that an additional thirty pitches on the site would result in additional visitors to the area, and that it would provide additional income for the operators of Russells Caravan Park. Consequently, there would be some local economic benefits associated with this proposal. Whilst there may be some employment associated with construction of the driveway and

hard standing areas, this has to be weighed against the identified harmful Green Belt effects which would exist long after the economic benefits flowing from construction activity had faded away.

12. I have considered the supportive letter from the General Manager of Club Severn Café Bar, Kidderminster Road, Quatford who supports the proposal. I have no reason to doubt that visitors would spend money in the local area (including at Daney Public House and facilities in Quatford including the two cafes/restaurants) and that some additional and local employment would be created as a result of the repair and maintenance of caravans. I do not have any direct evidence to substantiate the view that there are now fewer touring pitches in the locality (and hence I can afford these comments only limited weight), but nonetheless, the economic benefits associated with this proposal are matters to which I afford some weight in favour of allowing the development.
13. I acknowledge that the ecological sensitive areas (including trees and scrubland to the south-east of the site) would be retained as part of the proposed development. I also note that additional landscaping is proposed and that the appellant's ecology report recommends a number of mitigation measures. Ecological mitigation measures to make the proposal acceptable cannot be afforded considerable weight. Whilst some additional landscaping is proposed, this would take some time to reach maturity and, in any event, would not be capable of totally screening the development from the more localised views of the site.

### **Other Matters**

14. I have taken into account representations made by a number of other interested parties including a number of residents who live in close proximity to the appeal site.
15. I acknowledge that the proposal would require hard surfaced areas and hence that there would likely be some impact on the area from a drainage point of view. However, it may have been possible to have dealt with this matter by means of a planning condition. I have not been provided with any specific evidence to demonstrate that the proposal could not be implemented without leading to significant flooding in the immediate area. Furthermore, I have no reason to disagree with the conclusions of the Council that "*there are no reasons in relation to residential amenity; drainage; ecology and highway safety that would warrant refusal of the appeal proposal*".
16. I note the references made to Russells Caravan Park allegedly being in breach of the current site licence, particularly in respect of the number of caravans in situ. However, this is a matter which can be separately investigated, and, if necessary enforced, by the relevant controlling Authority.
17. None of the other matters raised outweigh my conclusions on the main issues.

### **Conclusion**

18. In conclusion, the proposal would not preserve the openness of the Green Belt and would amount to inappropriate development in the Green Belt as defined by the Framework. It would, by definition, be harmful to the Green Belt, harm which the Framework indicates should be given substantial weight.

19. Whilst longer distance views towards the development would largely be concealed, owing to the topography of the site as well as the woodland and the existing caravan sites that surround the site, some harm would be caused to the open and rural character of the area when viewed from more localised viewpoints. Overall, I have therefore identified that moderate harm would be caused to the character and appearance of the area.
20. As explained above, I give some weight to the economic and tourism benefits associated with the proposal. However, these benefits, as well as the other considerations raised by the appellant and other interested parties, do not outweigh the identified harm that would be caused to the Green Belt and the character and appearance of the area. The substantial weight to be given to Green Belt harm, and any other harm, arising from the development is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR

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