



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

Date: Monday, 21 November 2016

Committee:
North Planning Committee

Date: Tuesday, 29 November 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

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

Substitute Members of the Committee

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

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the Minutes of the meeting of the North Planning Committee held on 4th October 2016, attached, marked 2.

Contact: Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 24th November 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 Oakfields Kennels, Heath Road, Whitchurch, SY13 2AA (16/03848/FUL) (Pages 5 - 16)

Erection of one block of 30 kennels.

6 Land West Of London Road, Irelands Cross, Shropshire (15/02805/REM) (Pages 17 - 34)

Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase B - Approval for plots 1 to 5 and 7)

7 Land West Of London Road, Irelands Cross, Shropshire (15/02806/REM) (Pages 35 - 52)

Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase A - Approval for plots 6 and 8 to 10)

8 The Retreat, Bolas Road, Ercall Heath, Telford, Shropshire (16/04106/FUL) (Pages 53 - 62)

Erection of two-storey extension to existing residential care facility

9 Proposed Residential Development, Land Off The Beeches, Chester Road, Whitchurch, Shropshire (15/05325/REM) (Pages 63 - 88)

Application for Reserved Matters (appearance, landscaping, layout and scale) pursuant to permission 14/02830/OUT for the erection of up to 15 no. dwellings

10 Proposed Affordable Dwelling, South East Of Pit Farm, Pentre Coed, Ellesmere, Shropshire (16/04022/FUL) (Pages 89 - 98)

Erection of a single storey dwelling and garage under the 'Build Your own affordable Housing' scheme.

11 Appeals and Appeal Decisions (Pages 99 - 150)

12 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 31st January 2017 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and Date

North Planning Committee

29th November 2016

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 4 October 2016

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 3.20 pm

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 772518

Present

Councillor Arthur Walpole (Chairman)

Councillors Joyce Barrow, John Cadwallader, Gerald Dakin, Steve Davenport, Pauline Dee, Vince Hunt, David Lloyd and Peggy Mullock

36 Apologies for Absence

Apologies for absence were received from Councillors Roger Hughes and Paul Wynn.

37 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 6th September 2016 be approved as a correct record and signed by the Chairman.

38 Public Question Time

There were no public questions or petitions received.

39 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.

Councillor John Cadwallader declared his interest in relation to planning applications 16/01821/FUL, Land at O.S. 7882 and 7968, Adderley Road, Market Drayton and 16/01822/OUT, Land at O.S. 7882 and 7968, Adderley Road, Market Drayton, due to a perception of bias. Councillor Cadwallader stated that he would make a statement and then withdraw from the meeting.

40 Land At O.S.7882 And 7968, Adderley Road, Market Drayton, Shropshire (16/01821/FUL)

The Technical Specialist Planning Officer introduced the application for the erection of two agricultural buildings, feed bins and hardstanding for a pig rearing enterprise to include new highway access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Mr Hugh Lufton, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Roy Tydeman, on behalf of Adderley Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Chairman read out a statement from the Local Ward Councillor, Councillor Paul Wynn, who was unable to attend the meeting.

Mr Tom Stockings, local resident spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Ben Wharfe, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Mark Wootton, Area Highways Development Control Manager (North) stated that the proposed access met the required standard for visibility splays in both the north and south direction and the removal of the hedgerow would improve the visibility further. He added that a vehicle, when turning into the site was visible to other vehicles and there was no reason to refuse the application on highway grounds.

Councillor John Cadwallader addressed the Committee and then left the room in accordance with his declaration of interest at minute 39. During his statement a number of points were raised including the following:

- The removal of the hedgerow would have a severe visual impact on the area;
- The soil in the area was clay and produced a large run off;
- The land was low lying and prone to flooding;
- The newt survey was not accessible on the website;
- Questioned why deliveries were permitted until 11pm: and
- He stated that there had been a number of accidents on this road and questioned when the traffic survey was undertaken.

In response to queries raised by Councillor John Cadwallader it was confirmed that the drainage issues were addressed by Condition 8 and no issues had been raised following the newt survey. It was added that Public Protection had confirmed that up

to 11pm was a suitable time for deliveries and the traffic survey took place during the week commencing Monday 14th December 2015.

In response to questions from Members, the Public Protection Officer (Professional) explained that any odour would be well below any impact level and it was confirmed by the Technical Specialist Planning Officer that the Landscaping as detailed at Condition 9 would be completed prior to occupancy.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposal but felt that delegated authority should be given to the Head of Planning to finalise the wording of conditions in relation to the maintenance of the hedgerow and verge, the maintenance of the culvert and a further condition with regards to the transportation of manure.

RESOLVED:

That delegated authority be given to the Head of Planning Services to grant planning permission subject to:

- The conditions set out in Appendix 1; and amendments as considered necessary and in particular in relationship to:
- The conditions in relation to the maintenance of the hedgerow and verge, maintenance of the culvert and a further condition with regards to transportation of manure.

41 Land At O.S.7882 And 7968, Adderley Road, Market Drayton, Shropshire (16/01822/OUT)

The Technical Specialist Planning Officer introduced the outline application for a temporary agricultural workers dwelling with all matters reserved and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Councillor John Cadwallader addressed the Committee and then left the room in accordance with his declaration of interest at minute 39. During his statement a number of points were raised including the following:

- The date of the temporary permission should run from the opening of the pig rearing enterprise;
- The hedgerow should be protected; and
- Condition 11 should be limited to a person working at the enterprise.

The Technical Specialist Planning Officer confirmed that protection of the hedgerow was included within Condition 7 and it was noted that the timescale of the temporary permission should allow the opportunity for the enterprise to be viable.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposal but felt

that delegated authority should be given to the Head of Planning to finalise the wording of Condition 1 in relation the occupancy and removal of the dwelling should the business fail.

RESOLVED:

That delegated authority be given to the Head of Planning Services to grant planning permission subject to:

- The conditions set out in Appendix 1; and
- The rewording of Condition 1 to state the timescale in relation to occupancy and removal of the dwelling.

42 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Northern area as at 4th October 2016 be noted.

43 Date of the Next Meeting

RESOLVED:

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 1st November 2016, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:



<u>Committee and Date</u>
North Planning Committee
29 th November 2016

<u>Item</u>
5
Public

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number:</u> 16/03848/FUL	<u>Parish:</u>	Whitchurch Urban
<u>Proposal:</u> Erection of one block of 30 kennels		
<u>Site Address:</u> Kennels Oakfields Heath Road Whitchurch SY13 2AA		
<u>Applicant:</u> Mr Kevin Carty		
<u>Case Officer:</u> Mared Rees	<u>email:</u> planningdmc@shropshire.gov.uk	

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Grid Ref: 354857 – 340084

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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the construction of 1no. block of 30 kennels.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located within designated open countryside as identified on Policy Map S18 INSET 1 Whitchurch Place Plan.

2.2 The application site is located at Oakfields Kennels.

2.3 Directly north and east of the site are existing buildings associated with the Kennels, to the south east of the site is a neighbouring dwelling, directly south is greenfield land whilst to the west lies land allocated for employment use under ELR035, as identified in the SAMDev.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 Whilst no formal response has been received at the time of writing this report from the Parish Council, the Local Member has requested Committee consideration. The Chair and Vice in discussions with the Principal Officers have concluded that owing to the location that this application is appropriate for Committee consideration.

4.0 COMMUNITY REPRESENTATIONS

4.1 - **Consultee Comments**
Parish Council – No comments received to date.

SC Drainage – No objection.

SC Public Protection – No objection.

Concerns were expressed by the neighbouring property to the south east of the site, in regards to noise pollution relating to the development proposal.

SC Public Protection have subsequently visited the site and consider that the height of the building, together with the height of the bund and acoustic fence and the position of the buildings in-between the proposed building and existing

residential property, would not result in a detriment to existing or proposed levels of residential amenity, as a result of the increase in number of dogs on the site.

SC Public Protection further comment that the siting of the building between an existing kennel and the residential dwelling may result in a reduction in noise, given it would screen existing, less well attenuated units from the neighbouring residential dwelling.

SC Public Protection further recommended that the removal of the internal windows from the kennel into the inner corridor would be beneficial from a noise perspective. This has been undertaken by the agent and is demonstrated on revised drawing (Dwg No W16/2438/SK02 C).

Conditions to secure details of sound proofing and the noise screening fencing are considered appropriate.

Highway Authority – No objection.

The existing access is considered adequate. The new facility is considered may increase visitor numbers. A condition to secure parking provision prior to commencement of development is considered reasonable in this respect.

SC Trees – No objection.

Condition recommended to secure retained trees in accordance with the Tree Protection Plan and erection of the protective fence prior to commencement of development.

SC Ecology – No objection.

Condition recommended to secure bat boxes.

4.2 - Public Comments

One representation received objecting to the proposal.

Concerns raised include:- adverse impacts on residential amenity and water pressure.

5.0 THE MAIN ISSUES

Principle of development
Character and Appearance
Residential Amenity
Highway Safety
Trees
Drainage
Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application site is located within designated open countryside as identified on Policy Map S18 INSET 1 Whitchurch Place Plan Area.
- 6.1.2 Core Strategy Policy CS5 states amongst other criteria, that new development in open countryside will be permitted where it involves the retention and appropriate expansion of an existing established business, unless relocation to a suitable site within a settlement would be more appropriate.
- 6.1.3 Core Strategy Policy CS13 seeks to promote Shropshire as a place for a range of businesses to invest and grow.
- 6.1.4 Policy MD4 of the SAMDev states that employment land and development will be delivered by permitting proposals that are sustainable development and comprise sui generis uses, that are compatible with adjoining uses and satisfy the relevant settlement policy and accompanying development guidelines.
- 6.1.5 The proposal seeks planning permission for an additional block of 30 kennels at Oakfields Kennels.
- 6.1.6 The business currently operates at two sites, the site at Oakfields subject of this application and a site at Higher Heath, called Chessmere Kennels.
- 6.1.7 The site at Oakfields currently has 57 kennels with a license to accommodate 64 dogs. The site at Chessmere has 30 kennels with a license to accommodate 38 dogs.
- 6.1.8 The site at Chessmere has recently been granted outline planning permission for up to 20 no. dwellings under 14/05182/OUT. A reserved matters application under 16/02599/REM has not yet been determined.
- 6.1.9 The agent has confirmed that the kennels at Chessmere will be closing. The purpose of the application therefore is to relocate the existing 30 kennels from Chessmere to Oakfields.
- 6.1.10 The site at Okafields is an existing established business and there is provision on the site to accommodate an additional 30 kennels, currently operating at Chessmere.
- 6.1.11 The business has 8 members of staff and 2 managers. Staff would be reduced to 6 when the site at Chessmere closes. The agent states that the relocation of the 30 kennels to Oakfields would ensure that all staff are retained.
- 6.1.11 The proposal would maintain the operations of the existing business, resulting in staff retention and continued service provision which includes providing kennelling

dog warden services to four local authorities and three police forces, as well as private holiday boarding.

- 6.1.12 Subject that there are no resultant adverse impacts on visual and residential amenities or highway safety implications, the principle of development is considered to be acceptable.
- 6.1.13 The proposal would comply with Core Strategy Policies CS5 and CS13 as well as SAMDev Policy MD4.

6.2 Character and appearance

- 6.2.1 The proposal would be located within the existing building complex, which is considered to be logical and would result in minimal encroachment into this open countryside location.
- 6.2.2 The building is considered to be fairly significant in its overall scale when viewed in the context of the existing buildings on site. However, its maximum height is considered to be limited, measuring 2.2m, which would help to reduce the overall visual impact of the building.
- 6.2.3 Its height is also considered to be comparable in height to the existing building directly adjacent to the site.
- 6.2.4 The building would be functional in its appearance, being designed for its required use and purpose.
- 6.2.5 A landscape bund would be sited around part of the eastern and southern perimeters of the building, in accordance with the requirements of SC Public Protection.
- 6.2.6 This is considered to be acceptable from a visual amenity viewpoint, given the scale of the bund would not over dominate or appear incongruous in relation to the site and its surroundings.
- 6.2.7 The proposal is not considered would adversely impact on existing levels of visual amenity and would comply with Core Strategy Policy CS6 and SAMDev Policy MD2.

6.3 Residential Amenity

- 6.3.1 SC Public Protection originally requested additional information in regards to the siting and specification of the proposed noise screen bund.
- 6.3.2 The information and revised plan received on 29th September was considered to be appropriate by SC Public Protection, subject to conditions to secure the relevant mitigation required.

- 6.3.3 The neighbouring property has since raised concerns regarding the potential impact of the development on existing levels of residential amenity. Concerns raised relate to noise impacts on the office located within their residential curtilage and the main bedroom of the dwelling.
- 6.3.4 Following a site visit, SC Public Protection confirm that having regard to the height of the building, the height of the bund and acoustic fence as well as the siting of the building, the proposal is not considered would result in adverse impacts to existing levels of residential amenity to the neighbouring property, sufficient to warrant refusal of the application.
- 6.3.5 SC Public Protection further consider that the removal of the internal windows from the kennel into the inner corridor would be beneficial from a noise perspective, which the agent has undertaken and is demonstrated on revised plan Dwg No W16/2438/SK02 C.
- 6.3.5 Conditions to secure sound proofing details and noise screening fence are considered reasonable to ensure all relevant works are undertaken prior to first use of the development.
- 6.4 Highway Safety**
- 6.4.1 The existing access would be utilised and is considered adequate.
- 6.4.2 The proposal is considered may result in an increase in visitor numbers to the site.
- 6.4.3 A condition to secure parking provision prior to commencement of development is considered reasonable to ensure appropriate levels of parking provision is provided.
- 6.5 Trees**
- 6.5.1 SC Trees raises no objection.
- 6.5.2 A condition to secure retained trees in accordance with the Tree Protection Plan is considered appropriate and that the protective fencing is erected prior to commencement of development.
- 6.6 Drainage**
- 6.6.1 SC Drainage confirm the use of soakaways are acceptable and raise no objection.

6.7 Ecology

6.7.1 SC Ecology raises no objection.

6.7.2 Condition recommended to secure bat boxes.

7.0 CONCLUSION

7.1 Overall, the proposal is considered to be acceptable in principle, having regard to the provisions set out in Core Strategy Policies CS5 and CS13 and SAMDev Policy MD4.

7.2 The proposal it is not considered would raise any adverse impacts on existing levels of visual amenity.

7.3 Consultation responses in regards to the impact of the proposal on existing residential amenities, highway safety, ecology and trees will be provided in late representations and if required, as verbal updates to Committee.

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 1970.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

**Central Government Guidance:
NPPF**

**Core Strategy and Saved Policies:
CS5, CS6, CS13**

**SAMDev:
MD2, MD4, S18**

RELEVANT PLANNING HISTORY:

None relevant.

RELEVANT PLANNING HISTORY:

16/03848/FUL Erection of one block of 30 kennels PDE

11. Additional Information

View details online:

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

Appendices APPENDIX 1 - Conditions

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until details for the parking of vehicles have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to first use of the development and shall thereafter be kept clear and maintained at all times for that purpose.
Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

4. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.
Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species.

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

5. The sound proofing materials to be used in the development hereby approved shall be as specified within the submitted Noise Assessment dated July 2016 and the Sound Insulation Prediction dated 06th July 2016.

Reason: In the interest of safeguarding existing levels of residential amenity.

6. The soundproof bund and timber panel fencing as shown on approved plan Dwg No. W/16/2438/01 Rev B, shall be implemented prior to first use of the development hereby approved. The bund and fencing shall thereafter be retained for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of safeguarding existing levels of residential amenities.

7. All retained trees shall be protected in accordance with the submitted Tree Protection Plan (Dwg No. MY58/AKW/TREE/03) and BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fencing shall be erected prior to commencement of development, including ground levelling, site preparation and construction. The fence shall be maintained throughout the duration of the development and shall only be moved or removed with the prior approval of the Local Planning Authority.

Reason: In the interest of safeguarding biodiversity and existing trees in the locality.

Informatives

1. The Local Planning Authority (LPA) in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

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Committee and Date

North Planning Committee

29th November 2016

Item

6

Public

Development Management Report

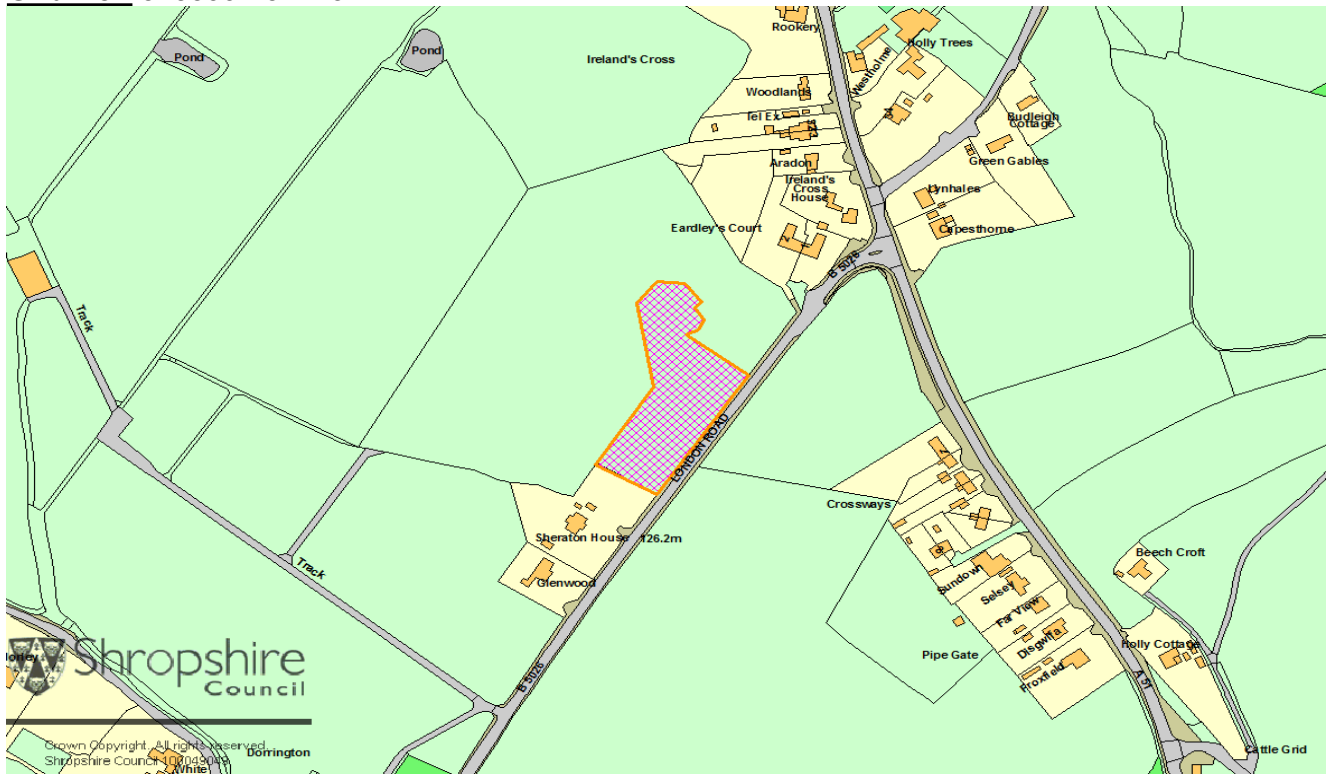
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/02805/REM	Parish: Woore
Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase B - Approval for plots 1 to 5 and 7)	
Site Address: Land West Of London Road, Irelands Cross, Shropshire	
Applicant: Mr Gez Willard	
Case Officer: Richard Denison	email: planningdmne@shropshire.gov.uk

Grid Ref: 373399 - 341232



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

REPORT

1.0 THE PROPOSAL

- 1.1 This reserved matters application is one of two applications which relates to a development site which was approved for 10 dwellings on a roadside frontage along London Road in Irelands Cross. This application will provide six detached properties, plots 1 to 5 and 7 (Phase B). The proposed dwellings will provide an entrance hall, open plan kitchen/dining/family room, utility, living room, snug, w.c., and a double garage on ground floor. Three of the dwellings have four bedrooms and two have five bedrooms with en-suite bathrooms) and a family bathroom. Plot 7 is a bungalow and provides four bedrooms. Three private vehicular accesses will be provided directly off London Road and will serve plots 1 to 5, whilst plot 7 will be served off a new access road off London Road.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site is located directly along the B5415 adjoining onto the settlement of Irelands Cross close to the junction with the A51. The site currently forms part of a paddock with open fields to the north and west. Two semi-detached properties (Nos. 1 & 2 Eardley's Court) are located along the northern boundary, whilst a tennis court associated with Sheraton House is located along the southern boundary of the site. The main road runs along the south eastern boundary and is separated by a mature native hedgerow. An open agricultural field is located on the opposite side of the road to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At committee members requested that any subsequent reserved matters application should be considered at committee and not be considered under delegated powers.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Flood & Water Management Team** - The proposed surface water drainage is acceptable.
- 4.1.2 **Shropshire Council, Housing Enabling Team** - Although there are two reserved matters for this site the ten units are covered by one S106 agreement so the calculation of an off site contribution has been based on the full ten units and applies to both reserved matters applications combined. The total contribution has been calculated as £160,500.
- 4.1.3 **Shropshire Council, Trees & Woodland Amenity Protection Officer** - There appears to be two landscape scheme plans submitted one showing the hard landscaping and drawing no. M15/1198/01i which shows the tree and hedge planting which are both supported subject to a safeguarding condition ensuring that the hard and soft landscaping is undertaken in accordance with the submitted plans.

4.1.4 **Shropshire Council, Public Rights of Way Officer** - There are no recorded public rights of way affected by the application.

4.1.5 **Woore Parish Council** have provided the following detailed response:-

Changes to Planned Layout of Site

It is very disappointing that the latest changes to the proposed development 15/04397/REM, submitted as new revised applications ref. 15/02805/REM & 15/02806/REM), show the removal of the affordable housing element of this scheme, i.e. a pair of semi-detached units are to be lost from the plan. The WPC specifically raised the lack of affordable housing in a previous review. The building plan layout for Plot 2/3 has now been altered from two semi-detached houses (one two bedroomed house with no garage attached to a three bedroomed house with a separate garage) to two detached four bedroomed houses with integral garages. Shared drive access to the main road is retained.

Apart from the loss of affordable housing units, this now increases the 'run' of houses fronting the main road to six detached houses (from five) with much reduced space between the properties. Plot 6 has a considerably reduced garden and the house is consequently moved closer into the proposed cul-de-sac, thus losing the spacious appearance of what is a prominent corner plot. The spacing of these properties is important in that, in a previous reserved matters review by the SC Planning Committee, the inter-spatial distance and splay of houses played a pivotal role in the decision to approve the plan as appropriate to the rural setting. See quote below taken from email / correspondence from the Planning Officer dated 21st Sept 2016 to the owner / developer:

15/04397/REM

"Having briefly viewed the layout it appears that an additional large detached dwelling is located along the frontage and significantly reduces the gaps between the units. As you will be aware this was an important element and why officers were able to support the previous reserved matters application (reference 15/04397/REM). I also note that the revised layout does not provide any tree landscaping along the roadside frontage."

Clearly it was an important aspect of the judgment to approve the previous reserved matters application that the front road view was not congested and had an open spacious entrance fitting to the rural situation.

At that time, the distances ranged from 5.8 to 6.9 metres but those distances have been seriously eroded as a result of the now proposed layout to place six detached houses of 4/5 bedrooms side by side. The spaciousness which proved to be such a significant factor in the decision to approve the previous review under reserved matters is now completely lost, resulting in the frontage favouring an urban development style in a rural setting which is a wholly inappropriate style for this position.

For this reason, WPC wish this matter to be explicitly raised with SC Planning Full Committee as opposed to Reserved Matters only.

Changes to Proposed Landscaping

Changes to the proposed landscaping in 15/04397/REM – i.e. proposed / recommended trees were removed / left off the landscaping plan. The most recent plan, submitted at the request of the SC Planning Officer, shows in this iteration, trees added back in to the landscape. Written on the plan in several places, there is a statement that makes clear 'all trees pits positions will be placed to suit service runs, visibility and clearances'. Does this mean that trees may be moved and placed in different locations or omitted altogether? Can a requirement be placed on the developer to ensure a minimum number of trees?

Importantly, the 'Wilderness Corridor' surrounding the perimeter of the site layout appears to have disappeared. This was a requirement of the Ecological Survey report to protect the Great Crested Newts found in the pond life surrounding the plot. This is a legally enforceable requirement of course and WPC respectfully requests that this matter is addressed by SC Planning Committee.

New Walls, Fences and Hedging

The introduction of a 1.8 metre wall along the North Eastern boundary of plot 10 in such a prominent position is completely inappropriate in this rural location. This newly introduced feature is completely alien to this rural roadside location and will be particularly prominent when turning off the main road to the North East.

No details are supplied regarding the hedges or the post and rail fence to the North West boundary of plot 8. It appears from the latest landscape plan that the proposed hedge to Plot 8 and partially to Plot 7 is to be planted outside the site boundary as shown by the red line. How will the Council ensure that the landscaping is not only completed but is retained in the future? If the red line is extended beyond the boundary of the approved outline consent, then the current application cannot be a reserved matter application. WPC ask that SC Planning review these details.

Assuring Consistency to the Frontage

Assurances about providing new planted hedges, and post and rail fences, as per the landscape plans, can no longer be described with any certainty because these properties are now being presented as self-build custom plots/houses - see new revised applications ref. 15/02805/REM & 15/02806/REM).

Indeed it is not clear whether the self-build customers are expected to buy the outline plans approved under reserved matters previously or pursue 10 individual self-build planning applications.

It is not clear how the self-build custom houses arrangements will be operated where joint accesses are involved because they will be privately owned i.e. not adopted by the Council. This raises concerns about ensuring the consistency of the frontage in terms of the hedging, pathways and fencing, and future upkeep, repair and public liability.

Previous assurances about no west facing windows in Plot 1, again, can no longer be assured as this will become the property of a new owner.

In light of the preceding points above, WPC wish it to be noted that the site owner previously rejected the WPC suggestion that there should be one main entrance into the estate (mirroring the style of the other two most recently erected estates Priory Gardens and Candle Lane), which would allow the ancient hedge fronting along the main road to remain intact and the planned footpath to be placed inside the hedging for the use of the residents on the new estate. The WPC solution also negates the building of three other exits/entrances onto the main London Road.

This is particularly relevant because WPC has recently been successful in ensuring a reduction in the speed limit on the London Road based on existing volume usage and speed measurements of traffic prior to any increased traffic flows from this estate coming under consideration.

Summary

The new revised reserved applications ref. 15/02805/REM & 15/02806/REM present a re-grouping of the properties which are now presented 'to be offered for self-build custom building' in two phases. See letter from G Willard dated 4th August 2016:

15/02805/REM Phase A Plots 6, 8, 9, 10
15/02806/REM Phase B Plots 1, 2, 3, 4, 5, 7

In 15/04397/REM the original housing mix of 8 detached properties (including one bungalow) plus a pair of semis detached residences (low cost housing) has now been completely changed to propose 10 large scale detached self-build properties. Presumably the re-designation of these properties as individual self-build properties provides a variation in CIL payments as referred to in the Willard Willard Ltd letter page 3 dated 4th August 2016.

Documentation from Willard Willard Ltd, dated 4th August 2016, reports that it is the site owner's intention to build Plot 7 (the residential 4 bed bungalow and the access road alongside it) with the intention of it being for their own use and to include forming the access road to the site as an integral part of the start of the development upon that part of the site. It appears that the site owner will retain ownership of the new entrance pathway at the far east side of the estate and also retain the entrance to the field situated behind the small estate.

Concluding Comments

This estate of 10 buildings with outline planning permission and subsequent plans submitted under 'reserved matters' are now completely different to the original proposal and dispose of major considerations and stipulations which contributed to the initial, much contested Planning approval.

The proposal to allow self-build of all 10 dwellings was never part of the original planning application and as such, WPC respectfully request that this application is sent back to the full SC Planning Committee and not dealt with under reserved

matters. This request is based on the facts that this estate is now being considered for 10 self-build properties; therefore previous reserved matters agreements are largely redundant. The frontage now proposes six not five detached houses fronting the main road, a major factor involved in the original planning process, and the removal of the much needed local low cost housing from the plan.

The outline plans for the proposed properties are arguably now of no material benefit in judging reserved matters because all of these houses, if disposed of as self-build properties, would be under new ownership, and as such would be entitled to submit new plans in quite a different form should they so choose.

The space for six self-build houses on the frontage, much reduced from the original spacing of the layout, should be considered as inadequate and WPC request SCP to re-consider if there are now too many Plots making up this new build proposal.

Finally, WPC make reference to the email between Richard Denison of SCP to the Site Agent (Gez Willard) on the 21st September 2016 where he states:

“.....I will be required to re-consult local residents, the Parish Council and necessary consultees (Flood & Water Management Team, Highways, Tree & Amenity Protection Officer and Affordable Housing Team). They will have an opportunity to comment on the amended scheme.”

WPC fully support this statement from Richard Denison and endorse his decision to pursue appropriate expertise and relevant local views. WPC request that this course of action is fully completed as it would appear that the Planning Officer has major concerns over these revised Applications.

4.2 Public Comments

4.2.1 Two letters have been received from local residents raising the following concerns:-

- Visual impact caused by loss of hedgerow.
- The proposed site is not a gateway to the more built up area it is a rural area.
- Impact of adjacent tennis court and flood lights on plot 1.
- Loss of Oak tree.
- Overlooking and loss of privacy.
- Loss of wildlife corridor.
- Overdevelopment of the site.
- Concerns loss of affordable unit.
- Proposed scheme is for 10 separate self builds which will extend the disruption.
- Layout and design not in keeping with area.

5.0 THE MAIN ISSUES

- Background
- Design, Scale and Character
- Access
- Impact on Residential Amenity
- Impact on Trees and Landscaping

- Drainage
- Affordable Housing
- Ecology
- Other Matters

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 Outline planning permission was granted on the 20th October 2014 for a residential development for the erection of ten dwellings on land to the west of London Road in Irelands Cross (application reference 13/02698/OUT). This application considered the principle for residential development with access, layout, scale, appearance and landscaping as reserved matters which are considered as part of this current application.
- 6.1.2 The proposed site was not located within a settlement eligible for residential development under the former North Shropshire Local Plan. Irelands Cross was being promoted as part of a Community Hub with Woore and Pipe Gate under the Site Allocation Management Development Plan (SAMDev), although at the time of the application it was still out to consultation. The proposed site was therefore considered to be located in open countryside and was contrary to policy CS5 'Countryside and Green Belt' of the Shropshire Core Strategy.
- 6.1.3 However, at the time of the consideration of the application the Council could not demonstrate that it had a sufficient five year housing land supply and therefore significant weight had to be given to the National Planning Policy Framework which is for the presumption in favour of sustainable development. The proposed residential development was considered to be located adjoining Irelands Cross settlement with existing dwellings being located along the north east and south west boundaries. The site has pedestrian access along the existing footpath into Woore which is approximately 0.7km away with a number of essential day to day services. The proposed development was considered to be located within a sustainable settlement and having regard to the then current shortage in the five year housing land supply the provision of an open market scheme was considered acceptable.
- 6.1.4 Due to the shortage in the housing land supply it was considered appropriate to restrict the time period for the submission of the reserved matters application to 12 months and for the development to commence with two years from the date of the last reserved matters application. This was to enable the development to be built earlier than normal to help boost the housing supply in Shropshire.
- 6.1.5 The application was approved subject to a Section 106 legal agreement for the provision of affordable housing provision either on site or as a financial contribution, together with an amendment to the local speed limit to 40mph.
- 6.1.6 Two reserved matters applications were subsequently received in July 2015 within the 12 months. Application reference 15/02805/REM provided five detached properties (plots 1 to 5), whilst application reference 15/02806/REM also provided five detached properties (plots 6 to 10). Officer concerns were raised that no

provision for an onsite affordable dwelling was being provided, whilst concerns were also raised regarding the layout, design and appearance of the dwellings. Following detailed discussions between the developer, the architect and officers it was agreed that both of these applications would be held in abeyance whilst a third reserved matters application was submitted to overcome the issues raised (application reference 15/04397/REM). This application considered all of the plots and was approved at committee in January 2016. The application consisted of a mixture of dwelling styles and indicated five 5-bedroom and two 4-bedroom detached properties; two semi-detached properties (one 3-bedroom and one 2-bedroom affordable unit); and one detached 4-bedroom bungalow. The affordable dwelling was provided as the Housing Enabling Team indicated that there was a need for an affordable unit within the Parish. The developer had spoken to South Shropshire Housing Association who indicated that they were keen to purchase and manage the affordable unit and therefore plot 2 was allocated as an affordable unit for rent.

- 6.1.7 However, following this approval detailed discussions have taken place between the developer and South Shropshire Housing Association to agree the transfer of the affordable unit. However, they have now raised concerns that affordable dwellings in the local area are hard to let, whilst there is currently no registered people on the housing list for discounted or shared ownership dwellings in the local area. The Shropshire Housing Group have been contacted and both Meres & Mosses Housing Association and Wrekin Housing Trust are not willing to purchase and manage the affordable unit. Having regard to the restricted local need the Housing Enabling Team have indicated that they would now accept a financial contribution in lieu of an onsite dwelling being provided.
- 6.1.8 Following concerns that the small two bedroom semi detached dwelling would not be in keeping with the local area the agent has now requested that the two previous reserved matters applications which were held in abeyance are now to be considered with the removal of the affordable unit. Application reference 15/02805/REM will now provide five detached dwellings and a bungalow (Phase B) which is subject to this application. Whilst application reference 15/02806/REM will provide four detached dwellings (Phase A).

6.2 Design, Scale and Character

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. This is reiterated in policy MD2 of the SAMDev Plan which indicates the development should contribute and respect the locally distinctive or valued character and existing amenity value. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.2.2 Objection has been received from the Parish Council and local residents indicating that the proposed layout and scale of the proposed dwellings are inappropriate to the site. Concerns are raised that the provision of an additional detached building

along the frontage will reduce the open gaps between the properties. However, this application has been subject to lengthy discussions between the architect and developer regarding the proposed layout, design and appearance of the dwellings, together with the position of access points, landscaping and driveways.

- 6.2.3 The previously approved reserved matters application included the provision of seven dwellings along the roadside, albeit that two of the properties were semi-detached. The proposed dwellings provided open gaps between them ranging from 5.8 metres to 6.9 metres. The proposed development will still provide seven dwellings along the frontage, although they are all now detached. This current application is considering the provision of five of the roadside frontage properties and the bungalow to the rear of the site.
- 6.2.4 Officers consider that the proposed dwellings on this revised layout will still sit comfortably within the site and will provide a variety of plots widths ranging from 17 metres to 26.5 metres which will reflect the plot widths of the properties along the A51 in Irelands Cross. One of the key characteristics of dwellings in the local area is of open spaces between the properties and the proposed layout has respected this with the roadside properties having open views between them of a minimum of 5 metres. The openness is improved with the provision of large hipped roofs to certain properties. The dwellings have good separation from one another which will prevent any impact on residential amenity and provide adequate private amenity spaces.
- 6.2.5 Irelands Cross consists of a reasonable proportion of large detached properties located in spacious landscaped plots, whilst there are a number of smaller three bedroom semi-detached properties and bungalows located to the south of London Road at Crossways. Officers consider that the proposed scheme to provide 4/5 bedroom properties in modest sized plots will assist in providing a broader range of properties in the local area.
- 6.2.6 The proposed development provides a range of house designs and appearances which reflect the varied character of properties within Irelands Cross. Local design features have been incorporated into the scheme with traditional dormer windows, ground floor bay windows, exposed rafter feet, stone cills and brick headers, front facing gables, external chimney stacks and decorative wood panelling. These features can be found on the proposed dwellings which have been designed so that each dwelling is individual to prevent a block of identical properties.
- 6.2.7 The proposed layout, design and scale of the dwellings would be acceptable on this edge of settlement location and would not impact on the character of existing properties or the rural character of the local area.

6.3 **Access**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.

- 6.3.2 One letter has been received from a local resident raising highway safety concerns with the provision of seven access points onto the B5415 and has suggested that a single access point would be more preferable. Concerns have also been raised by the Parish Council regarding the close proximity of the accesses to the busy junction of the B56415 and the A51 which would cause highway safety issues. The outline application included an indicative plan which indicated the setting back of the existing hedgerow and provision of a single access point with a pavement along the roadside. The Highways Officer indicated that the B5415 has more than adequate capacity to accommodate an increase in traffic and adequate visibility could be achieved in both directions.
- 6.3.3 The proposed application now indicates the provision of a new road which will serve five of the dwellings (Plots 6 to 10) and provide vehicular access into the field to the west. A further three private driveways will serve the remaining dwellings with plot 1 having its own individual access, whilst plots 2 and 3 and plots 4 and 5 will share an access. Concerns have been raised that the roadside hedge will be removed to provide the necessary visibility splays and facilitate the provision of a new 2 metre wide public footpath along the frontage of the site. During the consideration of the outline application it was considered that any access would involve the loss of the hedgerow which will be replanted and enhanced with tree planting to provide a soft edge to the development. The proposed footpath will provide improved access for the occupiers of Sheraton House and Glenwood. The Highways Authority considers that the proposed accesses will not lead to highway safety concerns and adequate visibility will be provided across the footpath to provide clear views of on-coming traffic. A number of highway safety conditions are proposed regarding provision of visibility splays, design and construction details of accesses and onsite construction working methods.
- 6.4 Impact on Residential Amenity**
- 6.4.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Concern has been raised from a local resident and the Parish Council regarding overlooking and loss of privacy and the impact of the adjoining tennis court flood lights.
- 6.4.2 Plot 1 will be positioned 3 metres from the post and rail fence along the south west boundary adjacent to a conifer hedgerow and an all-weather tennis court enclosed by a chain link fence. The proposed dwelling has a blank gable elevation facing the tennis court, whilst the thick evergreen hedgerow will present any views of the tennis court from the ground floor windows or occupiers in the garden. The first floor front and rear bedrooms will face at right angles to the tennis court and overlook the main road and the open field to the rear. Having regard to the orientation of this property the proposed windows will not result in any overlooking or loss of privacy to the tennis court or the adjoining residential property (Sheraton House). Having regard to the distance away from the boundary and with an eaves height of 5 metres and ridge height of 8.4 metres the proposed dwelling will not result in any overbearing impact, whilst the northern position will prevent any loss of light.
- 6.4.3 Plots 2 to 5 and 7 will be positioned to the north of plot 1 and will not face directly towards any residential properties. Having regard that these properties are located

further away they will not result in any overlooking or loss of privacy, cause an overbearing impact or result in loss of light.

6.4.4 It is noted that the tennis court adjacent to plot 1 has four flood lighting columns and concerns have been raised that the glare may cause a nuisance to the occupiers of this property. Planning permission was granted in April 2007 for the erection of four 6 metre high columns with a single lighting unit on each corner of the tennis court (application reference NS/07/00450/FUL). However, the lighting columns have not been constructed in accordance with the approved plans and have been located two on each side of the tennis court and with two lighting units per column. Condition 3 on the decision notice requested approval of the lighting units, although this was not complied with. Condition 4 of the decision notice indicates that the lighting units shall not be operated after 23:00hrs and should be turned off when the tennis court is not in use to protect the amenity of the local area. Having regard that the lighting units will not directly face the main front or rear windows of the proposed adjoining unit and are angled to face down, it is considered that with the restricted hours and that any future purchaser will be aware of the lighting units it would not provide a significant objection to the application.

6.4.5 The B5415 road runs along the south east facing boundary and links the A53 and the A51. This road is used regularly and therefore the potential noise generated from five households would not be excessive having regard to the back ground noise of the road.

6.5 Impact on Trees & Landscaping

6.5.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. Concerns have been raised regarding the loss of the roadside hedgerow, together with the removal of a large Oak tree. They recommend that a replacement Oak tree and further landscaping is provided. The Landscape and Amenity Protection Officer has indicated that the proposed site will form the start of the settlement of Irelands Cross which the majority of properties has a frontage of trees and hedgerow landscaping. Officers have raised concerns regard the type and size of proposed trees within the site and amended plans have been received which are now considered acceptable. It is regrettable that the roadside hedgerow will be removed to facilitate the footpath and visibility splays. However, the additional 18 trees and new hedgerow which will be planted along the roadside frontages will significant enhance the appearance of the site and over time will provide a green frontage to the development. The Landscape and Amenity Protection Officer has not raised any objection to the revised landscape plan which will be conditioned to ensure that the landscaping is planted prior to occupation. Any changes to the layout of the landscaping including repositioning of trees would have to be subject to a separate application to vary the condition.

6.6 Drainage

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The outline application

indicated that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner.

- 6.6.2 Condition 4 of the outline permission indicated that the drainage of the site including the sizing of the proposed soakaways, porosity tests, foul drainage details together with drainage fields must be submitted with the first reserved matters application for consideration. Such tests and the design of the scheme shall be carried out in accordance with BRE Digest 365. Detailed soakaway calculations have been submitted for all of the units, together with a detailed site layout plan indicating the position and design of soakaways.
- 6.6.3 The Flood and Water Management Team have assessed the layout, design and drainage details and have confirmed that the surface water drainage is acceptable and the plots will not be liable to flooding.

6.7 **Affordable Housing**

- 6.7.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The Section 106 agreement on the outline application related to the provision of affordable housing and/or a contribution towards off-site provision. Both Phase A and B reserved matters applications cover the outline application site area and should be considered together in terms of providing the affordable housing provision. The existing target rate is 15% which for a development of 10 dwellings would equate to a provision of 1.5 dwellings. However, following the concerns raised by the Housing Group for the demand for an affordable rent or discount/shared ownership dwelling in the local area the Housing Enabling Team have agreed to a financial contribution of £160,500 be submitted instead. This financial contribution will be required to be used within the first 12 months within the local Parish area, after which the contribution can be spent within the Place Plan Area. The payment of the affordable housing contribution is controlled by the Section 106 agreement. The Housing Enabling Team has agreed the contribution acceptable with the applicant.

6.8 **Ecology**

- 6.8.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in paragraph 109 of policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

6.8.2 Concerns have been raised from the Parish Council and local residents regarding a 'Wilderness Corridor' being omitted from the plans. The original outline application considered the ecology matters in great detail and in particular the impact of residential development on Great Crested Newts, bats and loss of the roadside hedgerow. In conclusion the application indicated that the proposed scheme would not impact on any protected species subject to a European Protected Species Mitigation Licence and appropriate safeguarding conditions and informative being imposed on the decision notice. Condition 7 of the outline decision notice indicated that no development or site clearance procedures shall commence until a European Protected Species Mitigation Licence with respect to Great Crested Newts has been obtained and submitted to the Local Planning Authority. Condition 8 of the outline decision notice indicates that no development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) Plan has been submitted to and approved in writing by the Local Planning Authority.

6.8.3 The proposed 'Wilderness Corridor' as indicated by the Parish Council is controlled by safeguarding conditions and will have to be approved prior to any works commencing on site. The Council Planning Ecologist has verbally confirmed that the conditions imposed on the outline permission are necessary to prevent any impact on protected species.

6.9 Other Matters

6.9.1 The Parish Council and local residents have raised concerns that the proposed development will be self build plots and will not be entirely built by the developer. Issues have been raised that this will provide inconsistencies to the frontages regarding boundary treatment, concerns over ownership of accesses, impact from additional windows in plot 1 and the proposed construction will result in an extended disruption.

6.9.2 Unfortunately, the planning system cannot control how the development is built in so far as whether the plots are individually sold or whether one developer builds the dwellings. However, if the plots are all individually sold and different builders construct the dwellings they will all have to legally abide by the planning decision notice which will include strict conditions regarding materials, drainage, ecology matters, landscaping and boundary treatment and no additional side windows being provided into plot 1. Issues raised regarding the ownership of the access driveways and any rights of access for future occupiers is not a planning consideration. It is likely that the completion of the development of this site may take slightly longer with self build plots as opposed to one individually builder constructing them all. However, once a development has commenced there is no control in planning to insist that the development is completed within a certain time period. This is a relatively small scale development and the impact is likely to be small compared to a large housing development.

7.0 CONCLUSION

7.1 The principle for residential development has been agreed, whilst the proposed design and layout will respect neighbouring properties and the rural character and will not result in any detrimental impact from either overlooking, cause any overbearing impact or loss of light. The existing boundary hedging will be retained,

whilst the proposed access will provide adequate visibility in both directions for emerging vehicles and a suitable level of off street car parking and manoeuvring space is provided. A suitable level of affordable housing is provided.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a

number of ‘relevant considerations’ that need to be weighed in planning committee members’ minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework (March 2012):

- 3. Supporting a Prosperous Rural Economy
- 7. Requiring Good Design
- 11. Conserving and Enhancing the Natural Environment

Shropshire Council Core Strategy (February 2011):

- CS5 : Countryside and Green Belt
- CS6 : Sustainable Design and Development Principles
- CS11 : Type and Affordability of Housing
- Supplementary Planning Document on Type and Affordability of Housing

Site Allocations and Management Development Plan (December 2016):

- MD2 : Sustainable Design
- MD3 : Delivery of Housing Development
- MD12 : Natural Environment
- S11 : Market Drayton

10.2 Relevant Planning History

13/02698/OUT - Outline application for the erection of ten dwellings (Amended Description). Granted 20th October 2014.

15/02805/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase 1 - Approval for plots 1 to 5). Current Application.

15/02806/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase 2 - Approval for plots 6 to 10). Current Application.

15/04397/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Plots 1 to 10).
Granted 29th January 2016.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 15/02805/REM

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. 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.
2. The proposed surface and foul water drainage schemes shall be installed in accordance with the Proposed Drainage Scheme drawing 5266-061 Rev.A (dated 07/09/16) prior to the first occupation of any of the dwellings hereby approved.
Reason: To ensure that the surface and foul water drainage systems are adequate and to minimise flood risk.
3. The proposed landscaping scheme as indicated on drawing no. M15/1198/01i Rev.I (dated 28/09/16) shall be completed prior to the occupation of the dwellings.
Reason: In the interest of visual amenity in the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
5. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.
Reason: To ensure a satisfactory access to the site.
6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - 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.

7. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to approved specification before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.



Committee and Date

North Planning Committee

29th November 2016

Item

7

Public

Development Management Report

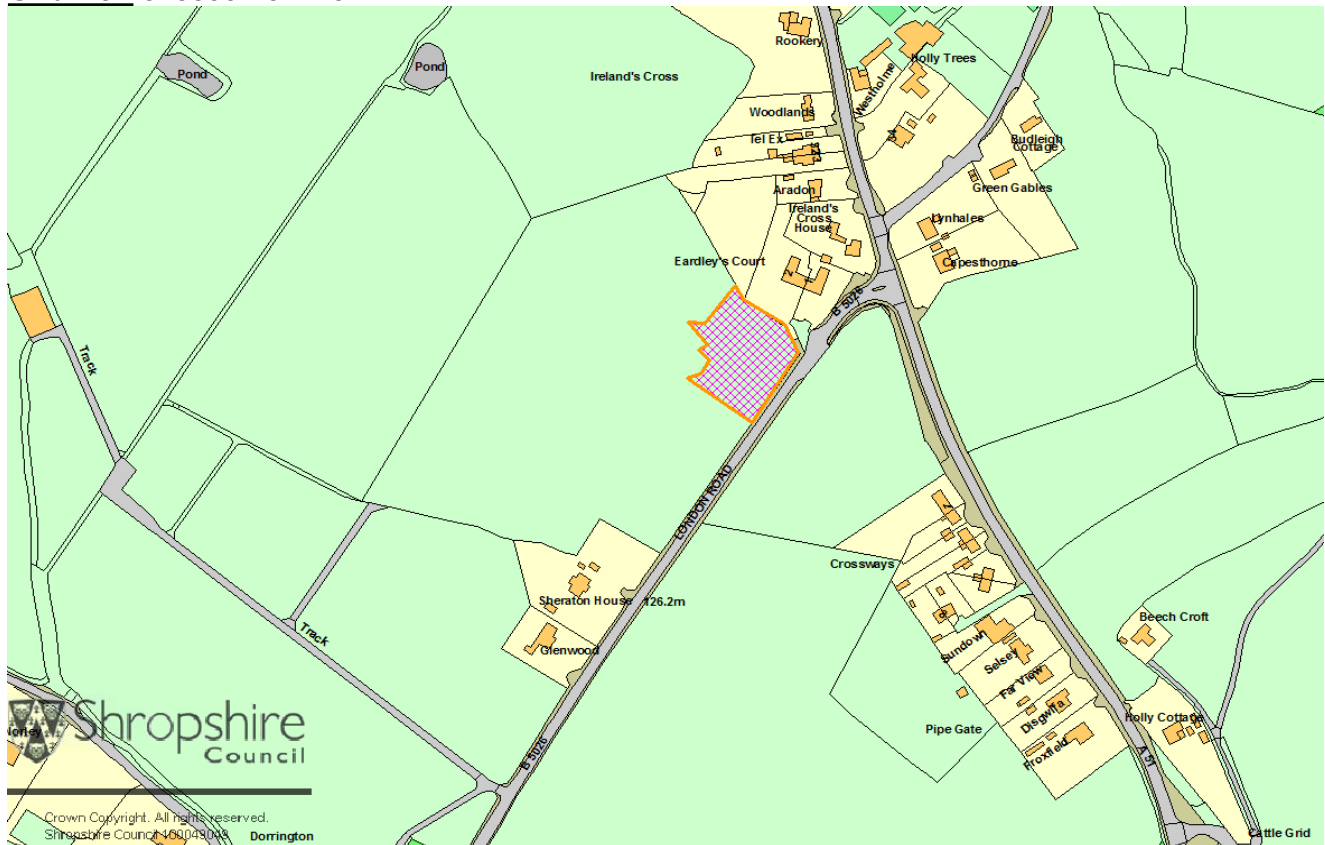
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/02806/REM	Parish: Woore
Proposal: Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase A - Approval for plots 6 and 8 to 10)	
Site Address: Land West Of London Road Irelands Cross Shropshire	
Applicant: Mr Gez Willard	
Case Officer: Richard Denison	email: planningdmne@shropshire.gov.uk

Grid Ref: 373399 - 341232



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

REPORT

1.0 THE PROPOSAL

- 1.1 This reserved matters application is one of two applications which relates to a development site which was approved for 10 dwellings on a roadside frontage along London Road in Irelands Cross. This application will provide four detached properties, plots 6 and 8 to 10 (Phase A). The proposed dwellings will provide an entrance hall, open plan kitchen/dining/family room, utility, living room, snug, w.c., and a double garage on ground floor. One of the dwellings has four bedrooms and three have five bedrooms with en-suite bathrooms) and a family bathroom. The proposed properties will be served off a new access road off London Road, although plots 6 and 10 will be located along the roadside frontage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site is located directly along the B5415 adjoining onto the settlement of Irelands Cross close to the junction with the A51. The site currently forms part of a paddock with open fields to the north and west. Two semi-detached properties (Nos. 1 & 2 Eardley's Court) are located along the northern boundary, whilst a tennis court associated with Sheraton House is located along the southern boundary of the site. The main road runs along the south eastern boundary and is separated by a mature native hedgerow. An open agricultural field is located on the opposite side of the road to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At committee members requested that any subsequent reserved matters application should be considered at committee and not be considered under delegated powers.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Flood & Water Management Team** - The proposed surface water drainage is acceptable.
- 4.1.2 **Shropshire Council, Housing Enabling Team** - Although there are two reserved matters for this site the ten units are covered by one S106 agreement so the calculation of an off site contribution has been based on the full ten units and applies to both reserved matters applications combined. The total contribution has been calculated as £160,500.
- 4.1.3 **Shropshire Council, Trees & Woodland Amenity Protection Officer** - There appears to be two landscape scheme plans submitted one showing the hard landscaping and drawing no. M15/1198/01i which shows the tree and hedge planting which are both supported subject to a safeguarding condition ensuring that the hard and soft landscaping is undertaken in accordance with the submitted plans.

4.1.4 **Shropshire Council, Public Rights of Way Officer** - There are no recorded public rights of way affected by the application.

4.1.5 **Woore Parish Council** have provided the following detailed response:-

Changes to Planned Layout of Site

It is very disappointing that the latest changes to the proposed development 15/04397/REM, submitted as new revised applications ref. 15/02805/REM & 15/02806/REM), show the removal of the affordable housing element of this scheme, i.e. a pair of semi-detached units are to be lost from the plan. The WPC specifically raised the lack of affordable housing in a previous review. The building plan layout for Plot 2/3 has now been altered from two semi-detached houses (one two bedroomed house with no garage attached to a three bedroomed house with a separate garage) to two detached four bedroomed houses with integral garages. Shared drive access to the main road is retained.

Apart from the loss of affordable housing units, this now increases the 'run' of houses fronting the main road to six detached houses (from five) with much reduced space between the properties. Plot 6 has a considerably reduced garden and the house is consequently moved closer into the proposed cul-de-sac, thus losing the spacious appearance of what is a prominent corner plot. The spacing of these properties is important in that, in a previous reserved matters review by the SC Planning Committee, the inter-spatial distance and splay of houses played a pivotal role in the decision to approve the plan as appropriate to the rural setting. See quote below taken from email / correspondence from the Planning Officer dated 21st Sept 2016 to the owner / developer:

15/04397/REM

"Having briefly viewed the layout it appears that an additional large detached dwelling is located along the frontage and significantly reduces the gaps between the units. As you will be aware this was an important element and why officers were able to support the previous reserved matters application (reference 15/04397/REM). I also note that the revised layout does not provide any tree landscaping along the roadside frontage."

Clearly it was an important aspect of the judgment to approve the previous reserved matters application that the front road view was not congested and had an open spacious entrance fitting to the rural situation.

At that time, the distances ranged from 5.8 to 6.9 metres but those distances have been seriously eroded as a result of the now proposed layout to place six detached houses of 4/5 bedrooms side by side. The spaciousness which proved to be such a significant factor in the decision to approve the previous review under reserved matters is now completely lost, resulting in the frontage favouring an urban development style in a rural setting which is a wholly inappropriate style for this position.

For this reason, WPC wish this matter to be explicitly raised with SC Planning Full Committee as opposed to Reserved Matters only.

Changes to Proposed Landscaping

Changes to the proposed landscaping in 15/04397/REM – i.e. proposed / recommended trees were removed / left off the landscaping plan. The most recent plan, submitted at the request of the SC Planning Officer, shows in this iteration, trees added back in to the landscape. Written on the plan in several places, there is a statement that makes clear 'all trees pits positions will be placed to suit service runs, visibility and clearances'. Does this mean that trees may be moved and placed in different locations or omitted altogether? Can a requirement be placed on the developer to ensure a minimum number of trees?

Importantly, the 'Wilderness Corridor' surrounding the perimeter of the site layout appears to have disappeared. This was a requirement of the Ecological Survey report to protect the Great Crested Newts found in the pond life surrounding the plot. This is a legally enforceable requirement of course and WPC respectfully requests that this matter is addressed by SC Planning Committee.

New Walls, Fences and Hedging

The introduction of a 1.8 metre wall along the North Eastern boundary of plot 10 in such a prominent position is completely inappropriate in this rural location. This newly introduced feature is completely alien to this rural roadside location and will be particularly prominent when turning off the main road to the North East.

No details are supplied regarding the hedges or the post and rail fence to the North West boundary of plot 8. It appears from the latest landscape plan that the proposed hedge to Plot 8 and partially to Plot 7 is to be planted outside the site boundary as shown by the red line. How will the Council ensure that the landscaping is not only completed but is retained in the future? If the red line is extended beyond the boundary of the approved outline consent, then the current application cannot be a reserved matter application. WPC ask that SC Planning review these details.

Assuring Consistency to the Frontage

Assurances about providing new planted hedges, and post and rail fences, as per the landscape plans, can no longer be described with any certainty because these properties are now being presented as self-build custom plots/houses - see new revised applications ref. 15/02805/REM & 15/02806/REM).

Indeed it is not clear whether the self-build customers are expected to buy the outline plans approved under reserved matters previously or pursue 10 individual self-build planning applications.

It is not clear how the self-build custom houses arrangements will be operated where joint accesses are involved because they will be privately owned i.e. not adopted by the Council. This raises concerns about ensuring the consistency of the frontage in terms of the hedging, pathways and fencing, and future upkeep, repair and public liability.

Previous assurances about no west facing windows in Plot 1, again, can no longer be assured as this will become the property of a new owner.

In light of the preceding points above, WPC wish it to be noted that the site owner previously rejected the WPC suggestion that there should be one main entrance into the estate (mirroring the style of the other two most recently erected estates Priory Gardens and Candle Lane), which would allow the ancient hedge fronting along the main road to remain intact and the planned footpath to be placed inside the hedging for the use of the residents on the new estate. The WPC solution also negates the building of three other exits/entrances onto the main London Road.

This is particularly relevant because WPC has recently been successful in ensuring a reduction in the speed limit on the London Road based on existing volume usage and speed measurements of traffic prior to any increased traffic flows from this estate coming under consideration.

Summary

The new revised reserved applications ref. 15/02805/REM & 15/02806/REM present a re-grouping of the properties which are now presented 'to be offered for self-build custom building' in two phases. See letter from G Willard dated 4th August 2016:

15/02805/REM Phase A Plots 6, 8, 9, 10
15/02806/REM Phase B Plots 1, 2, 3, 4, 5, 7

In 15/04397/REM the original housing mix of 8 detached properties (including one bungalow) plus a pair of semis detached residences (low cost housing) has now been completely changed to propose 10 large scale detached self-build properties. Presumably the re-designation of these properties as individual self-build properties provides a variation in CIL payments as referred to in the Willard Willard Ltd letter page 3 dated 4th August 2016.

Documentation from Willard Willard Ltd, dated 4th August 2016, reports that it is the site owner's intention to build Plot 7 (the residential 4 bed bungalow and the access road alongside it) with the intention of it being for their own use and to include forming the access road to the site as an integral part of the start of the development upon that part of the site. It appears that the site owner will retain ownership of the new entrance pathway at the far east side of the estate and also retain the entrance to the field situated behind the small estate.

Concluding Comments

This estate of 10 buildings with outline planning permission and subsequent plans submitted under 'reserved matters' are now completely different to the original proposal and dispose of major considerations and stipulations which contributed to the initial, much contested Planning approval.

The proposal to allow self-build of all 10 dwellings was never part of the original planning application and as such, WPC respectfully request that this application is sent back to the full SC Planning Committee and not dealt with under reserved

matters. This request is based on the facts that this estate is now being considered for 10 self-build properties; therefore previous reserved matters agreements are largely redundant. The frontage now proposes six not five detached houses fronting the main road, a major factor involved in the original planning process, and the removal of the much needed local low cost housing from the plan.

The outline plans for the proposed properties are arguably now of no material benefit in judging reserved matters because all of these houses, if disposed of as self-build properties, would be under new ownership, and as such would be entitled to submit new plans in quite a different form should they so choose.

The space for six self-build houses on the frontage, much reduced from the original spacing of the layout, should be considered as inadequate and WPC request SCP to re-consider if there are now too many Plots making up this new build proposal.

Finally, WPC make reference to the email between Richard Denison of SCP to the Site Agent (Gez Willard) on the 21st September 2016 where he states:

“.....I will be required to re-consult local residents, the Parish Council and necessary consultees (Flood & Water Management Team, Highways, Tree & Amenity Protection Officer and Affordable Housing Team). They will have an opportunity to comment on the amended scheme.”

WPC fully support this statement from Richard Denison and endorse his decision to pursue appropriate expertise and relevant local views. WPC request that this course of action is fully completed as it would appear that the Planning Officer has major concerns over these revised Applications.

4.2 Public Comments

4.2.1 Two letters have been received from local residents raising the following concerns:-

- Visual impact caused by loss of hedgerow.
- The proposed site is not a gateway to the more built up area it is a rural area.
- Impact of adjacent tennis court and flood lights on plot 1.
- Loss of Oak tree.
- Overlooking and loss of privacy.
- Loss of wildlife corridor.
- Overdevelopment of the site.
- Concerns loss of affordable unit.
- Proposed scheme is for 10 separate self builds which will extend the disruption.
- Layout and design not in keeping with area.

5.0 THE MAIN ISSUES

- Background
- Design, Scale and Character
- Access
- Impact on Residential Amenity
- Impact on Trees and Landscaping

- Drainage
- Affordable Housing
- Ecology
- Other Matters

6.0 OFFICER APPRAISAL

6.1 Background

- 6.1.1 Outline planning permission was granted on the 20th October 2014 for a residential development for the erection of ten dwellings on land to the west of London Road in Irelands Cross (application reference 13/02698/OUT). This application considered the principle for residential development with access, layout, scale, appearance and landscaping as reserved matters which are considered as part of this current application.
- 6.1.2 The proposed site was not located within a settlement eligible for residential development under the former North Shropshire Local Plan. Irelands Cross was being promoted as part of a Community Hub with Woore and Pipe Gate under the Site Allocation Management Development Plan (SAMDev), although at the time of the application it was still out to consultation. The proposed site was therefore considered to be located in open countryside and was contrary to policy CS5 'Countryside and Green Belt' of the Shropshire Core Strategy.
- 6.1.3 However, at the time of the consideration of the application the Council could not demonstrate that it had a sufficient five year housing land supply and therefore significant weight had to be given to the National Planning Policy Framework which is for the presumption in favour of sustainable development. The proposed residential development was considered to be located adjoining Irelands Cross settlement with existing dwellings being located along the north east and south west boundaries. The site has pedestrian access along the existing footpath into Woore which is approximately 0.7km away with a number of essential day to day services. The proposed development was considered to be located within a sustainable settlement and having regard to the then current shortage in the five year housing land supply the provision of an open market scheme was considered acceptable.
- 6.1.4 Due to the shortage in the housing land supply it was considered appropriate to restrict the time period for the submission of the reserved matters application to 12 months and for the development to commence within two years from the date of the last reserved matters application. This was to enable the development to be built earlier than normal to help boost the housing supply in Shropshire.
- 6.1.5 The application was approved subject to a Section 106 legal agreement for the provision of affordable housing provision either on site or as a financial contribution, together with an amendment to the local speed limit to 40mph.
- 6.1.6 Two reserved matters applications were subsequently received in July 2015 within the 12 months. Application reference 15/02805/REM provided five detached properties (plots 1 to 5), whilst application reference 15/02806/REM also provided five detached properties (plots 6 to 10). Officer concerns were raised that no

provision for an onsite affordable dwelling was being provided, whilst concerns were also raised regarding the layout, design and appearance of the dwellings. Following detailed discussions between the developer, the architect and officers it was agreed that both of these applications would be held in abeyance whilst a third reserved matters application was submitted to overcome the issues raised (application reference 15/04397/REM). This application considered all of the plots and was approved at committee in January 2016. The application consisted of a mixture of dwelling styles and indicated five 5-bedroom and two 4-bedroom detached properties; two semi-detached properties (one 3-bedroom and one 2-bedroom affordable unit); and one detached 4-bedroom bungalow. The affordable dwelling was provided as the Housing Enabling Team indicated that there was a need for an affordable unit within the Parish. The developer had spoken to South Shropshire Housing Association who indicated that they were keen to purchase and manage the affordable unit and therefore plot 2 was allocated as an affordable unit for rent.

6.1.7 However, following this approval detailed discussions have taken place between the developer and South Shropshire Housing Association to agree the transfer of the affordable unit. However, they have now raised concerns that affordable dwellings in the local area are hard to let, whilst there is currently no registered people on the housing list for discounted or shared ownership dwellings in the local area. The Shropshire Housing Group have been contacted and both Meres & Mosses Housing Association and Wrekin Housing Trust are not willing to purchase and manage the affordable unit. Having regard to the restricted local need the Housing Enabling Team have indicated that they would now accept a financial contribution in lieu of an onsite dwelling being provided.

6.1.8 Following concerns that the small two bedroom semi detached dwelling would not be in keeping with the local area the agent has now requested that the two previous reserved matters applications which were held in abeyance are now to be considered with the removal of the affordable unit.

Application reference 15/02806/REM will now provide four detached dwellings (Phase A) which is subject to this application. Whilst application reference 15/02806/REM will provide five detached dwellings and a bungalow (Phase B).

6.2 Design, Scale and Character

6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. This is reiterated in policy MD2 of the SAMDev Plan which indicates the development should contribute and respect the locally distinctive or valued character and existing amenity value. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.2.2 Objection has been received from the Parish Council and local residents indicating that the proposed layout and scale of the proposed dwellings are inappropriate to

the site. Concerns are raised that the provision of an additional detached building along the frontage will reduce the open gaps between the properties. However, this application has been subject to lengthy discussions between the architect and developer regarding the proposed layout, design and appearance of the dwellings, together with the position of access points, landscaping and driveways.

- 6.2.3 The previously approved reserved matters application included the provision of seven dwellings along the roadside, albeit that two of the properties were semi-detached. The proposed dwellings provided open gaps between them ranging from 5.8 metres to 6.9 metres. The proposed development will still provide seven dwellings along the frontage, although they are all now detached. This current application is considering the provision of two of the roadside frontage properties and two dwellings to the rear of the site.
- 6.2.4 Officers consider that the proposed dwellings on this revised layout will still sit comfortably within the site and will provide a variety of plots widths ranging from 17 metres to 26.5 metres which will reflect the plot widths of the properties along the A51 in Irelands Cross. One of the key characteristics of dwellings in the local area is of open spaces between the properties and the proposed layout has respected this with the roadside properties having open views between them of a minimum of 5 metres. The openness is improved with the provision of large hipped roofs to certain properties. The dwellings have good separation from one another which will prevent any impact on residential amenity and provide adequate private amenity spaces.
- 6.2.5 Irelands Cross consists of a reasonable proportion of large detached properties located in spacious landscaped plots, whilst there are a number of smaller three bedroom semi-detached properties and bungalows located to the south of London Road at Crossways. Officers consider that the proposed scheme to provide 4/5 bedroom properties in modest sized plots will assist in providing a broader range of properties in the local area.
- 6.2.6 The proposed development provides a range of house designs and appearances which reflect the varied character of properties within Irelands Cross. Local design features have been incorporated into the scheme with traditional dormer windows, ground floor bay windows, exposed rafter feet, stone cills and brick headers, front facing gables, external chimney stacks and decorative wood panelling. These features can be found on the proposed dwellings which have been designed so that each dwelling is individual to prevent a block of identical properties.
- 6.2.7 The proposed layout, design and scale of the dwellings would be acceptable on this edge of settlement location and would not impact on the character of existing properties or the rural character of the local area.

6.3 **Access**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.

- 6.3.2 One letter has been received from a local resident raising highway safety concerns with the provision of seven access points onto the B5415 and has suggested that a single access point would be more preferable. Concerns have also been raised by the Parish Council regarding the close proximity of the accesses to the busy junction of the B56415 and the A51 which would cause highway safety issues. The outline application included an indicative plan which indicated the setting back of the existing hedgerow and provision of a single access point with a pavement along the roadside. The Highways Officer indicated that the B5415 has more than adequate capacity to accommodate an increase in traffic and adequate visibility could be achieved in both directions.
- 6.3.3 The proposed application now indicates the provision of a new road which will serve five of the dwellings (Plots 6 to 10) and provide vehicular access into the field to the west. A further three private driveways will serve the remaining dwellings with plot 1 having its own individual access, whilst plots 2 and 3 and plots 4 and 5 will share an access. Concerns have been raised that the roadside hedge will be removed to provide the necessary visibility splays and facilitate the provision of a new 2 metre wide public footpath along the frontage of the site. During the consideration of the outline application it was considered that any access would involve the loss of the hedgerow which will be replanted and enhanced with tree planting to provide a soft edge to the development. The proposed footpath will provide improved access for the occupiers of Sheraton House and Glenwood. The Highways Authority considers that the proposed accesses will not lead to highway safety concerns and adequate visibility will be provided across the footpath to provide clear views of on-coming traffic. A number of highway safety conditions are proposed regarding provision of visibility splays, design and construction details of accesses and onsite construction working methods.
- 6.4 Impact on Residential Amenity**
- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Concern has been raised from a local resident and the Parish Council regarding overlooking and loss of privacy and the impact of the adjoining tennis court flood lights.
- 6.4.2 Plots 8, 9 and 10 are located along the north western boundary with the rear elevations facing towards 1 & 2 Eardleys Court. The rear boundaries of these properties are located a minimum of between 8 and 14.2 metres from the rear boundary and between 38.9 and 38.2 metres from the front elevation of these properties. Having regard to the distance which is well in excess of the minimum of 20 metres it is considered that the degree of overlooking and loss of privacy will be minimal. Due to the significant separation it is not considered that these units will result in any detrimental impact on the private amenity of the occupiers of these properties. Plot 6 will be located in a central position along the road frontage and is separated by proposed dwellings and will not result in any impact on neighbouring properties.
- 6.4.3 The B5415 road runs along the south east facing boundary and links the A53 and the A51. This road is used regularly and therefore the potential noise generated

from five households would not be excessive having regard to the back ground noise of the road.

6.5 Impact on Trees & Landscaping

6.5.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. Concerns have been raised regarding the loss of the roadside hedgerow, together with the removal of a large Oak tree. They recommend that a replacement Oak tree and further landscaping is provided. The Landscape and Amenity Protection Officer has indicated that the proposed site will form the start of the settlement of Irelands Cross which the majority of properties has a frontage of trees and hedgerow landscaping. Officers have raised concerns regard the type and size of proposed trees within the site and amended plans have been received which are now considered acceptable. It is regrettable that the roadside hedgerow will be removed to facilitate the footpath and visibility splays. However, the additional 18 trees and new hedgerow which will be planted along the roadside frontages will significantly enhance the appearance of the site and over time will provide a green frontage to the development. Concerns have been raised by the Parish Council regarding the boundary wall along the roadside frontage for plot 10, although amended plans will be submitted to indicate a hedgerow which will provide a soft edge to this view. The Landscape and Amenity Protection Officer has not raised any objection to the revised landscape plan which will be conditioned to ensure that the landscaping is planted prior to occupation. Any changes to the layout of the landscaping including repositioning of trees would have to be subject to a separate application to vary the condition.

6.6 Drainage

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The outline application indicated that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner.

6.6.2 Condition 4 of the outline permission indicated that the drainage of the site including the sizing of the proposed soakaways, porosity tests, foul drainage details together with drainage fields must be submitted with the first reserved matters application for consideration. Such tests and the design of the scheme shall be carried out in accordance with BRE Digest 365. Detailed soakaway calculations have been submitted for all of the units, together with a detailed site layout plan indicating the position and design of soakaways.

6.6.3 The Flood and Water Management Team have assessed the layout, design and drainage details and have confirmed that the surface water drainage is acceptable and the plots will not be liable to flooding.

6.7 Affordable Housing

6.7.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The Section 106 agreement on the outline application related to the provision of affordable housing and/or a contribution towards off-site provision. Both Phase A and B reserved matters applications cover the outline application site area and should be considered together in terms of providing the affordable housing provision. The existing target rate is 15% which for a development of 10 dwellings would equate to a provision of 1.5 dwellings. However, following the concerns raised by the Housing Group for the demand for an affordable rent or discount/shared ownership dwelling in the local area the Housing Enabling Team have agreed to a financial contribution of £160,500 be submitted instead. This financial contribution will be required to be used within the first 12 months within the local Parish area, after which the contribution can be spent within the Place Plan Area. The payment of the affordable housing contribution is controlled by the Section 106 agreement. The Housing Enabling Team has agreed the contribution acceptable with the applicant.

6.8 Ecology

6.8.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in paragraph 109 of policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.

6.8.2 Concerns have been raised from the Parish Council and local residents regarding a 'Wilderness Corridor' being omitted from the plans. The original outline application considered the ecology matters in great detail and in particular the impact of residential development on Great Crested Newts, bats and loss of the roadside hedgerow. In conclusion the application indicated that the proposed scheme would not impact on any protected species subject to a European Protected Species Mitigation Licence and appropriate safeguarding conditions and informative being imposed on the decision notice. Condition 7 of the outline decision notice indicated that no development or site clearance procedures shall commence until a European Protected Species Mitigation Licence with respect to Great Crested Newts has been obtained and submitted to the Local Planning Authority. Condition 8 of the outline decision notice indicates that no development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) Plan has been submitted to and approved in writing by the Local Planning Authority.

6.8.3 The proposed 'Wilderness Corridor' as indicated by the Parish Council is controlled by safeguarding conditions and will have to be approved prior to any works commencing on site. The Council Planning Ecologist has verbally confirmed that the

conditions imposed on the outline permission are necessary to prevent any impact on protected species.

6.9 Other Matters

6.9.1 The Parish Council and local residents have raised concerns that the proposed development will be self build plots and will not be entirely built by the developer. Issues have been raised that this will provide inconsistencies to the frontages regarding boundary treatment, concerns over ownership of accesses, impact from additional windows in plot 1 and the proposed construction will result in an extended disruption.

6.9.2 Unfortunately, the planning system cannot control how the development is built in so far as whether the plots are individually sold or whether one developer builds the dwellings. However, if the plots are all individually sold and different builders construct the dwellings they will all have to legally abide by the planning decision notice which will include strict conditions regarding materials, drainage, ecology matters, landscaping and boundary treatment and no additional side windows being provided into plot 1. Issues raised regarding the ownership of the access driveways and any rights of access for future occupiers is not a planning consideration. It is likely that the completion of the development of this site may take slightly longer with self build plots as opposed to one individually builder constructing them all. However, once a development has commenced there is no control in planning to insist that the development is completed within a certain time period. This is a relatively small scale development and the impact is likely to be small compared to a large housing development.

7.0 CONCLUSION

7.1 The principle for residential development has been agreed, whilst the proposed design and layout will respect neighbouring properties and the rural character and will not result in any detrimental impact from either overlooking, cause any overbearing impact or loss of light. The existing boundary hedging will be retained, whilst the proposed access will provide adequate visibility in both directions for emerging vehicles and a suitable level of off street car parking and manoeuvring space is provided. A suitable level of affordable housing is provided.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this

application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework (March 2012):

3. Supporting a Prosperous Rural Economy

7. Requiring Good Design

11. Conserving and Enhancing the Natural Environment

Shropshire Council Core Strategy (February 2011):

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

Supplementary Planning Document on Type and Affordability of Housing

Site Allocations and Management Development Plan (December 2016):

MD2 : Sustainable Design

MD3 : Delivery of Housing Development

MD12 : Natural Environment

S11 : Market Drayton

10.2 Relevant Planning History

13/02698/OUT - Outline application for the erection of ten dwellings (Amended Description). Granted 20th October 2014.

15/02805/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase B - Approval for plots 1 to 5). Current Application.

15/02806/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase A - Approval for plots 6 to 10). Current Application.

15/04397/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Plots 1 to 10). Granted 29th January 2016.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 15/02806/REM

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. 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.
2. The proposed surface and foul water drainage schemes shall be installed in accordance with the Proposed Drainage Scheme drawing 5266-061 Rev.A (dated 07/09/16) prior to the first occupation of any of the dwellings hereby approved.
Reason: To ensure that the surface and foul water drainage systems are adequate and to minimise flood risk.
3. The proposed landscaping scheme as indicated on drawing no. M15/1198/01i Rev.I (dated 28/09/16) shall be completed prior to the occupation of the dwellings.
Reason: In the interest of visual amenity in the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
5. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

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

7. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to approved specification before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

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Committee and Date

North Planning Committee

29th November 2016

Item

8

Public

Development Management Report

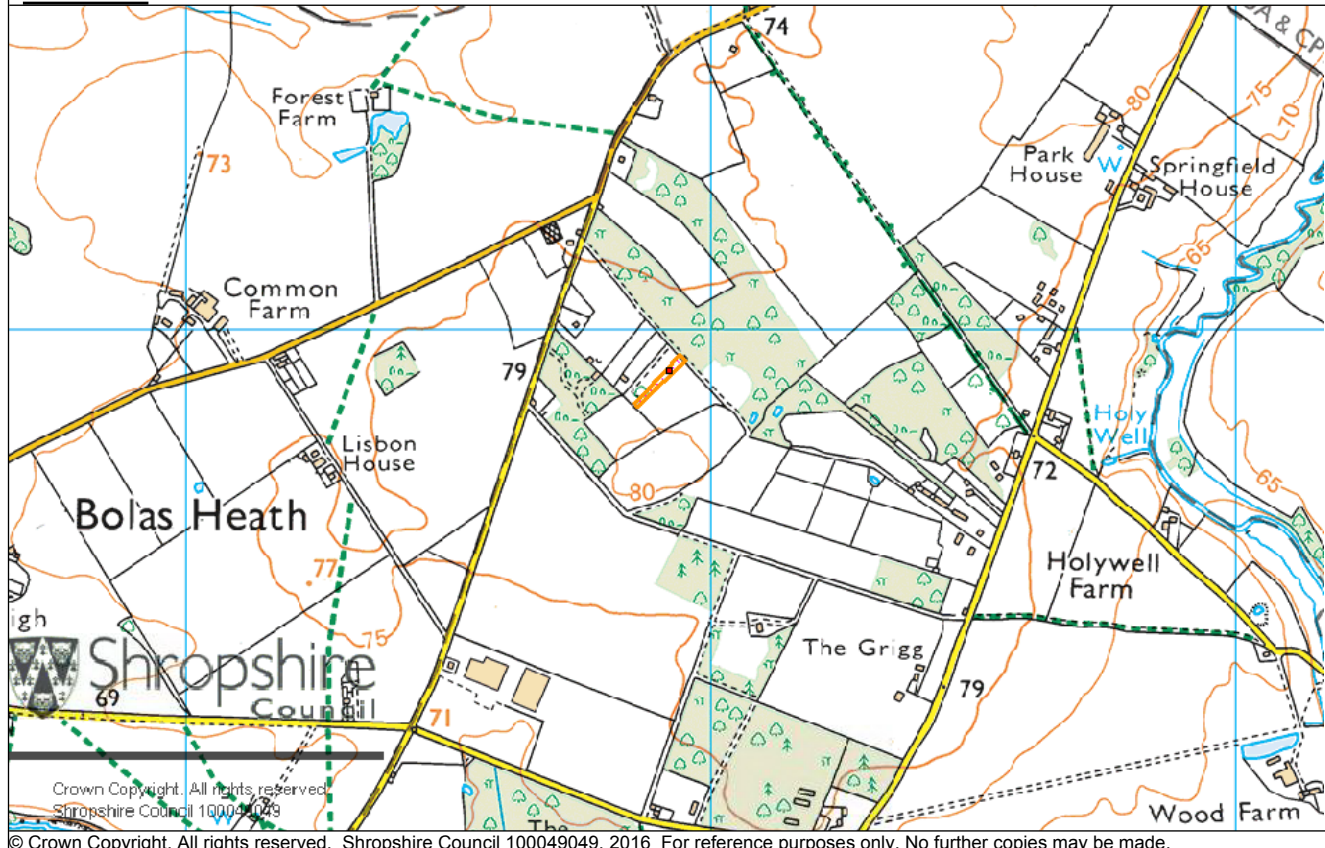
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/04106/FUL	Parish: Childs Ercall
Proposal: Erection of two-storey extension to existing residential care facility	
Site Address: The Retreat Bolas Road Ercall Heath Telford Shropshire	
Applicant: Inspire Capital PropCo Ltd	
Case Officer: Philip Mullineux	email: planningdmnw@shropshire.gov.uk

Grid Ref: 367919 - 321922



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

- 1.1 The application proposes the erection of a two-storey extension to a residential dwelling which has recently been used as a residential care facility with a C3 use class at The Retreat, Bolas Road, Ercall Heath.
- 1.2 The existing property is classified as falling within residential use. A decision notice dated 13th December 2013, (reference 13/04507/CPL), - Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children has an informative attached to it which states:
- 'The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for the change of use from residential (use class C3) to a residential care home (C2), and this interpretation is endorsed by the Council's Legal and Democratic Services section. Accordingly a Certificate of Lawfulness can be issued.'*
- 1.3 Circular 03/2005 (subsequently replaced by Planning Policy Guidance), clearly advises that residents and staff can form a single household. Although there is no limit on the number of persons living as a family there is a limit for residents and staff living together which would be a maximum of 6 persons. It is understood in accordance with detail submitted in support of the certificate of lawfulness application by the agent Peter Richards that the dwelling was for the occupation of up to 6 persons (three children and 3 adults).
- 1.4 The application under discussion is accompanied by a set of elevation and floor plans, block plan and site location plan. Further information was submitted during the application processing by the applicants agent in response to comments made by the Local Parish Council and members of the public.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in a relatively isolated open countryside location and access to the site is obtained along a stone track. The dwelling is detached and two-storey of external render and timber clad construction and contemporary in design.
- 2.2 The design proposal is to extend the dwelling on the north east side with a two storey extension with a footprint of 32m² which will provide approximately 50m² additional floor area over the two floors. The proposed extension of this existing building will follow the same form, massing and style of the existing and be constructed with materials to match the appearance of the existing fabric. A mono pitch roof with a timber clad first floor will sit on a white rendered ground floor. The fenestration pattern will follow that of the existing with double glazed UPVC windows coloured grey externally. The new windows on the north west elevation facing Oak Cottage are small to provide ventilation only. That to the WC would have obscure glass. The proposed entrance will be relocated to the south east elevation to allow better use of the additional ground floor accommodation.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application has been requested for Committee consideration by the local member and it is noted that the Local Parish Council raise objections to the application. With consideration to local concerns and the high volume of objections received the Chair and Vice of the North Planning Committee consider it appropriate for this application to be considered by Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 **Child's Ercall Parish Council** have responded as follows:

The monthly meeting of Childs Ercall Parish Council was attended by 26 members of the public, residents who live close to The Retreat and the other nearby properties used as homes for problem children and their carers.

It was pointed out that many of the residents from nearby properties were unaware of the application until this week as the application isn't on the Childs Ercall list of applications on the planning portal and additionally the required notice has been posted on the gateway to the property which is at the end of a private access track shared by three properties, not the public highway as required, therefore committing a technical breach. The Parish council would request that the application should be correctly advertised at the entrance to the access track on the public highway and the consultation period re-commenced to allow any comments from the owners of neighbouring properties to be forwarded to you.

4.2 Consultee Comments

4.3 **The Land Drainage Manager** raises no objections indicating:

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.4 **SC Public Protection Manager** raises no objections. The response indicates:

Having considered the proposal I have no reasons to object to the proposals. The applicant should be made aware that should noise complaints be received that amount to a statutory nuisance that legal notice could be served on the owners of the site/business operating from the site. As a result

I would recommend that the applicant takes measures as necessary to reduce the potential for any noise disturbances.

4.5 **Public Comments**

Thirty six letters of objection have been received from a members of the public at the time of writing this report and this includes a letter from The Ercall Heath Action Group set up to oppose this application.

The letters received raise many issues in relationship to the use of the dwelling and key issues raised can be summarised as follows:

- Concerns with regards the Council's advertising of the application.
- Unsuitable rural location for the intended use of the dwelling.
- Access road leading to the site is considered unsuitable.
- Emergency services will have trouble accessing the site.
- Concerns with regards to the cumulative impact of the intended use of the dwelling in relationship to other care homes within the surrounding area.
- No economic benefits of the intended use of the property in relationship to the local community.
- Impact on the amenity of the surrounding area in relationship to the intended use of the site.

The full details of the letters received can be viewed on the Council's application website at: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OD90T6TDGW600>

5.0 **THE MAIN ISSUES**

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

6.0 **OFFICER APPRAISAL**

6.1 **Principle of the development**

6.1.1 The application proposes a two-storey extension to a residential dwelling.

6.1.2 Policy CS6 of the Shropshire Core Strategy: 'Sustainable Design and Development Principles' requires development to protect to conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard both residential and local amenity, ensuring that sustainable design and construction principles have been incorporated. This is further reiterated within SAMDev MD2 which reinforces the need for proposals being on appropriate sites that take into consideration their local surroundings.

6.1.3 The proposal is for a two-storey extension onto an existing dwelling which is classed as a dwelling unit, albeit it is understood the dwelling has been in use in the past as a children's care home for the occupation of up to 3 children and 3 adults. As such the proposed development needs to be considered against housing

policies whilst also giving consideration to sustainability issues.

- 6.1.4 As indicated earlier in this report a Certificate of Lawfulness was issued by the Council on 13th December 2013 (reference 13/04507/CPL), and this established that the use of the property as a care home was LAWFUL within the meaning of section 191 and 192 of the Town and Country Planning Act 1990 (as amended) for the following reason[s]:
- 6.1.5 *‘The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for the change of use from residential (use class C3) to a residential care home (C2), and this interpretation is endorsed by the Council's Legal and Democratic Services section. Accordingly a Certificate of Lawfulness can be issued’*
- 6.1.6 This clearly established that use of the home for up to three children with two adults residing on site and one adult attending the site on a daily basis was lawful in relationship to use of the dwelling and as such change of use to a care home was not required.
- 6.1.7 Class C3 – dwelling houses, in accordance with the General Use Classes Order, allows use of a dwelling house for not more than six residents living together as a single household where care is provided for residents. It is understood the applicants intend to use the dwelling in accordance with its previous use which is in accordance with the Order.
- 6.1.8 As such the use of the dwelling as a care home is not a material consideration and does not form part of the current application. As such the use of the property is not a basis to consider for refusal of the current application.
- 6.2 Siting, scale and design of structure**
- 6.2.1 The existing dwelling is contemporary in design and was granted planning permission on 17th November 2010 (reference 10/04114/VAR) as a replacement dwelling on site.
- 6.2.2 The application proposes a subservient extension onto the existing dwelling in order to increase the habitable accommodation of the dwelling, which is presently a four bedroomed detached dwelling. The proposed extension is two-storey and will create 2 further bedrooms on the first floor.
- 6.2.3 Shropshire Council Supplementary Planning Document on Type and Affordability of housing, (SPD), in relationship to house extensions and replacement dwellings in the countryside, clearly states that the market trend is towards larger and more expensive dwellings in the countryside and that it is important to maintain the stock of existing smaller, lower cost market dwellings.
- 6.2.4 The SPD indicates that extensions to existing dwellings should be sympathetic to the size scale and mass of the original building and that in assessing proposals regard will be given to any need to upgrade residential amenity to a reasonable modern standard.

- 6.2.5 The existing dwelling stands in a reasonably large domestic curtilage in relationship to the scale and massing of the dwelling on site.
- 6.2.6 Information in support of the application for the Certificate of Lawful use (reference 13/04507/CPL indicated that 3 children will reside on site along with two members of staff and a third member of staff will travel to the site. (In other words 2 members of staff sleep on site). The current extension will provide for this level of occupants.
- 6.2.7 In this instance it is acknowledged that owing to the contemporary design of the existing dwelling it is not straight-forward to add an extension to the dwelling. However any extension must be subservient and with consideration to the information submitted in support of the application, it is considered that the extension as proposed is subservient in scale and massing in relationship to the existing dwelling on site and as such with consideration to the justification as put forward by the applicants in support of their application and the scale and design of the proposed development, the overall scale, massing and design is considered acceptable and in accordance with relevant Shropshire Core Strategy and SAMDev policies and national planning policy on this matter.
- 6.3 **Visual impact and landscaping**
- 6.3.1 Visual impact and landscape impact is considered acceptable with consideration to the scale and design of the proposed extension and location for the development.
- 6.4 **Other matters.**
- 6.4.1 The proposed development is considered acceptable in relationship to drainage issues with the attachment of an informative as recommended by the SC Land Drainage Manager.
- 6.4.2 Residential amenity and privacy issues are also considered acceptable in relationship to the principle of an extension to a dwelling house. Use of the dwelling in relationship to Care Homes in the surrounding area and cumulative impacts as suggested in letters of objections received from members of the public are not considered an adequate material consideration on which basis to recommend refusal to the application.
- 6.4.3 Public Highway and transportation matters raise concerns from members of the public in that the site is considered unsustainable in relationship to business use and creation of a larger dwelling with two further bedrooms will almost certainly increase vehicular movements. As indicated earlier the dwelling has a certificate of lawfulness for use of the site which it is considered complies with the use classes order and as such public highway access in relationship to the existing use of the site which will not be further intensified is considered acceptable. Access to the site in relationship to emergency vehicles and use as a residential dwelling in planning terms considered acceptable.
- 6.4.4 The proposal raises no issues of concern in relationship to ecology and historic environmental issues.
- 6.4.5 A site notice was placed on the entrance to the property and 12 surrounding dwellings were informed by the Council via a letter in the post. This more than full-

filled the Council's statutory requirements in relationship to advertising the application. The site is in a relatively isolated and rural location and with the amount of household letters sent out there would have been no need in this instance to place a notice on site.

7.0 **CONCLUSION**

7.1 On balance the proposed development with consideration to the location, overall design and justification as put forward is considered acceptable.

7.2 The proposal raises no material consideration concerns as outlined in the report above, and as such the proposal is considered to be in accordance with relevant Core Strategy policies CS5, CS6, CS8 and CS17 and SAMDev policies MD1, MD2, MD7a, MD7b, MD8, MD12 and MD13, the Supplementary Planning Document on Type and Affordability of Housing, and the overall aims and objectives of the National Planning Policy Framework. As such the recommendation is one of approval subject to the conditions as outlined below.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 **Risk Management**

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

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

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

8.2 **Human Rights**

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

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

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

recommendation.

8.3 **Equalities**

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

9.0 **Financial Implications**

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

10. **Background**

Relevant Planning Policies

National Planning Policy Framework

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS8 - Facilities, Services and Infrastructure Provision

CS17 - Environmental Networks

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD7A - Managing Housing Development in the Countryside

MD7B - General Management of Development in the Countryside

MD8 - Infrastructure Provision

MD12 - Natural Environment

MD13 - Historic Environment

Supplementary Planning Document on Type and Affordability of Housing

Relevant planning history:

NS/06/01511/FUL Erection of replacement dwelling CONAPP 17th August 2006

NS/07/01622/DET Approval of Reserved Matters (siting, design, external appearance, landscaping) for the erection of replacement dwelling (N/06/634/CE/115 OUTLINE) granted 17th August 2006. CONAPP 16th October 2007

NS/09/00211/FUL Erection of replacement dwelling GRANT 6th April 2009

10/04114/VAR Variation of Condition No. 2 attached to Planning Permission Ref: 09/00211/FUL dated 06/04/2009 to build a smaller replacement dwelling GRANT 17th November 2010

11/02932/AMP Non Material Amendment to Planning Permission 09/00211/FUL Erection of replacement dwelling GRANT 7th July 2011

11/04361/VAR Variation of Condition No. 6 attached to planning permission 09/00211/FUL to allow the existing building to remain GRANT 17th November 2011

13/04507/CPL Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children LA 13th December 2013

11. Additional Information

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Andrew Davies

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

Informatives.

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/. The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.
2. The applicant (or successors in title), are reminded that the dwelling can be used for the care of up to 3 children on site without the requirement for change of use on the understanding that no more than 6 persons reside on site in accordance with the information as outlined in the decision notice dated 13th December 2013 reference number 13/04507/CPL - Application for Lawful Development Certificate to use an existing dwelling as a single household care home for children

The proposed use for The Retreat, Bolas Road, Ercall Heath as a children's residential home as indicated in the supporting information is considered to fall within use class C3. Planning permission is therefore not required in this instance for change of use from residential (use class C3) to a residential care home (C2).

3. The applicant or successors in title are reminded that should any noise complaints be received that amount to a statutory nuisance that legal notice could be served on the owners of the site/any business operating from the site and as such it is recommended that measures are put in place as necessary to reduce the potential for any potential overbearing noise disturbances.



Committee and Date
 North Planning Committee
 29th November 2016

Item
9
 Public

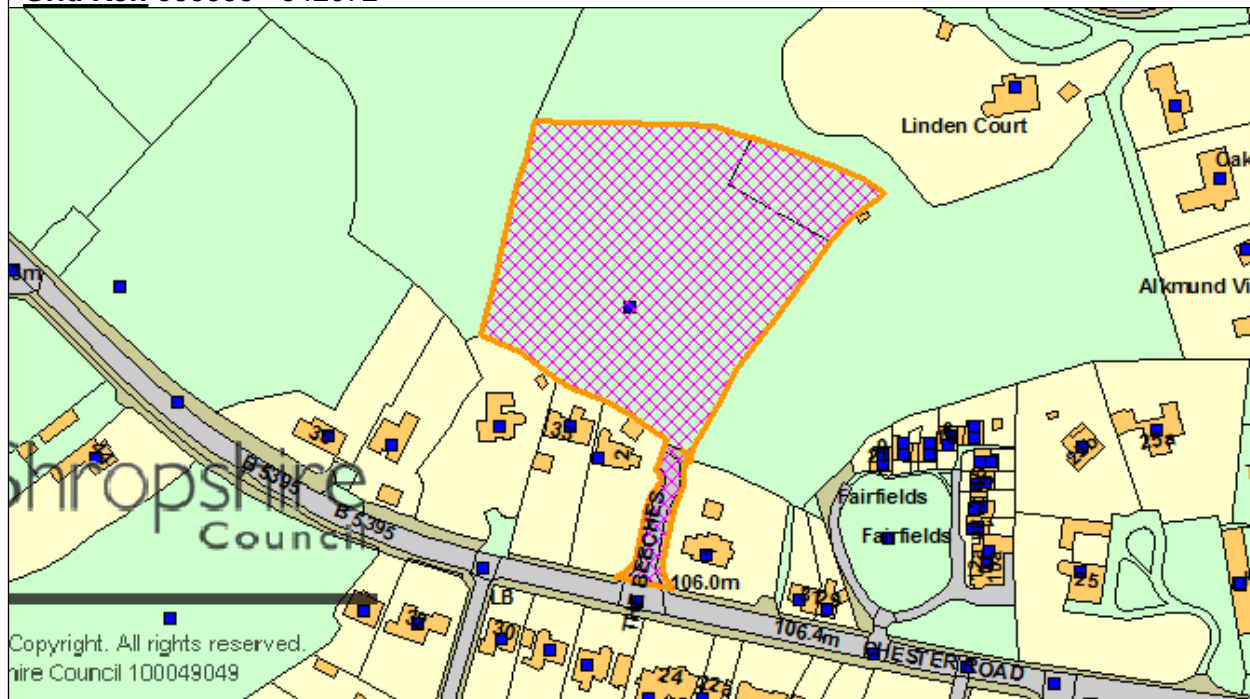
Development Management Report

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

Summary of Application

Application Number: 15/05325/REM	Parish: Whitchurch Urban
Proposal: Application for Reserved Matters (appearance, landscaping, layout and scale) pursuant to permission 14/02830/OUT for the erection of up to 15 no. dwellings	
Site Address: Proposed Residential Development Land Off The Beeches Chester Road Whitchurch Shropshire	
Applicant: Shingler Homes Ltd	
Case Officer: Jane Preece	email: planningdmne@shropshire.gov.uk

Grid Ref: 353558 - 342072



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Recommendation:- Approval is recommended, subject to conditions set out in Appendix 1. It is also recommended that the approval be withheld until the UU relating the gifting of the land has been finalised.

REPORT

1.0 THE PROPOSAL

1.1 Outline planning permission for the erection of up to 15 dwellings to include means of access was granted in June 2015. The site will utilise an existing access connecting the land to Chester Road.

1.2 Access is not therefore a reserved matter. Access was included at the outline stage and the full design and engineering details are to be secured through pre-commencement condition 9 of the outline planning permission.

Condition 9 reads as follows:

Prior to the commencement of development full design layout and engineering details shall be submitted of the means of access to the site from Chester Road and internal road layout; the development hereby permitted not be first occupied until the means of access and junction onto Chester Road has been constructed fully in accordance with the approved details.

Reason: In the interests of highway safety.

1.3 Only matters relating to the layout, scale, appearance and landscaping are reserved for later approval – condition 1 of the outline consent refers:

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

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

1.4 This current application therefore seeks reserved matters approval for the layout, scale, appearance and landscaping of development in accordance with the outline pursuant to permission 14/02830/OUT for the erection of up to 15 dwellings.

1.5 None the less, the Highway Authority have been consulted on the reserved matters application, in so far as the scale, layout and landscaping have implications for highway matters.

1.6 Condition 4 attached to the outline consent also requires:

The following information shall be submitted to the local planning authority

concurrently with the first submission of reserved matters:

*The means of enclosure of the site
The levels of the site, to include cross sections (both before and after development and in relation to the surrounding development)
The means of access for disabled people
The finished floor levels*

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

- 1.6 The site is to remain to be enclosed by the existing boundary hedges/trees. Some reinforcement of the hedges with hedging plants is proposed as part of the landscaping proposals. A strip of land along the southern boundary is to be gifted to the three neighbouring properties and a new boundary created in the form of a 2.1 m high close boarded fence. Otherwise, cross sections accompany the submission, together with information on finished floor levels and confirmation that all properties are to have level thresholds in compliance with Part M of the Building Regulations.

2.0 **SITE LOCATION/DESCRIPTION**

- 2.1 The proposal relates to a parcel of agricultural land located on the northern side of the B5395 Chester Road and on the edge Whitchurch. The land lies directly behind frontage development on Chester Road, with an access point positioned between numbers 1 and 2 The Beeches.
- 2.2 The site occupies higher ground than the frontage development on Chester Road and the relief of the land generally rises away from the existing development in a north easterly direction.
- 2.3 The land appears unmanaged for agricultural purposes. The site contains several mature trees and is surrounded by a mix of hedgerows.
- 2.4 Members visited the site when the outline planning application was before them for consideration.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The outline application was considered by the Northern Planning Committee at their meeting held on 20 January 2015. At that meeting the following resolution was passed, as noted in the minutes:

RESOLVED:

That Planning Permission be approved in accordance with the Officer's recommendation subject to:

- The applicants entering into a S106 agreement to secure the affordable housing contribution;*
- The conditions set out in Appendix 1;*
- The description of development being amended to read "up to 15"; and*
- The application for Reserved Matters being considered by the North Planning Committee.*

- 3.2 Taking into consideration the positioning and topography of the site, the Local Members expressed particular concern in relation to issues of drainage, density and the type of dwelling that may be associated with a reserved matters application.
- 3.3 Like access, drainage is not a reserved matter and the final approval of drainage details are secured through conditions imposed on the outline consent. Nonetheless, SUDs and Welsh Water have been consulted on the application in so far as the scale, layout and landscape have implications for drainage matters.
- 4.0 **Community Representations**
- 4.1 **Consultee Comments**
- 4.1.1 **SC Highways – Original comments**: As I understand it, layout and scale are the only matters being considered as part of this REM application. The access condition at the outline stage therefore still remains.

My only query is with regard to the narrowing of the access road either side of the mature tree. It is not clear what the dimensions of the carriageway narrowing are and how the tree routing is to be considered within what is likely to be adoptable highway footway. My concern is that the tree canopy clearly overhangs the proposed footway and carriageway construction so just wanting confirmation in this regard.

Re-consultation comments: (15.11.16)

Recommendation

No Objection – subject to the development being carried out in accordance with the approved plans and the following condition and informatives.

Observations/Comments: [27th October 2016]

The application seeks approval to the detailed layout of the site which follows the approval in principle of the means of access via The Beeches under the Outline planning permission 14/02830/OUT.

In considering the means of access, concerns over the construction of the initial section of road (The Beeches) resulted in Condition 9 of the above Outline permission which seeks to address deficiencies in the existing section of road along with the extension of the residential estate road into the development site.

The concerns raised at the Outline stage relate to observed deficiencies in the existing road and junction and a lack of knowledge in terms of the construction and drainage arrangements, issues which are likely to remain outstanding until a full Section 38 agreement technical check, supported by on-site testing and investigation, have been undertaken. The future adoption of the new residential road will depend on the existing condition of The Beeches and whether it can be brought up to a suitable standard for adoption as Highway, however, there are a number of additional concerns relating to the submitted road layout as set out below: -

1. The construction arrangements necessary to safeguard the existing trees (T1-T3) and the width proposed to accommodate a fire appliance. It is noted that a “no-dig” construction is proposed in this area at a carriageway width of 3.5 metres with a single footway of 2 metres. As the minimum kerb-to-kerb requirements of the Shropshire Fire and Rescue Service is 3.7 metres it is considered that the carriageway width should be increased to 3.7 metres and the footway width reduced to 1.8 metres within the same available width overall,
2. The horizontal alignment of the above narrowed section is considered to require amendment to ensure an appropriate vehicle tracking route through the narrowing and to avoid vehicle conflict with the angled kerbs on the approaches,
3. No refuse vehicle tracking has been demonstrated and it is considered that the horizontal alignment of the narrowed section should be determined with reference to a swept path analysis of both a Refuse Collection Vehicle and a Fire Appliance. Any limitations imposed by the canopies of the retained trees should also be considered in terms of access by a service or emergency vehicle,
4. It would appear from the submitted information that sections of the new access road and footway may exceed the maximum gradient set out in the Shropshire Council design standards. The gradients will need to be demonstrated as part of the Section 38 technical check process with appropriate longitudinal sections,
5. The relationship between the proposed road levels and adjacent land and Plots is also of concern, for example, the expected driveway gradients to Plots 14/15. It is considered that further cross sections are required on the approaches to, and through, the narrowing and the above driveways, showing any necessary retaining structures.

Whilst a number of the previous and current concerns relate to the adoptability of the roads and footways as public Highway, it is considered that the possibility of access restrictions, particularly by a fire appliance, needs to be addressed before the development is commenced. The following condition is therefore considered to be appropriate.

Pre-commencement: -

1. No development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interest of Highway Safety.

Informatives:

Refuse Collection Vehicle/Fire Appliance

In the submission of details for the above condition, reference should be made to

the Shropshire Council Refuse and Recycling Advice note For Developers and the Shropshire Fire and Rescue Service development guidance.

Works on, within or abutting the public highway

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
- undertake the disturbance of ground or structures supporting or abutting the
- publicly maintained highway
-

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

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

Technical Approval

This highway advice relates to the requirements of fulfilling the planning process only. In no way does the acceptance of these details constitute or infer specific "technical approval" of any changes to the existing public highway or any new infrastructure proposed for adoption by Shropshire Council. Any works undertaken, prior to the appropriate Highway Agreement, Permit or Licence being formally completed, is done so at the developer's own risk, and there is no guarantee that these works will be deemed acceptable and subsequently adopted as highway maintainable at public expense, in the future. Please refer to the following informative notes for details of securing an appropriate highway approval and agreement.

Section 38 Agreement details

If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.

Drainage details for Section 38

It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Unless adequate storm water disposal arrangements can be provided, Shropshire Council, as Highway Authority, will be unable to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering details referred to in this conditional approval to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND at an early date to enable surface water disposal arrangements to be assessed.

Design of street lighting for Section 38 and 278

The applicant's attention is drawn to the requirement that, in all cases where an Agreement under Section 38 and/or 278 of the Highways Act 1980 is entered into, the street lighting will be designed by the developer of the site in accordance with the design brief issued by the Highway Authority and their design shall include any necessary amendments to the existing system.

Landscaping

Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure, appropriate root protection systems (to be approved) will need to be constructed in order to mitigate against any future root damage to roads, footways and services beneath. Also any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements in order to maintain any required visibility splays and to keep leaf litter clear of footways and carriageways, etc., in the interests of highway safety.

- 4.1.2 **SC Affordable Houses** – Original comments: The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. We note that the affordable is a 2 bed, plot 13 and confirm that there is a need for affordable rent of this size in this area.

Re-consultation comments: The proforma shows the correct affordable housing contribution, however the plot number for the affordable property on site was 13 could the applicant now confirm that the affordable dwelling is located at plot 3?

(The agent has consequently confirmed to officers that the affordable unit is now relocated to plot 3 and the Housing Enabling & Development Officers query has therefore been satisfied in this regard)

- 4.1.3 **SC Archaeology (Historic Environment)** - We note Condition 8 of planning permission ref. 14/02830/OUT. We understand that the fieldwork for the required archaeological evaluation was completed in September 2015, although a final report on the trial trenching component of this work is still pending. Once we have received this report will be able to advise further on whether the requirements of the condition have been satisfied and can be fully discharged. In the meantime, we have no further comments to make with respect to the application for reserved matters.

Archaeology update: I am confirm that I am now in receipt of a final report on the archaeological evaluation that was conducted at the above site under Condition 8 of planning permission ref. 14/02830/OUT. On the basis of the results I can advise that no further archaeological work will be required. I can therefore now recommend that the condition can be fully discharged at the appropriate time.

- 4.1.4 **SC Trees** Original comments: I am satisfied with the findings of the submitted tree report and the layout would appear to accommodate the mature trees on site without causing proximity issues. I would however request that a Tree Protection Plan (TPP) is submitted at this stage which can be made a condition of any approval in order that the trees can be properly protected prior to commencement of development.

Re-consultation comments: (15.6.16)

I have read the submitted Tree Protection Plan and am satisfied with the scheme overall however it appears that the proposed access road to plot 15 is well within the root protection areas (RPA) shown on the plan. Whilst this can be achieved specialised methods to avoid damage to the roots and therefore the trees in the longer term should be shown on the plan. Systems such as 3 dimensional grid over no dig should be used.

Therefore I am prepared to support the scheme if an arboricultural method statement is added to the tree protection plan to protect the two "A" category Oaks T4 and T6.

Further re-consultation comments: (1.8.16)

I have revisited the plans and what I had not picked up on is that the RPA of T4 and T6 was shown different on the layout plan than that in the submitted Tree Survey to accommodate the driveway – it had been moved and “off sett” which is acceptable up to about 20% if rooting conditions are favourable on the off side. Therefore I would accept the plans if the following condition is applied instead:

All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

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

Further re-consultation comments: (24.10.16)

Following submission of a Tree Protection Plan I have no further comments on this scheme.

- 4.1.5 **Natural England** - Natural England has no comments to make on this application.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on [Magic](#) and as a downloadable [dataset](#)) prior to consultation with Natural England.

4.1.6 **SC Ecology** – Original comments: No objection on ecology grounds.

Designated sites

Natural England have no comments on this application in relation to internationally or nationally designated sites.

A Habitats Regulations Assessment was completed for outline application 144/02830/OUT as the Council considers the on-site provision of usable informal open space to be sufficient so as not to result in a significant increase in recreational visit to Brown Moss or Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses.

Bats

The two 1FQ Schwegler bat roosts and four Schwegler 32mm bird boxes indicated on the Soft Landscaping Proposals plan are an acceptable design. The positions are yet to be determined.

Landscaping

The landscaping scheme shown on the Soft Landscaping Proposals 2875 10 01 15 03 1B is considered acceptable on ecology grounds. I would comment that the rectangular storm water attenuation areas could be designed to be more natural looking with curves.

Re-consultation comments: SC Ecology have no additional comments to make on this application.

Further re-consultation comments: SC Ecology have no comments to make on this application.

4.1.7 **SC Parks and Recreation** – Original comments: Under Shropshire Council's LDF planning regulations and MD2 policy requirement, all development should provide 30sqm of public open space per bedroom. The proposed development indicates that there are 54 bedrooms, therefore the POS provision should be a minimum of 1620m². The development design provides only 1445m² of POS.

Therefore, there is a shortfall of POS and currently the design doesn't meet SC policy requirement. It is recommended that the development is re-designed to meet SC MD2 policy.

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

Re-consultation comments: Regarding comments in relation to the issue of open space as referred to on pages 3 and 4 of the letter to SC 16.06.10.

As I see it there are 2 options

Revert back to the original site boundaries and the garden areas to be put back into the areas of open space within the development site to provide 100% of the required open space as per the policy requirement

Keep the scheme as is and the developer pay an offsite contribution towards POS provision and improvements

Further re-consultation comments: None received at time of writing.

4.1.8 **Welsh Water** – Original comments: (5.1.16)

The planning statement which has accompanied the application refers to drainage under section 3.9. The document also refers to a drainage layout plan ref: CR-GA-600 but I cannot locate this plan on the Council's website. I would be grateful if this plan could be made available to me at the earliest convenience.

The Planning Statement also indicates that surface water will be attenuated on site before discharging to a surface water main. It is not clear if the applicant intends to discharge to a public sewer or to a private drain. Further clarification on this matter will be required. If the applicant is intending to connection surface water run-off to the public sewer, they will have to first demonstrate that they have explored and exhausted all other options, as set out in Part H3 of the Building Regulations.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Re-consultation comments: (27.7.16)

SEWERAGE

The drainage regime is considered to be acceptable in principle.

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section

104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Further re-consultation comments: (31.8.16)

SEWERAGE - We have reviewed drawing reference CR-GA-600: Rev F which shows the proposed drainage layout and comment as follows:

The applicant has demonstrated adequate foul and surface water removal methods, the developer has proposed surface water attenuation rates of 5 l/s we are satisfied with this.

Welsh Water have no objection for the application for reserved matters (appearance, landscaping, layout and scale)

SEWAGE TREATMENT - No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Further re-consultation comments: None received at time of writing.

4.1.9 **SUDS** – Original comments: (2.3.16)

The following drainage details, plan and calculations should be submitted for approval prior to the approval of the Reserved Matters as per Drainage Conditions 10 and 11 on Outline Application 14/02830/OUT

1. 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 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.

Alternatively calculations should be provided demonstrating that the gullies will be able to convey the 100 year plus 30% storm to the piped network.

2. Confirmation is required of the ownership of the outfall in Chester Avenue and that it has sufficient capacity for the additional flow from the proposed development.

3. A cross sectional detail is required through the attenuation structure and backfill, ground profile and existing property to the south to ensure the properties are adequately protected against the tank failure.

4. It should be demonstrated that the appropriate allowance for urban creep has been included in the design of the drainage system. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance

% of impermeable area

Less than 25 | 10%

30 | 8%

35 | 6%

45 | 4%

More than 50 | 2%

Flats & apartments | 0%

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage' means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

5. A Flood Risk Assessment should be completed using Shropshire Council's Strategic Flood Risk Assessment (SFRA) documents for guidance. The SFRA's are available on the Shropshire Council website. The criteria for a FRA are set out in National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework. Reference should also be made to the Environment Agency West Area (Midlands) Flood Risk Assessment Guidance notes.

A FRA should include, as a minimum:

' Assessment of the Fluvial flooding (from watercourses)

' Surface water flooding (from overland flows originating from both inside and outside the development site) including the flooding identified in outline application 14/02830/OUT.

' Groundwater flooding

- ' Flooding from artificial drainage systems (from a public sewerage system, for example)
- ' Flooding due to infrastructure failure (from a blocked culvert, for example)

Re-consultation comments: (22.6.16)

The following drainage details, plan and calculations should be submitted for approval prior to the approval of the Reserved Matters as per Drainage Condition 10 on Outline Application 14/02830/OUT

1. Confirmation is required from Welsh Water that they have adopted the piped outfall system in and beyond Chester Road and that sufficient capacity exists for the proposed flow.
2. Calculations should be provided demonstrating that there are sufficient gullies to ensure there are no exceedance flows for storms up to the 1 in 100 years plus climate change and that flows will be able to enter the piped network to ensure no flooding occurs in more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.
3. It should be demonstrated in the design that an appropriate allowance for urban creep has been accounted for.
4. A cross sectional detail is required through the attenuation structure and backfill, ground profile and existing property to the south to ensure the properties are adequately protected against the tank failure.
5. It has been highlighted that the existing ground is made up of heavy clay, although permeable type surfacing will be provided where possible to reduce and delay surface water drainage run-off, with drives potentially laid to paviers or permeable tarmac to slow and delay run-off with collection made in the lower layers of the construction. Details of the construction materials should be provided and where surface water will drain to.

Further re-consultation comments: (27.7.16)

1. It is accepted that Welsh Water have indicated that there is sufficient capacity to discharge to their network.
2. The attached 100 year plus 30% calculation demonstrates there is sufficient capacity in the piped network, assuming stormwater can flow to the pipes. Please provide calculations demonstrating there are sufficient gullies for stormwater to transfer the 100 year plus 30% flows from the carriageway surface to the piped network.
3. Please confirm what allowance for urban creep has been made and provide calculations demonstrating the allowance.
4. From the section provided, it shows that the attenuation tanks are below FFL of the neighbouring property therefore it is accepted that attenuated water cannot flood the existing property in the event of a tank failure.

5. As the permeable paving is founded on heavy clay, please demonstrate how water will soakaway.

Further re-consultation comments: (19.8.16)

1. The gully calculation are acceptable which demonstrate there are sufficient gullies to transfer a 1 in 100 year storm plus CC to the piped system.
2. No drawing appears to be on the planning portal showing that urban creep has been taken in to account. Please provide this drawing for approval.
3. It is accepted that the drainage channel units will intercept surface water run-off from the driveways.

Further re-consultation comments: (21.10.16)

The Drainage Area Plan demonstrates that urban creep has been accounted for in the design therefore the surface water drainage proposals are acceptable.

4.2 Public Comments

- 4.2.1 **Whitchurch Town Council – Original comments: Object on the grounds of:** the proposed area for development is not in the SAMDev, out of keeping with the area, loss of green space, overdevelopment of the site, drainage issues and question were raised over the sewerage capacity of existing pipe work. The committee noted that a lesser number bungalows would be better suited to this site.

Additional comments: I have spoken to the Chairman of the Planning Committee. At the time that the original Chester Road applications were submitted the Town Council did not realise that all of these developments were for the same area until the last meeting that was held in January. The Town Council understands that the grounds for objection previously stated were insufficient relating to the planning issues which were open for discussion at the January meeting i.e. layout, scale, appearance and landscaping. However, the Town Council do not wish to withdraw its original comments as the Planning Committee still believes that this area will be considerably over developed.

- 4.2.1 **Public representations** – Ten representations of objection have been received. Eight are from local residents; one is from a planning consultant on behalf of the local residents and one is from the Local Member.

The main **objections** raised relate to:

- Access and road width/construction. Parking provision.
- Scale and density. Houses are not in keeping with surrounding area.
- Drainage: flooding, surface water disposal, main sewer capacity. Potential failure of holding tanks
- Inadequate open space provision and gifted land
- Overlooking
- Steep slope of site/topography/site levels
- Tree and hedge retention/safeguarding

Some of the objections have since been addressed by ongoing negotiations and

the submission of revised plans. As a consequence, three of the former objectors have since written in updating their stance from one of objection to one of **support** as the proposed development now stands. (The comments of support come from the residents of Haffod House, 33 The Beeches and 2 The Beeches. The remaining objectors have failed to make representations on the revised proposals).

The main points in **support** are:

Despite some well founded objections recognise current proposal has only materialised as a result of the good will of the developer.

The proposal now affords some compromise to residents. We are grateful to the developer for the concessions he has made and do not wish to object to the application as it now stands.

Recent meetings have resulted in amended plans which have addressed the residents concerns.

The number of bungalows has been increased from 1 to 3; the two additional bungalows will be on plots 13 and 14, alleviating privacy/overlooking concerns; drainage/flooding concerns addressed with addition of/connection to road gullies; additional gifted land will provide buffer between existing properties and development; footpath extension to plot 14 frontage will provide crossing and safer access.

As all the points raised by the residents have been addressed no longer have any objections to make.

The full content of all consultee comments and public representations are available to view on line.

5.0 **THE MAIN ISSUES**

5.1 The main issues therefore relate to the acceptability of the details submitted for consideration in respect of:

- Appearance
- Layout and scale
- Landscaping

Technical matters:

- Highways
- Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Appearance, Scale and Layout**

6.1.1 The application (as amended) proposes a mix of 2, 3 and 4 bed dwellings, with parking, integral or detached garaging. Of the 15 dwellings, there are three detached bungalows, a pair of semi's and ten detached, two storey houses.

6.1.2 In more detail, the housing mix is as follows:

Plot 1 – 117.8 sq m – 3 bed bungalow. Detached single garage and parking
Plot 2 – 86.8 sq m – 3 bed semi. Tandem parking
Plot 3 – 62.4 sq m – 2 bed semi. Tandem parking
Plot 4 – 124.5 sq m – 4 bed dwelling. Integral double garage and parking
Plot 5 – 157.5 sq m – 4 bed dwelling. Integral double garage and parking
Plot 6 – 170.7 sq m – 4 bed dwelling. Detached double garage and parking
Plot 7 – 86.8 sq m – 3 bed dwelling. Integral single garage and parking
Plot 8 – 86.8 sq m – 3 bed dwelling. Integral single garage and parking
Plot 9 – 157.5 sq m – 4 bed dwelling. Integral double garage and parking
Plot 10 - 157.5 sq m – 4 bed dwelling. Integral double garage and parking
Plot 11 - 170.7 sq m – 4 bed dwelling. Detached double garage and parking
Plot 12 - 170.7 sq m – 4 bed dwelling. Detached double garage and parking
Plot 13 - 93 sq m - 3 bed bungalow. Detached single garage and parking
Plot 14 – 117.8 sq m – 3 bed bungalow. Detached double garage and parking
Plot 15 – 153.5 sq m – 4 bed dwelling. Detached double garage and parking

6.1.3 It is considered that the mix as proposed here offers a suitable range and includes the provision of a 2 bed affordable dwelling on site (plot 3), which together with the financial contribution of £45, 000, will satisfy local need and adopted policy.

6.1.4 In terms of external design and appearance, seven house types are generally proposed with an element of variety provided through design detailing, size and use of materials. All house types will be finished externally with a mix of walling material to include red brick and render. Roofing will be a mix of roof slates and tiles. As no specific details have been provided at this stage, the final choices of external materials will need to be subject to conditional approval. Roofs are to be dual pitched, with some variation in the pitch and the incorporation of eye brow dormer features on some house types. Otherwise, architectural details include chimneys; projecting gables; bay windows, arched brick heads, overhanging eaves to garage frontages and canopy porches.

6.1.5 In all it is considered that the scale and appearance of the proposal are appropriate for the area and of sufficient visual interest, which when coupled with the layout and landscaping, will create an attractive environment. It is considered therefore, that the proposed development would be acceptable in scale and design as required by Core Strategy policy CS6, SAMDev policy MD2 and the Housing SPD and would not adversely detract from the quality of the environment and setting to this part of Whitchurch, satisfying also Cores Strategy policy CS17 and the NPPF.

6.1.6 As submitted the application attracted objections in relation to density/the number of dwelling proposed (15) and the fact that all but one were two storey. The objections largely bore out of the location and topography of the site. The site lies to the rear of three existing dwellings (known as Haffod House, 33 The Beeches and 2 The Beeches) and occupies higher ground, which rises away from the existing dwellings. Residents of these properties were therefore concerned that development would adversely impact on their amenity in terms of

overlooking and loss of privacy.

- 6.1.7 In relation to density officers are satisfied that the proposals provide adequate space about the proposed buildings and that the site will not appear unduly cramped or out of context in relation to surrounding development. The development is in fact of a lower density than other developments recently approved along Chester Road.
- 6.1.8 Otherwise, in relation to scale and layout issues have been ongoing for some time; involving meetings with the applicant, agent, Local Members and neighbouring residents and the submission of various amendments and additional information. This has culminated in the latest set of revisions which are considered acceptable and to have addressed neighbours concerns. Most notably, as amended, the scheme now proposes to increase the number of bungalows from one to three; bungalows will now occupy plots 13 and 14 in addition to plot 1. Plots 1, 13 and 14 are those plots closest to the rear of the neighbouring properties. Although sited a significant distance away to meet with planning standards, the provision of bungalows rather than houses on these plots, coupled with a slight increase in the width of the strip of land that is to be gifted to existing residents to buffer their privacy along their rear gardens, has helped to address the residents perception of overlooking and loss of privacy concerns to the point where they are now supportive of the scheme. A condition can also be imposed to remove permitted development rights to alter the roofs on plots 1 and 14 to maintain control over the appearance and the residential amenity issue.
- 6.1.9 A further issues in relation to layout is that of the landscaping of the site and in particular the provision of open space. This issue is discussed further below.
- 6.2 Landscaping**
- 6.2.1 The application is accompanied by a detailed landscaping scheme, prepared by Lingard Styles Landscape Architects, together with a tree protection plan. As part of the landscaping proposals, existing boundary hedges will be retained together with key trees around the periphery of the site. Some existing trees will be removed. However, to mitigate against any loss of existing trees, the landscaping plan shows the planting of 36 replacement trees (including 8 English Oaks). The plan also identifies three areas designated as public open space (POS).
- 6.2.2 Both the Council's Tree and Ecology Officers have been consulted on the landscaping proposals. Both are satisfied with the proposals. It is the POS provision that has attracted unsupportive comments from the Council's Park and Recreational Officer and neighbouring residents. The main concern is that the provision falls short of the amount required as set out in policy MD2.
- 6.2.3 As amended, the scheme now proposes a total of 52 bedrooms and an on-site POS provision of 1460m². To fully accord with policy MD2 there is a requirement for 1560 sq m. As part of the proposals an additional 276m² of land is to gifted to neighbouring properties (as an extension of their rear gardens) but as this land is transferring into private ownership then this should not be added to the on-site POS provision. As amended, there is then a shortfall of 100m². This is an

improvement on the shortfall originally commented on by SC Parks and Recreation, in that was previously 175m². SC Parks and Recreation have failed to comment on the revised proposals. Nonetheless, officers are minded to take a balanced view, having regard to the landscaping proposals as a whole and the allocation of ample private garden areas to individual plots. On this basis, it is considered that the shortfall is not now so significant as to in itself justify refusal of the scheme.

- 6.2.4 For clarification, the gifting of a strip of land along the length of the rear gardens of the neighbouring residents is an element that that has formed part of the reserved matters application from the outset. It has not been included at the request of officers and is not considered necessary by officers to make the scheme acceptable in planning terms. On this basis, it has not been given weight in the planning balance. Nonetheless, it is something that has been offered by the developer and which residents consider necessary to safeguard their privacy. To ensure that it is delivered, a draft unilateral undertaking (UU) now accompanies the application. The draft UU is presently with the Council's Solicitor for consideration at the time of writing this report.

Technical Matters

6.3 Highways

- 6.3.1 As referred to in 1.2 above access is not a reserved matter. Means of access was included at the outline stage and the full design and engineering details of the access are to be secured through pre-commencement condition 9 of the outline planning permission. None the less, as further referred to in 1.5 above, the Highway Authority have been consulted on the reserved matters application, in so far as the scale, layout and landscaping have implications for highway matters.
- 6.3.2 The Highway Manager originally commented on the application back in January. His only query was with regard the narrowing of the access road either side of the mature tree at the site entrance. He required clarity on the dimensions of the carriageway and how the tree rooting was to be considered, given that the tree canopy clearly overhangs the proposed footway and carriageway construction.
- 6.3.3 Several re-consultations have been issued to Highways since that time on the ensuing submission of revised plans and additional information but no further comments provided. This was identified as a source of concern to local residents, who had raised objections on highway grounds and expressed particular concern about the narrowing of the access entrance; internal footpath provision; parking arrangements and the gradient of the access road etc.
- 6.3.4 Importantly, Highway comments have now been received on the latest revisions. The re-consultation comments are provided in full at section 4.1.1 above. The concerns of the Highway Authority align with those of local residents in relation to the narrow width of the carriageway to both accommodate the retained tree and facilitate fire/refuse vehicles and the gradient of the access road and some access drives. It is noted by the Highway Officer that a number of the concerns relate to the adoptability of the roads and footways as a public highway. However, it is considered by the Highway Authority that '*... the possibility of*

access restrictions, particularly by a fire appliance, needs to be addressed before the development is commenced ... ‘ and that this can be achieved with the imposition of the recommended pre-commencement condition:

No development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interest of Highway Safety.

6.3.5 Overall, the Highway Authority raises no objection to the revised scheme, subject to the development being carried out in accordance with the approved plans and the above condition and recommended informatives.

6.4 **Drainage**

6.4.1 Likewise drainage was covered at the outline stage and the final drainage details, plans and calculations remain controlled through conditions of approval imposed on the outline consent. Nonetheless, SUDs and Welsh Water have been consulted on the application in so far as the scale, layout and landscaping have implications for drainage matters.

6.4.2 As with access, the application has attracted particular objections from local residents on drainage grounds. However, it is considered that the drainage issues have now been largely resolved.

6.4.3 Foul drainage is to be disposed of to the mains sewer in Chester Road in compliance with condition 13 of the outline planning permission. Welsh Water is satisfied that the applicant has demonstrated adequate foul water removal methods and envisage no problems with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

6.4.4 Surface water drainage is covered by pre-commencement condition 10 imposed on the outline consent, ie:

10. No development shall commence until full details, plans and calculations of the proposed surface water drainage proposals and network have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall illustrate how the development will comply with the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area; Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. The approved scheme shall be completed before the development is occupied.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to minimise the risk of surface water flooding and flood risk elsewhere as a result of the

development.

- 6.4.5 However, to assist the overall understanding of the reserved matters proposals a suite of surface water drainage information and plans accompany the application. The information and plans has been added to/amended during the consideration of the application and in response to drainage issues that have been raised.
- 6.4.6 In brief, surface water is to be disposed of to a modular cell storm water attenuation system. The system incorporates two underground attenuation tanks, positioned on the lower section of the site and beneath the open space area on the southern portion of the site. Sections have been provided showing the attenuation tanks are below finished floor level of neighbouring property. Of the two tanks, the first is capable of accommodating the 1 in 30 year event and is linked to the second, which is capable of accommodating storms up to the 1 in 100 year plus 30% climate change and any potential exceedance flows and potential urban creep.
- 6.4.7 The attenuation system will discharge to into the existing drainage system (at the head of The Firs) in a controlled manner, ie via a flow control vortex system at a rate agreed with Welsh Water of 5 litres per second (typical greenfield run-off rates). Both Welsh Water and the Council's Drainage Engineer have confirmed these surface water drainage arrangements to be acceptable.
- 6.4.8 With particular regard to residents concerns regarding tank failure and potential flooding the Drainage Engineer has commented: *'From the section provided, it shows that the attenuation tanks are below FFL of the neighbouring property therefore it is accepted that attenuated water cannot flood the existing property in the event of a tank failure.'*
- 6.4.9 Otherwise, following on from discussions with local residents regarding drainage and in relation to the latest set of revisions the agent has confirmed that:
- 'Additional gulleys are included at chainage 0-0.*
- The 2 existing gullies within Chester Road are picked up by the new outfall to The Firs.*
- When the drainage connections are installed within Chester Road the existing manhole will be inspected. Consideration will be given to picking up the whole of the existing manhole subject to findings and statutory authority consent.'*
- 6.4.10 The Council's Drainage Engineer remains satisfied that the surface water drainage proposals are acceptable. Welsh Water have failed to respond with any additional comments. Residents have either confirmed their support or have not responded with any further drainage comments.

7.0 **CONCLUSION**

- 7.1 The principle of a residential development on this land, along with the access has

been accepted with the grant of outline planning permission reference 14/02830/OUT.

- 7.2 It is considered that the proposals (as amended) are acceptable in terms of layout, scale, appearance and landscaping taking into consideration local context and character and will not adversely detract from the immediate locality or the wider landscape setting of Whitchurch; nor adversely impact on neighbour amenity. The main issues of concern and/or objection identified at the outset have been largely resolved through the submission of revised plans and additional details.
- 7.3 The approval of the final drainage arrangements will be secured through a discharge of conditions application pursuant to the requirements of conditions imposed on the outline consent. Nonetheless, drainage issues that have identified and raised through during the consideration of this reserved matters application have largely been addressed and the drainage details that have been provided (as amended) are now considered acceptable.
- 7.4 Similarly, the full design layout and engineering details of the means of access to the site from Chester Road and the internal road layout remain covered for prior approval by a pre-commencement condition imposed on the outline consent. However, the consideration of this reserved matters application has identified a concern with the narrowing of the carriageway at the site entrance to accommodate the tree retention whilst also facilitating access by fire/refuse vehicles. Nonetheless, a further pre-commencement condition is recommended to address this issue, together with other recommended informatives.
- 7.5 On balance, it is therefore considered that the application proposals meet with adopted Core Strategy policies CS6, CS11 and CS17; adopted SAMDev policies MD2 and MD12; the Council's adopted SPD on the Type and Affordability of Housing and the National Planning Policy Framework – all subject to compliance with planning conditions.
- 7.6 On this basis approval is recommended, subject to conditions. It is also recommended that the approval be withheld until the UU relating the gifting of the land has been finalised.
- 7.7 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
- 8.0 Risk Assessment and Opportunities Appraisal
- 8.1 Risk Management

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

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

representations, hearing or inquiry.

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Site Allocation and Management of Development Plan Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

14/02830/OUT Outline application for the erection of up to 15 dwellings to include access
GRANT 3rd June 2015

16/02404/REM Reserved Matters application to include appearance landscaping layout and scale of development in accordance with Outline Planning Permission 14/02830/OUT granted on the 3rd June 2015 INV

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

2. Notwithstanding the details hereby approved, no development shall take place until the detailed design (including the vertical alignment) of the road narrowing within the vicinity of the retained trees (T1-T3), based upon a swept-path analysis utilising a large Refuse Collection Vehicle and Fire Appliance, has been submitted to, and approved in writing by, the Local Planning Authority with the road thereafter being constructed fully in accordance with the approved details before any of the dwellings are first occupied.

Reason: In the interest of Highway Safety.

3. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

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

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

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

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

5. 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 agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of

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

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

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

6. Notwithstanding the details shown on the approved plans, no windows shall be installed within the side elevation of the master bedroom of house type J on plots 6, 11 and 12 and no windows shall be installed within the side elevation of bedroom two of house type J on plot 11. Furthermore, the bathroom and ensuite windows and the ensuite window within the side elevations of house types J and D on plots 12 and 15 respectively shall be obscure glazed in perpetuity. No additional first floor windows or other openings shall be formed in these elevations.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development in the form of any alteration and/or addition to the roof of the bungalows on plots 1 and 15 as otherwise permitted under schedule 2 part 1 class B shall be carried out without the granting of a further consent by the Local Planning Authority.

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

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Committee and Date
 North Planning Committee
 29th November 2016

Item
10
 Public

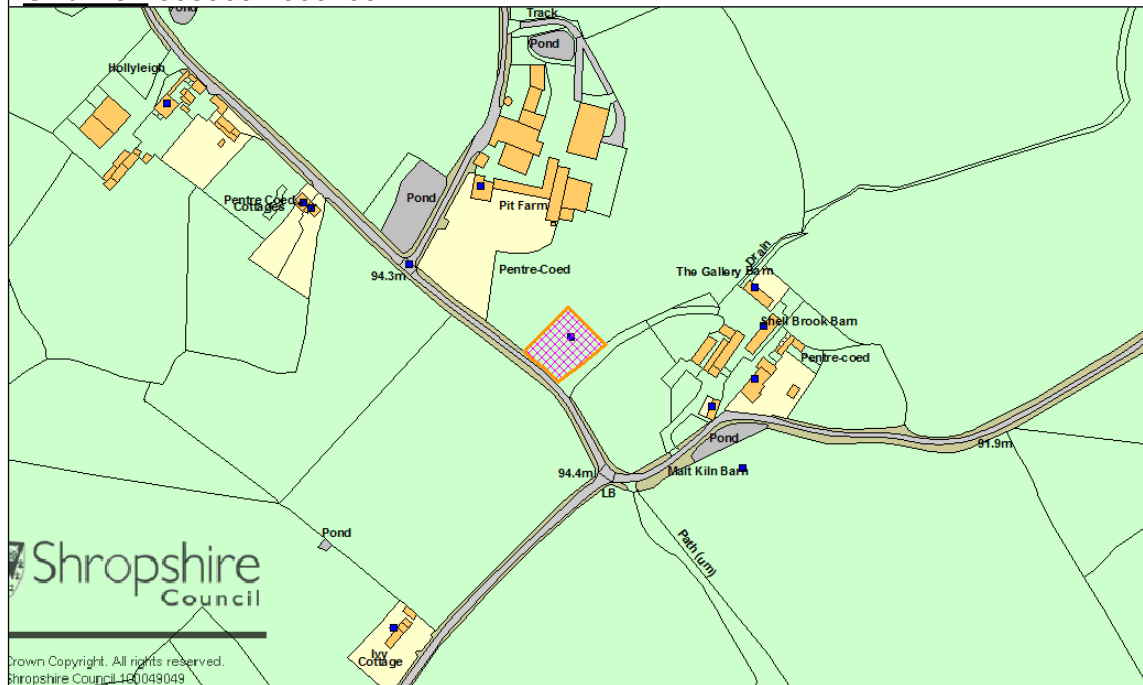
Development Management Report

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

Summary of Application

Application Number: 16/04022/FUL	Parish:	Ellesmere Rural
Proposal: Erection of a single storey dwelling and garage under the 'Build Your own affordable Housing' scheme		
Site Address: Proposed Affordable Dwelling SE Of Pit Farm Pentre Coed Ellesmere Shropshire		
Applicant: Mr Chris Egerton		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 335968 - 338166



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Recommendation:- Refuse planning permission

Recommended Reason for refusal

1. The site is in open countryside and not within or adjoining any recognisable named settlement. Consequently, and notwithstanding the fact that the applicants have been found to fulfil the local connections and housing need criteria for a designated affordable home, the principle of the proposed development is contrary to the National Planning Policy Framework, Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD3 and MD7a of the Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.

2. It is acknowledged that, with regard to the three roles of sustainable development, the proposal would provide some economic and social benefits, but having regard to the scale of the development these would be very limited. However by reason of its countryside location with only sporadic existing housing, the development would detract from the essentially open character and visual amenity of the landscape. It would, therefore, not be in accordance with the environmental role of sustainable development set out in the National Planning Policy Framework, and would be contrary to Policies CS5 and CS6 of the Shropshire Local Development Framework Adopted Core Strategy, Policies MD2 of the Site Allocations and Management of Development Plan, and the Council's Supplementary Planning Document on the Type and Affordability of Housing.

REPORT**1.0 THE PROPOSAL**

1.1 This application seeks full planning permission to erect a single storey 'affordable' dwelling for occupation by named individuals in local housing need. It is also proposed to erect a detached double garage and alter the existing field access to form a new formal vehicular access from the adjacent public highway.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is in the southern corner of a larger agricultural field and fronts onto a narrow unclassified rural lane. The site is level and has a mature hedgerow along the site's frontage and a mature tree in the southern corner with hedging along the south eastern boundary. Beyond the south eastern boundary there is a driveway which leads to former agricultural barns that have been converted into two dwellings. Adjacent to this is the Pentre Coed Farm House and a further converted barn.

2.2 To the west of the application site there is Pit Farm which is a compact complex of both traditional and modern agricultural buildings. The complex is surrounded by agricultural fields with a distance of around 40 metre between it and the edge of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application is referred to the planning committee for determination since the officer recommendation of refusal is contrary to the Parish Council's support, the Local member and the Chair of the planning committee consider that the issues raised warrant consideration by the Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

- 4.1.1 Parish Council- The Parish Council supports this application, approving the proposed design and layout of the scheme.
- 4.1.2 Affordable Housing- confirm that Mr Egerton and Ms Richards have demonstrated strong local connections to the administrative area of Ellesmere Rural Parish Council. After considering the couples housing needs and personal circumstances I can confirm that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.
- 4.1.3 Highways- No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informatives.
- 4.1.4 Ecology- No objection subject to conditions and informatives.
- 4.1.5 Drainage- A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed. Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.2 Public comments

- 4.2.1 1 letter of representation received commenting on the presence of Oak Trees on the site seeking confirmation that these would be retained.

5.0 THE MAIN ISSUES

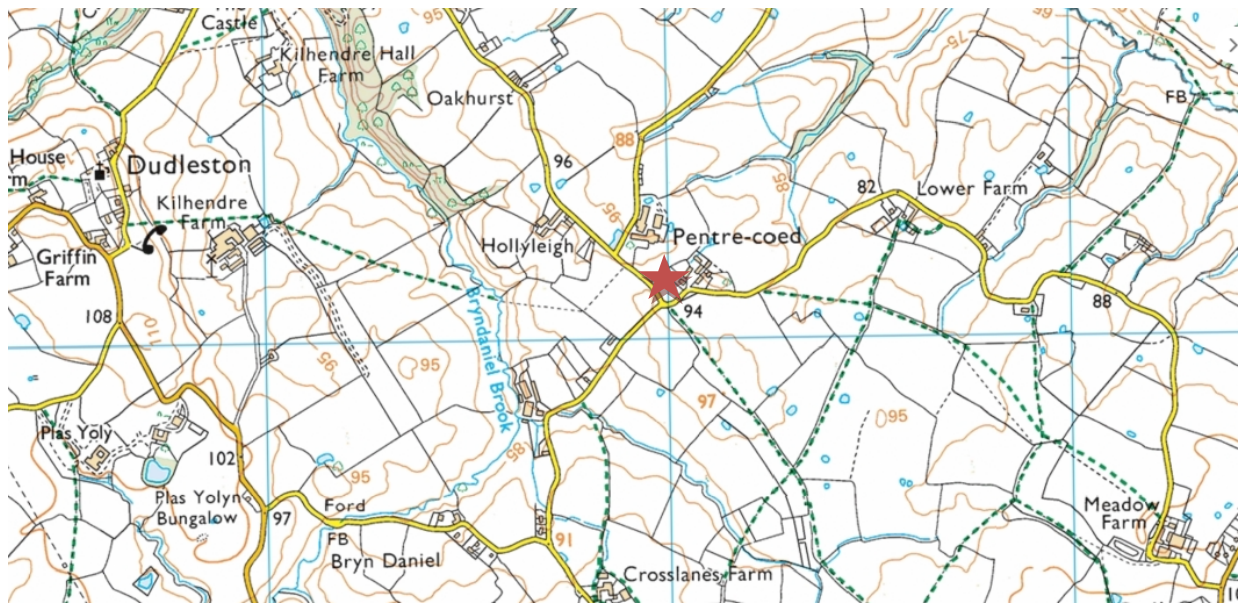
- Principle of development
- Scale, layout, design and impact on landscape
- Highway safety and rights of way
- Residential amenity
- Drainage
- Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically, Policies CS1, CS3, CS4, CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. on sites outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.

- 6.1.2 One of the exceptions mentioned under Core Strategy Policy CS5 and SAMDev Policy MD7a is where named individuals with strong local connections and who are in demonstrable housing need wish to build their own 'affordable' dwelling. Detailed guidance on this is set out in the Supplementary planning Document titled 'Type and Affordability of Housing'. Successful applicants would need to enter into a section 106 legal agreement which controls both initial and future occupancy, and to also to cap the resale value.
- 6.1.3 The issue of location, and even affordable homes on rural exception sites are required by paragraph 5.13 of the SPD to be part of, or adjacent to "recognisable named settlements". Sites that do not lie in a settlement, constituting isolated or sporadic development are not considered acceptable (para 5.14 of the SPD).
- 6.1.4 There can be no one set definition of what constitutes a settlement and every application must be considered on its individual merits. The SPD in para 5.15 explains that a settlement always comprises a group of houses and the group of houses becomes a settlement "due to the number and proximity of the houses in the group". The SPD provide 2 examples of types of settlements, these being a loose-knit and a tight-knit settlement. The SPD also states that a settlement will usually be named on an Ordnance Survey map and consideration given to how people refer to it locally.
- 6.1.5 It is acknowledged by Officers that on the Ordnance Survey map there is a label for 'Pentre Coed', it is also noted that the name Pentre Coed does appear on highway signposts directing motorists to the area. Paragraph 5.17 of the SPD talks about how a settlement is the relationship between properties, the limits of the settlement and how the limits of the settlement is defined by where the relationship peters out. The applicant does argue that Pentre Coed is a settlement because it is named on an Ordnance Survey map and is sign posted. However, Officers consider that there is no identifiable collection of dwelling that could be considered a 'settlement'. Within a radius of 500 metres of the application site there are just 12 other dwellings, most of which are in isolated positions and 3 of which are associated with farmsteads. The area well beyond the application site comprises the sporadic scattering of isolated rural dwellings and farm complexes, this means that there is no identifiable centre to Pentre Coed and subsequently it is not possible to identify where it then peters out, two features normally fully distinguishable in a settlement whether looking on a map or on the ground.



- 6.1.6 In the SPD two visual examples of a settlement are given, one is a loose-knit settlement and the other is a tightly-knit settlement. The area identified as Pentre Coed is significantly even more loose-knit than the example given with far fewer dwelling across the area.
- 6.1.7 As stated in paragraph 5.15 of the SPD it is a matter of judgement of whether the application site is within a settlement and as can be seen from paragraphs above it does depend on a number of factors. It is considered that there are so few other dwellings in the immediate area surrounding the site and that the dwellings that are there are so loosely associated within one another that they cannot be considered, by Officers, to collectively constitute a settlement. The number of dwellings and the way in which they are arranged is considered to be a more significant indicator to whether it is a recognised settlement than the fact that Pentre Coed is named on the Ordnance Survey maps and named on road signs locally.
- 6.1.8 For these reasons set out above Officers consider that the site does not fall within or adjacent to a recognisable settlement, clearly being located in open countryside to which the area character is one of predominantly traditional farmsteads. A new affordable house would have social benefits, primarily to the applicants but also in terms of increasing the stock of such homes for other qualifying local people in the future. However, it remains questionable whether very similar benefits might be achieved through development in a more policy compliant and sustainable location elsewhere. It is considered by Officers that the benefits would not outweigh the visual harm caused by the erosion of the area's essentially open and rural character.
- 6.2 Scale, layout, design and impact on landscape**
- 6.2.1 As detailed in the SPD the maximum 100m² of floor space prescribed for owner-occupied affordable homes by the SPD is intended to help ensure such properties remain affordable to other local people in housing need. The calculation does not include detached structures used for garaging or storage.
- 6.2.2 In this case the applicants have calculated the gross internal floor space at 100m², this does not include the space that would be created beneath the over hanging roof which extends beyond the north west and south west elevations.

- 6.2.3 The proposed bungalow has been designed as a T-shape with the two wings having different ridge heights. The part of the bungalow containing the open plan, kitchen/ diner has an elevated ridge and eaves height. The submitted plans show this space being entirely open with a tall vaulted ceiling up to the ridge with a large glazed area to the front elevation and roof lights provided in the northwest roof slope. In the submission there is no clear justification for requiring such tall ground floor accommodation.
- 6.2.4 The increased height of the eaves and ridge creates a large internal space and this would likely be large enough for a first floor to be inserted into the property. Doing this would increase the gross internal floor area of the dwelling substantially beyond the 100 sqm limit set out in policy and reducing its affordability for future occupiers. Normally, internal alterations could be carried out without needing planning permission but as the dwelling is being proposed as an affordable dwelling it is normal practice to include conditions that prevent any further increase in the gross internal floor by either internal alterations or by adding extensions.
- 6.2.5 The design of the bungalow is of a modern design with large areas of glazing, timber cladding and a slate roof. The design of the property is in contrast to the vernacular character of the area which is predominantly of typical farm dwellings and traditional rural cottages.
- 6.2.6 As set out in the SPD the plot size is restricted to 0.1 hectares and this has been complied with in the submitted plans. Nevertheless, officers consider that the scheme is unable to complement its surroundings fully on account of the open countryside location with only sporadic housing at present. Although the site is screened by the roadside hedge the proposed dwelling would inevitably be visible from the road once the formal access is formed. It is considered that the scheme would fail to reinforce local distinctiveness and landscape character, and that this visual harm to the natural environment would not be offset by the social benefits identified.
- 6.3 **Highway safety and rights of way**
- 6.3.1 The scheme proposes the creation of a new access to replace the existing field gate, a driveway would lead towards the rear of the site where the proposed bungalow and garage would be located. The access is onto a single width carriageway and visibility splays measuring 2.4m by 33m can be provided in both directions. The proposal would result in a small increase in the number of vehicles using the network of rural roads but this would not materially affect highway conditions. The Council's Highways officer has commented and raises no objection to the proposal.
- 6.4 **Residential amenity**
- 6.4.1 The new house would be sufficiently distant from both of the adjacent properties to avoid any significant loss of privacy, light or general outlook.
- 6.5 **Drainage**
- 6.5.1 The proposed dwelling would be connected to a new septic tank and surface water would be discharged to soakaways, this approach is considered to be acceptable in principle.
- 6.6 **Ecology**
- 6.6.1 The site is located adjacent to a mature oak tree and hedgerow along the south eastern

boundary; these would be retained as part of the development. The proposed dwelling and the detached garage has been positioned well away from the Oak to ensure that its health would not be detrimentally impacted upon as a result of the development.

6.6.2 The application was accompanied by an extended phase 1 habitat survey and this has been considered by the Council's Ecologist. The findings of the survey confirm that no protected species were found on the site or within 30 metres of it. The Council's Ecologist is satisfied with the proposed development and the method statement submitted and the proposed mitigation. No objection is raised subject to the addition of appropriate planning conditions.

6.7 Other Matters

6.7.1 It is noted that the application site has been gifted to the applicant by his farming family to allow the construction of the affordable dwelling. It is noted by Officers that the family farm does include a significant number of buildings in within the farm complex. It is considered that there may be the potential for these outbuilding to be converted to provide the required residential accommodation on the site; such an approach would have little impact on the rural character of the area.

7.0 CONCLUSION

7.1 The applicants have been found to fulfil the local connections and housing need criteria for an affordable home, and this would provide clear social benefits. However, the scheme is contrary to the relevant planning policies since the site is not within or adjacent to what Officers would consider to be a recognisable named settlement. The proposed bungalow would detract from the open rural character and visual amenity of the landscape. For these reasons it is recommended that planning permission is refused.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

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

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

8.2 Human rights

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst Article 1 allows for the peaceful

enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the community.

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
Planning Practice Guidance

Core Strategy and Saved Policies:
CS5- Countryside and Greenbelt
CS11- Type and Affordability of Housing
MD3- Delivery of Housing Development
MD7a- Managing Housing Development in the Countryside

SPD- Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

11. Additional Information

View details online:

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

Appendices
APPENDIX 1 - Conditions

APPENDIX 1



<u>Committee and Date</u>
North Planning Committee
29 th November 2016

<u>Item</u>
11
Public

Development Management Report

Responsible Officer: Tim Rogers
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SCHEDULE OF APPEALS AS AT COMMITTEE 29th November 2016

Appeals Lodged

LPA reference	15/05053/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr J Rickerby – C/O Base Architecture
Proposal	Outline application for the erection of four dwellings with associated hard and soft landscaping and creation of new access (all matters reserved)
Location	Land Adjacent Old Barn Wollerton Shropshire
Date of appeal	14.10.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	15/03171/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	T and G Humphries and Davies
Proposal	Outline application (access for approval) for residential development (revised scheme)
Location	Land at West Felton
Date of appeal	03.11.2016
Appeal method	Hearing
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	16/00012/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs Sarah Heath – C/O Berrys
Proposal	Extension of residential curtilage (change of use of part of site from equestrian to residential curtilage) and extension of private drive
Location	The Chestnuts Eaton Upon Tern Market Drayton Shropshire
Date of appeal	02.11.16
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	16/00661/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr R Hughes – C/O Peter Richards
Proposal	Outline application for the erection of an open market dwelling to include access
Location	Land North Of Glencott Longslow Market Drayton
Date of appeal	17.11.16
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	15/04719/ENF
Appeal against	Enforcement Notice
Committee or Del. Decision	
Appellant	J Berry, Mr and Mrs S Roberts
Proposal	Without Planning Permission, the erection of a building for the purposes of residential use
Location	Caravan Opposite Henlle Hall Golf Club, Henlle Gobowen
Date of appeal	13.01.2106
Appeal method	Written
Date site visit	23.08.2016
Date of appeal decision	07.10.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/02054/OUT
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mrs Hannah Walpole
Proposal	Outline application for the erection of one dwelling to include means of access together with installation of septic tank
Location	Bryn Benlli, Turners Lane, Llynclys, SY10 8LL
Date of appeal	24.05.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	10.10.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/00685/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr P Briggs C/O Berrys
Proposal	Outline application for residential development for five dwelling to include the means of access
Location	Stoke Court Warrant Road Stoke Upon Tern
Date of appeal	26.05.16
Appeal method	Written Representation
Date site visit	03.10.16
Date of appeal decision	11.10.16
Costs awarded	
Appeal decision	DISMISSED

LPA reference	15/04391/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Cauchi C/O The Planning Group
Proposal	Erection of a detached dwelling with detached part open fronted three bay garage: new vehicular access.
Location	Proposed Dwelling West Of Mill House Stanton Upon Hine Heath Shropshire
Date of appeal	01.06.16
Appeal method	Written representations
Date site visit	
Date of appeal decision	11.10.16
Costs awarded	
Appeal decision	DISMISSED

LPA reference	14/03035/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A&A and A Whitelaw and Evans
Proposal	Outline application for the erection of eight dwellings to include means of access
Location	Land off School Road, Kinnerley, Oswestry, SY10 8DH
Date of appeal	02.06.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	13.10.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	15/05360/REM
Appeal against	Non determination
Committee or Del. Decision	Delegated
Appellant	Bolton Builders Ltd
Proposal	Approval of Reserved Matters (appearance, scale, landscaping and layout) pursuant to 14/01563/OUT for the erection of 3 no. dwellings
Location	Land West Of Hillside Woodseaves Market Drayton Shropshire
Date of appeal	04.08.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	17 th October 2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/03953/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs P Lawrence
Proposal	Outline planning application for the erection of 4No dwellings (all matters reserved)
Location	South Of Clifton Villas Queens Head
Date of appeal	03.03.2016
Appeal method	Written Representations
Date site visit	26.4.2016
Date of appeal decision	16.11.2016
Costs awarded	
Appeal decision	Allowed

LPA reference	15/01687/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs M Williams
Proposal	Outline application (access, appearance, layout and scale for approval) for the erection of four dwellings (one affordable dwelling); creation of three vehicular accesses
Location	Land North Of River Tanat Llanyblodwel
Date of appeal	26.05.2016
Appeal method	Written Representations
Date site visit	
Date of appeal decision	04.11.2016
Costs awarded	
Appeal decision	Allowed

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Appeal Decisions

Hearing held on 23 August 2016

by B M Campbell BA(Hons) MRTPI

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

Decision date: 7 October 2016

Appeal Refs: APP/L3245/C/16/314075, 3142076 & 3142077
Land opposite Henlle Park Golf Club, Gobowen, Oswestry,
Shropshire SY10 7AX

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr J Berry and Mr A & Mrs S Roberts against an enforcement notice issued by Shropshire Council.
- The enforcement notice was issued on 9 December 2015.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building for the purposes of residential use on the Land (shown approximately marked with a red cross on the attached plan).
- The requirements of the notice are to remove the building from the Land.
- The period for compliance with the requirements is 6 months.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (e) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction.

The appeals on ground (e)

1. The ground of appeal is that copies of the enforcement notice were not served as required by s172 of the Act. Section 172(2) requires a copy of the notice to be served on the owner and occupier of the land and on any other person having an interest in the land and s172(3) requires service not more than 28 days after issue and not less than 28 days before the notice is to take effect.
2. It is not argued that either subsection was not complied with. Although at the hearing Mr Berry claimed that neither Mr nor Mrs Roberts continued to have an interest in the land; serving the notice on more people than required would not result in a failure to comply with s172. Moreover, both have lodged an identical appeal against the notice as Mr Berry's, using the same Agent, which they would not be entitled to do had they had no interest in the land at the time of service. The Council had issued a requisition for information under s330 of the Act which would have ascertained details of all with an interest in the land prior to the service of the notice but that was not returned despite the requirement in law to do so. Nonetheless if Mr and Mrs Berry do not have a right of appeal, this will have no impact on the outcome here as all 3 appeals are made on identical grounds and by the same Agent.

3. The appeal brought on this ground appears to be in relation to the inaccurate position of the red cross on the plan attached to the enforcement notice. There were three structures on the site comprising an amenity building close to the road frontage of one storey with a second storey within the pitched roof, a mobile home/caravan set further back, and a recently erected 2 storey building to the south west. The Council seeks to attack the recently erected two storey building and yet the cross is closer to the amenity building.
4. The Council accepts that the notice was poorly drafted in this respect. Nevertheless, the Appellants' hearing statement makes clear that their Agent was aware that the cross was in the wrong position because he drew this to the attention of both the Council's Development Manager and Enforcement Officer. Moreover, the Council had confirmed to him, albeit orally, that the notice was intended to address the recently erected two storey building.
5. At the hearing I was told that there had been conversations and meetings with Mr Berry in which the Council made clear its concern about the unauthorised erection of the recently erected two storey building prior to the issue of the notice. At the hearing, I found Mr Berry's answers to my questions to be evasive and contradictory but I was left in no doubt that he had been fully aware of which building it was that the Council sought to attack in the notice. Indeed the whole basis of the appeal on ground (e) is that the cross is in the wrong place which it would not have been had the notice been attacking the amenity building given that the notice says "shown approximately". Nonetheless, Mr Berry acted on the Council's error by demolishing the amenity building (closer to the red cross than the intended building) the Friday before the hearing so as to claim compliance with the requirements of the notice.
6. Such action might, at first sight, appear drastic. However, the planning permission granted on appeal on 19 March 2014 for the use of the land as a caravan site (APP/L3245/A/13/2196550) requires the development to be carried out in accordance with drawing 0950 and that shows the building at the front of the site to be removed with a replacement amenity block in a different position. Thus the building which Mr Berry has demolished had to be removed in any event and at the hearing he confirmed that he had put it into storage.
7. I am firmly of the view that both the Appellants and their professional representative were fully aware of which building it was that the notice sought to attack. Had they thought that the notice was intended to attack the building on the frontage then they would not have brought the argument under ground (e) that the cross was in the wrong place. Moreover I note that the "Reason for Issuing this Notice" describes the building as a dwelling which appropriately describes the recently erected building rather than the demolished amenity building.
8. The Appellants' appeal statement further reinforces my view that there was no misunderstanding as to which building was being attacked since the arguments under the grounds brought address the recently erected building and not the building just demolished. Moreover, even if there had genuinely been a misunderstanding about which building was being attacked, there was ample opportunity at the hearing to fully present the Appellants' case in respect of the recently erected building under each ground of appeal brought.

9. I therefore intend to correct by the notice by repositioning the red cross on the accompanying plan, exercising my powers under s 176 of the Act, as I am satisfied that no injustice will be caused by so doing.

10. The appeals on ground (e) fail.

The appeals on ground (b)

11. The ground of appeal is that the matter alleged has not occurred. At the hearing it was accepted for the Appellants that if the notice was corrected there would be no basis for an appeal on ground (b).

12. The building has clearly been erected as a matter of fact. The matter alleged has occurred and the appeals on ground (b) fail.

The appeals on ground (c)

13. The ground of appeal is that the matter alleged does not constitute a breach of planning control.

14. Section 55 of the Act sets out the meaning of development for which, s57 says, planning permission is required. The definition includes building operations. The Appellants claim that the recently erected structure is a caravan and thus not a building for which permission would be required. Permission for the stationing of a caravan on land is only required where a change of use is involved.

15. The definition of a caravan is set out in s29(1) of the Caravan Sites and Control of Development Act 1960 and the definition of a twin-unit caravan is given in s13(1) & (2) of the Caravan Sites Act 1968. The structure is composed of 4 sections bolted together and thus does not meet the definition of a twin unit which is limited to two sections. With regard to the definition in s29(1), whilst the Appellants claimed that the structure could be moved from one place to another in its four sections, I drew attention to the Court of Appeal judgement in the case of *Carter v SSE and Carrick DC* [1994] wherein it was held that the structure had to be capable of being moved by a single motor vehicle. The Appellants' agent confirmed that they were not arguing that the structure could be moved as a single piece nor were they bringing any evidence to demonstrate that it could be done. It is not a caravan and I note that even if it were the Appellants would then be in breach of a condition attached to APP/L3245/A/13/2196550 which restricts the number of static caravans on the land to one.

16. Having regard to the size of the structure which is the equivalent of a two storey house, its degree of permanence given the difficulty of moving it in a single piece, and its affixation to the ground by its own considerable weight, I find as a matter of fact and degree that the structure amounts to a building constructed on site and falling within the definition of development within s55 of the Act for which planning permission is required.

17. Mr Berry suggested that the building benefitted from the permission granted on appeal for the use of the land as a caravan site. Whilst that permission included an amenity block in a similar position to the recently erected two storey building, no evidence was brought to demonstrate that the building erected was that permitted. Indeed to the contrary, the Council produced a drawing of a single storey building entitled "Proposed Amenity Block" and dated

October 2012 which, it said, had been submitted in connection with that appeal proposal.

18. In an appeal on ground (c) the onus is on the appellant to make out his case. In this instance, the Appellants have failed to demonstrate that the structure is a caravan the siting of which for the authorised residential use of the site would not involve development (although it would be a breach of condition) or, failing that, that the building benefits from the grant of planning permission. The appeals on ground (c) fail.

Conclusion

19. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with correction.

Formal Decision

20. It is directed that the enforcement notice be corrected by the substitution of the plan attached to the notice by the plan attached to this decision. Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

B M Campbell

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr T Mennell	Appellants' Agent
Mr J Berry	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr I Kilby	Planning Services Manager
Mr M Southern	Planning Enforcement Officer
Mr J Taylor	Gypsy and Traveller Liaison Officer

INTERESTED PERSONS:

Mr C Roberts	representing Henlle Park Golf Club
Mr H Ellis	Chairman of Slattyn and Gobowen Parish Council
Mr D Lloyd	County Councillor

DOCUMENTS

- 1 Site plan and drawing 0950 submitted by the Appellants
- 2 Photographs submitted by the Council
- 3 Drawing 0761 submitted by the Council
- 4 Transcript of *Carter v SSE & Carrick DC* [1994] provided by the Inspector
- 5 E mail from the Council to Mr Mennell dated 17 December 2015
- 6 Transcript of *Bury MBC v SSCLG* [2011] EWHC 2192 (Admin) provided by the Inspector

Plan

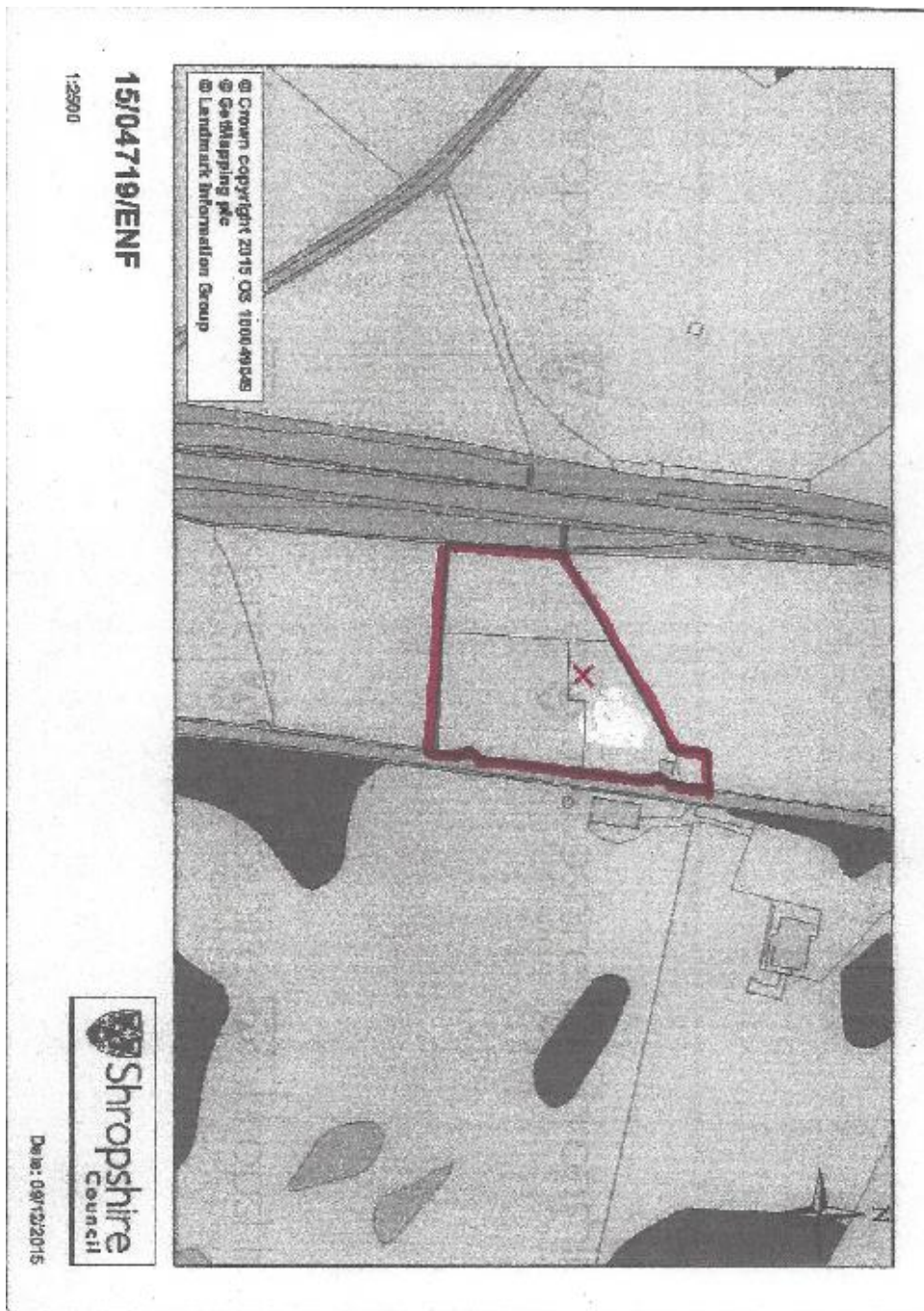
This is the plan referred to in my decision dated: 7 October 2016

by **B M Campbell BA(Hons) MRTPI**

Land opposite Henlle Park Golf Club, Gobowen, Oswestry SY10 7AX

References: APP/L3245/C/16/314075, 3142076 & 3142077

Not to scale





Appeal Decision

Site visit made on 3 October 2016

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 10th October 2016

Appeal Ref: APP/L3245/W/16/3149329

Bryn Benlli, Turners Lane, Llynclys, Shropshire SY10 8LL

- 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 Mrs Hannah Walpole against the decision of Shropshire Council.
 - The application Ref 15/02054/OUT, dated 10 May 2015, was refused by notice dated 3 November 2015.
 - The development proposed is an outline application for a single family residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters except access reserved for consideration at a later stage. A drawing showing an indicative site layout was submitted with the application and I have had regard to this in determining this appeal.
3. The development plan for the area includes the Council's Core Strategy (Core Strategy) adopted in 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015 following an examination into its soundness. Whilst this adoption occurred after the determination of this application, it is clear from the appellant's statement that she was aware of the status of this document. Therefore that both parties have had the opportunity to address any implications arising from the adoption of this document. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.

Main Issue

4. The main issue in this case is whether the proposed development would provide a suitable site for an additional house with particular reference to the settlement strategy for the area, access to services and the effect on character and appearance.

Reasons

5. The appeal site is part of the substantial residential curtilage of the dwelling known as Bryn Benlli. It is a rectangular plot located to the north of Bryn Benlli and directly to the south of the dwelling known as Llynclys Cottage, both of which front onto Turners Lane. This is part of the small village of Llynclys which has a

dispersed character. There are around 18 dwellings along Turners Lane, which is a narrow single track cul de sac which passes for some distance through undulating countryside. To the north of Turners Lane is the housing estate of Dolgoch. The appeal proposal would place a single open market dwelling with 4+ bedrooms on this site.

6. Llynclys is identified in the development plan for this area as being part of a Community Cluster of settlements which would provide for future housing growth of around 15 dwellings during the period to 2026.¹ The suitability of this site for development must be considered in the context of the policies for Community Clusters set out in the Council's development plan documents. These documents set out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters, as defined by Core Strategy Policy CS5.
7. Whilst I accept that the appeal site lies within the settlement of Llynclys, as Llynclys itself does not have a Development Boundary, the appeal site is considered to be located within open countryside with the associated strict controls imposed by the development plan. In this respect, SAMDev Policy S14.2(viii) identifies the circumstance in which development would be allowed in this area as being that which would provide affordable housing to allow young people to stay in the area. Whilst I acknowledge the personal situation of the appellant and her family, as this dwelling would be considered to be open market housing, it does not fulfil this criterion. The fact that the appellant would make a contribution to affordable housing elsewhere within the Council's area, whilst complying with Policy CS11, would not satisfy this requirement either.
8. The appellant also suggests that this would be 'infill' development. However, in accordance with SAMDev Policy S14.2(viii), infill development is not permitted outside defined Development Boundaries.
9. Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are also relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. This type of housing is regarded as potentially appropriate windfall development in the countryside.
10. It is also relevant to consider SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within these settlements and in the countryside. This states that where a settlement guideline figure is unlikely to be met additional sites may be acceptable subject to the consideration of a number of criteria, all of which must be met². Those aspects relevant to the present case include consideration of the benefits arising from the development, the impact of the development and the presumption in favour of sustainable development.

¹ SAMDev Policy S14.2(viii) identifies the settlements of Llanyblodwel, Porthywaen, Dolgoch, Llynclys and Bryn Melyn as a Community Cluster.

² This point is clarified in the document '*SAMDev Plan Policy MD3: Delivery of Housing: Overview*' which provides further explanation of the role of the second part of the Policy.

11. Looking firstly at whether the settlement guideline figure is likely to be met, it is clear from the appellant's evidence that there has been very little development in this area over recent years. Whilst I accept that at this stage it appears unlikely that the settlement guideline figure will be reached, as the plan period runs to 2026 it would be premature to conclude on the outcome in terms of delivery at this stage. Nonetheless I accept that it is relevant to consider the other criteria set out in Policy MD3.
12. Turning to the benefits arising from this development, the supporting text to this Policy reiterates the requirement to comply with the specific settlement policies which in this case reflects the identified local need for affordable housing for young people. The Council sets out the eligibility criteria for both affordable and exception housing neither of which are met in this case.
13. I am also required to consider the impact of this development. In this respect, the Council makes reference to the character of this area and the fact that the scattered nature of dwellings along the Lane contributes to its rural feel. On my site visit I noted that the mature landscape setting of these sizable plots along with the undulating topography creates a degree of seclusion. In this context I accept the Council's analysis that the proposed location between two existing dwellings would limit the impact of the new dwelling on the Lane and surrounding countryside. I also note that it would be well set back from the road and the appellant's intention that it would be a dormer bungalow. In this respect the location of this dwelling would not be unacceptable.
14. Turning to consider the sustainability of this location, I have looked at the availability of services locally and also access to services and employment elsewhere via public transport, cycling and walking. This is a small settlement and I note that the services available in the village are limited to a public house. The nearest basic services including a primary school are in Pant, around 1.6 miles away. There is a bus service from Dolgoch with what the Council describes as frequent services to other settlements. There is also a public footpath network linking Turners Lane with Pant. However, the dwelling would be located some distance along Tuners Lane which is narrow and largely unlit. Therefore, realistically, my view is that development in this location would inevitably lead to regular travel outside the village to access services and facilities, primarily by private car.
15. I have also looked at the key elements of sustainability as set out in the National Planning Policy Framework (the Framework) at paragraph 7. I accept that this development would provide for a young family and thereby make a small contribution to the expansion of the local population and the vibrancy of the community. I also note the fact that this would be the appellant's family home, and would be adjacent to her husband's parents' home, thereby allowing for mutual support. In terms of economic benefits I accept that there would be short term economic gain through the provision of construction jobs. There would also be some additional revenue generated for the local Parish Council. I also accept that this dwelling would be located within the grounds of Bryn Benlli and therefore be in an existing residential curtilage. However, the environmental impacts generated by the need to travel outside the village to access key services, facilities and employment cannot be overlooked, and outweigh the limited social and economic benefits.

16. I accept that the Parish Council has given its support to this application and that there are limited local objections. The appellant also comments that other properties in the Lane have been significantly increased in size in recent years, and that this has become a popular area for young families. However, the development plan currently in place includes the SAMDev which was considered to be sound following examination last year. Therefore these policy provisions, which make it clear that this is not regarded as a suitable location for additional open market housing, must be regarded as up to date and prevail at the present time.
17. I conclude that whilst this scheme would not be detrimental to the character and appearance of this area, on balance this would not be a suitable site for an additional house with particular reference to the settlement strategy for the area and access to services. It would therefore conflict with the Core Strategy Policies CS4 and CS5, the SAMDev at Policies MD3, MD7a and S14.2 (viii), and also the Framework which seeks to support rural communities in becoming more sustainable.

Other Matters

18. I acknowledge that the appellant and her husband are reasonably locally employed, that she would be willing to make an affordable housing contribution, that this dwelling would be constructed using sustainable materials and techniques, and that the intention is that this would be a self-build scheme. In relation to this latter point, as the Government is actively trying to increase the supply of both custom and self-build housing, this consideration does weigh modestly in favour of this scheme.
19. I have noted that the appellant has questioned the council's track record of housing delivery in this local area. Whilst the Council's housing land supply is not specifically challenged by the appellant, it is suggested that there is a need to boost the supply of housing in this area in line with the requirements of the Framework. Reference is made in the Council's Statement of Case to a recent High Court case relating to an appeal decision at Teal Drive in Ellesmere where the Inspector has challenged the housing land supply in this area³.
20. Notwithstanding such considerations, even if I accepted that there is a need to boost housing supply in this area, this would not inevitably lead to the appeal being allowed. If this was the case then the net addition of one house which could be delivered reasonably quickly would carry moderate weight in favour of the proposal. However, I consider that the evidence I have examined in relation to the suitability of this location for this development significantly and demonstrably outweighs the social and economic benefits of one new unit of self-build open market housing when assessed against the policies in the Framework taken as a whole.

Conclusion

21. For the reasons set out above, and taking into consideration all other matters raised, I conclude that the appeal should fail.

AJ Mageean

INSPECTOR

³ APP/L3245/W/15/3067596

Appeal Decision

Site visit made on 3 October 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 11th October 2016

Appeal Ref: APP/L3245/W/16/3150104

The Old Rectory, Warrant Road, Stoke upon Tern, Shropshire TF9 2DY

- 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 Peter Briggs against the decision of Shropshire Council.
 - The application Ref 15/00685/OUT, dated 12 February 2015, was refused by notice dated 13 November 2015.
 - The development proposed is outline application (with access) for five dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters except access reserved for consideration at a later stage. A drawing showing an indicative site layout was submitted with the application and I have had regard to this in determining this appeal.
3. During the course of the application the site area was reduced. The current area is as set out in Site Plan SA16573/sk.02 Rev B. I have determined the appeal on this basis.
4. The development plan for the area includes the Council's Core Strategy (Core Strategy) adopted in 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015 following an examination into its soundness. It is clear from the appellant's statement that he was aware of the status of this document and that both parties have had the opportunity to address any implications arising from its adoption. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.
5. The site address refers to the location of the site being 'Stoke upon Tern'. I understand that 'Stoke upon Tern' is the name of the wider civil parish area and that 'Stoke on Tern' is the correct reference for this settlement. Whilst there is some confusion between these terms in the appeal documentation, I have referred to 'Stoke on Tern' as the village and 'Stoke upon Tern' as the wider parish area in my decision.

Main Issue

6. The main issue in this case is whether the proposed development would provide a suitable site for housing with particular reference to the settlement strategy for the area, access to services and the effect on character and appearance.

Reasons

7. The appeal site is located adjacent to a large detached property known as The Old Rectory and is accessed off Warrant Road via a private driveway. The site is part of the grounds of Stoke Court, which contains three dwellings on its eastern side: The Old Rectory, The Mews and The Cloisters. The site is located on the edge of the village of Stoke on Tern, which comprises an informal grouping of around 40 dwellings, most of which are in the small estate of Langley Dale to the east. The appeal site itself is an irregularly shaped landscaped area with a brook running to the south. It is well screened to the south and east by mature trees and the existing buildings, though to the north and west, whilst there are some mature trees, it has a more open appearance. There is open countryside to the north, west and south. The appeal proposal would place five open market dwellings, three detached and two semi-detached, within this area.
8. The Core Strategy sets out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters, defined at Policy CS4. The villages of Stoke Heath, located to the north of the appeal site, and Hodnet, located to the west of the appeal site, are both identified as Community Hubs with specific settlement policies for each set out in the SAMdev.
9. The appellant argues at one point that the appeal village is part of the Stoke Heath Community Hub, noting that a development site for 20-25 dwellings is identified which is located further along Warrant Road at Dutton Close, just less than 2km from the appeal site. Nonetheless, it is clear to me that Stoke on Tern is not part of this settlement. Furthermore, it has not been identified as part of a Community Cluster, defined as being comprised of two or more settlements, where the combined settlements offer a range of services contributing to a sustainable community. Therefore, as acknowledged by the appellant in his final comments, the appeal site is on land designated as countryside.
10. However, the appellant also argues that Policy CS4 is relevant in this case as bullet point 3 refers to rural communities becoming more sustainable by "*ensuring that market housing makes sufficient contribution to improving local sustainability through a suitable mix of housing*". As this point makes no reference to Community Hubs or Community Clusters it is therefore suggested that this could be interpreted as applying to all of the rural area, including countryside. However, bullet point 3 follows bullet point 1 which states that sustainability will be achieved by "*focusing private and public investment in the rural area into Community Hubs and Community Clusters, and not allowing development outside these settlements unless it meets policy CS5*". My view is that bullet point 1 sets the context for bullet point 3 and it would be inappropriate to follow the broader interpretation suggested.

11. The parties also make reference to SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for other sustainable housing development on 'windfall' sites, both within settlements and in the countryside, including both brownfield and, where sustainable, greenfield sites having regard to policies in the Local Plan. The Council further clarifies in relation to MD3 that the only circumstance in which the Local Plan may provide support to proposals for market housing in the countryside outside the settlement boundary is where a settlement guideline figure is unlikely to be met within the plan period, not just anywhere¹. I note the reference by an objector to the significant recent approvals, above the local target for development in Stoke Heath, suggesting that this circumstance is unlikely to transpire in this area.
12. Further, the policies referred to in MD3 include Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev which seek to strictly control development in the countryside. Policy CS5 emphasises sustainability and rural rebalance, supporting development which improves the sustainability of rural settlements by bringing economic and community benefits. Policy MD7a also refers to the strict control over new market housing. Both Policies refer to the need for new housing in countryside areas to focus on that which is needed to house essential rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. The appeal scheme does not meet these criteria.
13. I accept the appellant's point that Policy MD7a was not mentioned in the Council's decision notice however, as previously noted, the SAMDev was adopted after the decision on this application. I also accept that the main purpose of this Policy is to provide guidance in relation to single plot exception sites, conversions, rural workers dwellings, replacement dwellings and holiday lets. However, its reference to the tight control over new market housing is relevant in this case.
14. The appellant also points to the fact that Policy CS5 enables a broader interpretation of what constitutes appropriate development in the countryside. In this respect this Policy states that development will be strictly controlled "*in accordance with national planning policies protecting the countryside*". Further, this Policy states that "*development 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 community benefits*". Particular reference is then made to the types of development which fulfil these criteria, including dwellings to house agricultural, forestry or other essential countryside workers.
15. I accept that the wording of this Policy suggests that the list of appropriate types of development is not exhaustive, and that other development types which meet these criteria could be acceptable. In this respect the appellant suggests that the appeal scheme is an example of a development which would improve the sustainability of rural communities by bringing economic and community benefits.
16. The Shropshire settlement strategy sets out the framework for development which supports rural communities. In this respect a development of open

¹ SAMDev Plan Policy MD3: Delivery of Housing Development: Overview

market housing located outside the established settlement strategy for this area would not in itself bring specific economic or community benefits in the same way that a development of exception or affordable housing would. The appellant refers to the appeal case at West Felton², in which the Inspector applied Policy CS5 to an edge of settlement site which was found to be sustainable. Whilst I do not have the full details of this case before me I note that it was determined prior to the adoption of the SAMDev.

17. In this context it is relevant to consider the suitability of the appeal site for a development of five dwellings in terms of its location. This includes the availability of services locally and also access to services and employment elsewhere via public transport, cycling and walking. As noted above, this is a small settlement of approximately 40 dwellings and there are very few services available in the village. This is limited to a church, a village hall and a small play area on Langley Dale. The nearest primary school is in Stoke Heath which the appellant states is less than a mile away. I have been made aware, without full details, that there is a bus service which connects Stoke on Tern to Stoke Heath and also Wistanswick which in addition to the school provides a public house, sports centre, service station and café/takeaway. The village of Hodnet with a larger range of facilities is located around 1.5 miles to the west of Stoke on Tern. The Council also acknowledges that there may be potential employment opportunities in these other settlements. However, realistically, development in this location would inevitably lead to regular travel outside the village, primarily by private car, to access a more complete range of services and facilities.
18. The aspect of Core Strategy Policy CS6 relevant to this outline application is the requirement for "*proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and the use of public transport can be maximised and the need for car based travel reduced*". I accept that the access point to the site would be reasonable, and that this scheme would not generate significant levels of traffic *per se*. Nevertheless when considered in the context of this small rural community and the nature of surrounding narrow country lanes, this development would result in a moderate increase in the use of private cars in this area, with few opportunities for other more sustainable transport modes.
19. The appellant refers to paragraph 29 of the Framework which states that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It is also relevant to note the Council's view that due to the dispersed nature of development in this area most rural settlements require access to other areas by private vehicles. Indeed, this principle is acknowledged within the Council's development plan in which the concept of Community Clusters is based on a number of small settlements within a defined area sharing services. In the present case, whilst evidence of opportunities for more sustainable transport modes is limited, I acknowledge that this fact does not in itself preclude this site from consideration for development. However, this site has not been identified as part of a Community Cluster of supportive settlements.
20. I have also looked at the key elements of sustainability as set out in the National Planning Policy Framework (the Framework) at paragraph 7. I accept

² APP/L3245/W/15/3003171

that this development would contribute to the expansion of the local population and thereby the vibrancy of the community. In this respect I note the evidence submitted by the appellant relating to the range of social and cultural activities in the parish area of Stoke upon Tern, including the creation of a Neighbourhood Plan area across the parish in February 2015. However, whilst this demonstrates that there is a range of activity across the parish, including in a number of settlements designated as Community Hubs, there is little specific reference to activities in this village.

21. Looking at economic benefits, I accept that there would be short term economic gain through the provision of construction jobs. There would also be some additional revenue generated for the Parish Council and the contribution of a CIL payment towards local infrastructure. The Council also notes the potential benefits in terms of supporting activities in other nearby settlements.
22. Turning to environmental considerations, it is clear that this site is associated with the grounds of Stoke Court. Whilst the parts of the site to the north west and immediately to the west of The Old Rectory are at present clearly part of the garden area of this substantial dwelling, the south western portion is less formal in appearance with a fence running across the site at this point. Nonetheless I accept that these grounds are delineated as being associated with the existing group of Stoke Court dwellings. As such, and in line with a recent court judgement, this is not excluded from the definition of previously developed land.³ I therefore accept that the encouragement given in paragraph 17 of the Framework to the re-use of brownfield land is a relevant consideration in this case.
23. However, notwithstanding the delineation of the Stoke Court area, and the appellant's statement that as this is regarded as garden land it will not extend the settlement boundary, my view is that the less formal appearance of the south western portion of these grounds transitions into the wider countryside beyond. In this sense I consider that the development would result in some extension to the settlement boundary. Also, whilst there are some mature trees running along the north western boundary, there are also some significant gaps between the trees meaning that this development would, in part at least, be visible in the surrounding countryside.
24. I note that a pre-application enquiry, relating to the proposed subdivision of The Old Rectory and four new build dwellings on this site, resulted in a positive response in September 2014⁴. At this time this scheme was considered to represent sustainable development in a sustainable location, with no significant adverse impacts to outweigh the benefits. However, this advice was given prior to the adoption of the SAMDev which now provides greater certainty in terms of the final wording of policies and the weight which can be attached to it in decision making.
25. The appellant makes reference to the fact that the appeal site is closer to a wider range of facilities and services than the development of 20-25 dwellings at Dutton Close. Nonetheless it remains that the Dutton Close site is part of the Stoke Heath Community Hub and is allocated for development within the SAMDev, part of the adopted development plan.

³ Dartford BC v SSCLG [2016] EWHC 635 (Admin)

⁴ Ref PREAPP/14/00487

26. I also note the appellant's reference to changes to the Framework being expected shortly, and the suggestion that this will give greater support to the development of brownfield sites. However such changes have not yet been published and therefore do not carry any weight in this case.
27. Whilst I have noted that the site lies within an area for which a Neighbourhood Plan is under preparation, this is at an early stage of development. The Parish Council objected to the proposal on the basis of SAMDev policy.
28. In drawing the threads of this discussion together, I have sought to examine this proposal in relation to local policy which seeks to achieve 'rural rebalance' by supporting the sustainable development of rural settlements. This reflects national policy, as set out in the Framework, which states that housing should be located where it will enhance or maintain the vitality of rural communities, avoiding isolated new homes in the countryside.⁵ I have accepted that it is not always possible to provide sustainable transport modes within rural areas, however the fact that this site is not located within a Community Hub or Community Cluster and must be regarded as open countryside is significant in this case. I have also acknowledged that this is technically brownfield land, but noted the particular circumstances of this relatively isolated site and the result that this scheme would at least in part extend the settlement boundary. Furthermore, this proposal for five units of open market housing would not provide affordable housing nor would it meet an identified local need.
29. Therefore, on balance, I conclude on this matter that the proposal would not provide a suitable site for housing with particular reference to its location. It would therefore not comply with the Core Strategy Policies CS4, CS5 and CS6, or SAMDev policies MD3 and MD7a.

Other Matters

30. The appellant states that there have been persistent shortfalls in housing delivery in this area to date, and notes the reliance on a significant increase in delivery over the rest of the plan period. The appellant also makes reference to the Council's housing requirement as set out in the Core Strategy and SAMDev, noting a heavy reliance on land in rural areas outside settlements.
31. In the North East spatial zone the planned housing delivery of windfall development within settlements is quoted as being 593 dwellings and windfall development in rural areas is quoted as being 902 dwellings. It is also noted that over the whole Council area the planned development in the rural area of 5,985 was showing 2,217 completions and 1,224 extant permissions of dwellings for the period 2006-2015. This accounts for well over half of planned rural development. I accept the appellant's point that the SAMDev Plan Inspector modified Policy MD3 to clarify that sustainable development would be permitted. Nonetheless, as the plan period runs to 2026 I consider that at this stage it would be premature to judge whether or not these figures are likely to be achieved.
32. The appellant also makes reference to a recent appeal decision which has challenged the basis of the Council's housing policy⁶. In this case the Inspector allowed 68 houses on land at Teal Drive, Ellesmere, Shropshire in May 2016. On this basis the appellant maintains that, although the Council are challenging

⁵ Paragraph 55.

⁶ APP/L3245/W/15/3067596

the Teal Drive decision and the Secretary of State has concurred that the decision should be quashed, until such time as the Courts make a ruling on this case this decision stands. The appellant argues that the Council's policies for the supply of housing should be considered out-of-date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

33. However, even if I accepted the appellant's case and found that the Council does not have a five year housing land supply, this would not inevitably lead to the appeal being allowed. If the Council did not have a five year supply then the net addition of five houses which could be delivered reasonably quickly would carry significant weight in favour of the proposal. However, I consider that the evidence I have examined in relation to sustainability is such that the environmental concerns generated by development in this countryside location significantly and demonstrably outweigh the modest social and economic benefits of five new units of open market residential accommodation when assessed against the policies in the Framework taken as a whole.

Conclusion

34. For the reasons set out above, and taking into consideration all other matters raised, I conclude that the appeal should fail.

AJ Mageean

INSPECTOR

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Appeal Decision

Site visit made on 3 October 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 12th October 2016

Appeal Ref: APP/L3245/W/16/3150152

Mill House, Stanton upon Hine Heath, Shrewsbury, SY4 4LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Cauchi against the decision of Shropshire Council.
 - The application Ref 15/04391/FUL, dated 28 September 2015, was refused by notice dated 6 January 2016.
 - The development proposed is erection of a detached dwelling with detached cart shed.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. In the interests of clarity I have used the site address provided on the appeal form in this case.

Main Issues

3. The main issues in this case are:
 - (1) Whether the proposed development would provide a suitable site for housing with particular reference to the settlement strategy for the area; and,
 - (2) The effect of the proposal on the setting of a listed building in terms of scale and bulk and the character of the local area.

Reasons

Location

4. The appeal site is located within the residential curtilage of Mill House, a Grade II Listed Building. The grounds of Mill House extend considerably to the north west and west of Mill House itself and presently contain a tennis court, mature vegetation and both mown and unmown grassed areas. The southern boundary of this site fronts onto a country lane, whilst to the north and west lies open countryside. To the east is the residential property known as Mill House Barn.
5. The appeal site is situated on the north western boundary of the village of Stanton upon Hine Heath (Stanton). The suitability of this site for development must be considered in the context of the policies set out in the Council's

development plan which includes the Shropshire Local Development Framework Core Strategy (Core Strategy) 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015. These documents set out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters. Such designations are set out in SAMDev Policy MD1, and this village has not been identified as a Community Hub, nor is it part of a grouping of settlements which together form a Community Cluster. Therefore, the appeal site must be regarded as being on land designated as countryside.

6. Therefore, Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. The appeal proposal does not fall within any of the categories of development covered by these Policies.
7. It is also relevant to consider SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within designated settlements and in the countryside. A document providing further explanation of this Policy clarifies the role of the second part of this Policy¹. This sets out considerations which should be applied in situations in which the settlement guideline figure would be exceeded. This includes the presumption in favour of sustainable development, the benefits arising from the development and the need to have regard to other policies in the Local Plan. However, as Stanton has not been identified as a settlement in which either allocated development or windfall development will take place, these considerations are not relevant in this case.
8. In considering the suitability of this location for a new dwelling, the Council in its officer report acknowledges that it generally accords with the sustainable objectives set out in the National Planning Policy Framework (the Framework). In this respect I note that the pre-application advice given in relation to this scheme in February 2015 states that the scheme was regarded as sustainable development in a sustainable location and was therefore considered to be acceptable in principle. I also acknowledge that there are services and facilities in Shawbury village and employment opportunities at RAF Shawbury which have not been mentioned by the Council.
9. However, the pre-application advice was provided prior to the adoption of the SAMDev. Whilst I accept that the implications of this change in status were not made clear to the appellant, and that the adoption of the SAMDev has not resulted in any change in status for this site or settlement, the fact is that the development plan now provides greater certainty around the adopted settlement strategy for this area. More specifically the 'rural rebalance' programme, which seeks to protect the special character of rural settlements whilst allowing them to meet the needs of local communities, has been validated through the examination and adoption of the SAMDev. Within this

¹ SAMDev Plan Policy MD3: Delivery of Housing: Overview.

strategy the settlement designations were based on an assessment of locally available services and facilities. As previously noted, the village of Stanton is not identified as one which has the capacity to accommodate open market housing development. Whilst I accept that the development would be within an existing residential curtilage, the settlement strategy is the overarching consideration in this case.

10. On this matter I therefore conclude that the proposed development would not provide a suitable site for housing with particular reference to the settlement strategy for the area. It would therefore conflict with the Core Strategy at Policies CS3, CS4 and CS5. It would also conflict with the SAMDev at Policies MD1, MD3 and MD7a. Core Strategy Policy CS17 is also referenced in this reason for refusal but is not relevant to the consideration of this issue.

Listed Building

11. As previously noted Mill House is a Listed Building. This is an early to mid-18th Century two storey domestic scale detached dwelling. It is closely associated with Mill House Barn, a residential conversion, which is located immediately to the north of Mill House. The proposal would place a good sized four bedroomed detached house to the west of the existing buildings. In addition a detached part open, three-bay garage would be located to the south of this dwelling.
12. The plans illustrate that the proposed dwelling would be a brick and timber design and have a gabled roof along its east to west axis. It would also have a central gable projection on its southern elevation which would contain a central two storey glazed feature. This striking design would contrast with the modest appearance of both Mill House and Mill House Barn. I accept that this proposed dwelling would not be significantly larger than these two existing dwellings, and therefore my view is that the scale and bulk of this building would not be unreasonable. The proposed garage would be well screened by existing vegetation and therefore not a concern in this case.
13. Accepting that the scale and bulk of this building would not be detrimental to the setting of this heritage asset, my view is that aspects of detailed design, including any overlooking concerns, could be addressed through discussion and design revisions if this application were to be successful. My view is also that the substantial nature of this residential curtilage and its mature vegetation would screen this development from views in the surrounding countryside.
14. To conclude on this matter I have found that this proposal would not have a detrimental effect on the setting of the listed building and the character of the local area. It would therefore not conflict with Core Strategy Policies CS6 and CS17 or SAMDev Policy MD13, all of which seek to protect and enhance both the historic and natural environment, including the setting of heritage assets.

Other Matters

15. The appellants make reference to a recent appeal decision which has challenged the basis of the Council's housing policy². On this basis the appellants maintain that, although the Council has produced an up to date FOAN, this has yet to be tested. Therefore the Council's policies for the supply of housing should be considered out-of-date and planning permission should be

² APP/L3245/W/3067596

granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

16. The appellants also refer to a recent High Court decision which states that the presumption in favour of sustainable development exists even where there is a five year supply of housing land.³ However, these remarks in relation to this decision were obiter and there is no requirement to follow them.
17. Even if I accepted the appellants' case and found that the Council does not have a five year housing land supply, this would not inevitably lead to the appeal being allowed. If the Council did not have a five year supply then the net addition of one house would carry significant weight in favour of the proposal. However, I consider that the evidence I have examined in relation to the Council's settlement strategy, which was recently confirmed through the adoption of the SAMDev, is such that development in this countryside location would significantly and demonstrably outweigh the modest benefits of one new unit of residential accommodation when assessed against the policies in the Framework taken as a whole.
18. I acknowledge that Mr Cauchi is locally employed, that they appellants would be willing to make the appropriate affordable housing contribution, that this dwelling would be constructed in accordance with Codes for Sustainability, and that the intention is that this would be a self-build scheme. In relation to this latter point, as the Government is actively trying to increase the supply of both custom and self-build housing, this consideration does weigh modestly in favour of this scheme.

Conclusions

19. Drawing all of these strands together, in the scheme's favour it would contribute modestly to the supply of housing in a reasonably sustainable location. It would not harm the setting of a Listed Building in terms of its mass and scale, and it would provide a self-build project. However, these benefits would also apply if this scheme was located within a settlement which was allocated for open market housing development. In this case such benefits would be outweighed by the harm I have found in relation to the Council's settlement strategy.
20. For the reasons set out above, and taking into consideration all other matters raised, I conclude that the appeal should fail.

AJ Mageean

INSPECTOR

³ Wychavon v SSCLG and Crown House Developments Limited [2016] EWHC 592 (Admin).

Appeal Decision

Site visit made on 3 October 2016

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 13th October 2016

Appeal Ref: APP/L3245/W/16/3150320

Land off School Road, Kinnerley, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A & A & A Whitelaw & Evans against the decision of Shropshire Council.
 - The application Ref 14/03035/OUT, dated 4 July 2014, was refused by notice dated 14 December 2015.
 - The development proposed is construction of 8 houses.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters except access reserved for consideration at a later stage. A drawing showing an indicative site layout was submitted with the application and I have had regard to this in determining the appeal.

Main Issues

3. The main issues in this case are:
 - (1) Whether the proposed development would provide a suitable site for housing with particular reference to access to local services and amenities and the settlement strategy for the area; and,
 - (2) The effect of the proposed development on the character and appearance of the surrounding countryside.

Reasons

Location

4. The appeal site is currently agricultural grazing land which at the time of my site visit contained a number of horses. It is located on the western side of School Road adjacent to, and partly within, the Development Boundary of the village of Kinnerley. To the south east on the opposite side of School Road is a primary school, to the south and east is both existing housing and land with permission for housing development. To the north is the main part of the village and to the west is open countryside. The scheme would place 8

- dwellings on this site which would gain access from the south via the driveway serving the approved development site to the south.¹
5. The village of Kinnerley is identified in the development plan for this area as being part of a Community Cluster of settlements allocated for growth of around 50 dwellings, 33 of which will be on allocated sites, during the period to 2026.² The suitability of this site for development must be considered in the context of the policies for Community Clusters set out in the Council's development plan. This includes the Shropshire Local Development Framework Core Strategy (Core Strategy) 2011, and the Sites Allocations and Management of Development Plan (SAMDev) adopted in December 2015. These documents set out a framework which seeks to ensure that rural communities will become more sustainable by focusing development and investment in Community Hubs and Community Clusters.
 6. At the present time the village has approvals in place for 53 new dwellings, including the outline approval directly to the south of the appeal site. On my site visit I saw that two approvals totalling 23 houses have been constructed on sites on the eastern side of the village. To the south west of the appeal site a brownfield site, which is outside the Development Boundary, has approval for 18 dwellings. Whilst 24 of these dwellings are/will be on the sites allocated in the SAMDev, 29 dwellings are/will be windfall developments. The evidence presented to me suggests that there is a strong prospect of all of these approvals being delivered.
 7. Whilst the appellants note that almost a third of the appeal site is within the village Development Boundary and is part of a site allocated for housing (referenced KNY002), most of it is outside this boundary and must be regarded as open countryside. Furthermore I note that the provision for housing on the allocated site was for 12 dwellings, and that this has already been achieved in the extant approval for this site. It is therefore clear that the settlement guideline figure for the whole of this Community Cluster has already been exceeded in Kinnerley alone, well before the expiry of the plan period.
 8. In this context it is relevant to consider SAMDev Policy MD3 relating to the delivery of housing which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within designated settlements and the countryside. A document providing further explanation of this Policy clarifies the role of its second part³. This sets out considerations which should be applied in situations in which the settlement guideline figure would be exceeded.
 9. Whilst the Council states that it is too early to determine whether or not the housing guideline for this area will be achieved or overachieved as the development plan runs to 2026, in the context of significant recent approvals within Kinnerley it is relevant to look at these considerations here. They include the increase in the number of dwellings relative to the guideline, the

¹ 14/00581/OUT – outline approval for 12 dwellings.

² SAMDev Policy S14.2(vii) identifies the settlements of Kinnerley, Maesbrook, Dovaston and Knockin Heath as a Community Cluster. New housing will be delivered through specific site allocations in Kinnerley and Maesbrook which together will deliver 33 dwellings. In addition to the allocated sites, sustainable development by infilling, conversions and small groups of houses may be acceptable on suitable windfall sites within the existing Development Boundaries of the cluster settlements.

³ SAMDev Plan Policy MD3: Delivery of Housing: Overview.

- presumption in favour of sustainable development, the benefits arising from the development, the cumulative impacts of a number of developments in a settlement and the need to have regard to other policies in the Local Plan.
10. As the appeal site must be regarded as being located mostly on land designated as countryside, Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings. Whilst noting that the appellants have indicated an intention to complete a Section 106 agreement relating to a contribution towards affordable housing, nevertheless, the appeal proposal does not fall within any of the categories of development covered by these Policies.
 11. The Kinnerley Parish Neighbourhood Plan (KPNP) 2013 is also a material consideration⁴. This document endorsed the development of the site referenced KNY002 as one of two sites identified as extensions to existing village Development Boundaries. Whilst the inclusion of the appeal site as part of this extension was considered during the preparation of the KPNP, it was not endorsed through this process.
 12. The Council's Statement of Case makes it clear that the sustainability of Kinnerley is not in question as it has been identified as a sustainable village capable of accommodating additional growth in the SAMDev. Nevertheless the combination of both recent completions and recently approved development will represent an increase in the number of dwellings in the village of around 50%.
 13. In this context, the supporting text to Policy MD3 states that the settlement guideline figure is not a maximum figure, but that development going beyond it to too great a degree could stretch infrastructure and community goodwill to breaking point. The appellants suggest that if windfall developments are included in the settlement allocation for this Cluster then it would be reasonable to assume that in excess of 70 dwellings are envisaged for this Community Cluster, noting that Kinnerley is the main settlement. However, the plan period has some time to run and the housing allocation relates to all settlements in this Cluster.
 14. In this respect the concerns of the Parish Council and local objectors about the capacity of local infrastructure, particularly local roads, to manage such increases are relevant. Whilst I accept that no particular evidence has been put before me to validate such concerns, the KPNP is a relatively recent community led document. In this respect it is relevant to note that SAMDev Policy S14.2 (vii) emphasises the importance of the adopted guidance from the community led KPNP in determining such cases.
 15. The appellants reference the location of this site within close proximity of the school and other key services. They state that this site is closely related to

⁴ The KPNP was not prepared under the statutory framework set out in the Localism Act and has not been 'Made'. Therefore it does not form part of the development plan. Nevertheless it fed into the development of the SAMDev provisions for this area.

other sites in the village which have recently gained approval for housing, including the brownfield site to the south west which is outside the village development boundary. The appellants also note that the appeal site is closer to the village centre than three of the other development sites. I do not disagree with any of these points, though note that services and facilities within the village are basic as they are limited to the school, a public house, village hall, church, shop and post office with a basic two hourly bus service. As such it is clear to me that the restrictions on the growth of this settlement identified in SAMDev Policy S14.2 (vii) are appropriate.

16. The parties both make reference to appeal decisions in this area in which Inspectors have both allowed and dismissed development in countryside locations. Specifically, the appellant refers to a recent case in which the appeal was allowed even with some policy conflict. Whilst I do not have the full details of the circumstances of these cases before me, it is clear that as the relevant policy considerations are finely balanced, the specific locations and site circumstances of each case are critical to their determination.
17. In considering the benefits arising from this development, the appellant has stated that an affordable housing contribution of around £72,000 and a community infrastructure levy contribution of around £80,000 would be made if this application was successful. However, such contributions would be required if this scheme was located on a fully allocated site within Development Boundaries.
18. In this respect it is clear that consideration of the benefits arising from development, as referred to in Policy MD3, when looking at situations in which settlement guidelines will be exceeded, does not relate to open market housing but to affordable housing to meet local need and essential countryside workers. I accept the appellants' point that recent development proves that there is a demand for new homes in this village, suggesting confidence in local services and facilities. Nevertheless the role of the development plan is to manage such pressures in the best interests of the local community and wider area.
19. In drawing this discussion together, I have sought to examine this proposal in relation to local policy which seeks to achieve 'rural rebalance' by supporting the sustainable development of rural settlements. I have acknowledged that this site is in part allocated for housing, that it is in a reasonably sustainable location with access to some basic services, but that most of it lies in open countryside which has not been allocated for development in either the development plan or the KPNP. I have also noted that recent completions and approvals in this area already exceed the housing allocation guidelines for this settlement. Furthermore, this proposal for 8 units of open market housing would not meet an identified local need.
20. Therefore, on balance, I conclude on this matter that the proposal would not provide a suitable site for housing with particular reference to the settlement strategy for the area. It would therefore not comply with the Core Strategy Policies CS4 and CS5, or SAMDev policies S14.2 (vii), MD3 and MD7a.

Character and appearance

21. As noted above, the appeal site is presently grazing land and is bordered by hedges containing mature trees to the north, east and west. The existing development site is located to the south and there are additional mature trees

in the southern portion of the site. I accept that this development would to some degree be screened by this existing vegetation, and that the development to the south would be more obvious in terms of visual intrusion. Nonetheless there would be some visibility of the appeal dwellings in the surrounding countryside through glimpsed views, particularly in winter months when foliage is sparser. In this respect the combined impact of the development to the south along with this scheme would present a significant increase in the extent of built form in this semi-rural location.

22. I agree that the evidence submitted by the Council on this matter is limited and appears to have been confused with matters relating to the detailed design of the dwellings and site which would be considered at reserved matters stage. I also accept that specific concerns in relation to this matter have not been raised by statutory consultees or objectors. Nevertheless, this point is clearly identified in the Council's Statement of Case and I accept that the additional visual intrusion into the countryside around the village has not been justified in this case.
23. The appellants also state that there is little fundamental difference between the appeal site and the approved site immediately to the south. Nevertheless the combined impact of the development of both of these sites in this semi-rural location is of concern.
24. On this matter I conclude that the proposal would have a detrimental effect on the character and appearance of the surrounding countryside. In this respect it would conflict with the Core Strategy Policies CS6 and CS17, and the SAMDev Policies MD2 and MD12 all of which seek to protect the local character and visual qualities of Shropshire's natural assets.

Other Matters

25. The appellants question the council's housing number guidelines with reference to recent appeal decisions which note under delivery in this area and the fact that, as noted above, housing guidelines are not to be regarded as maximum figures. Whilst the Council's housing land supply is not specifically challenged by the appellants, reference is made in the Council's Statement of Case to a recent High Court case relating to an appeal decision at Teal Drive in Ellesmere where the Inspector has challenged the housing land supply in this area⁵.
26. Notwithstanding such considerations, even if I accepted the need to boost housing supply in this area, this would not inevitably lead to the appeal being allowed. If this was the case then the net addition of eight houses which could be delivered reasonably quickly would carry significant weight in favour of the proposal. However, I consider that the evidence I have examined in relation to the suitability of this location for this development significantly and demonstrably outweighs the social and economic benefits of eight new units of residential accommodation when assessed against the policies in the Framework taken as a whole.
27. As noted previously, the appellants have indicated their intention to provide a Section 106 agreement to make an affordable housing contribution. This would comply with Core Strategy Policy CS11. However, notwithstanding this intention, such an agreement has not been presented as part of the evidence in

⁵ APP/L3245/W/15/3067596

this case. If this agreement had been in place then this benefit would have been weighed against the harm identified.

Conclusions

28. I have found in this case that the proposed development would not be appropriate in terms of its location, and that it would also have a detrimental effect on the character and appearance of the surrounding countryside.
29. For these reasons, taking into consideration all other matters raised, the appeal is dismissed.

AJ Mageean

INSPECTOR

Appeal Decision

Site visit made on 20 September 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 17th October 2016

Appeal Ref: APP/L3245/W/16/3153078

Land off Sutton Lane, Woodseaves, Market Drayton, Shropshire TF9 2AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Bolton Builders Ltd against Shropshire Council.
 - The application Ref 15/05360/REM, dated 5 December 2015, sought approval of details pursuant to conditions Nos 1, 2 and 4 of a planning permission Ref 14/01563/OUT granted on 13 August 2014.
 - The development proposed is three dwellings including new vehicular access.
 - The details for which approval is sought are: Appearance, Landscaping, Layout and Scale.
-

Decision

1. The appeal is dismissed and approval of the reserved matters is refused, namely: appearance, landscaping, layout and scale details submitted in pursuance of conditions Nos 1, 2 and 4 attached to planning permission Ref 14/01563/OUT dated 13 August 2014.

Preliminary Matters

2. Outline planning permission (including access) has been granted for 3 dwellings. The application which is the subject of this appeal addressed the reserved matters of appearance, landscaping, layout and scale. I note that the approved drawings for the outline planning permission include a block plan¹ that contains an indicative layout of 3 houses and associated parking and turning areas. Condition No 7 of the outline planning permission requires that the access, parking and turning areas are satisfactorily completed in accordance with the block plan prior to the dwellings being occupied. Conditions 5 and 6 also refer to approved plans and the block plan.
3. However, the parking and turning areas as shown on drawing number 15-156a would not be in accordance with that shown on the approved block plan. Moreover, the Council have stated that a subsequent planning application has been submitted to enable amended parking, turning areas and visibility splays. Notwithstanding conditions Nos 5, 6 and 7 on the outline planning permission it is clear that layout was reserved for future consideration and I will deal with the appeal on that basis.

¹ SA14869/02

Main Issue

4. The Council did not issue a decision within the prescribed period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's appeal statement states that the drainage details supplied in connection with condition No 4 are acceptable. The appeal statement also states that it considers that there would be no harm to the living conditions of the neighbouring and future occupiers with particular regard to privacy, loss of light, outlook, noise and disturbance. However, the Council have stated that the layout does not take into consideration the character of the area and that the scale and appearance of the dwellings would not relate to local design and appearance characteristics.
5. Taking into account the above the main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site comprises part of an agricultural field and it is located adjacent to a row of semi-detached dwellings that extends from the junction of Sutton Lane with the A529. Most of the dwellings nearby front Sutton Lane or the A529 with outbuildings behind. Where other buildings are sited behind the frontage for the most part they are agricultural buildings.
7. The housing in close proximity to the site is characterised by a clear linear pattern of development with well-spaced, semi-detached dwellings set in generous plots. The majority of dwellings are set back behind front gardens and have large rear gardens. These features give the area an open and spacious character and appearance. Although the gardens include domestic outbuildings such as sheds and greenhouses, these are subservient or of minor scale and do not materially alter this character.
8. The layout shows 2 dwellings facing Sutton Lane, 1 either side of the access and 1 dwelling to the rear of the frontage properties. The dwellings would have large footprints and detached garages. Consequently, the proposal would create a more closely spaced pattern of development than that which predominates in the immediate vicinity of the site. Moreover, although Plot 3 would be set well back from the road, the dwelling would be seen in views along the new access drive between the frontage properties, from Sutton Lane and from the neighbouring properties and gardens. The positioning of a dwelling behind the frontage properties would also be at odds with the predominant pattern of development, in which dwellings are arranged in a linear way and directly face the public highway.
9. The proposal would not make an efficient and effective use of the site as it would not be consistent with the established pattern of building in the area, and in comparison with adjacent properties would appear cramped. The dwellings would be of traditional materials and architectural styling that would relate well to adjacent buildings but this would not overcome the harm I have identified above.
10. Taking into account all of the above the proposal would be harmful to the character and appearance of the area. As such it would conflict with Policy CS6 of the Shropshire Core Strategy (CS) and Policy MD2 of the Site Allocations and Management of Development Plan (SAMDev) which, amongst other things, requires that all development contributes to and respects locally distinctive or

valued character by responding appropriately to the form and layout of existing development including streetscape, building heights and lines, scale, density and pattern.

Conclusion

11. For the reasons given above I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR

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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: 16 November 2016

Appeal Ref: APP/L3245/W/16/3143041

Land South of Clifton Villas, Queens Head, Oswestry, Shropshire SY11 4EF

- 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 Peter Lawrence against the decision of Shropshire Council.
 - The application Ref 14/03953/OUT, dated 24 February 2015, was refused by notice dated 22 July 2015.
 - The development proposed is the erection of 4 dwellings (1 affordable).
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 4 dwellings at Land South of Clifton Villas, Queens Head, Oswestry, Shropshire SY11 4EF in accordance with the terms of the application Ref 14/03953/OUT, dated 24 February 2015 subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application is in outline. I have specified the date of the amended application above. However, the parties dispute the level of detail in the scheme submitted for consideration. I cannot be certain, on the evidence before me, including consultation responses received, that interested parties would not be prejudiced were I to decide the appeal based on the details submitted by the appellants with their appeal submissions. I have therefore determined the appeal on the basis that all matters are reserved and have treated the plan which shows the site layout as illustrative.
3. In December 2015, the Council adopted its Site Allocations and Management of Development Plan (SAMDev). Relevant policies within this document therefore now carry full weight.
4. The Council has been provided with information explaining how drainage would serve the development, which has resolved its concerns in this regard subject to the imposition of a condition. Consequently the Council is no longer pursuing Refusal Reason No 2 and this is not therefore an issue in this appeal.
5. The appellants have submitted a signed and dated Unilateral Undertaking (UU) which would secure one of the dwellings as an affordable unit. This is a material consideration which I deal with below.

6. Notwithstanding the wording of the application, on the basis of my conclusions on the UU I have omitted the reference to '1 affordable' from the description of the development allowed.

Main Issues

7. The main issues are i) whether the development would have acceptable access to services and its effect on the character and appearance of the countryside and ii) whether a planning obligation to secure one of the dwellings as an affordable housing unit is justified.

Reasons

Access to services and effect on countryside appearance

8. Queens Head essentially comprises a short linear group of dwellings along a main road. The appeal site, part of an open field, constitutes a gap in this group.
9. From my visit I noted that, with the exception of a public house, Queens Head lacks a range of essential facilities that might potentially be utilised by future occupiers of the dwellings. However, it is located on a bus route connecting the main towns of Oswestry and Shrewsbury and is well served, compared to many rural settlements, by a half hourly service in either direction (excluding Sundays). Furthermore, bus stops are within reasonable walking distance of the site.
10. The nearby neighbouring settlement of West Felton, to the south, contains a village shop and primary school. There is a roadside path connecting the two settlements which makes it possible to walk from one to the other in around 10-15 minutes. Although the route is unlit and would not be universally regarded as safe and convenient at all times, the two places are linked by the same aforementioned bus route. I accept that the convenience of private car use will always be an attraction. However I consider that the appeal site is in a location where realistic sustainable transport choices are available which would allow for access to a range of essential services without needing to be dependent on a private car. In addition the development would bring some limited benefits in terms of investment in the local economy.
11. In terms of visual impact the proposal would infill a gap in the line of dwellings fronting the main road and would be situated opposite other houses. The retention of hedge planting along part of the site boundary would further help to assimilate the site into its surroundings. The proposal would not therefore appear as an obtrusive encroachment into open countryside but rather as consolidating the settlement form. Whilst there would be some loss of open and long range views over the site from the highway to the front and from the public footpath which passes immediately to the north, the visual impact of this small development on these receptors would be limited and fleeting. In any event the countryside does not have a special landscape designation in this area.
12. Policy MD1 of the SAMDev establishes a settlement hierarchy within Shropshire and deals with the proposed scale and distribution of development. Queens Head is not recognised as a settlement within the hierarchy and consequently forms part of the countryside.

13. Policies CS5 of the Shropshire Local Development Framework Core Strategy 2011 (CS) and MD7a of the SAMDev state that open market housing will be strictly controlled within the countryside with certain exceptions cited including the provision of rural worker housing, the conversion of an existing building or replacement of a dwelling subject to various provisos.
14. Policy CS5 does state however that development proposals on appropriate sites, which maintain and enhance countryside vitality and character, will be permitted where they improve the sustainability of rural communities. Furthermore Policy MD3 of the SAMDev, which is concerned with delivery of housing development, states that in addition to allocated housing sites planning permission will be granted for other sustainable housing development whilst having regard to other relevant policies in the Local Plan. The explanatory text to this policy goes on to explain that windfall development on non-allocated sites is important and that this may include sustainable greenfield sites in the countryside.
15. Drawing the above considerations together, I conclude that future occupiers of the development proposed would have acceptable access to services and would improve, albeit modestly, the sustainability of the wider rural community without, due to its limited scale and respect for the existing settlement pattern, causing harm to the vitality, appearance and character of the countryside. Accordingly, I conclude that it would be consistent with Policies CS5 and CS6 of the CS and with Policies MD2, MD3 and MD7a of the SAMDev insofar as they seek to control development in the countryside and create sustainable places.
16. In coming to this view, I have had regard to various recent appeal decisions submitted that relate to sites elsewhere in Shropshire, where proposals have been dismissed on the basis of being found to be in unsustainable locations. However from the limited information I have been given, these cases appear to have been in different parts of the county and / or are characterised by different site circumstances. It has not therefore been possible to draw a reasonable parallel between those cases and the current appeal, which I have determined on its own merits.

Affordable Housing

17. Policy CS11 of the CS and the associated Shropshire Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) set out the Council's strategy for securing affordable housing from new residential development.
18. Policy CS11 seeks to meet the diverse housing needs of Shropshire residents and to create mixed, balanced and inclusive communities including through the contribution from all new open market housing development to the provision of local needs affordable housing.
19. However the Government's Planning Practice Guidance confirms that following the order of the Court of Appeal dated 13 May 2016 giving legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014, there are specific circumstances where contributions for affordable housing should not be sought from small scale development¹. These circumstances include developments of 10-units or less and which have a maximum combined gross floorspace of no more than 1000 sqm.

¹ Paragraph: 031 Reference ID: 23b-031-20160519

20. Policy CS11 is not therefore consistent with current national policy and accordingly should not be regarded as up to date insofar as it relates to affordable housing contributions from small scale development.
21. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the Framework are as follows:
 - 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. The appellants have submitted a UU committing to restrict one of the dwellings as an affordable unit either through discounted rent or sale arrangements. The form of the undertaking has not been disputed by the Council. Whilst it states that the single unit contribution would be an overprovision in relation to target proportions, this is inevitable given the limited scale of the development.
23. However in light of national policy and the lack of evidence, taking into account the illustrative drawings provided, that the units would have a combined gross floorspace in excess of the threshold specified above, a planning obligation to secure an affordable housing unit would neither be necessary nor fairly and reasonably related in scale to the development.
24. I therefore conclude that the principle of securing an affordable housing unit from the scheme would not meet the relevant Regulation 122 and Framework tests and is not, therefore, justifiable. Whilst the UU would accord with the requirements of Policy CS11 of the CS, which seeks to make appropriate provision for affordable housing in the area, it would be in conflict with current national planning policy, which states that affordable housing contributions should not be sought from small scale developments and to which I must give substantial weight.

Other Matters

25. There is a dispute between the parties as to whether the Council can demonstrate a five year supply of housing land. I am mindful, in this regard that the Council has successfully challenged an appeal decision (Ref: APP/L3245/W/15/3067596) in the High Court, the effect of which is that it cannot be assumed that the Council does not have in place a five year supply of housing land. However, I have found no material harm as a consequence of the development proposed. In such circumstances, paragraph 14 of the Framework indicates that permission should be granted. There is no need, therefore, for me to come to a view on the Council's housing land supply position.
26. A number of objections to the proposal were raised by local residents. With regard to concerns about the detail of sewerage arrangements, the potential for contamination and impact on the water table from raising the finished floor level of the dwellings I have not been presented with any compelling evidence that a problem would result. Furthermore, with specific regard to drainage, I have taken into account that the Council no longer objects in principle, subject to a suitable condition.

27. With regard to concerns that the pond would pose a danger, this would be no more so than exists because of the general close proximity between public areas and water bodies. It would not be reasonable to withhold planning permission on such grounds. Concern that the houses would not sell, is a matter for the developer and not for my deliberations in this appeal.
28. The suitability of the layout in terms of impact on adjacent land users would be a matter for detailed consideration, required as a separate application to the Council. I am, however, satisfied that it would be possible to secure a layout that would not result in harm to the living conditions of existing residents.

Conditions

29. I have considered the conditions suggested by the Council. Conditions requiring submission of all reserved matters, time limits for commencement of the scheme and compliance with approved plans are required to protect the character and appearance of the area and to secure a satisfactory form of development. I have set the time allowed to submit reserved matters to 12 months from the date of this decision considering that the appellants are at an advanced stage of finalising details and that this would encourage commencement of the development. Conditions are required with regard to details of drainage and external lighting in order to protect the environment and to minimise disturbance to bats.
30. I have made alterations to the wording of some of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in Planning Practice Guidance. The condition concerning drainage is specified as a pre-commencement condition as this is considered fundamental to the development permitted.
31. Conditions requiring habitat improvements for bats and birds would be unnecessary and unreasonable given that it is undisputed that the site is of low ecological value and can be carried out without loss of valued habitat and harm to protected species. In any event, landscaping improvements together with the drainage pond are likely to result in ecological benefits to the locality. A specific condition requiring landscaping details to be included with the first submission of reserved matters would be unnecessary.

Conclusion

32. For the above reasons I conclude that the proposal would amount to the sustainable development for which there is a presumption in favour as set out in the Framework.
33. For the aforementioned reasons, and having had regard to all other matters raised, I conclude that the appeal should succeed and planning permission be granted.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping (including boundary treatments), 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 12 months 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: Location Plan. This excludes the layout shown which is for illustrative purposes only.
- 5) Prior to any development taking place details of the package sewage treatment plant to meet the 3960 litre/day flow rate shall be submitted to and approved in writing by the local planning authority. No part of the development shall be occupied until the works for the disposal of foul and surface water drainage have been provided in accordance with the approved plans and specifications. The works shall thereafter be retained.
- 6) Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.

Appeal Decision

Site visit made on 16 August 2016

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 04 November 2016

Appeal Ref: APP/L3245/W/16/3145896

Land adjacent The Old School House, Llanyblodwel, Oswestry, Shropshire SY10 8NQ

- 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 Mrs Mair Williams against the decision of Shropshire Council.
 - The application Ref 15/01687/OUT, dated 14 April 2015, was refused by notice dated 14 January 2016.
 - The development proposed is the erection of 4 dwellings, including 1 affordable.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 4 dwellings, including 1 affordable at Land adjacent The Old School House, Llanyblodwel, Oswestry, Shropshire SY10 8NQ in accordance with the terms of the application, Ref 15/01687/OUT, dated 14 April 2015, subject to the conditions set out in the Annex to this decision.

Procedural matters

2. The application is made in outline with landscape and scale being reserved for subsequent approval. However, the Council accepts that it incorrectly dealt with the proposal on the basis that all matters were to be reserved. The appellant has suggested that I deal with the appeal on this basis, and in the interests of fairness, I consider that it is appropriate to do so.
3. The appellant has submitted a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which makes provision for one of the proposed dwellings to be affordable. I shall refer to this in more detail below.

Main Issue

4. The main issues are:
 - i) the effect of the proposal on the housing strategy for the area, and
 - ii) the effect of the proposal on the setting of the Tanat River Bridge, the Old School House and the Old School, all being listed buildings.

Reasons

Housing strategy

5. The housing strategy for rural areas of the county is set out in Shropshire Core Strategy (CS) Policy CS4, which focuses new development in 'Community Hubs'

- and 'Community Clusters', and does not allow development outside these settlements unless they comply with CS Policy CS5, which sets out the circumstances in which development will be allowed in the countryside. Although the CS predates the National Planning Policy Framework (the Framework) I consider that these policies are broadly consistent with it.
6. Shropshire Council Site Allocations and Management of Development Plan (SAMDev) post-dates the Framework. Policy MD7a deals with housing development in the countryside and reinforces the CS approach, saying that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters.
 7. SAMDev Policy S14.2(viii) designates Llanyblodwel, amongst other settlements, as a community cluster, providing that sustainable development by infilling, conversions and small groups of houses may be acceptable on suitable sites within the established development boundaries of the settlement, together with exception sites within or adjacent to it. It says that it aims to provide for future housing growth of about 15 dwellings during the plan period to 2026 within the settlement boundaries of Llanyblodwel and Porthywaen, and on adjacent exception sites.
 8. The boundary for Llanyblodwel incorporates two tightly drawn separate areas, a core of buildings immediately to the south of the bridge over the River Tanat, and a string of buildings lining the south side of the road on the north bank of the river. The appeal site lies immediately to the west of the northernmost part of the settlement boundary, separated from the southernmost part of the settlement boundary areas by a field and the Tanat River bridge.
 9. As CS Policy CS4 and SAMDev Policy MD7a make clear that open market housing outside of these settlement boundaries will not be allowed, the proposal would conflict with these policies. However, SAMDev Policy MD3 says that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement development boundaries that accord with the settlement policy may be acceptable subject to specific considerations set out in the policy.
 10. The explanatory text to the policy says that to ensure that a flexible, responsive supply of housing land is maintained throughout the plan period, if a settlement is struggling to achieve its housing guideline within the plan period then a positive approach will be taken to development on sites that may lie outside the settlement development boundaries but are otherwise in accordance with the relevant settlement policy.
 11. The appellant contends that the guideline figure of 15 dwellings contained within SAMDev Policy S14.2(viii) is unlikely to be met, mainly because the opportunities for providing new dwellings within the remit of the policy are so constrained. I agree that the opportunities for infill development are sparse, and there is no undeveloped land within the boundaries where small groups of houses could be sited. That leaves only conversions, and the appellant has identified only one building that could potentially be suitable for conversion, and that has not come forward.
 12. Moreover, during the first half of the plan period only three dwellings have been delivered in the Parish, and one of those was an agricultural worker's dwelling, which would not have contributed to the general housing need. Local

residents say that it is not appropriate to analyse housing delivery on such a local level, and that other parishes have exceeded their guideline figures. The SAMDev makes it clear that the guidelines are not maxima, and it is clear that Policy MD3 anticipates housing delivery to be assessed at local level, and it is important to do so to help ensure that local needs are met.

13. The Council argues that the guideline figure is capable of being realised "in principle", but has not identified sites that could be developed, or buildings converted, within the ambit of the policy. It seems to me to be logical that the most readily developable sites would have been likely to come forward in the earlier part of the plan period, but very few have done so. It seems to me to be unrealistic to pin much hope on a substantial number coming forward in the remaining years of the plan period. On the basis of the evidence before me, I am not persuaded that the guideline figure is likely to be met during the plan period, and therefore it is appropriate to look at the proposal in the light of the permissive provision of Policy MD3.
14. In my view, the proposal would accord with the general strategy, in that the appeal site would lie in part of the small gap between the two parts of the designated community cluster, and in terms of its locational suitability with regard to access to services and facilities, it would be more or less identical to the sites within the settlement boundary. The proposal would result in the development of undeveloped countryside, which, whilst contrary to one of the overarching aims of Policies CS4 and MD7a, is nevertheless countenanced in Policy MD3, which contains no restriction on the development of greenfield sites outside of settlement boundaries. The need to ensure that the housing needs of the area are met is an overriding consideration which accords with the flexibility provided for in the plan, and is consistent with national policy which aims to boost significantly the supply of housing.
15. The four dwellings proposed would be proportionate to the overall guideline figure of 15. There is no evidence of unimplemented conditions coming forward, and the proposal would provide a benefit in meeting the housing needs of the area. As discussed below, I find that no materially harmful impacts would arise, and that the proposal would represent sustainable development. Under these circumstances, there is no need for me to consider arguments as to whether the Council's policies that relate to housing supply are out of date.
16. The Parish Council's support for the proposal reinforces my conclusion on this issue, that although the proposal would conflict with policies I have identified above, the proposal would comply with Policy MD3, and that the importance of meeting the housing needs of the area, justifies my not determining the appeal in accordance with the policies which seek to control development outside of settlement boundaries. Thus I find that the proposal would not conflict with the housing strategy of the area.

The effect on heritage assets

17. The Council did not refuse the application for reasons relating to heritage significance, and officers concluded that, subject to suitable detail, there would be no detrimental impact on the setting of the Tanat river bridge or on the Old School House. Local residents argue that both would be harmed.

18. The bridge over the River Tanat is of historical and social importance, and is an attractive stone structure in its own right. It is both listed and a scheduled Ancient Monument. It carries the road leading to the core of the settlement from the north, and is next to a public footpath which runs along the north bank of the river. I consider that the appeal site forms part of the setting in which the bridge is perceived, and the road leading to it carries with it historical and functional associations.
19. The submitted plans, which are being treated as indicative only, show that there would be an area of tree planting in the corner of the land nearest to the bridge, which is outside of the application site, but within the appellant's ownership. I consider that the distance between the proposed dwellings and the bridge, and the provision of intervening planting which would filter views of the houses when seen from the bridge, would be sufficient to ensure that the setting of the bridge would not be harmed.
20. The Old School and the Old School House are listed for their group value and they share similar architectural interest. The Old School House is an imposing, large stone building, set well back from the road, and sited in a well-defined stone walled curtilage, the wall also being listed.
21. The Old School and the Old School House are prominent when seen from the bridge and I agree that views of them from the bridge and the public footpath are important. Whilst the proposed houses would be seen in many of the same vistas as the listed building I consider that views would not be seriously disrupted, because there would be adequate space between the Old School House and its boundary and the nearest house. The field has no special functional or historical significance to the setting of the Old School House and the Old School. Even with houses to the west side, the listed buildings would still be seen as a separate group, with their own identity, and because of their larger size, the proposed dwellings would not compete with them.
22. The houses would sit between the two historic areas of Llanyblodwel. However, even in conservation areas, which this is not, modern development of a suitable design quality can often be accommodated satisfactorily. I recognise that a row of "anywhere" houses, lacking any special design quality or distinctiveness, would be likely to appear at odds with the appearance and historic interest of the Old School House, but I am confident that an imaginative layout and design could ensure that both of these features are respected. The appellant has indicated that they would be likely to be of a cottage scale and design, and I consider that this would provide a satisfactory relationship.
23. I therefore conclude on the second main issue that the proposal would not harm the setting of either of the heritage assets, and would not conflict with CS Policy CS17 which concerns environmental networks, and, amongst other things, aims to protect and enhance the historic environment. Nor would it conflict with SAMDev Policies MD2 or MD13 which respectively deal with sustainable design and the historic environment.

Other matters

24. It is argued on behalf of a group of local residents that the proposal would fail to fulfil the environmental dimension of sustainable development, in that there

would be a heavy reliance on the private car to reach a range of normal travel destinations.

25. I accept that Llanyblodwel has a very limited range of facilities. However, there are two relevant considerations. Firstly, the Council's housing strategy relies on a significant proportion of its housing needs being met in the rural area, and whilst some of that will be provided in settlements with a range of facilities, other community clusters and hubs may have a more limited range, as is the case in Llanyblodwel, where there is only a church, a pub and a community hall. Small numbers of dwellings are sought in such locations, reflecting in part the limited accessibility to services and facilities that such locations possess.
26. The second factor is that there is a bus stop within an easy walk of the appeal site, which serves Oswestry as well as a number of smaller settlements. I was invited to walk from the bus stop to the site on my village, which I did during the morning peak period. Although the road from the bus stop is unlit and lacks a footway, traffic along the road was sparse, and the gradient of the road was not unduly taxing. I consider that the bus service offers a realistic alternative to travel by car, and this contributes to the site's sustainability credentials.
27. The benefit of providing four new dwellings helps to serve a local housing need and this contributes to the social dimension. The construction of the houses, their occupation and the payment of the relevant Community Infrastructure Levy will provide economic benefits to which I also attach some weight. When looked at in the round, whilst noting the limited accessibility to services and facilities, in the context to which I have referred, I find that the overall benefits of the scheme outweigh the limited dis-benefits, and that the proposal can be considered to be sustainable development, to which the presumption in its favour applies.

Planning obligation and conditions

28. The proposal and the unilateral undertaking entered into by the appellant offers that one of the proposed dwellings should be affordable. This offer is not required by policy, and therefore the obligation is not necessary, notwithstanding the benefit it would bring to local people in need of affordable housing. The obligation thus fails to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 and it would be unlawful for me to take it into account.

Conditions

29. The Council has suggested a number of conditions which I have assessed in the light of national guidance. Details of surface and foul water disposal are necessary to ensure that the site is satisfactorily drained. The provision of bat boxes is required to promote biodiversity. Alterations to the highway are needed in the interests of highway safety. I have also added a condition to require that the landscaping reserved matters include details of tree planting in the vicinity of the Tanat river bridge, in the interests of appearance and to give effect to the appellant's intentions.

30. The Council has suggested that the development be carried out in accordance with the proposed site plan, but as all matters are reserved for subsequent approval, I consider that this would be unnecessary.

Conclusion

31. For the reasons given above, I conclude that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

- 1) Details of the access, 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) No dwelling shall be occupied until a scheme of foul and surface water drainage has been submitted to and approved in writing by the local planning authority, and the approved scheme has been completed.
- 5) Four bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the dwellings. All boxes must be sited at least 4m in height above the ground with a clear flight path and thereafter be permanently retained.
- 6) No dwelling shall be occupied until a scheme showing the widening of the road along the site frontage to a width of 4.5m, together with an increase of the inside radius of the bend to the west of the site, has been submitted to and approved in writing by the local planning authority and the approved works have been carried out in accordance with the approved details.
- 7) The landscaping details to be submitted in pursuance of condition 1 shall include details of additional tree planting in the vicinity of the Tanat River Bridge.

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