



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

Date: Monday, 24 July 2017

Committee:
South Planning Committee

Date: Tuesday, 1 August 2017
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

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

Members of the Committee

David Evans (Chairman)
David Turner (Vice Chairman)
Andy Boddington
Gwilym Butler
Simon Harris
Nigel Hartin
Richard Huffer
William Parr
Madge Shingleton
Robert Tindall
Tina Woodward

Substitute Members of the Committee

Jonny Keeley
Heather Kidd
Christian Lea
Elliott Lynch
Cecilia Motley
Vivienne Parry
Kevin Turley
Leslie Winwood
Michael Wood

Your Committee Officer is:

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

AGENDA

1 Apologies for Absence

To receive any apologies for absence.

2 Minutes (Pages 1 - 4)

To confirm the minutes of the South Planning Committee meeting held on 4 July 2017.

Contact Linda Jeavons (01743) 257716.

3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 pm on Thursday, 27 July 2017.

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 Garages Off Rock Lane, Ludlow, Shropshire, SY8 1SF (17/01199/FUL) (Pages 5 - 24)

Erection of 4No bungalows following demolition of 21No garages.

6 Eastville, Chirbury, Montgomery, Shropshire, SY15 6BH (17/01352/FUL) (Pages 25 - 34)

Erection of extension to dwelling.

7 Proposed Dwelling South Of The Sidings Snailbeach Shropshire (17/01360/REM) (Pages 35 - 50)

Approval of reserved matters (appearance, landscaping, layout and scale) pursuant to outline permission 14/05151/OUT for the erection of one dwelling and alterations.

8 Housing Development Site, Poyner Close, Ludlow, Shropshire, SY8 1RQ (17/01372/FUL) (Pages 51 - 66)

Erection of 1No open market bungalow (amended description).

9 Land at Sidney Road, Ludlow, Shropshire (17/01387/FUL) (Pages 67 - 94)

Erection of seven bungalows for social housing.

10 Pumping Station, The Moors, Diddlebury, Shropshire, SY7 9JZ (17/03071/TEL) (Pages 95 - 112)

Installation of a 15 metre high monopole accommodating 3no antennas and 2no 600mm dishes with 3no equipment cabinets all located within a 7 metre by 7metre stock proof fenced compound.

11 Schedule of Appeals and Appeal Decisions (Pages 113 - 138)

12 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 29 August 2017, in the Shrewsbury Room, Shirehall.

This page is intentionally left blank



Committee and Date

South Planning Committee

1 August 2017

SOUTH PLANNING COMMITTEE

Minutes of the meeting held on 4 July 2017

2.00 - 3.12 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

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

Present

Councillor David Evans (Chairman)

Councillors Andy Boddington, Gwilym Butler, Simon Harris, Nigel Hartin, Richard Huffer, William Parr, Madge Shingleton, Robert Tindall, Tina Woodward and Cecilia Motley (Substitute) (substitute for David Turner)

13 Apologies for Absence

An apology for absence was received from Councillor David Turner (Substitute: Cecilia Motley).

14 Minutes

RESOLVED:

That the Minutes of the meeting of the South Planning Committee held on 6 June 2017 be approved as a correct record and signed by the Chairman, subject to the following additional bullet point being added to the resolution at Minute No. 10:

- To aid the decision-making process, any sites for abstruse applications be marked and pegged-out accordingly prior to any site visit being made.

15 Public Question Time

There were no public questions or petitions received.

16 Disclosable Pecuniary Interests

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

With reference to planning application 16/03628/FUL, Councillor David Evans declared that he had previously rented this site and was well-acquainted with the applicant.

17 **Former Poultry Unit Site, Corfton, Shropshire, SY7 9LD (16/03628/FUL)**

By virtue of his declaration at Minute No. 16, Councillor David Evans left the room, took no part in the debate and did not vote on this item.

It was **RESOLVED**: That Councillor Gwilym Butler be elected as Chairman for this item.

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

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed an amendment to the recommended condition No. 2 and an additional condition.

Members noted the statement from Diddlebury Parish Council circulated prior to the meeting.

Mr S Davies, representing local residents, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Cecilia Motley, as local Ward Councillor, made a statement. She then left the room, took no part in the debate and did not vote on this item. During her statement, the following points were raised:

- An application for this site first came before Diddlebury Parish Council in 2016. Since then the applicant's agent had attended Parish Council meetings to present the plans and by withdrawing and resubmitting revised plans had clearly sought to meet and mitigate the concerns of residents and the Parish Council. The final iteration of this application had not come before the Parish Council for determination, although a previous iteration for eight rather than seven houses had been turned down on the chair's casting vote;
- The principal concern of the Parish Council and residents had arisen over the fact that Corfton, as part of a wider cluster, would exceed its stated limit of 10 houses, bearing in mind that five permissions had already been granted for individual dwellings. Officers had no problem with the extra houses proposed, bearing in mind that Shropshire had to sustain the five year housing supply. However, she suggested that Members may wish to consider this in terms of impact on the settlement of Corfton along with the points raised by Planning Policy in the final paragraph of their submission as set out in paragraph 4.1.9 of the report;
- Infilling - The boundary hedge-line was very clearly designated and it was actually a much larger site than would appear when looking down on it from the main road;

- Drainage – Concerns had been raised by those who knew the site well. She suggested that Members might want to consider the introduction of semi-permeable surfaces rather than hard standing;
- Design and materials – It could be argued that the scheme had been designed to complement the settlement of Corffton. She drew attention to the views of the Conservation Officer who had indicated that the setting would not be harmed and the dwelling designs were traditional and would reflect the local vernacular and rural character of the site;
- Affordable housing – A previous application had made provision for one affordable dwelling and this had not been replicated in further iterations, presumably because the proposal would bring a brownfield site into housing use. There is demand for more affordable housing in all divisions but the Corvedale had achieved a considerable number of consents on single plot affordable exception site dwellings because they went to local people. It was easier to get support for exception site dwellings rather than housing association affordables; and
- This site was an eyesore and the application proposed a solution – it could be argued that housing was more acceptable than other potential uses for a brownfield site, eg industrial units or modern poultry units.

Mr J Stevenson, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Members noted that the use of semi-permeable surfaces rather than hard-standing could be covered by the additional condition as set out in the Schedule of Additional Letters; and expressed their disappointment regarding the lack of affordable housing provision. In response to questions from Members, the Principal Planner provided clarification insofar as he could regarding CIL and affordable housing contributions/policy.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report; and
- The amended condition No. 2 and the additional condition as set out in the Schedule of Additional Letters.

(The Chairman returned to the meeting and resumed the chair.)

**18 The Glen Cottage, 6 Worthen, Shrewsbury, Shropshire, SY5 9JH
(17/00448/FUL)**

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

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

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

RESOLVED:

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

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

“The Committee noted on the site visit ash trees on the site whose root systems will be assisting with stabilising the land where there is a drop to the stream. They wish to make the observation that these trees need to be managed carefully so that the ability of the roots to continue with this stability function is not compromised by the trees becoming too big.”

19 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the southern area as at 4 July 2017 be noted.

20 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 1 August 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:



Committee and date
 South Planning Committee
 1 August 2017

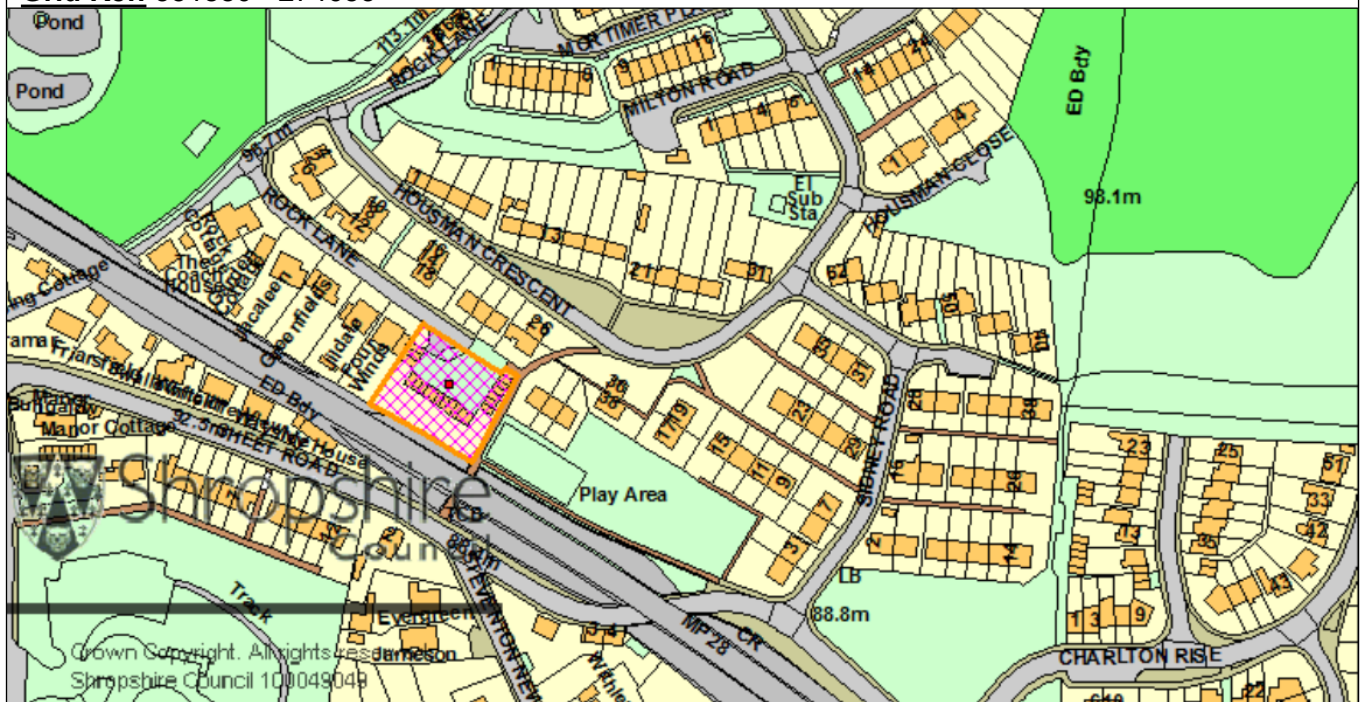
Development Management Report

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

Summary of Application

Application Number: 17/01199/FUL	Parish:	Ludlow Town Council
Proposal: Erection of 4No bungalows following demolition of 21No garages		
Site Address: Garages Off Rock Lane Ludlow Shropshire SY8 1SF		
Applicant: Shropshire Housing Group		
Case Officer: Heather Bradley	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 351880 - 274653



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the following: -

- Erection of four affordable bungalows following demolition of existing garaging.
- Formation of 8 parking spaces.
- Erection of new retaining wall.

1.2 The bungalows are proposed in the form of two pairs of semi detached units and would provide two bedroomed accommodation covering a floor area of around 61sqm each. Each bungalow is proposed to have its private amenity space at the rear which is a more open plan area of landscaping proposed to sit between the bungalows and the existing turning head and area for the proposed parking. The units are proposed to be constructed in brick under concrete tiled roofing.

1.3 The proposed retaining wall would be a continuation of the existing brick retaining wall and would run along the south west boundary between plot 4 and the existing pedestrian walkway. Above the retaining wall it is proposed to install 1.8m timber boundary fencing.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site currently comprises of 21 prefabricated concrete garages set out in a rough U shape, with an area of hardstanding to the front. The site is located at the end of a cul-de-sac known as Rock Lane, a single width highway which runs through to Sandpits Avenue in Ludlow. Rock Lane is made up of a mix of detached bungalows and, terraced two storey housing.

2.2 To the rear of the garaging is an open grassed area which slopes down towards the boundary of the Cardiff – Manchester railway line which is set at a higher ground level than the application site. A pedestrian pathway which links Houseman Crescent to the north with Rock Lane before splitting into two spurs to serve Sheet Road (via a path to the east and a southern route running via an under pass) sits along side the eastern boundary of the application site. A small playground is present to the other side of the pedestrian pathway and is overlooked by the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council hold a view contrary to officer recommendation and the Local Ward Member requested that the application be considered by planning committee. This has been discussed with the Chair and Vice Chair of the South Planning Regulatory Committee whom considers the scheme raises material planning considerations that warrant assessment by the South Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Ludlow Town Council: Object on the following grounds:

- The road is very narrow.
- The development would increase traffic
- There is a lack of parking in the area and the development would add to the congestion.
- Access for emergency vehicles and service vehicles such as refuse collection would be impeded.

4.1.2 SUDs: No objection subject to condition requiring drainage plans and details.

Note: Surface water cannot be disposed of directly to a main sewer as suggested within the planning application. .

4.1.3 SC Affordable Houses: No objection - There is a high need for affordable homes in Ludlow and therefore the provision of these four dwellings is to be welcomed. It is considered that there is no requirement for a S106 agreement in this instance as the allocation and affordability in perpetuity can be controlled by relevant planning conditions.

4.1.4 SC Public Protection: Final Comments – 10th July 2017 - No objection subject to conditions regarding noise attenuation.

4.1.5 West Mercia Police: Comments – There are opportunities to design out crime, reduced the fear of crime and promote community safety. The application should aim to achieve the Secured by Design (SBD) award status for the development. By doing so it can also address the requirements of the new Approved Document Q.

4.1.6 SC Highways: No Objection – subject to the development being carried out in accordance with the approved details and informatives.

4.1.7 Network Rail: Final Comments – 05th July 2017: Holding Objection Withdrawn following receipt of the requested information - to confirm details of the proposed retaining wall and confirmation that it will not be attached to Network Rails wing-wall.

General comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land provided for the applicants information.

4.1.8 SC Ecology – No objection subject to conditions and informatives.

4.2 - Public Comments

4.2.1 1 objection received –

- Loss of turning area for Lorries, including bin and recycling vehicles.
- Pressure on sewage and drainage system as a result of more development.
- Creates a cramped living environment.

5.0 THE MAIN ISSUES

Principle of development
Affordable Housing
Siting, scale and design of structure
Visual impact and landscaping
Highway Safety, loss of garaging
Residential Amenity
Drainage
Biodiversity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The development plan for Shropshire is the Council's Adopted Local Development Framework Core Strategy, the associated 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and the adopted Site Allocations and Management of Development (SAMDev) Plan. The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach. The Council therefore considers the housing policies contained within the Core Strategy up to date and should be attached full weight.

6.1.2 For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in policy CS3; CS4 and set out in detail in the Council's SAMDev Plan, policy MD1.

6.1.3 Ludlow is identified under policy CS3 as a market town and a focus for development, the SAMDev settlement policy S10 covers the Ludlow area and states for Ludlow itself:

'new housing will be delivered primarily on allocated housing sites.... Alongside infill and windfall development within the town's development boundary'

6.1.4 The application site isn't an allocated site, however it does lie within the development boundary for the town and the development of the site for housing is in principle considered acceptable and in accordance with the relevant development plan policies set out above.

6.2 Affordable Housing

6.2.1 The dwellings are proposed to be affordable units, to which the Councils affordable housing team have confirmed a local need for. Ensuring local occupancy and maintaining affordability in perpetuity is usually controlled through a section 106 agreement. However, where a Registered Provider is the applicant/developer, which is the case for this application then these aspects can normally be controlled by planning condition. As such appropriate conditions are recommended in Appendix 1 of this report to ensure the units remain available as affordable and meet local housing need.

6.3 Siting, scale and design of structure

6.3.1 Paragraph 60 of the NPPF states that:

‘Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness’

6.3.2 This national guidance is reflected and supported at the local level through Core Strategy policy CS6, which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. SAMDev policy MD2 expands further on this and expects development to contribute to and respect locally distinctive or valued character and existing amenity value by:

- i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and
- ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
- iii. Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; and
- iv. Enhancing, incorporating or recreating natural assets in accordance with MD12.

6.3.3 This part of Rock Lane comprises of a mix of bungalows and two storey dwellings the majority constructed in red brick under concrete tiled roofs. The design of the proposed scheme is considered relatively simple, this combined with the use of materials to match the existing built development within the area would create a scheme which is reflective of the local vernacular and overall character of the street scene.

6.4 Visual impact and landscaping

- 6.4.1 Policies CS17 and MD12, alongside CS6 and MD2 support NPPF policies and seek to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment.
- 6.4.2 There are public views into the site from both Rock Lane, and off the pedestrian pathway which runs adjacent to the site. In addition the site is partially visible within the wider context from the railway line and users of Sheet Road as the highway travels down towards the site before turning south passing under the railway line which would screen views of the site from the south.
- 6.4.3 Whilst arguably the proposed bungalows due to the pitched roof design may be more prominent in both the immediate and wider contexts than the existing garaging, the proposed dwellings are single storey and would be read alongside existing built residential development. This in combination with the use of materials to match existing residential properties is judged to be more in keeping with the area than the concrete prefabricated garages.
- 6.4.4 The extension of the existing retaining wall to enclose the rear amenity space for plot four would match the materials and step down design existing. It is considered this walling along with the timber boundary fencing would not detract from the character of the area. Overall it is judged that the proposed housing scheme would not result in significant harm to the visual amenity of the area.

6.5 Highway Safety

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

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

- 6.5.2 Rock Lane is in an unclassified road governed by a 30mph speed limit. The highway in places has the character of the remnants of the rural lane it originally was, being single width and running steeply up from the T junction off which the application site can be found.
- 6.5.3 The application site comprises of 21 garages, of which the applicant advises 7 are let and the rest vacant. Of the 7 rented, 3 are used by residents within this part of Rock Lane. The scheme proposes to provide 8 parking spaces which the applicant confirms will be shared by the occupiers of the proposed bungalows and other residents within the street. There are no set parking standards within the development plan and national planning policy does not require developers to provide car parking. In determining whether a development’s level of parking is suitable the Local Planning Authority takes into account factors set out in part 4 of the NPPF, including consideration of the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport.

6.5.4 The garaging is clearly underused and their narrow design is such that it is often no longer suitable for the parking of many of today's modern vehicles. The site is within walking distance of the town centre and bus stops on Sidney Road and Sheet Road which provides a public transport link to the town centre. This balanced with the proposal to provide 8 shared parking spaces it is considered that the loss of the garage would not exacerbate any existing parking difficulties in the street.

6.5.5 The Councils Highways team have considered the proposal and are content that the scheme can be carried out without resulting in undue harm to highway safety.

6.6 Residential Amenity

6.6.1 Policy CS6 requires that development should safeguard residential and local amenity.

6.6.2 The application site is in close proximity to the railway line and thus the Councils Regulatory Services Team (formally Public Protection) requested details as to how the external and internal amenity areas would be protected by noise. In response to this request a noise assessment report reference 9511E Rev 0 produced by Sound testing was submitted by the applicants agents.

6.6.3 This report has identified that noise would be at levels requiring mitigation. The report includes a mitigation proposal in sections 8.1-8.4. The Councils Regulatory Services Team have considered these recommendations and confirm that the specification of the glazing and ventilation proposals would be acceptable along with the ceiling attenuation measures. Subject to the implementation of the mitigation measures it is considered that the development can be undertaken without detriment to the residential amenity of future occupiers of these dwellings. To ensure that the mitigation measures are put in place a condition is recommended to be attached to any planning permission granted.

6.6.4 It is noted that the noise assessment states that an acoustic barrier along the boundary of the site with the rail line may not be required on noise grounds and this is generally accepted. However, Network Rail in their comments specifies a need for a 1.8m high boundary protection to stop access to the rail line. It is therefore recommendation that the opportunity is taken to ensure that 1.8m high boundary treatment is of good quality to ensure additional acoustic betterments to the garden area and consequently all areas of the development. An informative setting out the recommended construction for this fencing is attached as requested by the Councils Regulatory Services Team.

6.6.5 In terms of the amenity impact of residents of existing properties, the nearest dwelling is a bungalow known as Four Winds and location to the west of the site alongside plot 1. It is noted that the proposed bungalows are set back from the building line of this adjacent neighbour to enable the retention of the turning head and provision of a parking area. This results in the side elevation of the proposed development running partially alongside the rear garden space of this dwelling. However given the single storey nature of the proposal and the orientation of these properties with south to the rear of the site it is not considered that the amenity of

the occupiers of this dwelling would be unduly harmed as a result of the proposal.

6.6.6 The properties to the north are set at a slightly higher ground level and look down on the site, these and the dwellings to the north east are considered to be at a suitable distance away so as not to have existing residential amenity significantly compromised by the proposal.

6.6.7 The side gable end elevation of plot 4 would be situated alongside the existing public footpath and overlook the play area. It considered that the proposed development could alter the character of the area to a degree becoming more enclosed as a result of the boundary treatments and increased bulk of the dwelling compared to the currently relatively open feel with the garaging site. To enhance natural surveillance of this area and prevent the sense of enclosure and improve the feeling of security the applicants amended the plans to increase the number of openings in this side elevation and which would overlook the area.

6.6.8 It is almost inevitable that building works anywhere will cause some disturbance to adjoining residents. The SC Public Protection recommend hours of working (07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays and Public or Bank Holidays) to mitigate the temporary impact could be conditioned on any approval issued, along with a condition requiring a construction method statement.

6.8 Drainage

6.8.1 Core Strategy policy CS18 seeks to achieve a reduction in surface water run off by the use of sustainable drainage systems within developments. The application proposes connecting the surface water drainage into the existing mains system. The Councils Drainage Team recommended that this is not done as it could result in increased flood risk elsewhere. Instead, the uses of soakaways are recommended and should be first investigated. The Drainage Team are content that this matter can be dealt with as a pre-commencement condition. Foul drainage is proposed via main sewer connection and the Drainage team raise no objections to this, although permission of the main sewer provided will be required and whom would ensure there is capacity.

6.9 Biodiversity

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

6.9.2 This application is accompanied by an Ecology survey by Pearce Environment and which concluded that the hardstanding and grassland area would have low

ecological value. No evidence of bats was found in the garage buildings which are considered to provide negligible potential for bat species and the site habitats is also considered unsuitable for Great Crested Newts. The Survey and recommendation have been considered by the Councils Ecologist whom is content that ecological interests can be safeguarded by condition and informatives.

7.0 CONCLUSION

7.1 The site is located within the development boundary of Ludlow which is identified by development plan policy as a market town suitable for new housing development on appropriate sites. The accommodation proposed would also contribute towards meeting a local affordable need and in principal is acceptable.

7.2 The design, scale and siting of the scheme would not detract from the character and appearance of the site, or surrounding area. Subject to conditions it is considered the scheme is capable of being carried out without resulting in harm to residential amenity, biodiversity, highway safety or exacerbating surface water flooding risks.

7.3 It is considered that the scheme accords with the main objectives of Shropshire Core Strategy policies CS4, CS6, CS11, and CS17, SAMDev policies MD1, MD2 and MD12 and the aims and provisions of the NPPF. It is therefore recommended that planning permission is granted subject to conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Site Allocations and Management of Development (SAMDev) Plan:

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development
MD12 - Natural Environment
Settlement: S10 - Ludlow

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OMROT7TDKEQ00>

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Tracey Huffer
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. Work shall be carried out strictly in accordance with the Ecological Appraisal prepared by Pearce Environment Ltd (September 2016) attached as an appendix to this planning permission.

Reason: To protect features of recognised nature conservation importance.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

6. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall upon written notification from the local planning authority 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 REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

7. 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.

8. Noise attenuation to the properties shall be provided to a minimum standard of that specified in sections 8.1, 8.2, 8.3 and 8.4 of noise assessment carried out by Soundtesting report reference 9511E Rev 0. Details of attenuation measures installed shall be submitted to the local planning authority for approval in writing prior to first habitation of the properties.

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

9. If non permeable surfacing is used on the new parking area, details of a drainage system to intercept water prior to flowing on to the public highway shall be submitted to and approved in writing by the Local Planning Authority. The drainage system shall be installed in accordance with the approved details.

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway, in the interests of sustainable drainage and highway safety.

10. The parking area hereby approved on block plan drawing number 102 E shall be laid out and surfaced prior to the first occupation of the development and thereafter kept available for the parking of vehicles.

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

11. A total of 1 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

12. 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

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

Reason: In order to maintain the amenities of the area in accordance with policy CS6 of Shropshire Council Core Strategy.

14. The dwellings shall not be let or occupied other than either:-

a. under a tenancy in accordance with the normal letting policy of a Registered Provider; or

b. by way of a Shared Ownership lease or equity share arrangement whereby the occupier is able to achieve a share of 80% of the whole.

Reason: To define the permission and ensure compatibility between the requirements of Shropshire Core Strategy Policy CS11

15. In addition to the requirements of the Shropshire Affordable Housing and Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy guidance that may from time to time replace it.

Reason: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.

Informatives

1. SURFACE WATER DRAINAGE

The site is classed as brownfield, therefore a 50% betterment to the current surface water flows should be provided in accordance with Shropshire Council requirements. The use of soakaways should be investigated in the first instance for surface water disposal. The

betterment requirement will be assumed to have been achieved if all surface water is disposed of via soakaways.

Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways are not feasible, drainage details and calculations to limit the proposed discharge, for the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonable practicable to the greenfield runoff volume for the same event as in accordance with the Non- Statutory Technical Standards for Sustainable Drainage Systems dated March 2015.

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

URBAN CREEP

Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. 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.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

SUSTAINABLE URBAN DRAINAGE SYSTEMS (SuDs)

As part of the SuDS, the applicant should consider employing measures such as the following:

- o Water Butts
- o Rainwater harvesting system
- o Permeable surfacing on any new access, driveway, parking/paved area
- o Attenuation
- o Greywater recycling system
- o Green roofs

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

FOUL DRAINAGE CONSENT

Consent is required from the service provider to connect into the foul main sewer.

2. SECURED BY DESIGN

The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at www.securedbydesign.com

3. MUD ON HIGHWAY

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

NO DRAINAGE TO DISCHARGE TO HIGHWAY

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

WORKS ON, WITHING 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)
- carry out any works within the publicly maintained highway
- authorise the laying of private apparatus within the confines of the public highway including any 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

4. NETWORK RAIL - Please note the following comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- o Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- o Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- o Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

GROUND DISTURBANCE

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

PILING

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

ENVIRONMENTAL ISSUES

The design and siting of buildings should take into account the possible effects of noise and vibration and the generation of airborne dust resulting from the operation of the railway.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

DEMOLITION

The demolition works on site must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building, due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence.

ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works.

The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

5. ACOUSTIC BOUNDARY TREATMENT

The Councils Regulatory Service recommends that boundary treatment is comprised of a material of at least 10kg/square metre in order to have beneficial noise impact on the development.

ACTIVE NESTS OF WILD BIRDS

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

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

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

TRENCHES

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

NEW PLANTING

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

REPTILES

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

6. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from www.planningportal.gov.uk or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

7. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

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



Committee and date
 South Planning Committee
 1 August 2017

Development Management Report

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

Summary of Application

Application Number: 17/01352/FUL	Parish: Chirbury With Brompton
Proposal: Erection of extension to dwelling	
Site Address: Eastville Chirbury Montgomery Shropshire SY15 6BH	
Applicant: Mr Trevor Kidd	
Case Officer: Trystan Williams	email: planningdmsw@shropshire.gov.uk

Grid Ref: 326188 - 298355



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission to erect a two-storey extension to the southeast side of the above dwelling house.

2.0 SITE LOCATION/DESCRIPTION

2.1 The property sits on the B4386 close to its junction with the A490 in the built-up core and conservation area of Chirbury village. It is a substantial two-storey house with a brick façade incorporating a large two-storey gabled porch and half-dormers, all with dentil course detailing and moulded brickwork, plus sash windows with painted stone sills and lintels. At the southeast end farthest from the road is a lower bay with similar detailing, which may have been a later addition. Both gable ends and the rear wall are stone-built with brick quoins and window surrounds, whilst the rear aspect also has a pair of lean-tos and white-painted timber-clad attic dormers.

2.2 Adjoining the rear of the property at its northwest end, and continuing along the roadside, is a terrace of stone and brick cottages which once housed workers of the nearby Marrington Hall estate. On the southwest side, set back behind Eastville's front garden, 'East House Cottages' are a semi-detached pair faced in render but with brick gable ends. Meanwhile on the opposite side of the road, beyond low stone walls and trees, are two modern detached houses whose detailing loosely reflects Eastville.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the adopted 'Scheme of Delegation' the application is presented to the planning committee for determination since it relates to the property of an elected member of Shropshire Council.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Chirbury with Brompton Parish Council – No reply received.

4.1.2 Shropshire Council Historic Environment (Archaeology) – comment:

The site lies within the historic core of Chirbury village. Eastville is a stone and brick house with probable worker's cottages attached (Shropshire Historic Environment Record No. 16438), and historic Ordnance Survey mapping indicates that the position of the proposed extension was formerly occupied by an outbuilding (whose roof has left scars on the southeast elevation of the house).

4.1.3 The site therefore has some archaeological potential, albeit low. Consequently a condition should require an archaeological inspection during groundworks.

4.1.4 Shropshire Council Historic Environment (Conservation) – comment:

Eastville contributes positively to the character and appearance of the Chirbury Conservation Area. The lower section at its southeast end may have been a former worker's cottage, or the stone-built sections may indicate earlier structures throughout. Certainly the building seems to have been modified significantly during the Victorian period, with the red brick frontage and steeply pitched gables being typical of the 1880s.

- 4.1.5 There are no objections in principle to the proposed extension, which would be positioned towards the rear of the plot away from the road. However, it is disappointing that some minor design amendments suggested in pre-application advice have not been forthcoming. It is therefore reiterated that the extension's ridgeline should step down from that of the existing right-hand bay (just as the latter is set below the main part of the house), and that its frontage is recessed so as to avoid obscuring the existing quoins on the corner. Furthermore the design of the rear dormer is somewhat odd, and would be better articulated with a lintel and sill. Until these recommendations have been taken into account an objection is raised.
- 4.1.6 Shropshire Council Ecology:
21/4/17 – objection:
According to Government Circular 06/2005 it is essential for the presence or otherwise of protected species, and the extent to which they may be affected by development proposals, to be established before planning permission is granted, in order to ensure that all relevant material considerations are addressed in making the decision. In this case a bat survey report submitted with the application concludes that further survey work is required, given that some stonework and roof spaces were inaccessible and could not be inspected thoroughly. Without these additional surveys there can be no certainty that the development would not cause an offence under the Conservation of Habitats and Species Regulations 2010, and it is recommended that the application is refused.
- 4.1.7 A presence/absence Survey should be carried out in all cases where the preliminary roost assessment finds evidence of or potential for bats, or where a complete and thorough inspection cannot be carried out. The presence/absence survey should involve two or three dusk emergence and/or pre-dawn re-entry surveys between May and September, to aid identification of the bat species present, estimation of the numbers of individuals, and establishment of other characteristics of the roost. This will in turn inform the need for mitigation, compensation and/or enhancements, and for the development to occur under a European Protected Species Mitigation Licence from Natural England. All survey work should be carried out by an experienced, licensed ecologist and in accordance with The Bat Conservation Trust's guidelines.
- 4.1.8 6/7/17 – comment (No Objection):
A licensed ecologist has now carried out sufficient additional surveys to confirm the absence of bats beyond reasonable doubt, with no bats having been recorded entering or leaving parts of the building which would be affected by the development.
- 4.1.9 The presence/absence surveys revealed a summer (non-breeding) roost of a single common pipistrelle bat in the upper part of the main gable on the southwest elevation of the house. However, this is distant from and will be unaffected by the proposed works.
- 4.1.10 A second summer (non-breeding) roost was identified within the roof structure of the adjacent property, No. 2 East House Cottages. A single *Myotis sp.* bat was observed entering and exiting under the roof apex on the gable end, which faces onto Eastville's driveway in an area where high-power night-time security lighting is used. However, no additional illumination of the roost will occur as a result of the proposed extension, and so no adverse impacts are anticipated.

4.1.11 Any planning permission granted should include conditions controlling external lighting and requiring the provision of bat and bird boxes. Informatives regarding the legal status of bats and nesting birds should also be attached.

4.2 Public comments

4.2.1 Site notice displayed 20-04-17; press notice published 11-04-17. Nine neighbour notification letters sent 03-04-17. No responses received to this publicity.

5.0 THE MAIN ISSUES

- Principle of development
- Scale, design and impact on historic environment
- Impact on residential amenity
- Ecology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of enlarging existing dwellings in order to provide additional accommodation for private use by the same household unit is accepted under the Council's Supplementary Planning Document (SPD) on the Type and Affordability of Housing, which supports Core Strategy Policy CS11.

6.2 Scale, design and impact on historic environment

6.2.1 The SPD's key requirement is for extensions to be sympathetic to the size, mass, character and appearance of the *original* dwelling (taken to mean as existed in 1948 in the case of earlier properties, and discounting any subsequent additions) and its surroundings. Meanwhile Policy MD2 of the Site Allocations and Management of Development (SAMDev) Plan requires all development to reflect locally characteristic architectural design and detailing, having regard to factors such as building materials, form, scale and proportion, and also to protect, conserve and enhance the historic context and character of heritage assets. A further consideration here is the Council's duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas, which is reflected by Part 12 of the National Planning Policy Framework (NPPF), Core Strategy Policy CS17 and SAMDev Policy MD13.

6.2.2 As mentioned above this property may have been enlarged previously with the lower bay at the southeast end and the lean-tos at the rear, although conversely the end bay and other stone-built sections may be remnants of an earlier building which was heightened and re-fronted in Victorian times. In either case the local planning authority has no record of any additions post-1948, and, with the possible exception of the right-hand lean-to, historic Ordnance Survey mapping and the nature of construction also suggest that all elements predate the modern planning system. This means they *would* be regarded as original for the purpose of judging whether or not the scale of the proposed extension is appropriate. It is also worth highlighting the Archaeology Team's comment about the existence previously of an attached outbuilding in roughly the same position.

6.2.3 Given the above it seems the overall increase relative to the ‘original’ house would in fact be fairly modest, and that the scheme would reflect the building’s historic elongated form. Moreover the extension would be to the far side of the house least visible from public vantage points, and would follow the recessed frontage and lower roofline of the current end bay so that it too appears subservient to the main part. Although the Conservation Officer suggests it would be better still to step the extension inwards and downwards again, this may look a little contrived and fussy, particularly as it is proposed to continue the facing brickwork across the front of the extension and replicate the existing quoins where this meets the new gable end.

6.2.4 The design of the extension follows the distinctive style of the existing façade, and the use of matching materials can be reinforced by condition. The plans also show sympathetic fenestration which reflects the variety in the form and detailing of the existing windows. It is noted that those on the rear elevation, including the existing dormers, are less elaborate and so arguably it would not be appropriate for the new dormer window to be reworked as per the Conservation Officer’s advice.

6.2.5 The Archaeology Team’s interest can again be addressed by condition to allow the monitoring of ground works and to record any archaeological evidence.

6.3 **Impact on residential amenity**

6.3.1 The extension would face the gable end of its closest neighbour, No. 2 East House Cottages, which is un-fenestrated apart from a door screened by the boundary fence. It may afford some views of No. 2’s rear garden, although these would be at an oblique angle and filtered by trees. Neither would views from the new rear dormer be unduly problematic, given the extent to which the cottages to the northeast are already overlooked and vice versa. It is considered that the proposals would not impact unduly on neighbour amenity.

6.4 **Ecology**

6.4.1 As summarised above the Council’s Ecology Team is now satisfied that the scheme is unlikely to impact directly on bats roosting in another part of the building and in the neighbouring property. Nevertheless a condition requiring ecological enhancements in the form of bat and bird boxes would appear to accord with Core Strategy Policy CS17. However, a further condition controlling external lighting would not be reasonable or directly relevant to the development proposed, given that the site is in established residential use with no such restriction in place. Instead this matter could be addressed through an informative, alongside those recommended by the Ecology Team.

7.0 CONCLUSION

7.1 The development relates to the property’s established residential use and is therefore acceptable in principle. It is judged to be in scale and character with the ‘original’ property as it existed in 1948, and would have no significant impact on the character and appearance of the conservation area. The proposals would not significantly impact on neighbour amenity and archaeological and ecology interests can be safeguarded through planning conditions. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

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.

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

SAMDev Plan Policies:

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Supplementary Planning Documents:

Type and Affordability of Housing

Planning History:

None of relevance

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=ON6IADTDKKW00>

List of Background Papers:

Application documents available on Council website

Cabinet Member (Portfolio Holder):

Cllr R. Macey

Local Member:

Cllr Heather Kidd

Appendices:

Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

STANDARD CONDITIONS

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

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

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

Reason: To define the consent and ensure that the development is in scale and character with the original dwelling and its surroundings, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. The applicant/owner/developer shall notify the Local Planning Authority in writing not less than three weeks prior to the commencement of ground works associated with the development hereby permitted. A representative of Shropshire Council's Historic Environment Team shall be afforded reasonable access onto the site during the course of the development in order to monitor the ground works and record any archaeological evidence as appropriate.

Reason: To ensure that any evidence associated with known archaeological features and sites nearby is recorded satisfactorily, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. Notification is required prior to commencement of the development since the inspection will relate to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

4. Prior to the first use or occupation of any part of the development hereby permitted, artificial roosting opportunities for bats and nesting opportunities for wild birds shall be provided at the site. This shall comprise a minimum of one external woodcrete bat box designed for nursery or summer roosting by small crevice-dwelling bat species, and a minimum of one woodcrete nest box/cup suitable for small wild birds (such as robins, blackbirds, tits, sparrows or swallows), both installed in accordance with the manufacturer's guidelines. These features shall be retained thereafter for the lifetime of the development, in the absence of any further specific permission in writing from the local planning authority.

Reason: To enhance roosting opportunities for bats and compensate for the potential loss of nesting opportunities for wild birds as a result of the development, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

5. Except where indicated otherwise on the approved plans, the external materials and finishes of the development hereby permitted shall match in colour, form, texture and execution those of the existing dwelling on the site.

Reason: To ensure that the development harmonises with the existing dwelling and its surroundings, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. In pursuance of Condition 3 above, which requires the Council's Historic Environment Team to be notified at least three weeks before any grounds works commence, please contact Charlotte Orchard, Senior Archaeological Advisor, at charlotte.orchard@shropshire.gov.uk.
2. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
3. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.
4. Ideally, in order to minimise disturbance to bats (which are European protected species), any external lighting at the site should be designed to take into account the advice set out in the Bat Conservation Trust document 'Bats and Lighting in the UK'.
5. 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.

This page is intentionally left blank



Committee and date
 South Planning Committee
 1 August 2017

Development Management Report

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

Summary of Application

Application Number: 17/01360/REM	Parish:	Worthen With Shelve
Proposal: Approval of reserved matters (appearance, landscaping, layout and scale) pursuant to outline permission 14/05151/OUT for the erection of one dwelling and alterations		
Site Address: Proposed Dwelling South Of The Sidings Snailbeach Shropshire		
Applicant: Mr & Mrs K Kniill		
Case Officer: Trystan Williams	email: planningdmsw@shropshire.gov.uk	

Grid Ref: 337033 - 301732



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

REPORT

1.0 THE PROPOSAL

1.1 This application seeks approval of matters (specifically appearance, landscaping, layout and scale) reserved when outline planning permission was given for the erection of an open-market dwelling at the above site (ref 14/05151/OUT). Means of access was not a reserved matter, although outline Conditions 10 and 11 require the submission and agreement of further details of parking/turning areas and visibility splays concurrent with the reserved matters application. Additionally, amended plans have been submitted during the course of the current application in line with officer advice.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a long, narrow parcel of land along the east side of the Class C road leading south out of Snailbeach village, a former lead mining settlement at the western foot of the Stiperstones ridge. The ground consists of terraces cut into the hillside and retained above the road by a stone wall whose height increases considerably towards the southern end. It once formed part of Snailbeach Wharf, ostensibly the terminus of the Snailbeach District Railway's narrow gauge freight line from Pontesbury. In actuality the line continued southwards into a siding from which trains would reverse northeast up an inclined plane into the heart of the mine complex, now followed by a metalled track off which the site is accessed. Another siding extended into the broad lower terrace on the western half of the site.

2.2 The railway opened in 1877 and operated sporadically until the 1950s. Little remains here besides the earthworks and retaining walls of the terraces (which reflect the differing heights of the railway line and its sidings), although a small timber-framed and iron-clad shed possibly built in the 1920s survives mid-way along the lower terrace. Opposite the site entrance, meanwhile, is a brick building formerly a weighbridge office, now used as holiday accommodation and incorporated into the curtilage of a cottage further north. At the north end of the wharf 'The Sidings' is a modern house, whilst a short distance to the south are two properties on the edge of the neighbouring hamlet of Crowsnest. The hillside to east is densely wooded and the site is just inside the Shropshire Hills Area of Outstanding Natural Beauty (AONB), whilst its northern tip is within the Snailbeach Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the adopted 'Scheme of Delegation', this reserved matters application is presented to the planning committee for determination as specifically requested by Members when they resolved to grant outline planning permission for the development at the 11th October 2016 Committee meeting.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

4.1.1 Worthen with Shelve Parish Council – support

- 4.1.2 Shropshire Council Flood and Water Management – comment:
Before development commences full drainage details should be submitted for approval as per Condition 12 of the outline permission.
- 4.1.3 Shropshire Council Historic Environment (Archaeology) – comment:
The scheme involves new-build construction on a site with a direct linear/functional link via the former railway (Historic Environment Record No. PRN 01344) to Snailbeach Lead Mine (PRN 0984). Parts of the mine complex are a scheduled ancient monument (SAM) which also includes some sections of the railway. However, most of the trackbed appears to have been removed in the past, and other sections have been built on. Nevertheless the application site previously incorporated parts of the railway sidings, and may on account of its elevation retain some archaeological evidence relating to the railway.
- 4.1.4 The site can therefore be considered to have some archaeological interest, and accordingly pre-commencement conditions attached to the outline permission require a construction method statement and programme of archaeological work. These matters remain outstanding, and the requirement for archaeological work should be repeated in order to address Paragraph 141 of the National Planning Policy Framework (NPPF) and Policy MD13 of the Council's Site Allocations and Management of Development (SAMDev) Plan. This should involved recording of historic fabric commensurate with the 'Level 2' standard as defined by Historic England, and an archaeological inspection during groundworks.
- 4.1.5 Shropshire Hills AONB Partnership – comment:
The local planning authority has a statutory duty to take into account the AONB designation, with the NPPF giving such areas the highest level of protection in terms of landscape conservation. The application also needs to conform to the Council's own Core Strategy policies and SAMDev Plan, whilst the Shropshire Hills AONB Management Plan is a further material consideration. The lack of detailed comments by the Partnership should not be interpreted as suggesting that the application raises no landscape issues.
- 4.1.6 Shropshire Council Highways Development Control – objection:
The details submitted are insufficient to make a technical assessment.
- 4.1.7 At the outline stage it was commented that although the land required for the northwards visibility splay was under the applicant's control, it needed to be included within the red-edged site boundary on the plans. This is still required before an informed assessment can be made.
- 4.1.8 If approval is given it should include informatives regarding the need to keep the road clear of mud and surface water run-off from the site, and the requirement for a licence for works on or abutting highway land.
- 4.1.9 Historic England – no objection:
On the basis of the information available to date, no bespoke comments are made. However, the Council's own Conservation and Archaeology Teams should be consulted.

- 4.1.10 Shropshire Council Regulatory Services (formerly Public Protection) – comment:
There is no objection in principle to the proposals. However, the applicant should ensure that the layout and design details now proposed would be compatible with the requirement for a contaminated land investigation, and possibly remediation, under Condition 9 of the outline permission. It would be for the applicant to address any conflict between a future application to discharge that condition and the details proposed currently, for example by making a further application for amendments. Instead, and in order to avoid incurring additional costs, the applicant may prefer to address Condition 9 in tandem with the current application.
- 4.1.11 Shropshire Council Affordable Housing – comment:
Whilst the Council considers there to be an acute need for affordable housing in Shropshire, its housing needs evidence base and related policy predate the Court of Appeal judgment and subsequent changes to the Government's Planning Practice Guidance (PPG) regarding the use of Section 106 agreements to secure affordable housing contributions. On balance, therefore, if the development is policy-complaint then at this time national policy prevails and no contribution is required.
- 4.1.12 Shropshire Council Ecology – comment:
The Ecology Team has no comments on the current reserved matters application, but looks forward to receiving in due course a biodiversity conservation plan in accordance with outline Condition 8.
- 4.1.13 Shropshire Council Historic Environment (Conservation):
25/4/17 – objection:
Part of the site is within the Snailbeach Conservation Area, although the new dwelling itself would lie just outside. The Snailbeach Lead Mine SAM lies approximately 450 metres to the northeast, and the whole of the application site was occupied by the former Snailbeach District Railway line which was associated with the mine.
- 4.1.14 It is noted that the outline application was approved contrary to the recommendation of officers, who considered that even a single-storey dwelling in this location would have a detrimental impact on the conservation area. Whilst the outline permission has effectively established the principle of a dwelling here, it is important to secure a house of appropriate form, scale and design in order to mitigate its potential impact.
- 4.1.15 Overall there is little cohesiveness to the design as it stands, and the front gable and balcony in particular would have a significant impact on the conservation area's setting. A much simpler vernacular cottage with dormers (i.e. reflecting the left third of the proposed front elevation) should be sought, along with a much smaller footprint to reflect the modest cottages elsewhere in Snailbeach. In the meantime an objection is raised as the application is contrary to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF Paragraphs 131 and 134, Core Strategy Policies CS6 and CS17, and SAMDev Policy MD13.
- 4.1.16 7/7/17 – comment (Objection withdrawn):
The amended plans reflect discussions at a recent meeting between officers, the

applicants and their agent. The discussions were aimed at creating a simpler and more legible design in terms of traditional versus contemporary aspects (i.e. the main length of the house and the projecting front gable), as well as tidying up the fenestration overall. Whilst the proposal is still not ideal, the principle of development is established and the amended design is at least sufficiently improved to allow the previous objection to be withdrawn. However, conditions should be used to secure precise details of all external materials and finishes, fenestration and recesses for window openings.

4.1.17 Natural England – comment:

Although the site is adjacent to the Stiperstones and the Hollies Special Area of Conservation (SAC), the development is unlikely to have any significant effects on this designated area. However, in order to meet the requirements of the Conservation of Species and Habitats Regulations 2010 the Council should reference the Habitat Regulations Assessment (HRA) it completed at the outline stage, which ruled out significant effects.

4.1.18 The SAC is also designated at a national level as a Site of Special Scientific Interest, but again it is unlikely that the development would damage or destroy the interest features for which this designation has been made.

4.1.19 Additionally the local planning authority should consider the possibility of impacts on protected and priority species and habitats, landscape character, any locally designated wildlife or geological sites, ancient woodland and veteran trees, as well as opportunities for environmental enhancements.

4.1.20 Shropshire Wildlife Trust – no objection

4.2 **Public comments**

4.2.1 One local resident objects on the following grounds:

- Overdevelopment of this small and very exposed site, which would adversely affect the AONB as well as the site's historical importance. A single-storey dwelling would have a lesser visual impact.
- Insufficient detail of external materials. Stone should be used to blend with surrounding properties.
- Overlooking of No. 1 Crowsnest, particularly following recent tree felling.
- Noise disturbance as a result of the site's elevated nature. Already conversations between walkers using a right of way behind the site are audible.
- Light pollution from the extensively glazed lounge.
- It may be better to 'hand' the layout so that the bedrooms are positioned to the south and the lounge and garden to the north.
- Any balcony should be limited to a Juliet balcony facing north.

5.0 **THE MAIN ISSUES**

- Principle of development
- Layout, scale, design and impact on historic environment
- Impact on wider landscape
- Residential amenity
- Access and highway safety

- Ecology
- Other matters raised in representations

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The principle of building a new open-market dwelling on this site is established already by the outline consent, and cannot now be revisited. With reference to the Housing Enabling Team's comments (Paragraph 4.1.10) it should be noted that no affordable housing contribution was secured at the outline stage.

6.2 Layout, scale, design and impact on historic environment

6.2.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places on local planning authorities a duty to pay particular regard to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by NPPF Part 12, Core Strategy Policies CS6 and CS17 and SAMDev Policy MD13. The NPPF also acknowledges the importance of non-designated heritage assets of archaeological interest which are demonstrably of equivalent significance to scheduled monuments, and recognises that an asset's significance can be harmed or lost through development within its setting. Meanwhile all development is expected to reinforce local distinctiveness in terms of building forms, scale and proportion, heights and lines, density and plot sizes, as well as materials and architectural detailing.

6.2.2 In this case the plot's shape dictates the position of the new dwelling towards the slightly wider southern end, which is farthest from the existing properties on the fringes of Snailbeach and elevated well above the road. Officers expressed concerns at the outline stage that even a very modest property here would introduce an essentially isolated built form and appear overbearing and unduly prominent in views into and out of the conservation area, but the Committee took the view that the site was acceptable to accommodate a dwelling.

6.2.3 Similarly with the current application the Conservation Officer initially felt that the height and forward projection of the 'cross-wing' towards the southern end of the house would be visually intrusive, as well as disrupting the coherence between the main dormered range to the left and the single-storey conservatory-style section to the far right. However, counterarguments put forward by the applicants' agent are that the projecting gable adds design interest and would still be set back far enough from the road to be obscured by the retaining wall when approaching from the south. It is also noted that the Parish Council supported this application from the outset.

6.2.4 In the circumstances it is considered that the amended plans are more satisfactory in that they enhance the design and balance the overall composition. In particular, giving the gabled front wing a contrasting rendered finish and more contemporary fenestration articulates it more clearly as a pivotal feature, and breaks up the overall massing. Additionally the dormer windows on the left-hand range have been aligned more symmetrically, and the ground floor openings reconfigured in a more uniform, cottage style which emphasises the subservience and essentially vernacular character of this lower section. Thus, subject to conditions requiring precise details of the external finishes, roof overhang treatments and fenestration, it

is felt on balance that the revised design is acceptable and would be acceptable in the conservation area's setting.

6.2.5 In comments on proposals elsewhere in Snailbeach, Historic England has indicated that ancillary features of the former lead mine should be afforded a similar level of protection as the scheduled area of the mine complex itself. In this case, however, neither English Heritage nor the Council's Archaeology Team objects, and it is noted that a programme of archaeological work (to include 'Level 2' recording and a watching brief during groundworks) plus a method statement to safeguard most of the remaining upstanding features associated with the former railway have been secured already through the outline conditions: These still apply and cannot be repeated on a reserved matters approval. It was also concluded under the outline application that the proposed removal of the existing metal shed was uncontroversial.

6.3 **Impact on wider landscape**

6.3.1 At the outline stage officers were concerned that a new dwelling perched on top of the high retaining wall, and divorced from the existing properties at both Snailbeach and neighbouring Crowsnest, would be clearly visible from across the valley to the northwest and encroach into the essentially open countryside between the two settlements. However, a consultant's Heritage Impact Assessment submitted at that time argued that this would not be the case since the development would be set against the backdrop of the wooded hillside, and because the retaining wall and terracing are established manmade features here.

6.3.2 Ultimately, with the principle of the development now established it would be difficult to refuse the current reserved matters application for a dwelling of reasonably modest proportions on the grounds that it would have an adverse landscape impact. Furthermore, whilst it could be argued that the inclusion of full-height glazing and rendered walls would make the property even more visible in distant views, as discussed above these features do enhance the design and given the other constraints this is perhaps more important.

6.3.3 The application block plan drawing shows trees within the application site at the northern end, close to the vehicular access. No details of the proposed boundary treatments have been supplied at the time of writing this report, and it is hoped to have this information in time for the Committee meeting.

6.4 **Residential amenity**

6.4.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity. Officers revisited the site earlier in the year, and whilst the entrance to No. 1 Crowsnest and some of its paddocks were discernible through the intervening trees (which were not in leaf at the time), it was not possible to see into the windows or garden of that property. Therefore the degree of overlooking would not be unreasonable, even with the lounge windows and small balcony positioned as proposed, and similarly light spillage is unlikely to cause a significant nuisance. It is possible that some general 'people noise' from the site would be audible, but this is likely to be at a background level and nothing close to a statutory nuisance.

6.4.2 The distance between the new dwelling and the holiday let and other properties to the north would also be more than sufficient to ensure a reasonable standard of amenity.

6.5 Access and highway safety

6.5.1 Regarding the Highways Development Control Team's comments, the issue of the northwards visibility splay was in fact considered at the outline stage. The land involved was owned by the applicant at that time, so despite it being outside the red line denoting the site area it was felt that Condition 11 requiring precise details of the visibility splay would be enforceable. In the meantime the site itself has been transferred to the current applicants, so technically the land to the north is now outside their control (although it is still owned by the original applicant, who is a close relative).

6.5.2 In any event the current block plan confirms that the requisite 2.4 x 43-metre splay already exists in this direction, and also shows a similar one to the south. Moreover the access is already used by three dwellings further north along the track, so arguably the traffic associated with one additional property would have no significant highway safety implications. It is therefore suggested that the details are sufficient to meet the prior approval requirements of outline Condition 11, and that an informative to this effect is attached.

6.5.3 The pre-commencement requirements of outline Condition 10 are also addressed by the current block plan, which shows sufficient parking and turning space on-site.

6.6 Ecology

6.6.1 With reference to Natural England's comments, the HRA produced by the Council at the outline stage is reattached here as Appendix 2. This confirms significant effects on the adjacent SAC are unlikely, thereby fulfilling the Council's duty as 'competent authority' under the provisions of the Habitats Regulations.

6.6.2 Other ecological issues were also considered under the outline application and an appropriate condition was attached to that decision.

6.7 Other matters raised in representations

6.7.1 Drainage and contaminated land issues are addressed by conditions on the outline planning permission. The Regulatory Services Team's comments are noted, but ultimately it is for the applicants to decide whether to proceed with the current plans or apply for amendments at a later stage, if necessary.

7.0 CONCLUSION

7.1 The principle of the development is established by the outline permission to which these reserved matters relate. Whilst the new dwelling would have some impact on the setting of the conservation area and on the wider landscape, on balance the scale and design of the house as shown on the latest amended plans is considered satisfactory. Furthermore there are no undue or insurmountable concerns regarding archaeology, the wider landscape, residential amenity, highway safety, ecology, contaminated land or drainage as a result of the reserved matters proposals. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to

reinforce the critical aspects.

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.

10.0 BACKGROUND

Relevant Planning Policies:

Central Government Guidance:

National Planning Policy Framework

Shropshire Local Development Framework:

Core Strategy Policies:

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

SAMDev Plan Policies;

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Relevant Planning History:

14/01271/OUT – Erection of dwelling and alterations to existing vehicular access (outline application to include means of access, but with matters of appearance, landscaping, layout and scale reserved) (withdrawn July 2014)

14/05151/OUT – Erection of dwelling and alterations to existing vehicular access (outline application to include means of access, but with matters of appearance, landscaping, layout and scale reserved) (permitted October 2016)

11.0 ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=ON6IFITDKLC00>

List of Background Papers:

Application documents available on Council website

Cabinet Member (Portfolio Holder):

Cllr R. Macey

Local Member:

Cllr Heather Kidd

Appendices:

Appendix 1 – Conditions and Informatives

Appendix 2 – Habitat Regulations Assessment Screening Matrix

APPENDIX 1 – CONDITIONS AND INFORMATIVES**STANDARD CONDITIONS**

1. The development shall be carried out in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development which preserves the character and appearance of the adjacent Snailbeach Conservation Area, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Council Local Development Framework Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

2. No development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the adjacent Snailbeach Conservation Area, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

3. No development shall commence until samples/details of the roof construction and materials, to include tiles, ridge tiles and detailing of eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and maintained thereafter in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the external appearance of the development is satisfactory, and safeguard the character and appearance of the Snailbeach Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

4. No development shall commence until full joinery/product details of all external windows, doors, roof lights and any other external joinery, to include details of window styles, glazing bars, mullions, sill mouldings and decorative treatments/stains, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, and safeguard the character and appearance of the adjacent Snailbeach Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

5. No development shall commence until details of the materials to be used for, and the form of, the heads and sills of all new window/door openings, together with the extent to which the windows and doors are to be set back from the face of the walls, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the adjacent Snailbeach Conservation Area, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

INFORMATIVES

1. The local planning authority hereby gives notice that the details of access visibility splays and vehicle parking/turning areas] included on the submitted plans are sufficient to meet the prior approval requirements of Conditions 10 and 11 of outline planning permission No. 14/05151/OUT, dated 13th October 2016. All other requirements and conditions attached to the outline permission are unaffected by this notice and shall remain in full force unless discharged in writing by the Local Planning Authority.
2. Your attention is drawn specifically to the conditions above, and those attached to outline planning permission No. 14/05151/OUT, which require the Local Planning Authority's prior approval of further details. In accordance with Article 27 of the Town and Country Planning (Development Management Procedure) Order 2015 a fee (currently £97) is payable to the Local Planning Authority for each request to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Where conditions require the submission of details for approval before development commences or proceeds, at least 21 days' notice is required in order to allow proper consideration to be given.

Failure to discharge conditions at the relevant stages will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
4. This planning permission does not authorise the applicant to:
 - construct any means of access over the publicly maintained highway (including any footway or verge);
 - carry out any works within the publicly maintained highway;
 - authorise the laying of private apparatus within the confines of the public highway, including any a new utility connection; or
 - disturb any ground or structures supporting or abutting the publicly maintained highway.

Before carrying out any such works the developer must obtain a licence from Shropshire Council's Street Works Team. For further details see <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>.

Please note that Shropshire Council requires at least three months' notice of the developer's intention to commence any works affecting the public highway, in order to allow time for the granting of the appropriate licence/permit and/or agreement of a specification and approved contractor for the works.

5. The applicant/developer is responsible for keeping the highway free from mud or other material arising from construction works.
6. If the new vehicular access and/or parking/turning areas hereby permitted would slope towards the public highway, surface water run-off should be intercepted and disposed of appropriately. It is not permissible for surface water to drain onto the public highway or into highway drains.
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.

APPENDIX 2 – HABITAT REGULATIONS ASSESSMENT (HRA) SCREENING MATRIX

Application name and reference number:

14/05151/OUT
The Sidings, Snailbeach, Shrewsbury, Shropshire SY5 0LT
Erection of dwelling and alterations to existing vehicular access

Date of completion for the HRA screening matrix:

24th June 2015

HRA screening matrix completed by:

Rob Mileto, Ecological Consultant to Shropshire Council

Table 1: Details of project or plan

Name of plan or project	14/05151/OUT The Sidings, Snailbeach, Shrewsbury, Shropshire SY5 0LT Erection of dwelling and alterations to existing vehicular access
Name and description of Natura 2000 site	The Stiperstones and The Hollies SAC (601.46ha) represents a nationally important area of dry heath and also hosts a significant presence of sessile oak woodlands with <i>Ilex</i> and <i>Blechnum</i> . Annex I Habitats that are a primary reason for selection of site: <ul style="list-style-type: none"> European dry heaths: This site in central Britain is an example of European dry heaths that contains features transitional between lowland heathland and upland heather moorland. The most extensive vegetation type present is H12 <i>Calluna vulgaris</i> – <i>Vaccinium myrtillus</i> dry heath, which is characteristic of the uplands. South-facing slopes support stands of H8 <i>Calluna vulgaris</i> – <i>Ulex gallii</i> heath, a predominantly lowland vegetation community of south-west Britain. The heathland of the Stiperstones is in excellent condition because it is managed by a programme of rotational, controlled winter burning and cutting. Annex I Habitats present as a qualifying feature, but not a primary reason for selection of site: <ul style="list-style-type: none"> Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles
Description of the plan or project	Erection of dwelling and alterations to existing vehicular access
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

Statement:

Given the scale and nature of the development Natural England does not believe there will be any likely significant effect on the SAC, either directly or indirectly.

The Significance test:

There is no likely significant effect on the European-designated site of The Stiperstones and The Hollies SAC as a result of the works proposed under planning application 14/05151/OUT (erection of dwellings and alterations to existing vehicular access at The Sidings, Snailbeach, Shrewsbury, Shropshire SY5 0LT).

The Integrity test:

There is no likely effect on the integrity of the European-designated site of The Stiperstones and The Hollies SAC as a result of the works proposed under planning application 14/05151/OUT (erection of dwellings and alterations to existing vehicular access at The Sidings, Snailbeach, Shrewsbury, Shropshire SY5 0LT).

Conclusions:

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process:

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’ which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

- 61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
 - (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 - (b) is not directly connected with or necessary to the management of that site,
 must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

- 61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context ‘likely’ means “probably”, or “it well might happen”, not merely that it is a fanciful possibility. ‘Significant’ means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes:

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is clear that there are no alternative solutions, the project must be carried out for imperative reasons of overriding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority:

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.



Committee and date

South Planning Committee

1 August 2017

Development Management Report

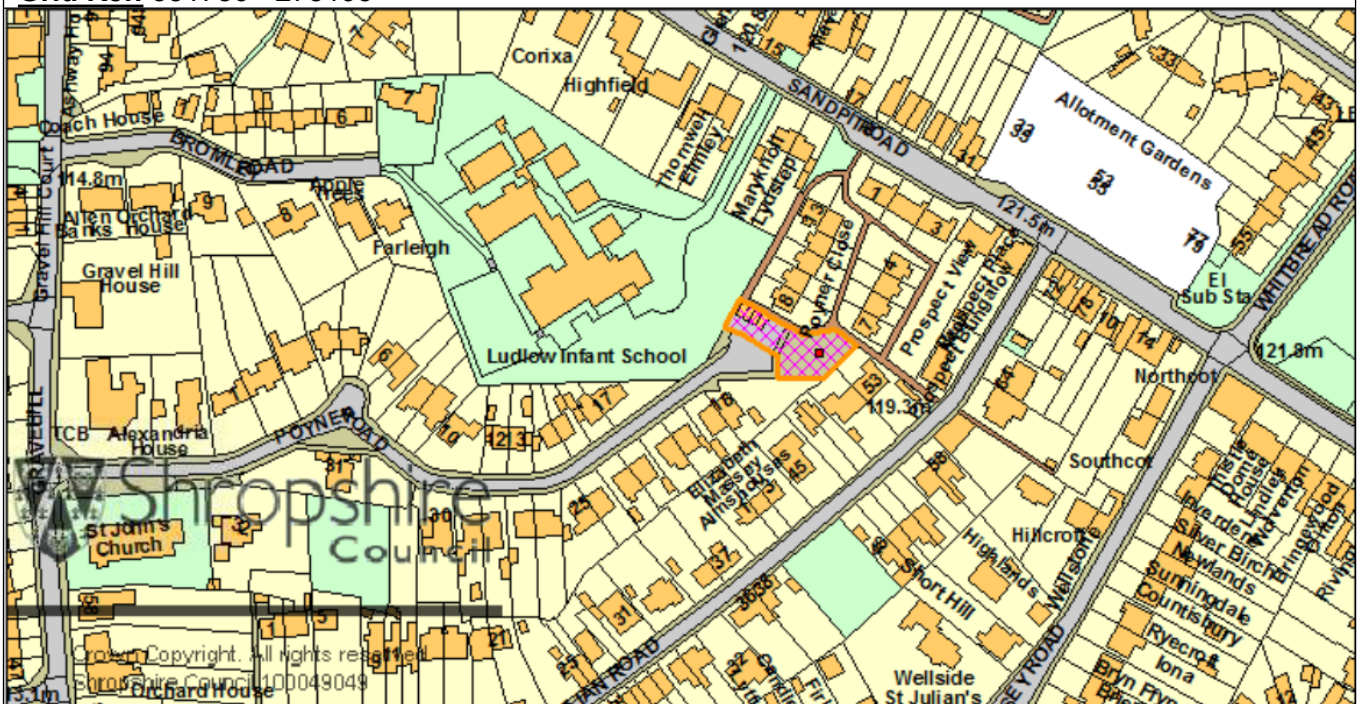
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 17/01372/FUL	Parish:	Ludlow Town Council
Proposal: Erection of 1 No open market bungalow (amended description)		
Site Address: Housing Development Site Poyner Close Ludlow Shropshire SY8 1RQ		
Applicant: Shropshire Housing Group		
Case Officer: Cathryn Robinson	email: planningdmc@shropshire.gov.uk	

Grid Ref: 351786 - 275193



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

REPORT

1.0	THE PROPOSAL
1.1	This application as originally submitted proposed the erection of a pair of semi-detached bungalows, with one property being one bedroomed and the other two bedroomed. Officers considered that the site is too small to accommodate two properties. In response the applicants have amended the proposal to a single, two bedroomed bungalow. A consequence of this amendment is that while it had been intended that the two dwelling scheme would have been affordable properties, the applicants have advised the amended single property would be an open market dwelling. The reason for this change is that, due to the reduction in number of units, the applicants consider the site is no longer financially viable to develop as an affordable housing scheme.
1.2	The proposed bungalow would have a floor area of some 65.7 square metres and would contain a kitchen, lounge/dining room; a double bedroom; a single bedroom; bathroom and hall. The bungalow would have a dual pitched roof and would feature a short projecting gable on the front elevation which would contain part of one of the bedrooms and provide an open porch over the front door. Doors and windows would be to the front and rear elevations, with the latter being a mix of single, two and three bay casements. The southwest side elevation would contain the bathroom window. Two tandem car parking spaces would be provided adjacent to the south west side elevation.
2.0	SITE LOCATION/DESCRIPTION
2.1	The application is sited to the rear of Poyner Close, off Poyner Road. Located centrally within the market town of Ludlow, Poyner Close is accessed from Poyner Road but dwellings here have no vehicular access, only pedestrian access via footpaths. Occupying a predominantly residential context, the development site is part of an open amenity area containing several mature trees. (Three Birch and Ornamental Cherry). The amenity area is at the side of a turning head which offers some parking and also contains four garages.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The Town Council view is contrary to the Officer recommendation and the local member has requested a committee determination for this application. This has been discussed with the chair and vice chair of planning committee, who consider that the application raises issues with respect to impact upon the immediate locality which warrant consideration by the South Planning Committee.
4.0	Community Representations

4.1	- Consultee Comments
4.1.1	<p>Ludlow Town Council <u>09.05.2017</u> The Town Council Object for the following reasons:</p> <ul style="list-style-type: none"> i) The proposal is unachievable and unsustainable. ii) access for emergency vehicles, refuse collections would be impeded iii) there would be inadequate parking provision iv) Drainage may be problematic. <p><u>04.07.2017</u> Members made the following comments;</p> <ul style="list-style-type: none"> - the amendments submitted on 19th June to Shropshire Council have a limited consultation period of 14 days for comments to be submitted - the original plans submitted clearly show a red outline to the plot - the amendments submitted only indicate half of the original plot now being developed with no indication of future development within this boundary. - LTC support the Unitary Councillors Huffer and Boddington's request that the application is called into Shropshire Council's Planning Committee. - The original objections submitted by LTC on 9th May 2017 have not been addressed. <p>Members reiterate previous comments made on 9th May 2017;</p> <p>To Object for the following reasons:</p> <ul style="list-style-type: none"> i) The proposal is unachievable and unsustainable. ii) access for emergency vehicles, refuse collections would be impeded iii) there would be inadequate parking provision iv) Drainage may be problematic.
4.1.2	<p>SC Affordable Housing <u>19.04.17 (Original proposals)</u> This proposal is welcomed and will assist in part in the delivery of affordable housing in Ludlow, of which there is high demand. These proposed affordable rented bungalows will be owned and managed by a registered housing provider and should be conditioned accordingly.</p> <p><u>30.06.17 (Amended proposals)</u> If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.</p>
4.1.3	<p>SUDs No objection; conditions and informatives recommended.</p>
4.1.4	<p>SC Archaeology <u>07.07.2017</u></p>

	<p>We have no comments to make on this application in respect of archaeological matters.</p>
4.1.5	<p>SC Ecology <u>04.05.17</u> No objection; conditions and informatives recommended.</p> <p><u>07.07.17</u> SC Ecology have no additional comments to make on this application.</p>
4.1.6	<p>Highways Authority <u>04.05.17</u> No objection subject to the development being carried out in accordance with the approved plans; conditions and informatives recommended.</p> <p><u>05.07.17</u> No objection subject to the development being carried out in accordance with the approved plans; conditions and informatives recommended.</p>
4.1.7	<p>SC Trees <u>05.05.17</u> The application identifies four trees for removal these are mature specimens that add significantly to the character and amenity of the area and occupy a space previously identified as an amenity area. The aspirations for sustainable development in local and national policies include consideration and mitigation for impacts that degrade natural assets such as amenity trees, but due to the constraints of this site it is not possible to establish proportionate on site mitigation for the loss of these trees. Under planting the existing trees on the plot alongside Sandpits Road would create replacement understory for the trees on that plot but could not be considered as mitigation for the loss of trees elsewhere on the site and it is unlikely that residents would be happy to live with more trees of any significant size in the square between the existing bungalows..</p> <p>Whilst on paper the individual trees in this group do not necessarily merit protection with a Tree Preservation Order, the space and potential future amenity that would be provided by the continued use of this space for replacement planting is an asset that should not be lost unless the social or economic benefits of the proposed development clearly outweigh the harm to that asset. In a situation where on-site mitigation or compensation measures are not feasible it might be expedient to seek appropriate off site mitigation such as the offer of planting in the neighbouring school grounds or on the margins of the recreation ground between Sandpits Road and Wheeler Road.</p> <p><u>14.07.17</u> The revision of the proposal from two affordable bungalows' to one market value bungalow makes no difference to the arboricultural impacts identified in the Tree Service's comments dated 5th May 2017, therefore our previous comments remain pertinent to this revised proposed layout.</p>
4.2	- Public Comments
4.2.1	This application was advertised via notice at the site. Additionally, six neighbouring residents were individually notified by way of publication.

<p>4.2.2</p>	<p>Eighteen representations had been received objection to the application. The highlighted concerns are summarised as follows –</p> <ul style="list-style-type: none"> • Loss of open space and valued amenity space • Worsening existing parking issues, plus restricting access for larger vehicles for example emergency services, refuse vehicles etc • Loss of garage accommodation, and associated concerns for damage to vehicles • Damage to a neighbouring boundary wall during any construction approved • Degradation of conservation area • Devaluing neighbouring property • Concerns for drainage – in light of two additional properties and the loss of trees • Concerns for loss of local wildlife – predominantly wild birds • Inaccuracies on submitted plans • Loss of turning space at the end of Poyner Road, which is a no-through road
<p>4.2.3</p>	<p>At the time of writing this report, thus subsequent to the amendment of the proposal, and additional sixteen objection comments were received; the concerns raised repeat those summarised above. Additional objection is however raised regarding the open market nature of the revised scheme.</p>
<p>5.0</p>	<p>THE MAIN ISSUES</p>
	<p>Principle of development Siting, scale and design of structure Visual impact and landscaping Neighbouring amenity Affordable Housing Other matters</p>
<p>6.0</p>	<p>OFFICER APPRAISAL</p>
<p>6.1</p>	<p>Principle of development</p>
<p>6.1.1</p>	<p>Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.</p>
<p>6.1.2</p>	<p>The adopted development plan for Shropshire is the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the Site Allocations and Management of Development (SAMDev) Plan. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.</p>
<p>6.1.3</p>	<p>Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to</p>

	<p>sites within market towns, other ‘key centres’ and certain named villages. Policy CS4 also allows for the identification of ‘Community Hubs and Clusters’ within the rural area where further housing development can happen; these hubs and clusters were designated as part of the adoption of the Council’s Site Allocations and Management of Development (SAMDev) plan.</p>
6.1.4	<p>Ludlow is commended as the largest market town in southern Shropshire; as such it is recognised as a development focus, with a guideline of approximately 875 new dwellings highlighted for the settlement. Assessment of the council’s Five Year Supply Statement 2016 notes that completions and planning permissions (as at March 31st 2016) across the plan period have provided 707 dwellings within the town; this represents a healthy contribution to this overall housing target.</p>
6.1.5	<p>This site is in an established residential area within the town’s development boundary as defined in the SAMDev Plan. It is also within easy walking distance of town centre services, amenities and employment opportunities. The current proposal is therefore acceptable in principle. It is noted that the revised proposal saw the proposal for affordable housing substituted for an open market residence; as a key market town, where open market residential development is supported, there is no in principle policy objection to this change in tenure in this case.</p>
6.2	Siting, scale and design of structure
6.2.1	<p>Proposed is the erection of one bungalow located to the South of Poyner Close. Several garages, located to the end of Poyner Road, are contained within the application site which are proposed to be demolished to create parking spaces. The development site currently consists of open amenity land containing several trees.</p>
6.2.2	<p>Facing bricks, with a concrete tiled roof are the proposed construction materials. Of simple design, incorporating a feature gable to the principal elevation, the property is similar in design and scale to neighbouring properties in Poyner Close; this reflection of the local vernacular, and its contribution to the existing character, is a design cue favoured by Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles.</p>
6.2.3	<p>In regards to scale, notable concern was initially raised in relation to this site, with the establishment of two dwellings at this location appearing very cramped and contrived. The amended proposal resulted in a reduction of units, with the proposal now seeking one dwelling only. It is considered that the footprint of the proposed bungalow relative to the plot size would now be comparable to that of adjacent properties.</p>
6.3	Visual impact and landscaping
6.3.1	<p>The application identifies four trees, noted to be of mature specimen, that require removal; though not necessarily meriting formal protection, these trees make a significant contribution to the character of the locality. The loss of these assets, in conjunction with the loss of amenity space that the development of this site attributes, must be weighed against the provision of an additional bungalow. On</p>

	balance, it is considered that the loss of these features from the streetscene, and their replacement by the built bungalow form, would not warrant a refusal of planning permission.
6.4	Neighbouring amenity
6.4.1	Core Strategy policy CS6 seeks to safeguard residential amenity. The proposed bungalow sits within in close proximity to existing properties at Poyner Close and to the rear of Julian Road; the angled relationship however works to avoid direct overlooking. It is considered that the proposal would have no overbearing impact on the adjacent properties.
6.4.2	Initial concerns were raised regarding neighbouring amenity; the two-storey properties of Julian Road are likely to cause some loss of light which, coupled with the general overbearing nature of their proximity, in the instance of the original proposal was considered to compromise the amenity of future residents of the proposed dwellings to unacceptable levels. The amended proposal sees the dwelling located further West, thus allowing an increased distance between the proposed dwelling and the properties on Julian Road. Whilst remaining not optimum, it is considered that this increased distance and additional amenity space shall allow the future occupier of this dwelling to maintain an acceptable level of amenity.
6.5	Affordable Housing
6.5.1	This application, as amended, proposes the erection of an open market bungalow. Shropshire Council's Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for "A Flourishing Shropshire". The Shropshire Council policy requires anyone developing a new open market dwelling (subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision. The current prevailing rate for Ludlow is 15%.
6.5.2	The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sq m), or 5 units or less in designated protected rural areas.
6.5.3	Reading and West Berkshire Councils sought to challenge the WMS at the High Court (Case Ref 76.2015) and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point, Shropshire Council continued to apply its affordable housing policy. The Government challenged this decision through the Court of Appeal which over turned Mr Holgate's decision on the 11th May 2016. Consequently, the WMS still applies and the National Planning Policy Guidance was amended on the 19th May 2016. In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e.

	set minimum thresholds for affordable housing contributions.
6.5.4	In accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not require an Affordable Housing Contribution for applications for 10 or less dwellings (5 or less within a designated protected rural area) and less than 1,000sqm floor area in the majority of cases. However, this is cannot be a blanket rule and as such there may be exceptions to this. The Court of Appeal judgement referred to a statement made by the Government’s Counsel in the High Court that (emphasis added):- “(i) As a matter of law the new national policy is only one of the matters which has to be considered under section 70(2) of TCPA 1990 and section 38(6) of TCPA 2004 when determining planning applications or formulating local plan policies (section 19(2) of PCPA 2004), albeit it is a matter to which the Secretary of State considers ‘very considerable weight should be attached’;”
6.5.5	The Court of Appeal agreed with this proposition and confirmed that the development plan remains the starting point for decision taking although it is not the law that greater weight must be attached to it than other considerations. The WMS is policy not binding law and does not countermand the requirement in s38(6) of the 2004 Act or s70(2) of the 1990 Act. The Council’s position is therefore that the WMS is a significant material consideration but it does not replace or automatically override the development plan as the starting point for planning decisions. Consequently, there may still be cases where the Council considers that its adopted policy attracts greater weight in the planning balance than the WMS.
6.5.6	In this case given the fact that the development proposed would be acceptable in principle with the proposed new build dwelling being within a Core Strategy policy CS3 settlement (Market Town and other Key Centres), it is considered that the WMS outweighs the development plan policy CS11 with respect to Affordable Housing contributions and therefore an affordable housing contribution cannot be sought: No weight should be given to this in the overall planning balance.
6.6	Other Matters
6.6.1	Numerous objections raised reference concerns surrounding the loss of several trees at the development site. The local authority’s trees officers have been consulted during the course of this application and ultimately offer no objection, however requests are made for suitable on-site or off-site mitigation/compensation measures. It is noted however that due to the location of the development site outside of the Gravel Hill conservation area, and in the absence of preservation orders on these trees, that the applicant is in their rights to fell these specimens at any given time.
7.0	CONCLUSION
7.1	The proposed development, as amended, is considered appropriate in this location and it would not have an unacceptable impact on the residential amenities or the character and appearance of the surrounding area. The application therefore accords with the principle determining criteria of the relevant development plan

	<p>policies and approval is recommended, subject to the conditions in Appendix 1 of this report.</p>
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> ☐ 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. <p>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.</p>
8.2	Human Rights
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>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.</p>

9.0	Financial Implications
	<p>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.</p>

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and SAMDev Policies:
CS3 - Market Towns and other Key Centres

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 – Sustainable Water Management

MD1 – Scale and Distribution of Development

MD2 - Sustainable Design

MD3 – Delivery of Housing Development

MD12 – The Natural Environment

S10 – Ludlow Area

SPD on the Type and Affordability of Housing

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=ON8CULTDKLM00>

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

Biodiversity Survey and Report

Arbicultural Impact Assessment

Cabinet Member (Portfolio Holder)

Cllr R. Macey
Local Member
Cllr Tracey Huffer
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 no's. 102H and 201A.

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

3. No development shall commence until precise details of surface and foul water drainage systems have been submitted to and approved in writing by the Local Planning Authority.

These shall include:

- Percolation test results, sizing calculations and a layout plan for any surface water soakaways
- Full details of an alternative attenuation system in the event of infiltration techniques proving unfeasible
- Details of any other sustainable drainage systems (SuDS) to be incorporated
- Foul Drainage Assessment (FDA1) form, sizing calculations, percolation test results and a layout plan for any package treatment plant/septic tank system

The approved scheme(s) shall be implemented in full prior to the first use/occupation of the development, and shall thereafter be maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the development is provided with satisfactory means of drainage and avoid causing or exacerbating flooding or pollution on the site or elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

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 (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

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

6. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014).

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

7. All hard and soft landscape works shall be carried out in accordance with the approved landscaping plan. The works shall be carried out in accordance with the timetable approved in writing by the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

8. The parking area shall be laid out, surfaced and drained in accordance with details which have first been approved by the Local Planning Authority before the dwelling is first occupied and shall thereafter be kept available for the parking of vehicles.

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

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

Reason: In order to maintain the amenities of the area in accordance with policy CS6 of the Shropshire Core Strategy.

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

Informatives

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

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from www.planningportal.gov.uk or from the Local Planning Authority.

Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given. Failure to discharge pre-commencement conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. 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.

4. As part of the SuDS, the applicant should consider employing measures such as the following:

- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new access, driveway, parking/paved area
- Attenuation
- Greywater recycling system
- Green roofs

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

5. Consent is required from the service provider to connect into the foul main sewer.

6. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

7. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

8. 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 new utility connection, or

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

The applicant should in the first instance contact Shropshire Councils Street works team. 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.

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. No clearance works can take place within 5m of an active nest.

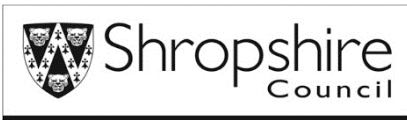
If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

10. The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

This page is intentionally left blank



Committee and date

South Planning Committee

1 August 2017

Development Management Report

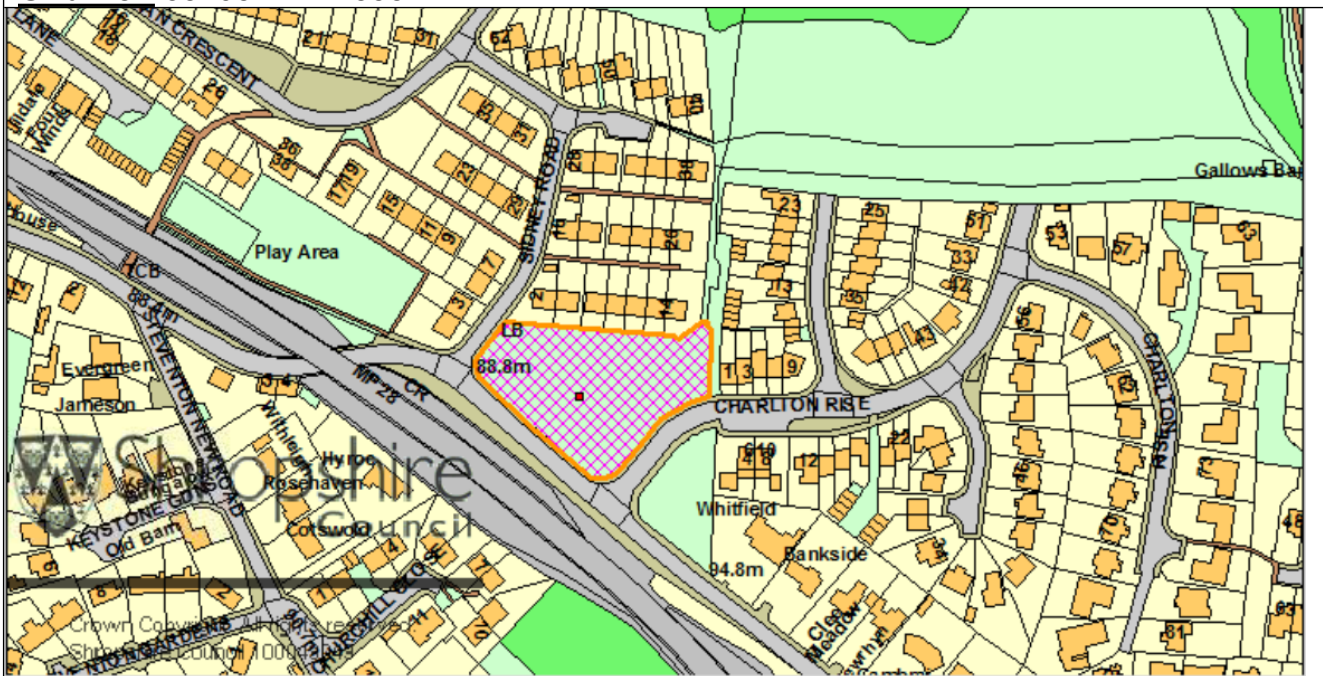
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 17/01387/FUL	Parish: Ludlow Town Council
Proposal: Erection of seven bungalows for social housing	
Site Address: Land at Sidney Road, Ludlow, Shropshire	
Applicant: Shropshire Housing Group	
Case Officer: Mark Lynch	email: planningdmsw@shropshire.gov.uk

Grid Ref: 352052 - 274558



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

Recommendation: Permit, subject to the conditions contained in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This application has been amended following negotiations with the applicant. Initially, the proposals were for the erection of seven one and two bedroom bungalows in two separate terraces; one comprising three dwellings and one comprising four dwellings, arranged in a V shape on the site with the larger terrace facing south towards Sheet Road and the shorter terrace facing east towards Charlton Rise. Both terraces are set back from the roadside across open space and are accessed from both streets by new footpaths that lead across the frontages of both terraces.
- 1.2 Following discussions, the scheme has altered and now comprises a single terrace of five bungalows arranged across the site parallel with the existing bungalows to the north. The terrace is stepped in parts to follow the profile of the land.
- 1.3 The design of the dwellings is traditional low level single storey with steeply pitched roofs. The front elevation is relieved by the incorporation of two pronounced gables. Materials will include appropriate facing bricks, concrete roof tiles and upvc fenestration.
- 1.4 Car parking for the development includes a row of ten spaces in a bay on the north-western edge of Charlton Rise and an off-street group of three disabled spaces directly to the west off Sidney Road. To the rear will be a substantial communal garden shared between all five dwellings. The layout plan shows the existing group of trees in the south eastern corner retained and a row of additional trees to be planted along the Sheet Road frontage. The existing tree within the centre of the site is proposed to be removed. The car parking areas will be accessed from the houses via new footpaths and the remainder of the site will stay as an open-plan area.
- 1.5 The site is constrained by the existing mains sewers that cross the land within the eastern and southern parts of the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the defined settlement boundary for Ludlow on the edge of an existing development of bungalows to the south east of the town. The site is currently an area of open space that includes two small groups of mature trees; one on the south east edge and one within the centre of the site.
- 2.2 The site has a slight slope in a general north to south direction towards Sheet Road with a slight hollow evident in the middle of the site. To the immediate north across a footpath is a row of bungalows that face across the site. The front boundaries of these dwellings are marked by a low hedge and picket-style fencing, in part. Beyond to the north and west lie other, similar bungalows on

slightly rising ground.

- 2.3 To the east lies Charlton Rise which serves a development of two storey dwellings and a three storey group close to the entrance off Sheet Road that includes commercial uses at ground floor level.
- 2.4 Sheet Road is a principal route into and out of the town and it passes beneath the railway line a short distance away from the site to the south west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development has received objections from Ludlow Town Council and has been referred to the South Area Planning Committee for consideration by the local elected member on the basis of public concerns with regard to the significant loss of green space, footpath clarification, felling of two trees and ownership of trees and the objection from Ludlow Town Council. The Chair and Vice Chair of the South Planning Committee consider the application raises issues that warrant consideration by Committee.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **Ludlow Town Council** – strongly objects to the original and amended proposals on the following grounds:

- i) The amenity value of the land is significant to the residents, who have enjoyed the use of the land for over twenty years
 - ii) The development would be detrimental to the visual amenity of the area
 - iii) the existing footpath and the bridleway are on the definitive map;
 - iv) there are Tree Protection Orders on all 3 trees on the site
- there is precedent in case law established by the Sunningwell case in Oxfordshire, and others, where the development was refused on the grounds that the space had been used as an amenity area for over 20 years.
- Members object to the proposed parking leading off Sidney Road, this is already a very busy road which is single width due to parked cars, the bus stops at the end of Sidney Road where the proposed entrance has been planned, the area is obscured and dangerous.

Members requested that the Town Clerk write to Shropshire Council to call the application to the Shropshire Council Planning Committee.

- 4.1.2 **SC Affordable Housing** – Comment:

There is substantial affordable housing need in Ludlow and therefore this proposal is supported in that the bungalows will partially address such need. Appropriate conditions will be required to ensure that the bungalows will remain affordable in perpetuity.

- 4.1.3 **SC Highways** – Comment.

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

Observations/Comments:

The site is an open, grassed amenity space with trees, off Sheet Road, Ludlow. Sheet Road is one of the radial routes into the town centre from the A49 by-pass. The site is bounded on three sides by roads. To the west is Sidney Road, U8564, an urban feeder road to a council type housing estate. To the east is Charlton Rise, U8563, a cul de sac of private housing with several spurs off it. The northern side of the site has a row of council type bungalows along a footpath. All of these roads are governed by a 30mph speed limit. The Hereford rail line is to the south-west of Sheet Road and runs parallel with it at the location of the site.

The proposal is for a change of use of this site in order to build five bungalows with associated footpaths and parking space for 10 vehicles off Charlton Rise, one of these spaces being set aside for a disabled badge holder which is well away from the bungalows. Any transference of goods between bungalows and cars will mean having to carry such items the distance between the bungalows to the parking area.

From the potential householder's view, the length of driveway/footpath, is the trip which they will have to make, weekly, to put refuse and recycling bins out for emptying. The recommended maximum distance is 25m. Collection is made from the roadside. These bungalows are being built in an area isolated from immediate access to roads which will involve an even further walk with bins and boxes to the roadside space which is proposed to be set aside for refuse collection storage off Sidney Road.

As this is a row of bungalows, it is likely to attract elderly/mobility impaired residents and it has not been made clear as to how these residents are to manage their refuse and recycling. If the bins are kept at the front of the bungalows, they will look unsightly, if they are kept to the rear of the bungalows, there appears to be no gates through which these bins and boxes can be moved; is the refuse/recycling point to be communal where every little bag of rubbish/recycling has to be trotted out to the communal bin? This needs clarification.

4.1.4 **SC Drainage** – Comment.

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

1. On the planning application, it states that the surface water from the proposed development is to be disposed of directly to a main sewer. Such a connection must not be made, as it can result in increased flood risk elsewhere.

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return

storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Should soakaways not be feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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

2. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. 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.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

3. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slope towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access/ driveway

run onto the highway.

4. On the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level or at least 150mm above the ground level.

Reason: To minimise the risk of surface water flooding.

5. Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new access, driveway, parking/paved area
- Attenuation
- Greywater recycling system
- Green roofs

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

4.1.5 **SC Tree Officer** – Comment.

Concerns were expressed in respect of the initial 7-unit scheme in relation to justifying the removal of the protected tree (T3) in the centre of the site. It was recommended that the applicant be given the opportunity to consider a revision of their site layout and supporting details and to demonstrate that the social or economic benefits of the proposed development outweigh the harm to the assets at the site (Loss of tree T3 in particular) as part of this the applicant would need to demonstrate that on-site mitigation or compensation measures are feasible and will satisfy the sustainable aspirations set out in national and local policies and guidance.

In respect of the amended 5-unit proposal:

In considering this revised / amended proposal where applicable due regard has been given to the following local and national policies and guidance, including policies CS6 'Sustainable Design and Development Principles' and CS17 'Environmental Networks' of the Shropshire Core Strategy; policies MD2 & MD12 of the SAMDev Plan as well as with national policies and guidance, National Planning Policy Framework (NPPF) published March 2012, and British Standard 5837:2012 Trees in relation to demolition design and construction: recommendations and BS8545:2014 Trees – from nursery to independence in the landscape.

In the light of the submission of the revised design and access statement, proposed site plan and arboricultural detail including proposed compensatory planting the Tree Service offers the following comments:

We acknowledge that there is a balance to be made between the importance of

maintaining the character and amenity of an area and the need for social housing and that the social or economic benefits of new social housing at this site might justify the adverse effects on amenity derived from the loss of tree T3. Should it be the case that it is the decision of the planning committee to grant planning permission, that decision would overrule the TPO in relation to tree T3. The Council would however be able to make the case for the expedience of protecting the proposed new planting.

The revised planting plan and associated arboricultural method statement and tree protection plan offer a significant and well-designed compensatory planting scheme with appropriate tree protection measures that from an arboricultural perspective serve to address the needs for compensatory planting set out in the Councils policies on sustainable development and natural assets.

RECOMMENDED CONDITIONS

Landscape:

In order to ensure that accountability for the landscape provision stays in the hands of the developer and ensure that it is sustainably planned and delivered. The Tree Service recommends that the Council seek for landscape provisions including the proposed tree planting to be completed in full before the occupation of the site. And that the standard replacement within a five year period of any lost stock condition be is also applied.

Tree protection

The approved measures for the protection of the trees as identified in the agreed tree protection plan (ref. 2930 17 03 02 B) shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation will be made from the approved tree protection plan without the written agreement of the Planning Authority.

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

Tree Protection notification

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

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

4.1.6 **SC Public Rights of Way Officer** – Comment.

From checking the Definitive Map of public Rights Of Way it appears FP 17 will be affected by the new development and I have attached a plan of the area showing rights of way information onto which I have overlaid the current

proposed block plan and this shows FP 17.

This footpath will require a legal order to be made to either divert or extinguish the footpath under the terms of the Town and Country Planning Act.

The applicants will need to apply to the Mapping and Enforcement Team for such an order and, in the meantime, the route will need to be temporarily closed before any works commence at the site. The Mapping and Enforcement Team can provide the necessary information and application forms for both orders.

4.1.7 **SC Ecology** – Comment:

An Ecological Appraisal was carried out on this site in August 2016 by Pearce Environment.

Habitats on the site consist of amenity grassland, four semi-mature field maple trees and a 'line of mixed ornamental hedgerows (categorised as defunct due to regular gaps to allow gateway access into properties)'.

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

The landscaping scheme should include tree, shrub and hedgerow planting using native species of local provenance.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.

Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.

The lighting scheme for the site should be sensitive to bats and follow the Bat Conservation Trust's guidance.

Bat and bird boxes should be erected on the site to enhance the nesting and roosting opportunities available.

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

Bat and bird boxes condition

Prior to first occupation / use of the buildings, details for the provision of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected:

- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 118 of the NPPF.

Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014).

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

Landscaping Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

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

Informatives relating to:

Nesting birds
General site informative for wildlife protection

4.2 - **Public Comments**

4.2.1 A total of 22 letters and a petition containing the names and addresses of 77 local residents objecting to the proposed development have been received. The main points in respect of the original and revised proposals are summarised as follows:

Principle of Development

- The site is not suitable for development. A previous planning application was refused in 1994
- The land has been used for recreational purposes by the local community for more than 30 years and has protection
- There are few large open green areas left in Ludlow
- No contact details for the applicant have been provided on the application form so the application is not valid

Impact on Amenity

- The development will result in severe overlooking of neighbours
- The loss of the trees, which are protected by a Tree Preservation Order, will adversely affect the character of the area
- This is a very pleasant amenity area and sets the scene for visitors when approaching Ludlow town centre
- Future residents will be affected by noise from the road and from the railway
- There is inadequate separation between the new build and the existing bungalows to the north leading to loss of privacy and obstruction of views
- The design of the development is unattractive
- The new design will create an extensive visual barrier obliterating the current terraced street scene
- The new layout shows the buildings only 18m from existing dwellings causing severe overlooking issues

Highway Safety

- The car parking arrangements will not facilitate vehicles leaving in forward gear onto busy roads thereby creating hazards
- Sheet Road and Sidney Road is already a bottleneck and this development will make the situation worse
- Due to ground level differences, pedestrians using some of the proposed footways will be at risk of falling and suffering injury
- There are too many car parking spaces for five single bedroom dwellings
- The amended scheme will still lead to local parking difficulties

Ecology

- The Ecological Report makes no reference to the Gallows Bank Millennium Green and the Stych Brook, which provide important habitat
- The loss of the trees on the site will affect bat foraging

Drainage and Flooding

- There are impermeable soils on the site that will prevent drainage by percolation
- Linking into the main drains is unacceptable
- Site used to be a pond and wetland area
- Existing underground drainage pipes are old and cannot cope with this development
- The Stych Brook runs in a culvert under the site. If the development damages it there will be flooding problems locally

Inaccuracies

- The description is inaccurate. The development is for disabled persons rather than being social housing
- The proposals make no reference to either the culverted Stych Brook beneath the site or to the rights of way that cross the site
- The Bridleway is not accurately shown
- Despite what is said on the application form, there are no waste or recycling facilities shown on the plans

Other Matters

- The development will spoil local views
- Local property values will be reduced as a result of the development
- No facilities shown for waste storage and collection
- Will lead to parking on frontage of existing garages on Charlton Rise

4.2.2 Councillor Tracey Huffer:

Due to public concerns I have received, with regard to the significant loss of green space, footpath clarification, felling of two trees and ownership of trees. Also to be noted objection from Ludlow Town Council. As Unitary Councillor for this division I would like to request that this application is called in to planning committee.

5.0 THE MAIN ISSUES

- Principle of development
- Affordable Housing
- Siting, scale, design, visual impact
- Impact on neighbours/residential amenity
- Impact on Trees
- Impact on Biodiversity

- Highways and Transport
- Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy and the adopted Site Allocations and Management of Development (SAMDev) Plan.
- 6.1.2 The National Planning Policy Framework promotes sustainable development and states that new housing applications should be considered in the context of the presumption in favour of sustainable development. The Framework supports the delivery of a wide range of high quality homes. It specifically states at paragraph 14 that local planning authorities should normally approve planning applications for new development in sustainable locations that accord with the development plan or, where the development plan is absent, silent or relevant policies are out of date, with the policies contained in the Framework; unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the Framework indicate development should be restricted.
- 6.1.3 Policy CS1 of the adopted Core Strategy sets out the strategic approach that will be used to guide and manage new development over the lifetime of the Core Strategy. The emphasis is on creating sustainable places that are socially inclusive and economically vibrant and which are resilient and adaptable to change. It will direct the majority of new development to places that already have good infrastructure, services and facilities.
- 6.1.4 Policy CS1 establishes a settlement hierarchy with Shrewsbury and the Shropshire Market Towns being the primary focus for new development. Other identified Key Centres will also accommodate growth with rural areas being catered for through the establishment of Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth.
- 6.1.5 Ludlow is classified as a Market Town under Policy CS3 of the Core Strategy and is one of the most sustainable settlements in the county. It will be the focus for new development in South Shropshire over the life time of the Plan. Settlement Policy S10.1 (Ludlow Town Development Strategy) states that new housing development will be delivered primarily on the allocated housing sites east of the A49, set out in schedule S10.1a and identified on the Policies Map, alongside additional infill and windfall development within the town's development boundary. The site lies within the settlement development boundary for the town

and its development for alternative uses is acceptable in principle.

6.1.6 Policy MD3 of the SAMDev Plan, amongst other things, supports sustainable housing development on sites not allocated for development having regard to other local plan policies. In particular, CS3 is one such policy, which identifies the Market Towns of Shropshire as being the focus for new development over the lifetime of the Development Plan. It supports balanced housing development of an appropriate scale and design that respects the distinctive character of the towns and which take place within the defined settlement boundaries. Ludlow is one such Market Town.

6.1.7 The application site is a windfall site and it falls within the defined settlement boundary for Ludlow. Subject to an assessment of how the development fits into its local context it is considered, therefore, that the principle of redevelopment of this site for five affordable dwellings is acceptable and that it accords in general with Policies CS1 and CS3 of the Core Strategy and MD1, MD3, and S10.1 of the SAMDev Plan.

6.2 **Affordable Housing**

6.2.1 The applicant is a registered social landlord and the proposed development comprises five affordable dwellings (100% provision), to be managed by the applicant. The town of Ludlow has a high affordable housing need and these additional five dwellings are welcomed by the Council's Affordable Housing Officer as they will make a small but important contribution towards the need for such accommodation in Ludlow. With the applicant being a registered social landlord (RSL) planning conditions can be used on any approval to secure the properties as affordable housing.

6.2.2 The proposals therefore carry some weight in this regard.

6.3 **Siting, scale, design and visual impact**

6.3.1 Section 7 of the Framework is concerned with promoting good design and re-affirms previous national guidance that permission should be refused for development of poor design. It advises planning policies and decisions should not seek to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative. It is necessary for new development to function well, establish a strong sense of place, have a suitable balance between built form and space, respond to local character and history, create a safe and accessible environment and be visually attractive.

6.3.2 Policy CS6 of the Core Strategy is concerned with delivering high quality sustainable design in new developments that respect and enhance local distinctiveness. This is further bolstered by Policy MD2 of the SAMDev Plan. In summary, these policies expect new development to be sustainable in the use of resources, including during the construction phase and future operational costs, reduced reliance on private motor traffic, be respectful of its physical, landscape setting and context and to incorporate suitable mitigation in the form of materials and landscaping.

6.3.3 The proposed development has been amended since its first submission to take account of the local constraints and views of local residents. The number of dwellings has been reduced from seven to five and the separation distance dividing the new development from the existing bungalows to the north has been increased. The design has also been refined and simplified to more appropriately reflect the existing house types to the north and west. Materials to be used will also reflect those prevailing locally. It is considered that the siting, scale, design and appearance of the development as amended is more in keeping with its surroundings.

6.4 **Impact on neighbours/residential amenity**

6.4.1 Policy CS6 also requires that development should safeguard residential and local amenity. The initial scheme was considered to be unacceptably detrimental to the amenity of the residents occupying the bungalows to the immediate north due to the relative positioning of the buildings and their orientation.

6.4.2 The future occupiers of the proposed dwellings would also have experienced an unacceptable loss of amenity due to the proximity of the development to the existing bungalows. Negotiations were carried out to resolve these issues and the latest amended plans show a reduced development that has been repositioned further away from the adjacent bungalows.

6.4.3 The degree of separation is approximately 18m between the front elevation of the existing bungalows and the rear elevation of the proposals. This reflects the prevailing separation distances established elsewhere within the adjacent housing estate. Subject to suitable rear boundary treatments adjacent to the footpath along the northern site boundary, and given the fact that these dwellings are all single storey, it is considered that this arrangement is acceptable.

6.4.4 Due to the separation distances involved, the scale and location of the proposed development is not considered to directly affect the amenities of residents on Charlton Rise or those dwellings arranged along the western side of Sidney Road.

6.4.5 The proposed row of terraced dwellings is set a considerable distance back from the public highway and the development will maintain a relatively deep and open frontage to Sheet Road, Sidney Road and Charlton Rise. Additional landscaping could be introduced to improve the visual appearance of the frontage as there is ample space to replace the tree proposed for removal.

6.4.6 The proposed development will alter the appearance of the area. The amended scheme is considered to have a less significant impact compared with the previous iteration and its effects would be less harmful on the character of the area as a consequence. Subject to additional landscaping it is considered that the proposals are consistent with Policies CS6 and MD2 in terms of impact on residential and visual amenity.

6.5 **Impact on Trees**

- 6.5.1 The application site currently contains three semi-mature trees that are subject of a provisional tree preservation order (TPO). This was made recently following the felling of a fourth tree that occupied a central position on the site late last year. That particular tree was the largest and most attractive of the four. The proposed siting of the new dwellings across the centre of the site would necessitate removal of another tree and this has caused much concern within the local community. Local residents value these trees and are opposed to any further felling.
- 6.5.2 The Council's Tree Officer has considered the value of these trees and, in context, he concludes that the trees are in good health and are significant visual features in the area. Existing housing development within the area is of relatively high density and the areas of amenity land that front Sheet Road are dominated by areas of open grass with only a few isolated trees to relieve the otherwise monotonous appearance. As a result, the value of the remaining trees on these amenity areas is elevated.
- 6.5.3 The Framework places weight on the conservation and enhancement of the natural environment and this is reflected in the Development Plan policies CS6, CS17, MD2 and MD12. These policies seek to retain important landscape features within new developments unless there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site. Policy MD12, which is specifically concerned with the natural environment, facilitates the removal of such features where it can clearly be demonstrated that the social or economic benefits of the proposal outweigh the harm to the asset.
- 6.5.4 This latter point is important as it requires the Council to weigh in the planning balance the value of retaining the remaining centrally positioned tree against the social benefit of the provision of five new dwellings that are intended to meet the significant affordable housing demands evident within Ludlow.
- 6.5.5 These policies acknowledge that in many instances such tensions between conservation and new development need to be resolved and each policy accepts that in certain cases new development should prevail where there is clear evidence in support of it and where the loss of an amenity such as a tree in this case can be satisfactorily mitigated. The applicant is proposing to replace the tree with additional planting along the Sheet Road and Charlton Rise frontages, as well as retention of the existing trees on the site frontage.
- 6.5.6 The applicant submitted an amended Arboriculture Report and planting plan showing an additional six trees planted around the street frontages. These have been reviewed by the Council's Tree Officer and his detailed views are set out above in this report. In summary, he has accepted the justification set out for removal of the tree, especially as the compensatory tree planting and landscaping is considered to be high quality and will eventually be of greater public benefit.
- 6.5.7 He has, however, acknowledged that there is a balance to be made between the importance of maintaining the character and amenity of an area and the need for social housing and that the social or economic benefits of new social housing at

this site might justify the adverse effects on amenity derived from the loss of tree T3. Should it be the case that it is the decision of the planning committee to grant planning permission, that decision would overrule the TPO in relation to tree T3. The Council would however be able to make the case for the expedience of protecting the proposed new planting.

6.5.8 The revised planting plan and associated arboricultural method statement and tree protection plan offer a significant and well-designed compensatory planting scheme with appropriate tree protection measures that from an arboricultural perspective serve to address the needs for compensatory planting set out in the Council's policies on sustainable development and natural assets. On that basis, he has no objection to the proposals subject to imposition of appropriate conditions.

6.5.9 As mentioned above, Policy MD12 facilitates the removal of environmental features where it can clearly be demonstrated that the social or economic benefits of the proposal outweigh the harm to the asset. In this case, it is considered that the provision of five units of affordable housing together with the proposed compensatory planting would on balance outweigh the retention of the tree.

6.6 **Impact on Ecology and Biodiversity**

6.6.1 The Framework and Development Plan policies place weight on habitat conservation and enhancement. Although the application site is mainly laid to open grass, the trees on the site are considered to provide either habitat or foraging for bats and therefore are of value. The Council's Ecologist has been consulted and their views are set out above in Section 4.

6.6.2 The submitted Ecological Survey and report have been assessed and the analysis and conclusions have been accepted by the Ecologist. There is no ecological objection to the development proposals subject to imposition of planning conditions requiring provision of nest boxes for bats and birds, submission and implementation of a lighting scheme that is sympathetic to foraging bats and a landscaping scheme that incorporates tree, shrub and hedgerow planting using native species of local provenance.

6.7 **Highway Safety**

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

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

6.7.3 The site will be served by two parking areas. One of these will be accessed directly off Sidney Road where three disabled user spaces are proposed. A

further nine parking spaces will be provided on Charlton Rise in the form of a compact block. The site once accommodated a group of lock-up garages accessed off Charlton Rise but these were demolished around 40 years ago. Access to the dwellings will be via a small number of level footpaths leading to and from each of the parking areas.

- 6.7.4 The proposals have been assessed by the Highways Officer who has confirmed that the development is acceptable in highway safety terms, although the distances separating the bungalows from the car parking and refuse storage areas are considered to be greater than ideal. However, given the constraints affecting the site it should not be expected that the ideal form of development can be designed and achieved and some minor compromises may have to be accepted in order to deliver an appropriate form of development. It is considered, on balance, that the amended scheme achieves that balance and the proposals are considered to be satisfactory in highway safety terms.
- 6.7.5 The Highway Officer's comments relating to visual impact are not relevant to highway safety and are outside his remit.

6.8 **Drainage**

- 6.8.1 Core Strategy policy CS18 seeks to achieve a reduction in surface water run off by the use of sustainable drainage systems within developments. The application proposes connecting the surface water drainage into the existing mains system. The Drainage Engineer recommended that this is not done as it could result in increased flood risk elsewhere. Instead, he recommends that soakaways are investigated and if that is not feasible then the issue of drainage should be made a pre-commencement condition to enable the matter to be resolved before any work starts on the site.
- 6.8.2 The Council's Drainage Team has advised that the site is potentially at some risk of flooding and that ground conditions are such that conventional percolation drainage methods via soakaways may not be appropriate, pending further investigation. The applicant is aware of this and has agreed to design a sustainable drainage scheme that meets current standards and has requested that this be made a pre-commencement of works requirement. The floor slab levels of the dwellings should be set at least 150mm above any known flood level. It is recommended that suitable planning conditions be added requiring submission of further drainage details to be agreed and implemented prior to commencement of development.
- 6.8.3 Subject to such conditions, there would be no objection to the development on drainage grounds.

6.9 **Other Matters**

- 6.9.1 The Highways Officer has commented on the access arrangements for residents to carry refuse and recyclable materials to the proposed storage area. The amended layout plan appears not to be especially efficient and there are no details, for example, of where each individual dwelling will store its wheelie bins and recycling containers.

- 6.9.2 The applicant has confirmed that each dwelling will have space to keep such bins within the communal curtilage. There will be gates provided at the boundary of the curtilage to make it much easier for residents to access the refuse collection area. The harmful visual impact of the bins mentioned in the Highway Officer's comments will not occur as a result of these arrangements. The applicant has agreed to supply a more detailed layout plan showing means of enclosure, gates and so forth and it is recommended that this be made subject to a separate planning condition.
- 6.9.3 Representations have been made concerning the status of this land as a protected community asset. The Town Council has apparently submitted an application to have the site listed as a village green to prevent the land being developed; but to date there is no indication that this has been successful. Legal advice obtained states that should a site be so listed then any infringement of the rights of the inhabitants to enjoy activities on the land would be prevented by the law relating to town and village greens. In effect it would prevent lawful implementation of any planning permission. However there are a number of tests to be met before the land would be registered as a village green so there is no guarantee that it will, in fact, happen. At present, therefore, Members should consider the current proposals on their merits and in the context of relevant planning matters as they exist at the time of decision-making and not as the might be in the future.
- 6.9.4 As a precaution, Members' attention is drawn to an appeal decision dated 3rd February 2014 relating to the refusal of outline planning application reference 13/00568/OUT for up to fifteen dwelling houses on land east of "Sunnydale", Bank Drive, Dorrington. In allowing the appeal, the Inspector opined the following:
- "The whole of the field, including the appeal site, was designated as a village green by Shropshire Council in June 2012 following consideration of a report of a two-day inquiry held in September 2011.*
- The village green status of the site is protected by separate legislation, and is not, in itself, a ground for the refusal of planning permission. However, the grant of planning permission cannot override the legislation protecting the designated village green."*
- 6.9.5 In the current case, the land has not been designated as a village green. There is no evidence available either that demonstrates that the land enjoys any other elevated or special status. As such, the proposed development should be assessed on its merits.

7.0 CONCLUSION

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 7.2 The site lies within the defined settlement boundary for Ludlow and the principle of new residential development on the site is, therefore, acceptable. The proposals will deliver a number of community benefits including a contribution towards the affordable housing stock of the town, where there is an identifiable need. However, the fact that this is an affordable housing development does not alter the acceptability of new residential development on this site.
- 7.3 The application is valued by local residents who view it as an asset as it is both an open space in the locality and because it contains a number of trees that are seen as important visual features. The development will alter the character of the site by removing one of the trees and introducing built form in part of the site. However, there will be compensatory tree planting which will increase the number of trees around and within the site in due course and the reduced scale of development now proposed will be inset from the edges of the site thereby ensuring that the open character of the site is retained to a reasonable degree.
- 7.4 The principle of the proposed development has been assessed against the provisions of the development plan and all other material planning considerations and is considered to be sustainable development. It is acceptable in principle and the site is capable of being developed in such a way that is unlikely to give rise to any unreasonable impacts that would adversely affect the amenity of local residents, highway safety, flood risk, biodiversity interests or the character and appearance of the local area. The design and appearance of the development has been refined through negotiation and is considered to be acceptable in context.
- 7.5 The proposal is therefore considered to be consistent with the provisions of the National Planning Policy Framework and the policies contained within the adopted Core Strategy and SAMDev Plan. Subject to the conditions set out below, the proposals are considered to be acceptable and are recommended for approval.

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.

PLANNING POLICIES

Shropshire Adopted Core Strategy:

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

Shropshire Adopted SAMDev Plan:

- MD1: Scale and Distribution of Development
- MD2: Sustainable Design
- MD3: Delivery of Housing Development
- MD12: Natural Environment
- S10: Ludlow Area Development Strategy

National Planning Policy Framework:

The following paragraphs are considered to be relevant:

2, 7, 12, 14, 17, 47, 56, 58, 60, 61, 70, 74, 103, 118 and 187

HISTORY

SC/00292/17- Provisional Tree Preservation Order April 2017

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning, Design and Access Statement received on 16 th June 2017
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Tracey Huffer
Appendices APPENDIX 1 – Conditions and Informatives

CONDITIONS

1. TIME LIMIT

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. PLANS

The hereby permitted use shall be carried out in accordance with the details shown on the following approved drawings:

- C-101: Site Plan
- C- 102G: Proposed Block Plan
- C-205A: Amended Floor Plans
- C206B: Amended Elevations
- 2930 170302B: Proposed Tree Planting and Protection Plan

REASON: To define the permission in the interests of local amenity.

3. MATERIALS

No development shall commence on site until details and samples of the materials to be used for the external walls, roofs and hard-surfaced areas have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area.

4. MEANS OF ENCLOSURE

No development shall commence on site until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

REASON: In the interests of visual amenity and the character and appearance of the area

5. SUBMISSION OF LANDSCAPING PLAN

Notwithstanding what is shown on the approved plans, no development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has

been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

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

6. LANDSCAPING SCHEME IMPLEMENTATION

All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

7. PROTECTION OF RETAINED TREES

The approved measures for the protection of the trees as identified in the agreed tree protection plan (ref. 2930 17 03 02 B) shall be implemented in full prior to the commencement of any development related activities on site, and they shall thereafter be maintained for the duration of the site works. No material variation will be made from the approved tree protection plan without the written agreement of the Planning Authority.

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

8. TREE PROTECTION NOTIFICATION

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

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

9. SURFACE WATER DRAINAGE SCHEME

No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway/parking areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

10. FOUL DRAINAGE SCHEME

No development shall commence on site until details of the works for the disposal of sewerage have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage.

11. FLOOR SLAB LEVELS

The proposed ground floor slab levels of the hereby approved dwellings shall be set at least 150mm above the existing ground levels on the site measured at the point immediately adjacent to each of the proposed dwellings.

REASON: In the interests of safeguarding the development from potential flood risk.

12. HIGHWAYS

No part of the development hereby approved shall be first occupied until the parking areas shown on the approved plans have been consolidated, surfaced and laid out in accordance with the approved details. These areas shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

13. REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area

14. PROVISION OF BIRD BOXES

Prior to first occupation / use of the buildings, details for the provision of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected:

- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

REASON: To ensure the provision of roosting and nesting opportunities in the interests of biodiversity.

15. LIGHTING PLAN

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's *Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting* (2014).

REASON: To minimise disturbance to bats, which are European Protected Species.

16. AFFORDABLE HOUSING

The dwellings shall not be let or occupied other than either:-

- a. under a tenancy in accordance with the normal letting policy of a Registered Provider;
- or
- b. by way of a Shared Ownership lease or equity share arrangement whereby the occupier is able to achieve a share of 80% of the whole.

Reason: To define the permission and ensure compatibility between the requirements of Shropshire Core Strategy Policy CS11.

17. In addition to the requirements of the Shropshire Affordable Housing and Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection

and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy guidance that may from time to time replace it.

Reason: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.

18. CONSTRUCTION HOURS

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

Reason: In order to maintain the amenities of the area in accordance with policy CS6 of Shropshire Council Core Strategy.

19. CONSTRUCTION MANAGEMENT

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

INFORMATIVES1. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

2. No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

3. 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 new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. 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.

4. Diversion of Public Right of Way

It appears FP 17 will be affected by the new development and I have attached a plan of the area showing rights of way information onto which I have overlaid the current proposed block plan and this shows FP 17.

This footpath will require a legal order to be made to either divert or extinguish the footpath under the terms of the Town and Country Planning Act.

The applicants will need to apply to the Mapping and Enforcement Team for such an order and, in the meantime, the route will need to be temporarily closed before any works commence at the site. The Mapping and Enforcement Team can provide the necessary information and application forms for both orders.

5. Nesting birds informative

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

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

6. General site informative for wildlife protection

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

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.



Committee and date
 South Planning Committee
 1 August 2017

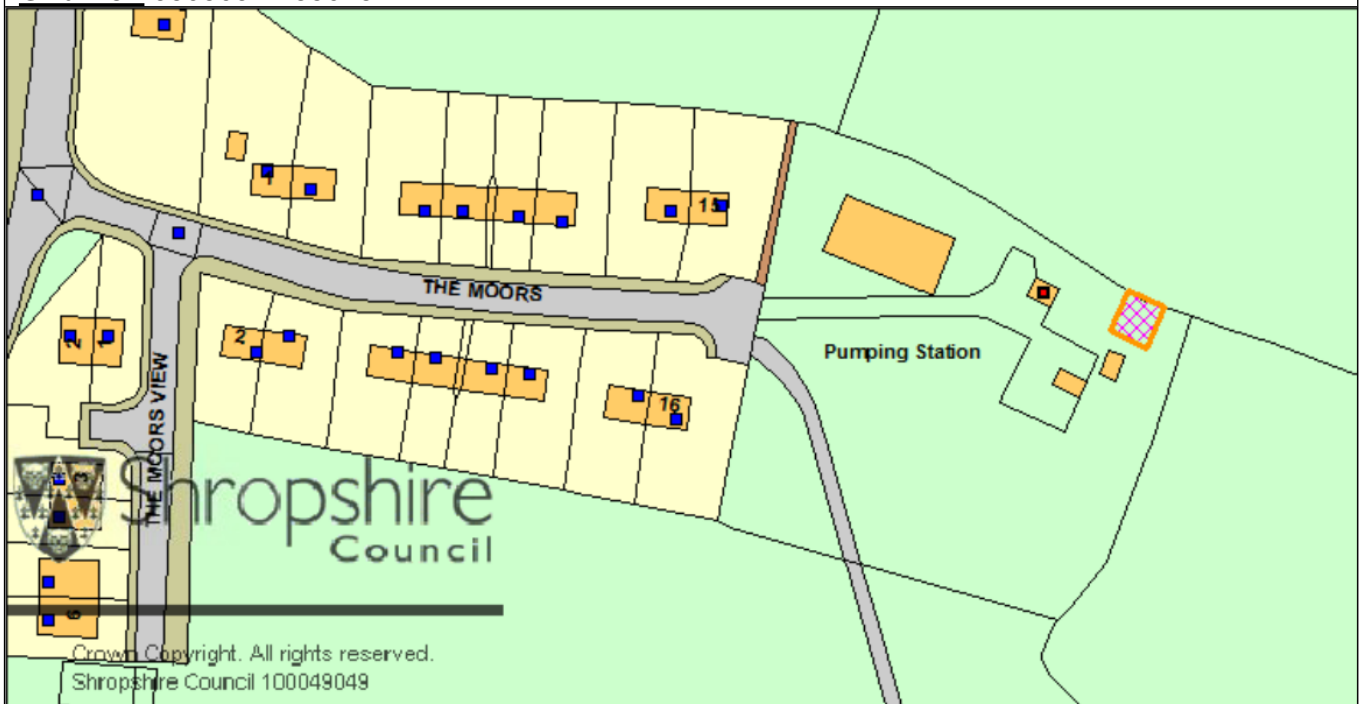
Development Management Report

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

Summary of Application

Application Number: 17/03071/TEL	Parish: Diddlebury
Proposal: Installation of a 15 metre high monopole accommodating 3no antennas and 2no 600mm dishes with 3no equipment cabinets all located within a 7 metre by 7metre stock proof fenced compound	
Site Address: Pumping Station The Moors Diddlebury Shropshire SY7 9JZ	
Applicant: Vodafone Ltd And CTIL	
Case Officer: Heather Bradley	email: planningdmsw@shropshire.gov.uk

Grid Ref: 350563 - 285648



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

Recommendation:- Prior Approval Not Required, subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This is an application for prior notification under Part 16, Class A of the Town and Country Planning (General Permitted Development) Order, November 2016.

1.2 The application proposes the following:-

- 15m high monopole;
- 3no. Antennas;
- 2no 600mm dishes;
- 3no equipment cabinets;
- 1 meter cabinet;
- 1.2m stock proof fence;

1.3 The mast is proposed to provide improved mobile network coverage for two providers (Vodafone and Telefonica) who have an agreement to work together to jointly operate and manage a single network grid across the UK and provide 3G and 4G coverage and capacity.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site comprises of a compound around 14sqm in size and would sit within the grounds of an existing water pumping station set at the end of a residential cu-de-sac known as The Moors in the settlement of Diddlebury.

2.2 The site itself is made up of a group of existing purpose built brick buildings, the mast and associated equipment is proposed to be located in the north east corner of the site. Fields bound the north, east and south of the pumping stations grounds. Approximately 240m to the southeast lies Corvedale Primary School. The nearest residential properties are around 70m away at The Moors. A public right of way runs west-east along the northern boundary of the site.

2.3 Whilst the application site itself is outside of any nationally designated area, the boundary of the Diddlebury Conservation Area lies some 140m to the south east of the site and the boundary with the Shropshire Hills Area of Outstanding Natural Beauty (AONB) is approximately 207m to the west, running along the main highway of the B4368.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council object to the proposal and due to the level of public objection and potential impact on surrounding landscape the Chair and Vice Chair of the South Planning Committee requested that this application be considered at Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Diddlebury Parish Council – Objected at preapplication stage.

Diddlebury Parish Council will be considering this application at its meeting on 26th July 2017. The Parish Council is disappointed that this application has come forward as it was asked by the applicant CTIL to consider it as a pre-application proposal. This Diddlebury Parish Council duly did on the 17th May 2017 and the Parish Council's objection is set out below: -

'As you are aware, your pre-planning application was debated by Diddlebury Parish Council last night.

A number of residents from The Moors attended and voiced their very considerable concerns about this proposed application, especially a resident who lives adjacent to the proposed site and who has a young family – as do many residents of The Moors.

The information you sent us on the 11th May states, inter alia, that all CTIL & Telefonica installations are designed to be fully compliant with the public exposure guidelines established by the International Commission on Non-Ionizing Radiation Protection, and that these guidelines are supported by the UK government, the EU and the WHO. That may well be the case, but it does little to reassure parents and members of the public who can find an abundance of contradictory scientific evidence supporting the view that a proximity of less than 300 metres from such an installation is unsafe. You have stated two houses are 80 metres from the site. Not only is this site within a village it is also close to the school.

Quite apart from the health and safety aspects, which may be arguable, an unarguable fact is this installation will be hideous intrusion in an otherwise attractive village in an Area of Outstanding Natural Beauty, visible to much of the village.

Whilst Diddlebury Parish Council are only too well aware of the very poor mobile telephone coverage in this area, we doubt that many of our parishioners would welcome this intrusive development or regard it as a price worth paying for improved mobile telephone coverage. The parish council may well support an application from you if the site was in an appropriate rural area where it was screened and well away from residential buildings. This is a big parish: we cannot believe a more appropriate site cannot be found. Studying your list of other options considered, we feel that insufficient effort has been made by your company to find a more appropriate location: perhaps your being based in Glasgow is a factor here.

I am instructed to advise you that as your proposed application stands, there is no possibility that the parish council will support it.'

4.1.2 SC Rights of Way – No comments.

4.1.3 SC Conservation Officer – No objection - The impact on the existing designated and non-designated heritage assets is considered to be negligible in terms of harm on the 'less than substantial harm' spectrum (as defined by paragraph 134 of the NPPF), where this needs to be balanced with the proposed public benefits of the proposal.

4.1.4 SC Ecologist – No objection - Recommend informatives regarding general site information for wildlife protection, bats and great crested newts.

4.2 Public Comments

4.2.1 Corvedale Primary School - Object –

- This objection is on behalf of the children, head teacher, teachers, governors and parents of Corvedale CE Primary School.
- Not assured by compliance with guidelines established by the International Commission on Non-Ionizing Radiation Protection as there is much contradictory scientific evidence to suggest that proximity of less than 300m is unsafe. The School is only 240m away.
- The impact on is not a price worth paying for improved coverage.
- Mast would be intrusive in an attractive village in an AONB.
- There are numerous, more remote places with the dale where such an installation could be hidden away.

4.2.2 21 Objections received:

4.2.2.1 Adverse impact on Health

- Too close to residential properties which house in-excess of 25 children.
- Too close to primary school – there must be a better place for it to be erected away from young children.
- There is much contradictory scientific evidence as to the safety of such an installation in such close proximity to residential areas and in this particular case, so close to a school.
- Many rigorous and respected studies have concluded that there are detrimental effects or require more research to be done - The Stewart Report by an Independent Expert Group set up by National Radiological Protection Board (NRPB) concludes that "It is not possible at present to say that exposure to Radiofrequency Radiation, even at levels below national guidelines, is totally without potential adverse health effects, and that the gaps in knowledge are sufficient to justify a precautionary approach."
- The Stewart reports also states that children may be more vulnerable to low level radiation from masts due to developing nervous systems and bone structures.
- Whilst there remains any doubt as to the health risks posed, surely it would be sensible to site this mast away from a street of houses of mainly families with young children?
- A small sample of other research into health impacts:
Research involving humans - cancer
1. Wolf R, Wolf D, (April 2004) Increased incidence of cancer near a cell-

phone transmitter station, International Journal of Cancer Prevention, 1(2)
April 2004

2. Eger H et al, (November 2004) The Influence of Being Physically Near to
a Cell Phone Transmission Mast on the Incidence of Cancer, Umwelt
Medizin Gesellschaft 17,4 2004

Research involving humans - non-cancer

3. Augner C et al, (September 2008) GSM base stations: Short-term effects
on well-being, Bioelectromagnetics. 2008 Sep 19. [Epub ahead of print]

4. Preece AW et al, (June 2007) Health response of two communities to
military antennae in Cyprus, Occup Environ Med. 2007 Jun;64(6):402-8

5. Abdel-Rassoul G et al, (March 2007) Neurobehavioral effects among
inhabitants around mobile phone base stations, Neurotoxicology. 2007
Mar;28(2):434-40

6. Yurekli A et al, (2006) GSM base station electromagnetic radiation and
oxidative stress in rats, Electromagn Biol Med 25(3):177-88

7. Bortkiewicz A et al, (2004) Subjective symptoms reported by people living
in the vicinity of cellular phone base stations: review, Med Pr.
2004;55(4):345-51

8. Nikolova T et al, (October 2005) Electromagnetic fields affect transcript
levels of apoptosis-related genes in embryonic stem cell-derived neural
progenitor cells, FASEB J. 2005 Oct;19(12):1686-8

9. Santini R et al, (September 2003) Symptoms experienced by people in
vicinity of base stations: II/ Incidences of age, duration of exposure, location
of subjects in relation to the antennas and other electromagnetic factors,
Pathol Biol (Paris). 2003 Sep;51(7):412-5

10. Navarro EA et al, (December 2003) The Microwave Syndrome: A
Preliminary Study in Spain, Electromagn Biol Med 22(2-3): 161-169

11. Santini R et al, (July 2002) Investigation on the health of people living
near mobile telephone relay stations: I/Incidence according to distance and
sex, Pathol Biol (Paris) 2002 Jul;50(6):369-73

REFLEX Report - Risk Evaluation of Potential Environmental Hazards From
Low Frequency Electromagnetic Field Exposure Using Sensitive in vitro
Methods. A project funded by the European Union under the programme
"Quality of Life and Management of Living Resources"

Research involving animals

11. Everaert J, Bauwens D, (2007) A possible effect of electromagnetic
radiation from mobile phone base stations on the number of breeding house
sparrows (*Passer domesticus*), Electromagn Biol Med. 2007;26(1):63-72

12. P Balmori A, (October 2005) Possible Effects of Electromagnetic Fields from Phone Masts on a Population of White Stork (*Ciconia ciconia*), *Electromagn Biol Med* 24: 109-119, 2005

- Applications for masts have been rejected on health grounds in numerous places, including Barnet, Harrow, Kent and Worcester.
- Some children live just 80m away from the proposed mast – far below the guidelines stated.

4.2.2.2 Visual Impact

- Clear from the Photo Montages the 15m high mast will be highly conspicuous.
- Detrimental feature of the landscape.
- The Corevdale is part of the AONB set between Wenlock Edge and Brown Clee Hill – the scheme is not sensitive to the character of the area.
- Mast would be a blot of the landscape and the village.
- Mast will be visible in the wider area of the parish.
- Harm to the appearance of the Conservation Area.
- The photomontages are taken during the summer months when trees are in full, the view will be very different during the autumn and winter months.
- This area should remain untouched.
- Consider the preapplication advice given by the Area Planning Manager indicating scheme is unlikely to give rise to concerns on locational grounds contradicts the Councils Core plan policies to ensure the character, quality and diversity of Shropshire natural and historic environment is protected, restored and enhanced.
- The mast should be relocated to the poultry sheds at Corfton, they are an existing blot of the landscape so all of the eyesores could all be kept together.

4.2.2.3 Other Matters

- Dispute that the applicant has undertaken a neighbour and local community consultation as only found this out via the parish council and the Councils own consultation letter.
- Already endure disturbance, noise and traffic from the pumping station to which tried to find solutions, however this scheme is a step too far.
- Lighting at night, further construction works and maintenance will be a significant disturbance.
- The Council should be supporting and protecting the people that live and work here, especially the children.
- Application has not been publicized well enough.
- Property prices will be de-valued.
- Local Communities are not listened to by Local Authorities this has been learnt recently in London.
- The Moors residents and their housing matters, it is a residential area, it is not just functional.
- The affects of microwaves are not limited to humans – bees, bats and migratory birds will be affected – as a beekeeper for some 20 years – only too aware of the effects on honeybee populations.

- Electromagnetic radiation can affect soil, tree cells, harm development of tadpoles and other pond flora and fauna.
- Loss of view.
- Health and Safety risk to users of the footpath in the event of high winds in the area due to falling debris from the mast.

5.0 THE MAIN ISSUES

Principle of development

Siting and external appearance

Health Impacts

Other Issues raised –

- Alternative Sites
- Ecology
- Noise and Disturbance
- Loss of View and devaluation of property
- Consultation procedure

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The works proposed are judged to be permitted development under Part 16, Class A of the Town and Country Planning (General Permitted Development) Order, amended 24th November 2016. The purposes of this application is to enable the Local Planning Authority to determine whether or not prior approval of the siting and external appearance of the development will be required and if so whether prior approval is granted or refused.

6.1.2 Part 5 of the National Planning Policy Framework seeks to support high quality communications infrastructure. This is supported by local plan policy through CS7, CS8 and CS13 of Shropshire Council Core Strategy and MD8 of the Sites and Allocation of Development (SAMDev) Plan, which seeks to improve, maintain and promote communications infrastructure.

6.1.3 The principle of updating telecommunication networks is welcomed provided that the installation of the necessary equipment does not harm the surrounding environmental assets. The principle of mast-sharing by different network operators is encouraged in the National Planning Policy Framework since the erection of additional masts can be visually more intrusive.

6.2 Siting and external appearance

6.2.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built and natural environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved.

- 6.2.2 Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets. Policy MD12 of the SAMDev Plan sets out the level of protection offered and criteria by which Shropshire's natural assets will be conserved, enhanced and restored.
- 6.2.3 Given the development of modern technologies and the increasing dependence on mobile and digital communications it's increasingly important to provide an efficient and usable signal. Any visual impact as such has to be carefully balanced against the social and economic benefits of a strong communications infrastructure.
- 6.2.4 The design and materials of the structures proposed are largely constrained by the function and needs of the telecoms provider to provide an optimum service. The scheme in this case proposes a slimline mono-pole design rather than the use of a lattice structure and the applicant confirms that the dimensions proposed are the thinnest available to support the technically preferred antennas and feeder cables which would run internally through the structure. The column is proposed to be painted grey (RAL 7035).
- 6.2.5 The proposed equipment cabinets would be less than 2.5 cubic metres each and located along side the mast. In terms of the heights of the cabinets, at a maximum they are not proposed to exceed 1.8m in height. The size of these structures is determined by the need to accommodate the technology and ensure sufficient airflow around the equipment for cooling, which in turn minimises the noise generated. The equipment housing is proposed to be painted green (RAL 6009).
- 6.2.6 The base station is proposed to be located within the grounds of an existing pumping station compound within which already exists a number of utilitarian structures and equipment. Although it is also noted that domestic style properties are located adjacent the site and thus the built character of the immediate area is a mix, although predominately residential.
- 6.2.7 The mast would be visible from public view points, including the public right of way which runs immediately alongside the boundary of the site. The application is accompanied by photo montages taken from key points in the wider area to illustrate the potential visual impact of the scheme. It is noted that the photographs are summer pictures and that the tree cover in the area is in the majority deciduous so during the autumn and winter months less foliage cover will be available.
- 6.2.8 However the proposed scheme would be viewed against the existing pumping station buildings and the wider built development of Diddlebury and thus seen as part of a group of existing development rather than as an isolated feature within the countryside. The cabinets are considered to be low level structures which would not dominate the site or appearance of the surrounding area.
- 6.2.9 Even during the autumn and winter months when there is less leaf cover it is considered there will remain a degree of tree coverage with the mast viewed

alongside tree branches and it is not considered that at a height of 15m the mast would be any more adversely prominent than surrounding telegraph and electricity poles. The proposed finished colours for the mast and the cabinets would also aid with the assimilation into the area.

- 6.2.10 Although the mast itself would sit outside any nationally designated area, the boundary with the Shropshire Hills AONB falls some 207m away to the west and thus there is potential for the proposed development to impact on the setting of the Shropshire Hill AONB and which the Local Planning Authority has a duty to consider.
- 6.2.11 There are likely to be views of the site when looking across the valley from and towards the AONB. However as noted the base station would be read against the backdrop of existing mature landscaping. In addition it should be noted that the wider landscape as with all rural landscapes is peppered with larger functional agricultural buildings, access tracks, telegraph and electricity lines.
- 6.2.12 It is acknowledged that the presence of the proposed phone mast and associated structures would alter the existing appearance of this part of the landscape thus changing its character to an extent. However it is considered due to the surrounding mature landscaping the impact of the alteration to the character and appearance of the area would not be detrimental to visual amenity or setting of the Shropshire Hills AONB.
- 6.2.13 The impact on the setting of the Conservation is a matter which requires consideration. The Conservation Officer also identifies other designated and non-designated heritage assets which lie beyond the Conservation area boundary including The Glebe Farmhouse (Grade II listed), Diddlebury War Memorial (Grade II listed), The Parish Room (Grade II listed) and the Church of St Peter (Grade II*). These designated heritage assets lie approximately 320 metres or more away from the site. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that local planning authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Section 66 that same act is also relevant in this case stating that local planning authorities should pay special attention to the desirability of preserving or enhancing the setting of a listed building. Part 12 of the NPPF, Core Strategy policy CS17 and SAMDev policy MD13 supports the above. Any impact however has to be weighed against the public and economic benefits of improved network coverage in this part of South Shropshire.
- 6.2.14 There is a degree of inter-visibility between the site and the heritage assets although this is interrupted by existing trees and hedgerows. In addition when considering the proposal against its context of the existing Severn Trent paraphernalia, trees and telegraph poles, it is judged that the mast and cabinets themselves would not appear unduly prominent, although it is accepted that the topmost antennae will be mostly visible. The Conservation Officer notes other locations have been explored included the Grade II* listed St Peters Church and accepts that the location subject to this application is the most appropriate in terms of potential impact on heritage assets. Overall it is judged that the impact on existing designated and non-designated heritage assets in the context of

paragraphs 134 and 135 of the NPPF would be less than substantial.

6.3 Health Impacts

6.3.1 Of the objections received it is noted that the potential impact on health as a result of Electro magnetic fields, emitted by antennas, in particular on the younger community given the proximity to the primary school and residential properties is a prevalent concern.

6.3.2 The objections received from the public include reference to both The Stewart report and a number of other studies regarding the impacts of such development as proposed on health. It is noted that the Stewart report was published in 2000 and the other reports referenced between 2002-2007. All of those studies are prior to the Central Government Guidance set out in the NPPF, 2012, which at paragraph 46 states the following: -

'Local planning authorities must determine applications on planning grounds.

They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure.'

6.3.3 This application is accompanied by documents regarding research undertaken into the health impacts of such development and the completed declaration of conformity that the proposed base station and its associated structures would be compliant with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines concerning public exposure to electromagnetic fields.

6.3.4 Central Government are of the firm view that the planning system is not the place for determining the health safeguards and if a mast meets the ICNIRP guidelines. Given this and the Councils decision making has to accord with the requirements of the NPPF it is considered that the Council could not reasonably seek to require any further information regarding health impacts or justify its relocation or refusal of this application. The enforcement of health and safety issues relating to Masts is a matter for the Health and Safety Executive and not the local planning authority.

6.4 Other Issues raised – Alternative Sites

6.4.1 The NPPF at paragraph 44 states that Local Planning Authorities should not levy a ban on new telecommunications development, impose blanket Article 4 Directions or insist on minimum distances between new telecommunications development and existing equipment. Furthermore paragraph 46 confirms that Local Planning Authorities should not seek to prevent competition between different operators or question the need for the telecommunications system.

6.4.2 The Code of Best Practice on Mobile Network Development in England (July 2013) sets out that there should be an emphasis on site sharing. The applicant has confirmed that all existing sites in the surrounding Vodafone and Telefonica networks have been upgraded and optimised to their full potential, in which a hole in coverage and capacity has been identified within the search area, hence the

need for a new base station to fulfil this requirement.

- 6.4.3 The search area is primarily focused on the built up area of Diddlebury where the customers are found. 5 other locations have been considered by the telephone operators all bar one of the sites being within Diddlebury. These other sites are either unavailable or technically unsuitable.

6.5 Ecology

- 6.5.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev policy MD12 reflects the obligations placed by Wildlife Legislation to ensure the protection and enhancement of ecological interests.
- 6.5.2 The site has been considered by the Council's Planning Ecologist whom notes the presence of existing trees and hedging. It is not proposed to remove any of this existing habitat as part of the proposal and subject to its retention the Council's Ecology is content that ecological interests can be safeguarded by informatives.

6.6 Noise and Disturbance

- 6.6.1 Concern has been expressed regarding the noise and disturbance that would be generated by the development. In respect to this the applicant's agent has confirmed that the proposed monopole and antennas will generate no operational noise. For the majority of time the proposed equipment cabinets would also operate at near silent, however as the volume of network traffic increases the temperature within the cabinet would rise and the cabinet's air conditioning systems become active. At these times there may be some intermittent low level noise, although this is considered unlikely to be of a significant level of cause undue harm to residential amenity.
- 6.6.2 Traffic movements to and from the site once constructed would be limited for maintenance of around once a year and repair purposes only. The applicant's agent envisages the need for any large repair vehicles such as cherry pickers would be rare. Daily traffic generation to and from the site would not be required and the impact on residential amenity from disturbance of vehicles would be negligible.

6.7 Loss of View and De-valuation of property

- 6.7.1 The loss of a view and the impact on property values are not material planning considerations and cannot be given any significant weight in the determination of applications.

6.8 Public Consultation

6.8.1 Concern has been raised regarding the level of public consultation with application both at this stage and at the pre-application stage. Any pre-application consultation with the local community is the responsibility of the telephone operators and the Code of Best Practice is used by the operators to determine the level of consultation. In this case the applicants confirm the Parish Council and Local Ward Member were consulted which is the minimum requirement as set out in the Code of Best Practice. The primary school was also written too.

6.8.2 In terms of this application for prior notification, the level of consultation required by the Local Planning Authority is set out in section A.3 (5)(d) of Part 16 of the GPDO. This required the local planning authority to give notice of the proposed development by either a site notice to be displayed on or near the land to which the application relates for not less than 21 days OR by serving notice on any adjoining owner or occupier. In this case the Council have served notice in the form of letters to all properties along The Moors. As with all applications the Parish Council are also notified.

7.0 CONCLUSION

7.1 Part 16 of the Town and Country Planning (General Permitted Development) Order 2016 effectively grants 'planning permission' for Electronic communications code operators, such as the applicants, to undertake development subject to conditions and notification to the Council. This application falls within the conditions subject to Part 16 and the scheme is as such permitted development. In accordance with Part 16 Local Planning Authority can only consider the impact of the siting and external appearance of the development, whether prior approval will be required on these aspects and if so whether it is granted or refused.

7.2 The dimensions of the proposed mast are the thinnest available to the applicant so as to accommodate the antennas and feeder cables which would run through the main body of the structure. The equipment cabinets proposed would be less than 2.5 cubic metres each and located along side the mast. These have similar appearance to the structures conventionally used by utility operators. Whilst it is acknowledged that the proposed monopole would be partially visible in the immediate area, it would be viewed within the context of the existing built and mature landscaped environment and given its relatively slim form would not appear as an intrusive feature in the area or harm the existing setting of the Shropshire Hills AONB, Conservation Area or listed buildings.

7.3 The visual impact of the proposed mast and associated apparatus on the area would not be sufficiently acute or significant to be regarded as unacceptable or require further information on the siting or appearance of the scheme.

7.4 It is therefore considered that prior approval is not required subject to the conditions as set out under Conditions A.2 and A.3 of Part 16 of the GPDO. The proposal is considered to comply with policies CS7, CS8 and CS13 of the Core Strategy, policy MD8 of SAMDev and with the National Planning Policy Framework.

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:

Part 16, Class A of the Town and Country Planning (General Permitted Development) Order, as amended November 2016
National Planning Policy Framework
National Planning Practice Guidance

Core Strategy:

CS6: Sustainable Design and Development Principles
CS7: Communications and Transport
CS8: Facilities, Services and Infrastructure Provision
CS17: Environmental Networks

Site Allocations and Management of Development (SAMDev) Plan:

MD2 Sustainable Design
MD8 Infrastructure Provision
MD12 Natural Environment

Other documents:

Code of Best Practice on Mobile Network Development in England, July 2013

RELEVANT PLANNING HISTORY:

SS/1981/630/P/ Erection of a new control building. PERCON 5th February 1982

SS/1982/49/P/ Installation of a radio mast. PERCON 14th April 1982

SS/1989/1043/P/ Erection of a building for additional water treatment. PERCON 18th December 1989

SS/1/8145/P/ Erection of a chlorination equipment building PERCON 25th September 1997

SS/1/05/17419/F Erection of 1 nitrate extraction building & 1 treated water booster station. PERCON 26th October 2005

SS/1/06/17795/F Erection of combined nitrate removal building and high lift pump station and associated works. Amendment to application 1/05/17419/F approved 26.10.05. PERCON 24th February 2006

11. Additional Information

[View details online:](#)

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OS5T98TD06Z00>

List of Background Papers
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Cecilia Motley
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development must begin not later than the expiration of 5 years from the date of receipt of this application.

Reason: To accord with Part 16, Class A, Condition A.3 (11) of the Town and Country Planning (General Permitted Development) (Amendment) (no 2) Order 2016

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

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

3. The electronic communications apparatus hereby permitted, shall be removed from the site as soon as reasonably practicable after it is no longer required for electronic communications purposes.

Reason: To comply with Part 16 (A.2.)(2) (a ii) and (2) (b) of the Town and Country Planning (General Permitted Development) (England) Order, 2016.

Informatives

1. WIDLIFE PROTECTION

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

GREAT CRESTED NEWTS

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences.

Although great crested newts usually utilise high quality terrestrial habitats associated with ponds, they do occasionally travel significant distances and can be found in unexpected locations. Contractors should be aware of the small residual risk of finding a great crested newt and should be vigilant when carrying out works.

If a great crested newt is discovered then all work must halt and a licensed ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

BATS

Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should be avoided on this site. If it is required then it should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.

-

This page is intentionally left blank



Committee and date

South Planning Committee

1 August 2017

Development Management Report

SCHEDULE OF APPEALS AND APPEAL DECISIONS AS AT COMMITTEE 1 AUGUST 2017

LPA reference	16/04962/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr A Keenan
Proposal	Demolition of existing industrial workshop and erection of a dwelling
Location	R L Keenan & Son Workshop Adjacent Crown House Ludlow Road Little Stretton Shropshire SY6 6RF
Date of appeal	22.03.2017
Appeal method	Written Representation
Date site visit	
Date of appeal decision	27.06.2017
Costs awarded	No
Appeal decision	Dismissed

LPA reference	16/02758/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Paul Harding
Proposal	Change of use of land to accommodate 4 no. holiday chalets with associated access and parking; installation of package treatment plant
Location	Proposed Holiday Chalets At Upper Marsh Catherton Shropshire
Date of appeal	28/6/2017
Appeal method	Written representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	16/02497/ENF
Appeal against	Enforcement notice
Committee or Del. Decision	N/A
Appellant	Apley Estate
Proposal	Breach of planning control
Location	Outbuilding At Grindle House Farm Grindle Road Grindle Shifnal Shropshire TF11 9JR
Date of appeal	11.01.2017
Appeal method	Hearing
Date site visit	9.5.2017
Date of appeal decision	17/07/2017
Costs awarded	
Appeal decision	Dismissed



Appeal Decision

Site visit made on 20 June 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 27 June 2017

Appeal Ref: APP/L3245/W/17/3170391

The Workshop, South View, Ludlow Road, Little Stretton, Shropshire SY6 6RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Keenan against the decision of Shropshire Council.
 - The application Ref 16/04962/FUL, dated 27 October 2016, was refused by notice dated 6 February 2017.
 - The development proposed is demolition of existing industrial workshop and erection of a new detached dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Keenan against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
 - Whether the proposal would accord with the development strategy for the area; with particular regard to whether it would maintain or enhance the vitality of rural communities; and,
 - The effect of the proposal on the living conditions of neighbours residing at South View, with particular reference to outlook, daylight and sunlight.

Reasons

Flood Risk

4. The appeal site comprises a single storey timber cladded workshop located to the west of a bungalow known as 'South View' and within Little Stretton. Whilst the extent is disputed, the site is at risk of fluvial flooding from Quinny Brook, a tributary of the river Onny. The site has not been allocated for housing development in a development plan.

5. The parties do not agree on which flood risk zone the appeal site falls within. Based on flood maps produced by the Environment Agency, the Council consider that the site falls within a flood zone 3a area where a high probability of flood risk exists. With reference to a Flood Risk Assessment (FRA) that accompanied a nearby planning application¹ at Old Hall Farm, the appellant contends that the site is located in a flood zone 2 which has a medium probability of flood risk. The application at Old Hall Farm was subsequently appealed and the Council withdrew its reason for refusal relating to flood risk based on comments made by its Land Drainage Section. Whilst the appeal before me is accompanied by an FRA, it has not been supported by a sequential test. However, the Land Drainage Section do not object to the FRA and its mitigation measures, and state that sequential and exception tests are not required.
6. Paragraphs 100 - 103 of the National Planning Policy Framework (the Framework) state inappropriate development in areas of flood risk should be avoided by directing development away from areas at highest risk through application of a sequential test. Consequently, planning applications within either a flood zones 2 or 3a, such as the proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding. In this context, irrespective of whether the site falls in flood zone 3a or 2, a sequential test is required.
7. In concluding that a sequential test is required, I have taken into account the Council's stance to flood risk in relation to the application at Old Hall Farm, comments made by the Land Drainage Section and that the proposal involves a brownfield site. However, these factors do not alter the requirements of paragraphs 100 - 103 of the Framework and paragraphs 18, 19 and 33 of the PPG which necessitate a sequential test to establish whether the development could be accommodated in a flood zone 1 location which has the lowest probability of flooding. As the proposal involves the demolition of the existing building and construction of a new dwelling, it cannot be considered as a change of use proposal. In addition, the proposal does not fall within the definition of 'minor development' as outlined at paragraph 46 of the PPG. Nor is a change of use fall back option of converting the existing building into residential use sufficient justification to disregard the Framework's requirement for a sequential test to accompany a new build dwelling in a flood zone 2 or 3a area.
8. The use proposed is considered 'more vulnerable' as outlined in table 2, paragraph 66 of the PPG. Therefore, should the sequential test conclude that no other sites are available, the proposal is then required to pass an exception test. This test involves the submission of a FRA demonstrating that the proposal would have sustainable community benefits or that there are other factors that would outweigh flood risk. Whilst an FRA has been submitted in support of the proposal, this forms part of the exception test which follows the application of the sequential test. However, a sequential test has not been made or submitted by the appellant and the Framework is clear that both the sequential and exception tests must both be passed for development to be permitted.

¹ Council Ref 15/05546/FUL, Proposed erection of two dwellings and associated garages at Old Hall Farm, Crown Lane, Little Stretton SY6 6PP

9. Therefore the proposal would not comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Consequently the proposal would be contrary to paragraphs 100 - 103 of the Framework the requirements of which are outlined above.

Development Strategy

10. Policy CS4 of the Core Strategy (CS) states that in rural areas, development will be focussed into settlements designated as Community Hubs and Community Clusters. The Site Allocation and Management of Development (SAMDev) Plan does not designate Little Stretton as a Community Hub or Community Cluster. Consequently, for planning purposes the site is located in the countryside. CS Policy CS 4 goes on to say that development outside a Community Hub or Community Cluster will not be allowed unless it meets CS Policy CS5.
11. Policy CS5 seeks to strictly control new development in the countryside in accordance with National Planning Policy. The policy goes on to state 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 by bringing local economic and community benefits. Also of relevance is SAMDev Policy MD7a which states that new market housing will be strictly controlled outside of settlements, including Community Hubs and Community Clusters. The exceptions to this principle listed in Policy MD7a do not apply to the proposal.
12. SAMDev Policy MD3 states that in addition to supporting the development of allocated housing sites, permission will be granted for other sustainable housing development having regard to Policies CS2, CS3, CS4, CS5, MD1 and MD7a. The explanatory text to Policy MD3 states that windfall development on other sites, both within settlements and in the countryside, including brownfield sites, are also important having regard to policies of the Local Plan.
13. Taking into account Policy CS5 and the brownfield status of the site in the context of Policy MD3, there is scope to consider the proposal based on National Planning Policy and whether it would improve the sustainability of rural communities by bringing local economic and community benefits. Furthermore this approach is consistent with the Framework and an appeal decision² highlighted by the appellant.
14. In the context of paragraph 55 of the Framework, the proposal would not occupy an isolated location with built form adjoining the site on all of its sides and beyond. In this respect, it would not comprise sporadic development. Little Stretton has two pubs, a church, village hall and regular bus service all within walkable distance of the site. Additional services would be available for future occupants at Church Stretton; a settlement designated as a Community Hub by the SAMDev Plan. Taking into account the availability of non-private vehicular access for future occupants of the dwelling to nearby services, the proposal would maintain and enhance the vitality of the rural communities of Little Stretton and Church Stretton.
15. Therefore the proposal would accord with the development strategy for the area, with particular regard to whether it would maintain and enhance the

² APP/L3245/W/16/3149461, Yew Tree Inn, Shrewsbury Road, All Stretton, Shopshire SY6 6HG

vitality of rural communities. Consequently, the proposal would not conflict with CS Policies CS4 and CS5, SAMDev Policies MD1 and MD7a and paragraph 55 of the Framework.

Living Conditions

16. The west elevation of South View facing the workshop contains ground floor windows serving a living room, dining room and kitchen which are all already within the 21m separation distance suggested by the Council. Of the three rooms, the dining and living room depend on its respective west elevation window as a principal source of outlook, sunlight and daylight. The existing outlook from each window encompasses the close proximity of the workshop and thus is already restricted. Similarly, the level of sun and daylight reaching these windows is already compromised.
17. The proposed dwelling would be similar in width, slightly closer to the neighbouring windows and a little taller in eave height. However the resultant difference to the outlook for neighbours would be immaterial. The submitted Sun Path Site Plan demonstrates that the proposal would have a limited effect on sunlight levels for neighbours, particularly with a sufficient level of sunlight reaching the windows of the lounge area. Taking into account the proximity of the workshop to South View, the proposal would not unacceptably affect sun and daylight levels for neighbouring occupants. A Grampian condition as suggested by the appellant to secure an additional bay window would further ensure adequate levels of outlook, sun and daylight for neighbours.
18. Therefore the proposal would not have a harmful effect on the living conditions of neighbours residing at South View, with particular reference to outlook, daylight and sunlight. Consequently the proposal would meet the requirements of CS Policy CS 6 and SAMDev Policy MD2 which requires development to safeguard residential and local amenity.

Other Matters

19. The site lies just outside the Little Stretton Conservation Area (LSCA) and would involve replacing a building that does not make a positive contribution to the LSCA. Owing to the sympathetic design and set back of the replacement building, it would enhance and allow a greater appreciation of the LSCA. It would also reuse a brownfield site. These benefits attract modest weight in favour of the appeal.
20. The proposal would lead to economic and social benefits in the form of construction employment and its support (see second main issue) to the vitality of rural communities. I also note that the proposal has received local support, including from the Parish Council. These factors attract modest weight in favour of the appeal. Whilst I have identified no harm to the living conditions of neighbouring occupants, an absence of harm can only be considered as a neutral factor in the planning balance.
21. However, in combination, the weight afforded to the modest benefits identified above would not outweigh the conflict of the proposal with national planning policy in respect of flood risk as reasoned above in the first main issue.

Conclusion

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

B Bowker

INSPECTOR

This page is intentionally left blank



Costs Decision

Site visit made on 20 June 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 27 June 2017

Costs application in relation to Appeal Ref: APP/L3245/W/17/3170391 The Workshop, South View, Ludlow Road, Little Stretton, Shropshire SY6 6RF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Keenan for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of an application for planning permission for the demolition of existing industrial workshop and erection of a new detached dwelling.
-

Decision

1. The application for an award of costs is refused for the reasons given below.

Reasons

2. The National Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG also advises that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. Other examples include not determining similar cases in a consistent manner and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material consideration.
4. The appellant contends that the Council's determination of the application was inconsistent with the advice it provided at pre-application stage. The appellant also contends that the Council determined the application after agreeing to extend the application period by one month to allow for the submission of additional plans. Furthermore, the appellant contends that the Council withheld consultation feedback, which in the case of comments made by the Flood Specialist Team, meant the application was not determined at Planning Committee.
5. It is also contended that the Council failed to have regard to comments from its Land Drainage Section and that its refusal of planning permission is inconsistent with how it determined a nearby application. The appellant also considers that the benefits associated with the proposal were not fully considered in the planning balance. The appellant considers that the above

- constitute unreasonable behaviour that has resulted in unnecessary and wasted cost in having to appeal the decision.
6. It is common practice that informal advice given regarding an application is done so without prejudice and cannot pre-determine the outcome of a subsequent application. Therefore it was not unreasonable for the Council to take a different view during the application stage.
 7. Based on my reasoning in the accompanying appeal decision, I have taken the same view as the Council regarding the need for the proposal to be accompanied by a sequential test. It follows that I cannot agree with the appellant that the Council behaved unreasonably in this respect. The Council did not make consultation responses publically available and determined the application after agreeing to extend the deadline (uncontested). This to my mind constitutes unreasonable behaviour.
 8. However, based on the substantive issue of flood risk, the Council had a reasonable basis upon which to refuse permission. In addition, whilst I have taken a different view, the Council also had reasonable grounds in relation to its concerns about neighbouring living conditions and the proposal's compliance with its development strategy. Therefore, regardless of the Council's unreasonable behaviour noted above and its different approach to a nearby application, an appeal was not avoidable and thus I cannot conclude that the appellant has incurred wasted or unnecessary costs as a result.
 9. Finally, based on the Council's officer report it is clear that comments from the Parish Council and Conservation Section were sufficiently reported and that the proposal was acknowledged to enhance the conservation area. Consequently the Council did not behave unreasonably in how is considered the overall balance of the proposal.

Conclusion

10. Therefore, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all matters raised, an award for costs is not justified.

B Bowker

INSPECTOR

Appeal Decision

Hearing held on 9 May 2017

Site visit made on 9 May 2017

by Chris Preston BA(Hons) BPI MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/L3245/C/16/3159207

Grindle House Farm, Grindle, Shifnal, Shropshire TF11 9JR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Apley Estates against an enforcement notice issued by Shropshire Council.
 - The enforcement notice, numbered 14/04242/ENF, was issued on 24 August 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of land from agricultural use to a use for the importation, storage and distribution of new and reclaimed building materials for wholesale, display of building materials with ancillary retail sales. The use of the land for the importation, storage and distribution of kiln dried firewood/ kindling for internet based sales with ancillary retail sales. The use of the land for the importation, storage and distribution of building bricks, the surface treatment of said building bricks and manufacture of 'brick slip' display panels (Sui Generis).
 - The requirements of the notice are: (i) Cease the use of the land for the importation, storage and distribution of building bricks, the surface treatment of said building bricks and manufacture of 'brick slip' display panels. (ii) Cease the use of the land for the importation, storage and distribution of new and reclaimed building materials for wholesale, display of building materials. (iii) Cease the use of the land for importation, storage and distribution of kiln dried firewood/ kindling for internet based sales. (iv) Remove from the land all stock, materials and equipment brought onto the land in connection with the use identified in 5(i), 5(ii) and 5(iii)
 - The period for compliance with the requirements is 8 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

1. In advance of the Hearing, the appellant had questioned whether the officer who signed the enforcement notice did, in fact, have the delegated authority to do so. In particular, those concerns related to the status of a scheme of onward delegation to officers¹, with regard to how that document related to the wider scheme of delegation that is set out in the Council's constitution. The

¹ Shropshire Council Business Support and regulatory Services *Delegations for Planning Services*, dated 01 July 2016

onward scheme of delegation was revised on 01 July 2016 and again on 17 August 2016. The latter was therefore the up to date version at the time the notice was served.

2. The onward scheme of delegation was signed by G Chandler, Director of Place and Enterprise and, under section 2 of the scheme, the authority to issue enforcement notices is delegated to planning and enforcement officers or conservation officers, or officers above that level, "in consultation with Legal". In this case, the notice was signed by Mr Julian Beeston, an enforcement officer, on behalf of Mr Tim Rogers, an Area Planning Manager. In other words, the signatories were in positions that entitled them to sign the enforcement notice.
3. Ms Garrard, the Council's solicitor, attended to Hearing to explain the scheme of delegation and she provided further details regarding the relevant sections of the Constitution and scheme of delegation. Under Part 8 of the Constitution "Delegations to Officers" the authority to issue enforcement notices is delegated to the Director of Place and Enterprise. Paragraph 3 of the preamble to Part 8 states that any officer named within that section may authorise officers in his/her service area to exercise functions delegated to him/her. The onward scheme of delegation accords with those powers.
4. The Constitution was formally approved in 2009 and the document has been revised numerous times since that point. Under Article 15(a) the Head of Legal and Democratic Services is authorised to make routine revisions. Such revisions were made on 01 July and 16 August 2016 to reflect changes in job titles and personnel outwith the planning service. On the information provided it is clear that none of the changes altered the delegated authority of the Director of Place and Enterprise with regard to planning matters and, more specifically, the issue of enforcement notices. Thus, the onward scheme of delegation, which had been signed by the relevant director on 17 August, was in force at the time the notice was served. That scheme gave the authorised officer the delegated authority to sign and issue the notice and I am satisfied that it was correctly served in that regard.

The Appeal on Ground (a)

Main Issues

5. I have identified four main issues below. The first three relate to the consideration of whether planning permission should be granted for the matters stated in the notice. The fourth stems from the appellant's suggestion that, if I were minded to refuse to grant planning permission for the entirety of those matters, it would be possible to overcome any planning objections through the grant of planning permission for part of the matters stated in the notice, with reference to the terms of section 177(1)(a) of the Town and Country Planning Act 1990 (the Act).
6. More specifically the suggestion is that planning permission be granted for *the use for the importation, storage and distribution of new and reclaimed building materials for wholesale, display of building materials with ancillary retail sales*. I have considered the appellant's suggestion in that regard as a fourth main issue.

-
7. Therefore, the main issues in the determination of the appeal on ground (a) are:
- i) The effect of the development on highway safety and the free flow of traffic on the highway network;
 - ii) Whether any harm arising from the first main issue could be adequately mitigated through the imposition of planning conditions;
 - iii) Whether planning permission should be granted for the use as described in the breach of planning control, having regard to the effect on highway safety, any economic benefits that arise from the development and any other matters; and
 - iv) If, having regard to the balancing exercise in the third main issue, I conclude that planning permission should not be granted for breach of planning control, as stated in the notice, whether a grant of planning permission in respect of part of those matters would overcome the objections in planning terms.

Highway Matters

8. The stated reasons for issuing the enforcement notice allege that the traffic associated with the use has caused harm by way of the impact on the free flow of traffic, with subsequent inconvenience to other road users, and had an adverse effect on highway safety. Whilst the two matters are linked, the first issue relates primarily to capacity on the road network to accommodate traffic flows associated with the development and the second relates to matters of highway safety associated with the nature of the road network and the impact of use by traffic associated with the development. I shall address those matters in turn.

Highway Capacity and the Free Flow of Traffic

9. The site is located in the village of Grindle within a rural area to the south-east of Telford. The B4379, the closest classified road, is located to the west. That road provides access onto the A442 and the A4169 which serve Telford and provide onward access to the M54 to the north. The most direct routes onto the B4379 from the site are via Grindle Road, which passes through Kemberton, or Havenhills Road which runs on an east-west axis to the south of the site. The classified highway is over 3km from the site whichever route is used. Hinnington Road leads from the village to the larger settlement of Shifnal which is a few kilometres to the north and rural lanes also lead to Ryton and Beckbury to the east and south-east.
10. Four routes to the site were assessed by the Council during the consideration of previous applications². I took the opportunity to drive along all of those lanes. Of the four that were assessed Route 4, from the site to the B4379 via New Houses and Havenhills Road was considered to be the most suitable, or one could say the least worst, option by the Council. Since that time I understand that the operator has sought to operate an informal routing agreement with the aim of directing haulage contractors along that route.

² As described at paragraphs 6.2.13 to 6.2.15 of the Council's Statement of Case

-
11. All of the routes are narrow single lane roads, predominantly enclosed by hedgerows. Informal passing places are created where features allow, for example where field entrances provide a gap between hedgerows onto which vehicles can pull to the side of the carriageway, or where the width of the carriageway is wider than average. Commonly, those passing places are unmade and are formed of compacted earth created by the passage of vehicles. Setting aside the traffic associated with the use of the appeal site, the volume of traffic using the surrounding is not substantial. Grindle and the surrounding villages are small I would expect the level of traffic generated by trips to and from those settlements to be relatively light.
 12. In terms of the current use the appellant suggests that up to five articulated HGV visits could be expected on a typical day between Monday and Friday in addition to between 0 and 5 rigid HGVs, resulting in a total of 20 HGV movements on the network. That is in addition to the car journeys associated with staff employed at the site and vehicles from customers who purchase directly from the site. As acknowledged within the October 2015 Transport Statement, those vehicles could include smaller HGVs associated with builder's merchants.
 13. The average number of daily traffic movements related to the site was 78. The majority of trips were generated by cars or light goods vehicles. An average of 4.1 articulated HGVs and 2.4 rigid HGVs visited the site per day which would equate to an average of 13 HGV movements. I note that the survey period was chosen to coincide with the peak trading period of the company based on a monthly breakdown of annual turnover. Without a full understanding of the operating model and accountancy procedures of the company it is not certain that the period of highest turnover would relate to the period with the highest number of visits to the site. In other words, there may not be a direct correlation between the point at which financial transactions take place and the number of vehicular visits to the site. Thus, it may be that the number of vehicular trips, particularly HGV trips to transport building materials and bricks to and from the site may be subject to variations during the course of the year.
 14. In addition Mr Hughes, the Managing Director of Ren-New, stated within his appeal statement that the company has steadily grown in the last 7 years and it may be that the number of journeys associated with the use may have increased between the point at which the surveys were undertaken and the point at which the notice was served in August 2016 and again beyond that point. However, no surveys have been undertaken by any party since June/July 2015 and those figures remain the most up to date and comprehensive assessment of the traffic generated by the use of the site and of the level of traffic on surrounding roads.
 15. The appellant accepts that the level of traffic, including the number of HGV movements represents an increase on the level of traffic generated by the former agricultural use when averaged out on an annual basis. However, in terms of peak daily activity Mr Hurlstone estimates that peak agricultural activity was likely to have generated similar, if not greater numbers of vehicle movements. Given that no survey information relating to the former use is available that assessment is not supported by any firm evidence. It is likely that agricultural activity increased during harvest times but the precise level of that use is uncertain.

-
16. In any event, the appellant notes that there was a 'significant reduction' in activity at Grindle Farm after 2011 as a result of a change in the pattern of operations which resulted in fewer vehicular movements to and from the site. Therefore, immediately prior to the commencement of the current use it would appear that the level of agricultural activity and associated vehicular trips was significantly less than had been the case in the past.
 17. Whilst there is a theoretical possibility that agricultural activity could return to the site at historic peak levels the likelihood of that scenario materialising is not clear. There is nothing to indicate that the operational requirements or farming practices of the Estate have altered since the notice was issued, thus, I find little to indicate that the use would return to pre-2011 levels if the current use was to cease. Rather, it seems more likely that the level of agricultural activity would return to the comparatively modest level that existed immediately prior to the point at which the breach of planning control took place.
 18. Consequently, I find that the level of vehicular activity associated with the current use is likely to be significantly greater than the previous agricultural use, both in terms of the yearly average of vehicular movements and the daily pattern. Moreover, unlike farming activity, the use operates throughout the year and nothing has been presented to indicate that there is any noticeable fluctuation in the rate of vehicular activity.
 19. Nonetheless, when the figures from each of the six Automatic Traffic Counters (ATC) are examined the maximum combined hourly flow at any of the counters during a weekday was 40. Hourly flows of between 20 and 30 vehicles were common across the 6 ATCs. Those recorded figures would indicate that the overall volume of traffic on local roads is not high. Consequently, in terms of the free flow of traffic, I find little to suggest that the use of the site has had any significant impact on the free flow of traffic along the network.
 20. Should two vehicles meet on any of the lanes it will be necessary for one of them to reverse to an available passing place. The complexity of that manoeuvre will depend on the nature of the vehicle involved. For two cars, it would be relatively straightforward and often it would be possible to pass by mounting the grass verge. If a HGV and a car were to meet, or two HGVs travelling in opposite directions, the manoeuvre would be more complex due to the absence of formal passing places and limited opportunities to pass. That may cause some delay for any drivers caught behind a HGV on the network. However, given the low volumes of traffic, any delay is unlikely to be significant or lead to any noticeable congestion or backing up of traffic. In that sense, the Council's concerns regarding the impact on the free flow of traffic are unsubstantiated.

Highway Safety

21. However, there is a significant distinction between matters relating to the free flow of traffic and highway safety issues which relate to the suitability of the local roads to accommodate the volume and type of traffic associated with the use of the site. As described, all of the local roads leading to and from the site are essentially narrow country lanes with insufficient width to enable two vehicles to pass side by side. Forward visibility is often limited due to the alignment of the roads, local topography, and the presence of hedgerows which, by and large, enclose both sides of the carriageway. As such, it is

-
- difficult for a driver, cyclist, pedestrian, horse rider or other road user to gauge whether another vehicle is travelling in the opposite direction.
22. I am also mindful of the distance between the site and the closest classified highway; over 3km on the preferred route. Thus, vehicles are required to travel a considerable distance on what are single width lanes, unsuited to heavy traffic. The longer the distance travelled on narrow lanes, the greater the length of time a HGV will occupy space on those lanes. Consequently, the length of the route increases the likelihood of a HGV meeting a vehicle passing in the opposite direction, if compared to a shorter journey length.
 23. That raises the very real possibility of vehicles meeting at blind bends with limited advance warning with the potential for collisions or the need for vehicles to leave the carriageway and mount the verge, with potential for damage to vehicles and the highway network itself. Alternatively, any vehicle reversing in order to find a suitable passing place will often be required to do so without a clear view of whether an oncoming vehicle is approaching to the rear. That would particularly be the case for HGV and articulated HGV drivers if reversing around a bend with restricted rearward visibility.
 24. There is clear visual evidence of the effect of vehicular traffic on the physical condition of the highway and its associated verges, particularly on Route 4 which has been the preferred route for HGVs entering and leaving the appeal site. Photographs provided by interested parties depict deeply rutted tyre tracks within the informal passing places with poor drainage due to the compacted earth. In times of heavy rainfall it is apparent that those areas fill with water, creating an uneven and unsuitable surface for use by most vehicles. Vehicles forced to use those passing places in wet conditions are also likely to drag mud and debris onto the carriageway, with consequential risk to vehicles braking at short notice. The weather was dry at the time of the Hearing but the condition of the informal passing places along Havenhills Road remained poor. The metalled part of the carriageway had also been eroded in sections directly adjacent to informal passing places.
 25. The appellant contends that there is no evidence to suggest that the damage to the highway and the erosion of the informal passing places is associated with the use of the site. The Council acknowledge that not all of the damage will have been caused by vehicles visiting the appeal site but I find it implausible to suggest that the associated traffic has had no effect. Having viewed all of the local roads surrounding the site the condition of the informal passing places, the degree of compaction of grass verges and the damage to the edge of the carriageway itself was noticeably greater on route 4 than other local roads. To my mind that would suggest that the level of heavy traffic visiting the site has contributed significantly to the degradation that has clearly occurred.
 26. That damage and degradation is of concern of itself, in terms of the effect on the integrity of the highway, but will also have knock on implications for road safety. Mud and debris being dragged onto the carriageway from unbound verges is likely to affect braking conditions, particularly in wet weather and the heavily rutted condition of the informal passing places renders them unsuitable for use, particularly in wet weather conditions where large puddles of water are retained in the compacted and rutted depressions. Such conditions do not represent a safe or suitable place to pull off the highway if meeting a vehicle approaching in the opposite direction.

-
27. Photographs provided by interested parties also depict damage to roadside signage and reference was made at the hearing to recent damage to a telegraph pole adjacent to Keepers Cottage. There is no direct evidence linking those incidents of damage to vehicles visiting the appeal site. However, the incidents are symptomatic of the issues that are likely to arise through the use of unsuitably narrow lanes by HGVs, particularly where those vehicles meet traffic travelling in the opposite direction. Whilst the enforcement notice refers particularly to articulated HGVs the issues identified above would apply to any HGV using the routes around the site. Clearly, the larger the vehicle, the more difficult it may be to manoeuvre around other vehicles but the width of the carriageway is such that any HGV would be unable to pass another vehicle without one or the other leaving the carriageway onto unmade ground.
28. I note that there are no records of any accidents within the vicinity of the site and that vehicle speeds may be moderated by the width and alignment of the carriageway. Nonetheless, the fact that no recorded accidents have occurred to date does not indicate that the roads are suitable to accommodate the additional heavy traffic associated with the use of the appeal site, or that accidents are unlikely to occur in future. Having regard to the nature of the highway network, as described above, I find that the increased use of local roads, particularly by HGVs associated with the site, brings with it an increased risk of accidents, an increased risk of vehicles being forced to leave the carriageway onto unsuitable passing places, and increased risk of damage and degradation to the highway itself.
29. Moreover, it is clear from the considerable volume of objections, including local residents, elected representatives and parish councillors who spoke at the Hearing, that the traffic associated with the use of the site has impacted upon the way in which people use the roads surrounding the site. Those representations included local horse riders who noted that they deliberately avoid Havenhills Road due to fears of the impact of heavy traffic on rider safety. The agent for the appellant sought to dismiss those views as anecdotal evidence not supported by fact.
30. However, the views were consistently expressed by numerous local residents and those who are perhaps best placed to observe the impact of traffic associated with the site. For anyone travelling along Havenhills Road the visible signs of heavy traffic are obvious in the form of compacted verges and rutted passing places at wider points on the road. I have no doubt that local road users will feel uncomfortable using the road as a result of fears for highway safety. That could apply to all road users but pedestrians, cyclists and horse riders will feel particularly exposed to the impact of heavy traffic passing by in close proximity on a single width carriageway.
31. Consequently, I find that the safety related fears are well-founded and are likely to have affected the way that highway is used by local residents, particularly non-motorised forms of traffic. Whilst heavy traffic not associated with the site will use the lanes any agricultural activity is likely to be seasonal and less intensive and I find that the daily use associated with the appeal site has led to an increase in the volume and regularity of HGV movements along the lanes, particularly Havenhills Road. That traffic has altered the quiet character of the road to the detriment of the enjoyment of the countryside for recreational purposes. Although the overall quantum of traffic using the local network remains low it seems to me that the quiet character of the local roads

and the low baseline of traffic makes them vulnerable to change as a result of the increase in traffic associated with the development.

32. Taking all of the above into account I find that the local road network is wholly unsuitable to accommodate the level and nature of traffic associated with the use of the site. The increase in the use of the road network has been detrimental to highway safety and to the way in which the road network is used by all forms of traffic. For those reasons the development is contrary to the aims of policy CS6 of the Shropshire Council Core Strategy (2011) (the CS) which, amongst other things, requires that proposals likely to generate significant levels of traffic be located in accessible locations where opportunities for walking, cycling and the use of public transport can be maximised.
33. Insofar as it relates to highway matters I am satisfied that Policy CS6 is broadly consistent with the aims of the National Planning Policy Framework (the Framework). Accordingly, in line with paragraph 215 of the Framework, I attach significant weight to the relevant aspects of the policy in that regard. Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (2015) (SAMDev) is related to policy CS6 of the CS. The policy post-dates the publication of the Framework and is consistent with it. Paragraph 6 of that policy states that development should ensure that there is sufficient infrastructure capacity, in line with policy MD8. Paragraph 1 of that policy states that development should only take place where there is sufficient existing infrastructure capacity.
34. The explanatory text to policy MD2 states that developments must be designed to ensure that they do not result in an unacceptable adverse impact on local infrastructure, for example, by providing sufficient on-site car parking to ensure that overspill parking does not impact negatively on the surrounding network. Whilst I have concluded that the development has not led to any undue delay or congestion on the network it is clear, for the reasons set out above, that the character of the local road network is unsuitable to accommodate the additional heavy traffic associated with the use. The lack of passing places and restricted width of the highway has led to degradation of the highway infrastructure surrounding the site. In that sense, I find that the development has had an unacceptable adverse impact on local infrastructure, contrary to the aims of policies MD2 and MD8 of the SAMDev.
35. The development also contravenes the aims of paragraph 32 of the Framework, which identifies that plans and decisions should take account of whether safe and suitable access can be achieved for all people, and paragraph 35 which states that developments should be located and designed, where practicable, to accommodate the efficient delivery of goods and supplies and to create safe and secure layouts which minimise conflicts between traffic and cyclists and pedestrians.
36. I note that the third bullet point at paragraph 32 of the Framework states that development should only be refused on highway grounds where the cumulative residual impact would be severe. There is no definition of the word severe in the Framework but that is clearly an extremely high bar. However, it appears to me that paragraph 32 of the Framework in that regard is referring to matters of highway capacity and congestion, as opposed to matters of highway safety. The Courts have held that paragraph 32 should not be interpreted to

mean that anything other than a severe impact on highway safety would be acceptable and I have viewed the paragraph in that context³.

37. In any event, it strikes me that the risk of accidents, damage to the highway network, and the overall change in the character of the preferred route are factors that, in combination, have had an extremely significant, and one could say severe, impact on local road users. Accordingly I attach significant weight to my concerns relating to the highway related impacts of the development.

Whether any harm could be mitigated through the imposition of planning conditions

38. The appellants have put forward a suggested condition that would require the creation of up to 5 passing places between the site and the B4379, in locations shown at Appendix C of the October 2015 Transport Assessment. Considering that the length of the route to the B4379 along Havenhills Road is over 3km I find that the creation of 5 formalised passing places would not compensate for the inadequacies of the road in terms of its lack of width and forward visibility.
39. The distance between the passing places would be significant and, having looked at the proposed locations I find that drivers would have difficulty in seeing between one space and the next, with the exception of points 1 and 2, such that they would not know if an oncoming vehicle was heading towards them before they advanced past the formalised space. In effect, whether vehicles met at a point on the highway adjacent to a formalised passing place would be largely down to chance. If vehicles met elsewhere on the road, the distance to the formalised passing place may be significant due to the infrequency of those spaces. That would either lead to lengthy reversing manoeuvres with limited visibility or a continuation of the current practice of over-riding the verge and/or using informal passing places, with resultant damage to the carriageway, creation of compacted and rutted surfaces and dragging mud and debris onto the carriageway, to the detriment of highway safety. For those reasons I find that the formalisation of 5 passing places would not be sufficient to overcome the harm identified in the previous paragraphs.
40. It follows that I am not satisfied that a condition that would seek to restrict deliveries to the Havenhills Road access, through a routing agreement, would overcome my concerns relating to highway safety and the resultant impact on the character of the highway. That suggestion is predicated on an assumption that the preferred route is acceptable to accommodate the traffic associated with the development. For the reasons given I find that the route is inherently unsuitable and could not be made so through the suggested passing places.
41. I also have concerns relating to the enforceability of the suggested condition relating to vehicle routing. The Planning Practice Guidance notes that unenforceable conditions should not be imposed, including those for which it would, *in practice* (my emphasis), be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control. I appreciate that modern vehicles will often be fitted with tracking devices that enable the route taken by the vehicle to be monitored. It may be possible for the operator of the site to exert control over HGVs that are contracted by them to deliver or collect goods but it is not clear

³ Mayowa-Emmanual v Royal Borough of Greenwich [2015] EWHC 4076 (para. 29)

how any control could be exerted over other users of the site, including builders' merchants for example, who would be free to use whichever public highway they wished.

42. Moreover, should a member of the public see a HGV on a route other than the preferred route that person would not know whether the vehicle did, in fact, visit the appeal site unless another person was at the entrance/ exit from the site. The feasibility of that kind of monitoring over the lifetime of the development is not practical. In reality it would be unclear and would require the operator to be contacted to check tracking records, if available, every time a HGV was observed on the local network. I find such monitoring would place almost impossible burdens on those living around the site and possibly on the operator themselves.
43. Any condition that seeks to control the number of HGV movements to and from the site would be similarly difficult to enforce, particularly given that the site is open to visits from members or the public and merchants in the building trade. For example, if a small rigid HGV set off to the site from a builders' merchants the driver would have no way of telling how many other HGVs had visited the company on that particular day and no way of understanding whether any condition relating to the number of visits had been breached.
44. Consequently, no conditions have been put forward that would mitigate for the harm to highway safety and the impact on the character of the highway network described above.

Whether planning permission should be granted for the matters stated in the alleged breach, having regard to the effect on highway safety, any economic benefits that arise from the development and any other matters.

Economic Benefits and Alternative Premises

45. At the time of writing the written statement for the appeal the appellant stated that 27 people were employed by Ren-new. That included 8 full time employees in relation to the brick reclamation part of the business, 4 people were employed in the yard, 6 were employed to cut bricks and make display panels, 8 employees were based in the office and one person was employed for two days a week in winter in relation to firewood supplies.
46. Thus, it is clear that the business brings benefits to the local area in terms of direct employment opportunities. I have no doubt that the business also has knock on benefits for associated businesses, such as haulage contractors, and I note that most of the employees live within a 10 mile radius of the site such that a proportion of the money earned by those employees is likely to be directed back into the local economy through associated spending.
47. Paragraph 28 of the Framework notes that planning should support economic growth in rural areas in order to create jobs and prosperity and that local plans should support sustainable growth of all types of business and enterprise through the conversion of existing buildings. Policy CS5 of the CS also provides support for the conversion of rural buildings for small scale economic development, albeit that no definition of small scale is provided. It is debatable whether the proposal in this instance could be described as small scale. I note reference to the European Union definition of small to medium sized

enterprises but the context within which that definition was drawn up is not clear. In planning terms I am not convinced that the development is small scale based on the size of the site, the number of employees and the associated vehicle movements.

48. In any event, policy CS5 was drawn up with reference to PPS4 which is no longer in force. Paragraph 28 of the Framework does not seek to restrict business development within the countryside to that which is small scale. Having regard to that inconsistency, and the terms of paragraph 215 of the Framework, I concur with the appellant that reduced weight should be attributed to policy CS5.
49. Having regard to the thrust of national policy in relation to the rural economy the economic benefits outlined above are clearly a material consideration in favour of the development. As set out I find that the enterprise is not small scale but is a medium-sized developing company. In the context of the scale of the business I attach moderate weight to the associated economic benefits.
50. Limited information is before me in relation to the attempts that have been made to find suitable alternative premises. Within his witness statement Mr Hughes indicates that he has looked around to find a site with the same facilities but found it difficult to locate a facility with an open yard with industrial storage and ancillary buildings. However, no details as to how that search was undertaken have been provided and it is difficult to verify the conclusion that no alternative premises are available. Mr Hughes concludes that an alternative farm premises is likely to be the most suitable but suggests that the same problems are likely to exist as in relation to the current site. However, I see no particular reason why that would be the case. The Council does not appear to have an objection in principle to the re-use of farm buildings for economic development but the issue relates to the suitability of local roads to accommodate the development. The same circumstances would not necessarily exist for all farm buildings, some of which may be much closer to the classified highway network.
51. Consequently, the information before me does not demonstrate that the company would be unable to relocate within the area if the notice was upheld. Moreover, there is no indication that the business would cease trading altogether if the notice were upheld. Mr Hughes does note that he may not be able to employ all of the current employees if he has to run the business from a smaller site or one that is further away. Therefore, in circumstances where alternative premises to accommodate all of the current operations could not be found in the local area, it is likely that some of the current employees may not be retained, or that those jobs may be transferred to an alternative premises some distance away.
52. Whether current employees would be able to travel to any alternative premises would no doubt depend to a large extent on the distance from their home or their ability/ desire to move with the employment. Thus it is clear that the requirements of the enforcement notice would have a disruptive effect on the operation of the business. That may lead to some local job losses but those impacts may be off-set by the creation of jobs if the company were to relocate further afield. Some of those jobs may be taken by current employees.

However, it seems unlikely that the company would cease trading or that all of the jobs associated with the business would be lost.

53. Consequently, the possibility that alternative premises could not be secured is a matter that weighs in favour of granting planning permission. However, the weight that I attach to that matter is moderated by the lack of detailed information to indicate that alternative premises could not be found and the fact that the business seems likely to continue trading, albeit in an alternative location or more than one location.

The Planning Balance

54. As set out above I attach significant weight to my concerns relating to highway safety and the highway related impact of the development and find that the current use is contrary to the aims of the Framework and relevant policies of the development plan in that respect. The beneficial economic impacts are matters that weigh in favour of the development, having regard to the terms of the Framework. I attach moderate weight to those benefits having regard to the size of the company and the scale of operations at the site.
55. If I were to refuse to grant planning permission and uphold the notice, the company would be forced to relocate elsewhere, with the potential loss of jobs and impact on the local economy. However, it is possible that alternative premises could be found such that the current economic benefits could be retained. If that were not possible it seems likely that the business would continue to operate with resultant economic benefits, albeit that those benefits may not be felt within the local area. Nonetheless, those factors moderate the weight I attach to the appellant's claims relating to the economic impact of upholding the notice.
56. I have acknowledged that the CS is not fully in accordance with the Framework in terms of the approach to economic development within the countryside. Where relevant policies are out of date paragraph 14 of the Framework suggests that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Having regard to that balance I conclude that the highway related impacts should carry significant weight and that the harm I have identified in that respect significantly and demonstrably outweighs the benefits of the development.
57. Consequently, planning permission should not be granted for the breach of planning control, as described in the notice, and the appeal on ground (a) in that respect should be dismissed.

Whether a grant of planning permission in respect of part of those matters would overcome the objections in planning terms

58. The suggestion put forward by the appellant is based on the contention that a large percentage of the articulated HGV movements associated with the current use are made in relation to the brick processing element of the business⁴. I have no reason to doubt that was the case over the particular two week survey period in question. Whether that would be the case for the remainder of the

⁴ Paragraphs 4.3 to 4.6 of Mr Hurlstone's Hearing Statement and paragraphs 130 to 133 of Mr Green's Written Statement

year is less clear. It may be that the number of articulated HGV and other HGV movements associated with the 'non processing' elements fluctuate or were not as significant at the time of the survey as they may be at other periods. The evidence does not give a complete picture in that regard.

59. In any event, if the processing element were to be relocated elsewhere it does not follow that the number of articulated HGV or other HGV movements to the site would reduce. Mr Hughes has indicated that it may be difficult to find an alternative site to house the processing and storage and distribution elements in one place. If the processing element were undertaken on a smaller site nearby there may not be capacity to store the bricks waiting to be processed in any great quantity. That would leave the possibility that bricks could be imported and stored at the appeal site before being transferred to the processing site elsewhere. Once processed they could be returned to the site prior to being transferred. All of those movements could have the potential to actually increase the level of traffic above the existing situation.
60. It appears to me that the terms of the planning permission sought by the appellant would not prevent that scenario from arising. It would all fall under the description of the storage and distribution of new and reclaimed building materials.
61. In addition, the scenario put forward raises the question as to what would happen to that part of the site where brick processing currently takes place. If I were to grant planning permission for part of the breach, as requested, it would result in planning permission being granted for a storage and distribution use in relation to the land identified on the plan attached to the enforcement notice. Any future occupier would be entitled to use the entirety of the site for that purpose and it seems reasonable to assume that Ren-new or any future occupier would wish to make full use of the site. That may well result in an intensification of the storage and distribution element which could have consequential impacts for traffic generation and HGV movements.
62. Therefore, I do not concur with the premise that a grant of planning permission for part of the matters comprising the breach of planning control would result in any significant improvement in highway terms. It may have the opposite effect. Consequently, my conclusions in relation to the third main issue would apply equally to the suggested alternative scenario. The overall planning balance remains the same and I conclude that planning permission should not be granted for part of the matters stated in the breach of planning control. Therefore, the appeal on ground (a) in that respect fails.

The Appeal on Ground (g)

63. The appellant considers that an 18 month period should be allowed to comply with the requirements of the notice on the basis that 8 months would be insufficient to find alternative premises, taking into account the size of the business and the current lack of alternative sites.
64. As set out above, little detail has been provided in terms of the precise steps taken by the operator to investigate alternative sites. I am also mindful of the need to ensure expediency in the enforcement of the planning system and the fact that I have concluded that the development has caused significant harm in terms of highway safety and the impact on the local highway network. Given the potentially serious implications in that regard I find that the period given

for compliance within the notice is reasonable. In other words, there are very strong planning reasons for ensuring that the use of the site ceases without undue delay. Therefore, even if the current occupier may have difficulty in finding alternative premises, which may or may not be the case, I am satisfied that the eight month period is reasonable.

65. Accordingly, the appeal on ground (g) must fail.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Matthew Green	Director, Green Planning Studio Ltd
Mr Jeremy Hurlstone BSc(Hons) CMILT MCIHT	Managing Director, The Hurlstone Patnershire
Mr Jason Hughes	Managing Director, Ren-New

FOR THE LOCAL PLANNING AUTHORITY:

Mr Tim Rogers	Area Planning Manager
Mr Kelvin Hall	Technical Specialist Planning Manager
Ms Gemma Lawley	Highways Officer
Mr Julian Beeston	Enforcement Officer
Ms Mirhanda Garrard	Solicitor

INTERESTED PERSONS:

Cllr Michael Wood	Locally elected member
Mr Martin Bidgood	Pemberton Parish Council
Ms Elizabeth Atwood	Sutton Maddock Parish Council
Mr Mark Dady	Ryton & Grindle Parish Council
Ms Susan Evans	Local resident
Ms Hannah Lloyd	Local resident
Ms Ann Dukes	Local resident
Ms Sue Williams	Local resident
Mrs Becky Henley	Local resident
Mr Paul Henley	Local resident
Mrs Betty Bullock	Local resident
Mr Simon Bullock	Local resident

Documents Submitted at the Hearing

- 1) Copy of the Council's constitution, with associated correspondence
- 2) Photographs submitted on behalf of Kemberton Parish Council
- 3) Photographs submitted by Mrs Henley
- 4) Signed witness statement of Mr Jason Hughes

This page is intentionally left blank