



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

Date: Monday, 8 January 2018

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

**Date:** Tuesday, 16 January 2018  
**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  
Madge Shingleton  
Robert Tindall  
Michael Wood  
Tina Woodward

**Substitute Members of the Committee**

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

Your Committee Officer is:

**Linda Jeavons**      Committee Officer  
Tel:                      01743 257716  
Email:                   [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes (Pages 1 - 8)

To confirm the minutes of the South Planning Committee meeting held on 19 December 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, 11 January 2018.

## 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 The Leasowes, Sandford Avenue, Church Stretton, Shropshire SY6 7AE (16/02491/REM) (Pages 9 - 44)

Approval of reserved matters (appearance, landscaping, layout and scale) pursuant to planning permission 14/01173/OUT for residential development (up to 52 dwellings) to include access.

## 6 11 Greenfields Road, Bridgnorth, Shropshire, WV16 4JG (17/03114/CPE) (Pages 45 - 50)

Application for Lawful Development Certificate to confirm that the existing works of loft conversion, erection of porch with pitched roof and pitched roof over garage, installation of bow window to front elevation, creation of hardstanding to front garden, dropped kerb and erection of garden wall were within permitted development or have been completed for more than four years.

## 7 Brand Oak House, 19 Rosemount Gardens, Ackleton, Bridgnorth, Wolverhampton (17/04037/FUL) (Pages 51 - 66)

Erection of 2 storey side extension.

## 8 Schedule of Appeals and Appeal Decisions (Pages 67 - 80)

## 9 Date of the Next Meeting

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 13 February 2018 in the Shrewsbury Room, Shirehall.



## Committee and Date

South Planning Committee

16 January 2018

## **SOUTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 19 December 2017**

**2.00 - 4.28 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

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

### **Present**

Councillor David Evans (Chairman)

Councillors David Turner (Vice Chairman), Andy Boddington, Gwilym Butler, Simon Harris, Nigel Hartin, Richard Huffer, Madge Shingleton, Robert Tindall and Michael Wood (Substitute) (substitute for Tina Woodward)

### **64 Apologies for Absence**

Apologies for absence were received from Councillors William Parr and Tina Woodward (Substitute: Michael Wood).

### **65 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the South Planning Committee held on 24 October 2017 be approved as a correct record and signed by the Chairman.

### **66 Public Question Time**

There were no public questions or petitions received.

### **67 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 applications 17/03661/EIA and SC/MB2005/0336/BR, Councillor Michael Wood declared that he was acquainted with Lord Hamilton but did not consider this as such that would amount to a bias or an appearance of bias and he would therefore participate in the consideration of those items.

### **68 Woodcote Wood, Weston Heath, Shropshire, TF11 8RS (17/03661/EIA)**

In introducing items 5 and 6 relating to Woodcote Wood, Weston Heath, Shropshire, TF11 8RS (17/03661/EIA and SC/MB2005/0336/BR), the Principal Planner explained

that a Highway Safety Audit had been commissioned and undertaken but to date had not been received by Shropshire Council in written form. Highway safety remained a core element of the scheme and it was important that proper consideration should be given to the Highway Safety Audit in order to reach an informed conclusion. Accordingly, the Highway Safety Audit would require validation and would need to be considered and commented upon by Shropshire Council's Highway Officers. He therefore recommended that because of the interdependency of the two sites both planning applications be deferred to a future meeting.

Members had undertaken a site visit and had viewed the site and had assessed the impact of a proposal on the surrounding area. Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting.

**RESOLVED:**

That applications 17/03661/EIA and SC/MB2005/0337/BR be deferred to a future meeting in order to await the submission of the Highway Safety Audit in written form and to enable Shropshire Council's Highway Officers to consider and comment upon it.

**69 Woodcote Wood, Weston Heath, Shropshire (SC/MB2005/0336/BR)**

For the reasons as outlined above at Minute No. 68, it was:

**RESOLVED:**

That applications 17/03661/EIA and SC/MB2005/0337/BR be deferred to a future meeting in order to await the submission of the Highway Safety Audit in written form and to enable Shropshire Council's Highway Officers to consider and comment upon it.

**70 Proposed Dwelling To The North Of 37 High Street, Broseley, Shropshire (16/05697/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He drew Members' attention to the Conditions as set out in Appendix 1 to the report and suggested an amendment to Condition No. 4 relating to soakaways.

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

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Simon Harris, as local Ward Councillor, made a statement. He then left the table, took no part in the debate and did not vote on this item. During his statement he endorsed the new drawings and recommended approval.

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, subject to Condition No. 4 being amended to include the following additional sentence:

"The soakaways shall be installed in accordance with the approved details before the dwelling is first occupied and thereafter maintained in place."

**71 Gestiana, Woodlands Road, Broseley, Shropshire, TF12 5PU (17/01834/FUL)**

The Principal Planner introduced the report and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He further drew Members' attention to the extant planning permission and the deletion of the phrase "without the written approval of the local planning authority" from Condition No.15.

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

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

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

Cllr I West, representing Broseley Town Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

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

- The proposed development was located on a blind bend with no footpath and an additional ten cars would impact on what was already a bottleneck;
- Because of the nature of the roads/access, local people do not drive to this area – they walk;
- The hedgerow was full of wildlife;
- Water regularly flows everywhere and there are regular power cuts. This proposal would put an additional strain on both drainage and electricity supply;
- Would have a detrimental impact on tourism; and
- He suggested deferral of the application in order that highways and overcrowding issues could be reconsidered.

In the ensuing debate, Members noted the comments of all speakers and considered the submitted plans. Members noted the extant planning permission but commented on the intensity of this current development and the potential impact on the privacy of existing properties. In response to questions and comments from Members, the Principal Planning Officer and Area Highways Development Control Manager (South) provided further clarification on the extant planning permission and what had previously been granted and highway safety.

**RESOLVED:**

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

- The proposed development, by reason of the close proximity of the dwellings on plots 2, 3 and 5 to site boundaries and their fenestration, would adversely affect the privacy currently enjoyed by the occupants of the dwellings at 27 Woodlands Road; The Willows, King Street; Spring Meadow, King Street; and 81a King Street. The proposal would therefore harm the residential amenity of the occupants of the neighbouring properties, contrary to Shropshire Core Strategy policy CS6 and paragraph 17 of the National Planning Policy Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings; and
- It is acknowledged that the proposed development would be in a sustainable location, contributing to the social and economic roles of sustainable development through the provision of two-bedroomed dwellings within the town. However, the proposal, by reason of the intensity of the development subdividing the site into five residential plots, would not reflect the character of development along this section of Woodlands Road or that to be found in the Conservation Area that immediately adjoins the site. Consequently, the proposal would not promote or reinforce local distinctiveness and would neither preserve nor enhance the setting of the Broseley Conservation Area. The proposal therefore would not satisfy the environmental role of sustainable development set out in the National Planning Policy Framework and would be contrary to Shropshire Core Strategy policies CS6 and CS17, and Site Allocations and Management of Development (SAMDev) Plan policies MD2, MD13 and S4.1:1.

**72 Proposed Residential Development SE Of Kemberton Cottage, Mill Lane, Kemberton (17/03311/FUL)**

The Principal Planner introduced the report and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. With reference to the Conditions as set out in the report, he suggested the following:

- Condition No. 5 - deletion of the phrase "unless otherwise approved in writing by the Local Planning Authority"; and
- If approved, delegated authority be granted to attach appropriate conditions relating to the construction of the access, the positioning of any access gates

and to ensure that the existing site boundary wall is re-aligned on the visibility splays.

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

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

Cllr P Jones, representing Kemberton Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In response to a question from a Member, the Principal Planner provided further clarification on the adopted policy and qualifying criteria for Single Affordable Plot dwellings.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15) Councillor Michael Wood, as local Ward Councillor, made a statement. He then left the table, took no part in the debate and did not vote on this item. During his statement the following comments were made:

- There had been no support from the Parish Council or residents for this proposal;
- The substantial property located next door to this proposal was owned by the applicant;
- Section 106 could be discarded in 2-3 years;
- The view of the local people was that it did not meet the criteria for a single plot exception site; and
- He urged refusal.

Mrs E Southern, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to comments, the Solicitor explained that it was highly unlikely that a future request to remove the S106 Legal Agreement would be granted while it continued to serve a planning purpose in securing an affordable dwelling in a location where open market housing would not be likely to be permitted. Members noted that the application complied with the criteria; local connection had been established; and the property would be affordable in perpetuity.

**RESOLVED:**

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

- A Section 106 Legal Agreement to ensure the dwelling remains affordable in perpetuity;

- That Planning Officers be granted delegated powers to attach appropriate conditions relating to the construction of the access, the positioning of any access gates and to ensure that the existing site boundary wall is re-aligned on the visibility splays; and
- The conditions as set out in Appendix 1 to the report, subject to the deletion of the following wording as set out in Condition No. 5:

“unless otherwise approved in writing by the Local Planning Authority.”

**73 9, 10 And 11 Lower Forge Cottages Eardington, Bridgnorth Shropshire WV16 5LQ (17/00298/FUL)**

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

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

Mrs C Halford, a local resident, spoke against the proposal in accordance with the Council’s Scheme for Public Speaking at Planning Committees.

Councillor Robert Tindall, on behalf of Eardington Parish Council, read out a statement 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 Robert Tindall, as local Ward Councillor, made a statement. He then left the table, took no part in the debate and did not vote on this item. During his statement the following comments were made:

- The applicant had not considered the impact on the neighbouring property (No. 8);
- He circulated South Cambridgeshire District Council’s Householder Design Guide and drew Members’ attention to the 45-degree rule as set out at page 22; and
- In conclusion, he urged approval of the application, subject to an additional Condition which stipulated compliance with the 45-degree rule.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. In response to comments, the Principal Planner and Solicitor explained that Shropshire Council’s adopted Planning Guidance did not incorporate a 45-degree policy; however, Shropshire Council did take in to account the scale and orientation of a proposed property and the likely impact on neighbouring properties and drew Members’ attention to paragraph 6.4.2 of the report. On this occasion, Officers had taken the view that any impact on neighbouring properties would not be severe as to warrant refusal and this was now a judgement for Members to make. A wall up to 2.0 m high could be erected under permitted development rights.



**RESOLVED:**

That, contrary to the Officer’s recommendation, planning permission be refused for the following reasons:

- The proposed single story extension, by reason of its additional height in comparison with a wall or fence which could be erected on the southern property boundary line as ‘permitted development, would have an overbearing impact on the adjoining neighbouring property (no.8) and would adversely affect the outlook from the ground floor accommodation of that neighbouring property. The proposal would therefore harm the residential amenity of the occupants of the neighbouring property, contrary to Shropshire Core Strategy policy CS6 and paragraph 17 of the National Planning Policy Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

**74 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 19 December 2017 be noted.

**75 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 16 January 2018 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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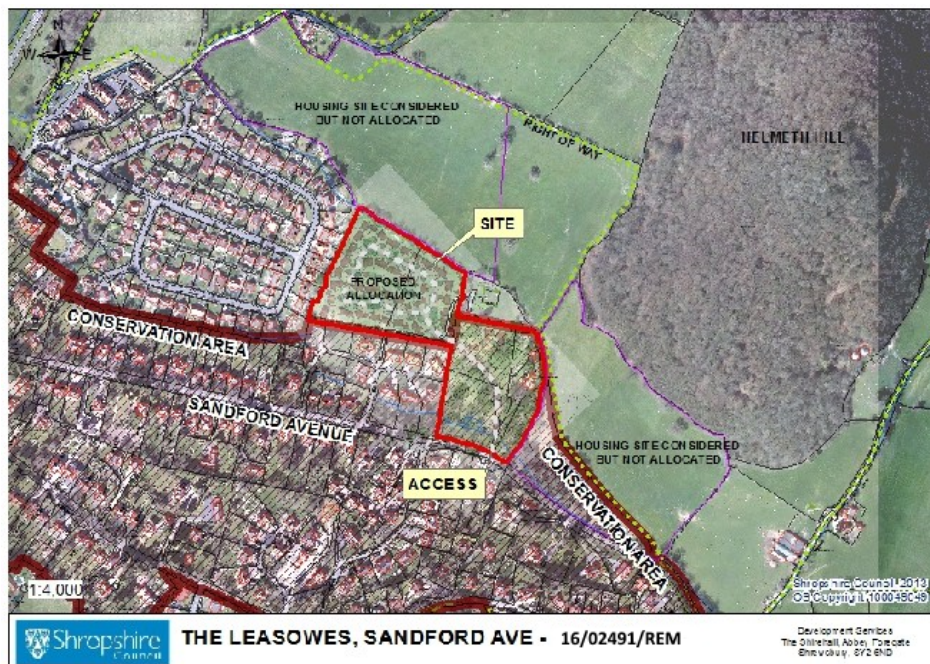


Committee and date  
 South Planning Committee  
 16 January 2018

## Development Management Report

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

<b>Application Number:</b> 16/02491/REM	<b>Parish:</b> Church Stretton
<b>Proposal:</b> Approval of reserved matters (appearance, landscaping, layout and scale) pursuant to planning permission 14/01173/OUT for residential development (up to 52 dwellings) to include access	
<b>Site Address:</b> The Leasowes, Sandford Avenue, Church Stretton, Shropshire SY6 7AE	
<b>Applicant:</b> Mr R.Hill	
<b>Case Officer:</b> Grahame French	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>



**Recommendation:** Grant Permission for part-approval of reserved matters and discharge of condition 5v, subject to the conditions and informatives set out in Appendix 1.

**Note:** Permission is not granted for details of landscaping (reserved matters and outline Condition 8a) and tree protection (outline Condition 6a), though members are requested to note the information submitted by the applicant to date in relation to these matters.

## REPORT

### 1.0 THE PROPOSAL

1.1 Members resolved to approve an outline application for residential development at this allocated housing site on 16<sup>th</sup> September 2014 (14/01173/OUT). Permission was subsequently issued following completion of an associated affordable housing legal agreement on 28<sup>th</sup> July 2015. The current application seeks approval for the reserved matters details which comprise:

- The siting and ground levels of the dwellings;
- The design and external appearance of the dwellings;
- Details of the materials, finishes and colour of the dwellings;
- Details of the landscaping of the site.

1.2 Approval is also sought as part of this application for the following details which are required as part of conditions accompanying the reserved matters permission:

- Zone 1 Flood Risk Assessment (Condition 5v);
- Tree Protection (Condition 6a);
- Landscaping Plans (Condition 8a).

1.3 The proposals therefore seek approval of reserved matters and also discharge of the above planning conditions. There is overlap between these two elements of the scheme as landscaping is a reserved matter and is also covered in Condition 8a of the outline scheme.

1.4 The proposal involves formation of a new junction off Sandford Avenue with a new internal access road passing through a wooded area. This would lead to the area of housing which is concentrated in the western half of the site. Whilst the outline application refers to 'up to 52 dwellings' the applicant has decided based on the density of development in the local area that a more appropriate density would be 43 dwellings. The layout is shown on figure 1 below.



Figure 1 – Proposed site layout

- 1.5 The proposed development will consist of three dormer bungalows, 24 two storey houses and 16 semi-detached two storied houses with estate style fencing to property frontage and or roadways. A mixture of 2, 3 and 4 bedroomed properties is proposed, with a predominance of detached properties, all with off street parking garaging and private amenity space. Eight affordable houses which are 2 and 3 bed semi-detached properties would be located in the south west corner of the site.
- 1.6 The proposals make provision for public open space at the required rate of 30m<sup>2</sup> per person. This space will be managed in perpetuity to ensure public access is maintained.
- 1.7 The access road would be constructed in such a way that the roots of adjacent trees in the eastern half of the site are not adversely affected. Detailed discussions have taken place between the applicant’s arboricultural consultant and the Council’s trees section. Separate pedestrian routes would link the site to the pavement at Sandford Avenue.

**2.0 SITE LOCATION & DESCRIPTION**

2.1 The site (area 3.45ha) is located at the base of Helmeth Hill at the eastern edge of Church Stretton and to the immediate north of the B4371 Much Wenlock road (Sandford Avenue) from which access would be obtained. It comprises 2 adjoining rectangular areas with a fall of 25m from east to west. The eastern half on the higher ground adjoining Sandford Avenue currently comprises the large detached garden of a private property, The Leasowes. This area (1.59ha) has a parkland character, with a number of mature trees (particularly nearer Sandford Ave) set in an area of grassland. Access would be obtained through this area to the main area of proposed housing. Existing mature trees would be retained.

2.2 The western half of the site (area 1.87ha) which would accommodate the proposed housing currently comprises two small grassed fields. These are bounded to the south and west by existing Battlefield Estate residential development, to the north by a mature hedge with larger grassed fields beyond and to the east by the garden of the Leasowes. A covered reservoir is located to the immediate north, in the angle between the eastern and western halves of the site. Access is currently obtained to the reservoir via a track running along the boundaries of the western half of the site. It is proposed that an alternative access would be provided to the reservoir via a link from the new access through the Leasowes.

2.3 The eastern half of the site is located in a Conservation Area which also runs along the southern boundary of the remainder of the site. A public footpath adjoins the eastern boundary but would not be affected. The site is located within the Shropshire Hills AONB which incorporates all of the settlement of Church Stretton.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The application has been referred to the committee on the basis that the decision on the original outline application was considered by the committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1.1 Church Stretton Town Council – 04/04/2017**

- i. The Town Council supports the development of this site but notes there are a number of omissions in the reserved matters, which will need to be addressed. These will be highlighted under the various sections considered below. The site lies in the recently extended conservation area at the foot of Helmeth Hill. It is bounded on three sides by development.
- ii. Drainage - Because of its position, the site suffers from water roll off. There have been occasions of flooding in the area lower down the hill towards the town (Alison Road, Oakland Park) these issues would need addressing, as at present what has been submitted is not sufficiently detailed. A Topography Survey would help to identify any potential flood hazards. We note there is no Zone 1 Flood Risk Assessment provided on the Portal. The onsite treatment of water roll off needs more explanation. Attenuation ponds could be considered, which could be treated as a site feature. Surrounding culverts should be checked for capacity tolerances. All hard surfaces (driveways/roads) should be constructed of permeable material. We would welcome sight of a Management and Maintenance Plan for SuDs for the lifetime of the site.
- iii. Trees & Planting - The land surrounding the Leasowes property, through which the access road will run, contains some fine specimens of trees subject to TPOs, which should be protected. The two 4 bed detached houses in the Leasowes garden appear to be too close to tree root systems, some adjustment will need to be made. We note that no detailed up to date tree protection plan has been submitted. Originally it was suggested that new tree planting would be provided either through the use of individual trees or by stands of trees in order to give some protection for

houses on Alison Road and Oaks Road, as well as helping to set the development in context. Some form of evergreen planting could be considered along the boundary of the gardens to the south of the site, to protect the privacy of the houses abutting the site. The Town Council requests that where new tree planting is provided, standard trees are used, rather than whips. There is a need for sustainable planting on the site, especially in the area of the elevated road where back filling with soil may be necessary. As the elevated roadway will be seen from Sandford Avenue, it is important, that the engineering construction is hidden by suitable planting. We would welcome the inclusion of a detailed Planting Scheme.

- iv. Layout and appearance - The Town Council would like to suggest that the affordable housing should be better integrated, rather than being clustered together. The parking bays provided should be behind the affordable houses and the houses moved nearer to the road. This will provide better visual amenity for nearby residents. Houses to the West of the site could be moved forward allowing for larger back gardens which could then accommodate trees on the site boundary to provide screening. The use of 6 foot close board fencing is not considered acceptable in a conservation area. Instead the use of low walling and ironwork, along with shrub planting should be considered. This is more in keeping with the rural nature of the site. The bricks chosen should be of a soft muted colour (no harsh red/orange tones) and windows and doors should be wooden and painted with a limited range of colours as opposed to uPVC in white & brown. This would be more appropriate in a conservation area. We would like to see details of the enclosure for the pumping station, as well as a noise assessment rating. Shrub planting should be considered round the pumping station to soften the effect of the installation. The Town Council previously asked for a Lighting Scheme with a light scatter diagram, this has not been provided. It is important that low level down lighting is used on site not only to protect the neighbouring properties from glare but also to be less intrusive for bats. Consideration should also be given to part night lighting. There are a number of Dark Sky sites on the neighbouring hills, one of which overlooks the town. We would welcome the inclusion of a Lighting Scheme.
- v. Access - Access to the site was approved under outline consent however the original access has been changed to alter the position of the entrance giving a wider bellmouth. This entails the removal of extra trees. As the access has now been varied we would have thought it would have to be the subject of a separate full application, which should also include any alterations to tree protection. The Town Council requests that any entrance treatment is suitable to a rural setting with no excessive use of tarmac and paviers. We would also request that no Lime trees are removed. The Town Council asked for a detailed engineering evaluation on the elevated road at the outline stage. More details of the construction methods for the elevated road would be appreciated. No structural sections (support piers) should be left visible, as this would be incongruous in the wooded rural setting. The road should form an integral part of the landscape. The pedestrian access as proposed, needs developing in respect of lighting, surfacing and any effect it may have on the tree root systems. A short pedestrian link to Oakland Park would be an alternative, as the access onto Sandford Avenue is already in place. Archaeology and Ecology - An archaeological field evaluation and ecology report may be needed.



- 4.1.2 SC Public Protection - Specialist – No comments received.
- 4.1.3 SC Affordable Housing: - No objection subject to confirmation of exact details of the on-site affordable housing provision (i.e. plot numbers and sizes of dwellings).
- 4.1.4 SC Conservation (Historic Environment) (03 May 2017) – No objection.
- i. These comments supplement those previously submitted. The previous set of comments outlined areas of concern which are given below:
- Inappropriate proposed architectural detailing including lack of chimney articulation;
  - Inconsistent use of proposed facing materials; and
  - Overly engineered from entrance that impacts on existing lime trees and;
  - An overly brief Design and Access Statement, with no Heritage Impact Assessment (HIA) in terms of how the proposal would deal with impact on the overall character and appearance of the conservation area in line with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 128 of the NPPF and policy MD13 of SAMDev.
- ii. The covering email (dated 13/4/17) from the agent is noted, where it outlines some of these concerns including the use proposed materials and chimneys which are duly noted and can be covered by relevant conditions where proposed materials can be discharged accordingly. However, the concern with the access to the site is still apparent, where comments/concerns from SC Trees are noted is still outstanding to some extent. There is concern from the comments that the proposed construction methods (paragraph 2.8) may have negative consequences on the lime trees where any long-term damage from construction would have a significant negative impact on the overall character and appearance of this section of the conservation area. Whilst the latest Arborocultural Report gives some detail on this aspect, there is concurrence with my colleague's view that damage may occur through the construction process, as well as the need for the report to cover a wider view/consideration across the whole site context wise, where long-term harm would be possible. The report needs to cover what mitigation measures and monitoring is required in order to prevent possible damage and long-term harm.
- iii. The submitted Heritage Impact Assessment by Richard K Morris (series 1097) is noted where the various designated and non-designated heritage assets are noted including impact on the conservation area where it concludes that there will be 'very limited visual impact' and harm, especially with the construction of the 1960s housing estate adjacent, where it is acknowledged that the overall setting has been compromised to an extent. Sandford Venue is mentioned as a non-designated heritage asset in itself which is considered appropriate as the overall setting of the streetscene is sensitive and very significant in its own right. As per the comments above regarding trees, whilst harm may be negligible, if trees are not protected then harm may occur which is considered to be unacceptable. New House Farm and New House Farm Barn (grade II listed building) where there would be 'negligible' impact with no clear reciprocal views between the site and the Barn. Other archaeological sites and assets are noted in the report including the setting of Caer Caradoc where the ancient hillfort is a Scheduled Monument. The setting of the SM



is assessed in the context of existing housing sites in the vicinity as well as the non-designated heritage asset of Leasowes immediately adjacent where it states that the proposal would have 'limited impact'. Whilst there is general consensus with the conclusions arising from the report, the relevant protection of trees and further landscaping is required to further mitigate potential harm in terms of long-range views leading back into the conservation area. The report's findings should be analysed as part of a revised/updated Design and Statement. However, this part of the objection is withdrawn as it is considered that the provision of this HIA accords with paragraph 128 of the NPPF and policy MD13 of SAMDev.

- iv. Whilst there are no principle objections to this proposal, there are still some ongoing concerns with the proposed design of the residential units (chimneys should be provided even for the more modest house types) and the long-term welfare of the existing lime trees in particular. Therefore, it is considered that the proposal is still not in accordance with paragraph 131 and 137 of the NPPF, the design principles set out on the NPPG guidance, policies CS6, CS17 of the Core Strategy, policy MD13 of SAMDev as well as the principles set out in the Conservation Area Appraisal and CADG.

4.1.5 SC Archaeology: - No objection. We note the submission of a Heritage Impact Assessment (Richard K Morris & Associates, Mercian Heritage Series 1097, April 2017) in respect of this application. The assessment suggests that there would be a negligible indirect adverse impact on the setting of designated heritage assets in the vicinity of the development site. We would concur with this assessment. The assessment notes the presence within the development site of a find-spot of prehistoric flint artefacts and of other nearby finds of prehistoric and Roman date, and considers the origin of the place-name 'Battle Field' for part of the development site, and its proximity to other known prehistoric and Roman sites. The assessment suggests that the archaeological potential of the proposed development site could be high. Again we concur with this assessment. We would therefore in this respect reiterate our previous comments of 26 June 2016 regarding the archaeological condition applied to the related outline application ref. 14/01173/OUT.

4.1.6 SC Drainage: - (28 Jun 2017). No objection following the submission of further details to address concerns and objections identified in earlier comments, relating to the need for a flood risk assessment, highway gullies, use of impermeable surfaces etc. The proposed surface water drainage as now proposed is acceptable.

4.1.7 SC Highways DC: – No objection subject to recommended informative notes and to the proposed highway infrastructure being 'privately maintained' in perpetuity. It is understood, that the applicant wishes to secure an approved design and layout for the access, estate road and footway, so that it can potentially become a highway, maintainable at public expense (adopted) in the future. Unfortunately, the developer has not submitted a formal application to the Highway Authority, for consideration under the Highway Agreement (S38) Process. Therefore, Mouchel is unable to undertake a full assessment of the proposals, which may or may not provide the assurance the developer is seeking, in respect to the potential adoptable status of the proposed design. It should be noted that the previous Highway Advice Note provided information in respect to the deficiencies in the proposed layout of the

access and estate road and these statements still hold true. Therefore, the highway authority cannot support the proposed highway infrastructure for future adoption (maintainable at public expense). Notwithstanding the above, the principle of such a development has previously been approved at 'outline' stage, subject to the proposed access, estate road and footways remaining privately maintained, in perpetuity. Therefore, the highway authority would have no objection to the currently submitted reserved matters application, in respect to the layout and scale, as long as the highway infrastructure remains privately maintained.

4.1.8 SC Ecology: – No objection subject to informative notes regarding protected species.

4.1.9 SC Trees (28/07/17) – Partial withdrawal of previous objection.

i. The submission of the revised arboricultural report (OOTC/PC17/162/rev.1) and arboricultural method statement (Ref. OOTC/PC17/1621/MS/rev.1) coupled with revised site layout (Ref. 1628 – P-01.Rev.J) and the revised general arrangements plans submitted on the 26th June 2017 go a long way towards allaying many of the concerns raised in the Tree Service's previous consultee comments. It is however our considered opinion that there are a number of issues that have still not been addressed to a level of detail to satisfy the requirements of conditions / reserved matters 1(iv) – 6(a) & 8(a) in summary those are:

- The unnecessary impact of plot 21 on two protected trees (See 1.3 below).
- An incomplete tree protection plan and Arboricultural method statement with some site layout disparity between the revised arboricultural plans and the revised block plan (see 2.1, 2.2, & 2.3 below).
- The impacts of the mixing storage and parking areas on the proposed zone identified for tree planting has not been addressed (See 2.3 below).
- The short and long-term implications on mitigation planting from excavations for and the laying of service pipes between plots 20 & 21 and the main area of the development through an area identified for tree planting has not been addressed (See 2.3 below).
- Incomplete landscape plan with conflicts between the tree planting plan and the block plan (See section 3.1, 3.2 & 3.3 below).
- The failure of the applicant to reinstate the provision to include a road side lime avenue on the main drive and compensatory planting at the site entrance in the landscape mitigation proposals (See 3.1.3 & 3.2.1 below).

ii. From an arboricultural perspective the revised block plan 1628–P01.Rev.J is significantly different to the iterations of the proposal offered at outline in that the access road design has changed significantly and that previous arboricultural submissions did not include dwellings on the plots now identified as plot 20 & 21. Also of significance is the erosion of the aspiration to maintain a wide garden buffer between the new development and the existing estate to the west that would have been large enough to include meaningful structural tree planting that would integrate / screen this development in the landscape as seen from the west and north-west. It is still not clear why the building on plot 21 has to be set so far forward. This brings the dwelling closer to the protected trees than fits with good sustainable design because it is predictable that the size and species of the trees (2

x ash) will result in the occupants' of the dwelling developing proximity related concerns relating to the trees. Further to this the size and orientation of the house is such that the back garden is likely to be shaded by the buildings in both plot 20 and 21 suggesting that the use of the area to the front of the house would be a more attractive garden space for the residents. If the house was set back further to the north the residents would have a more inviting garden space and there would not be a need to include a turning circle (target zone) under the canopy of the protected trees. From an arboricultural perspective there is room for the layout of these two dwellings to be much more sustainable.

iii. Incomplete Tree Protection Plan (Tpp) & Arboricultural Method Statement (Ams)

- Bellmouth and drive entrance off Sandford Avenue - The tree protection plan and method statements make reference to the use of no dig drive construction ((TDCCS). Whilst this is acceptable in principle, the changes take newly constructed surfaces and infill over the root plates and to within 1m of the bases of mature beech trees which are typically shallow rooting and do not respond well to disturbance. In our professional opinion this activity will have an impact that will reduce the safe useful life expectancy of these trees, and the potential for damaging the trees during the work is high which justifies the Council's requiring that this operation in particular should be overseen by a competent arboriculturist.
- Footpath - visibility splay steps and bridge – the revised plans show a proposed footway along the western boundary of Leasowes that crosses the brook by a new bridge and exits the site up a set of steps and then directly onto the verge and road edge of Sandford Avenue at a point where there is no roadside footpath. The plans include an indicative plan for a bridge but not for the steps up the bank to Sandford Avenue. The AMS suggests that the construction of this path (where it impacts on the RPAs' of trees') is to be of a no dig construction using a cellular confinement system, some generic guidance for which is given in appendix D & F of the Arboriculture Method Statement and Appendix Bi of the Arboriculture Survey. But the detail for the whole project falls short of what is expected for the discharge of conditions and offer no dialog on mitigating the hazards of bringing pedestrian access up a set of wooden steps and onto a road verge without a public footpath. To date we have seen no arboricultural implications assessment on the need for the likes of hard standing at the roadside, lighting and provisions for disabled access and we have concerns that this pedestrian access will give rise to complications that will have a negative impact on the protected trees. In the absence of specific details and arboricultural implications for the steps, bridge and possible visibility splay supported by an appropriately accessible (for contractors) AMS the Tree Service is still unable to comment on the viability of this proposed pedestrian access.
- Mixing station, site huts, parking zones & general arrangements - The block plan (1628-P-01/Rev.J) and general arrangement plan (LO-GA-40 Rev.A) show activities such as service runs the storage of materials and a concrete mixing station within an area identified in the proposed landscape mitigation plans for

tree planting. The impacts of these activities such as soil disturbance and compaction and the potential for noxious spillages contradict the good practice aspirations set out in BS5837:2012 - Trees in relation to design demolition and construction (section 5.6) and BS8545:2014 – Trees from nursery to independence in the landscape – which make recommendations that seek for an equal level of protection for the soils in areas identified for tree planting as is expected for retained trees.

The lack of consideration or poor level of communication for these implications on the long-term success of the planting proposal is highlighted by the fact that the tree protection plans PC17/162/TPP/1 and PC17/162/TPP/rev.1 show the mixing station, site storage, and parking areas in a completely different location to their position as shown on the revised block plan 1268-P01-Rev.J.

- iv. Landscape Proposal: The details submitted for the discharge of conditions 1(iv) and 8a are set out in section 7.5 of the design and access statement and on plan PO1-J with reference to plan Sand 8240/A (D&AS section 7.5.2) and in the submission of a revised tree planting plan (Doc.ref: OOTC/PC17/162/PL) in the light of which the information in the design and access statement is now in need of revision. The annotation on plan PO1-J states that the trees will be maintained for one growing season. This is not satisfactory and does not follow good horticultural or arboricultural practice. A minimum of three to five years management is required to ensure that newly planted trees thrive and establish, unless the planting has been to exceptional specifications and delivery. Recommendations for good practice are made in BS 8545:2014 which has been referenced to be followed in the revised tree planting details (Doc.ref: OOTC/PC17/162/PL). The approved outline application included measures for compensatory tree planting including the planting of a heavy standard lime avenue along the new access drive (see plan SA/MS/1006/Rev.A) this provision has been removed from the revised planting plan and represents a regressive step in the proposal (see section 3.2.1 below). The inclusion of plots 20 & 21 removes an area of proposed compensatory planting and whilst the revised tree planting plan represents some improvement on that initially submitted with this reserved matters application in accordance with the expectations of MD2 & MD12 the Tree Service recommend that the Council seek the following revisions to satisfy existing agreements and to provide mitigation for the inclusion of plots 20 & 21 and to the predictable longer term impacts on the mature beech trees at the access point off Sandford avenue (See 3.2.2 below).
- vii. Tree planting plan: Lime avenue - Existing agreement for the establishment of a lime tree avenue along the new drive should be honoured. The reasons for this avenue lie in the character of the existing street scene in Church Stretton where lime trees have been a successful long-lived amenity this new section of avenue would link the development to the historic landscape of the town. The revised planting along the drive as proposed in OOTC/PC17/162/PL is unduly complicated and tightly spaced and would not have the long term uniform impact that the agreed planting would have. Mr Bailey of old oak Tree care argues that monocultures in planting schemes are problematic and suggests that “Church Stretton is already blighted by a monoculture of lime trees”. Mr Bailey’s argument has two key flaws, firstly:

- (a) We are looking for the new lime tree avenue to compliment the already diverse tree population on site and by the other elements of the planting plan, as such the planting of a few more limes would hardly constitute a mono culture especially if other species of lime were used such as green spire or silver lime.
  - (b) Secondly I would suggest that the local community as is identified in the Church Stretton Town Design Statement do not consider their town to be blighted by lime trees, but in fact cherish and value them.
- viii. Replacement planting at the site entrance – Whilst the Tree Service consider that the revised access off Sandford Avenue can be delivered without immediate detriment to the neighbouring trees (If done under appropriate arboricultural supervision) we predict that mature beech trees like those at the entrance will be stressed by the intimate changes to their rooting circumstances, surface level changes, increased passage of traffic, winter road salt and other incremental impacts. We disagree with Mr Bailey’s prognosis that the trees will not suffer although we agree that the effects may not be immediately apparent, we therefore maintain that the safe useful life expectancy of these trees will be significantly reduced as a result. Due to the need to deliver the housing commitment in Church Stretton this is a compromise that is unavoidable if the site is to be developed using this access point. There is however an opportunity for the planting of two new lime trees alongside Sandford Avenue to compensate for this impact and for the loss of the agreed amenity planting associated with the inclusion of plots 20 & 21; one could be planted to the east of the drive and tree Be4 in the space created by the loss of two poor specimen sycamore trees, and one to the west of tree Be1 this would complement the ongoing and gradual establishment of replacements for the mature lime stock along Sandford Avenue which is an ongoing objective of the Town Council and the Church Stretton Tree Group.
- ix. Other landscape provisions - Plan 1628 – P-01.Rev.J carries a small list of proposed planting but does not clearly show on the plan where the planting will be established. Further to this the proposed hedge planting mix as shown on the plan is different in its mixture to that stated in section 7.5.6 of the design and access statement. A rudimentary comment on plan 1628–P01.Rev.J coupled with an indicative planting schedule in the design and access statement does not constitute an appropriate landscape plan for a development of this scale and prominence. We would advise that as well as a tree planting plan the Council secure a proper working and binding stand-alone landscape plan with comprehensive planting schedules and specifications for all other hard and soft landscape (Footpaths bridges and steps etc.) that can be used and interpreted accurately in a landscape tender and by contractors and Council Planning Officers alike. During the outline application discussions on site layout resulted in the buildings along the Alison Road Boundary having small front gardens and extended back gardens, this was in part to accommodate a series of potentially large trees along the boundary that would help to embed this large development into the local landscape. Plan 1628-PO1-J appears to have dispensed with this consideration giving rise to small back gardens reducing the potential for garden planting to improve the areas character and amenity. For a development with the potential to impact on the character of the area as seen from the surrounding hills we find the contradictory and less than

comprehensive landscape proposals to be contrary to the sustainability aspirations set out in national and local planning policy.

- x. We advise that it is the Tree Services considered opinion that reserved matters and landscape conditions 1(iv), 6(a) 8(a) have not been addressed to a standard appropriate to the scale and significance of the development.

4.1.10 SC Parks and Recreation: The Design and Access Statement acknowledges the need for open space as set out under SAMDev Policy MD2. As there are more than 20 dwellings, the number of bedrooms needs to be considered. The development includes 144 bedrooms equating to 144 people. Working on 30 square metres per person it equates to an area of 4320m<sup>2</sup>. The layout plan attached to the application shows the OAS area extending to 5853m<sup>2</sup> which we consider fulfils the planning criteria.

#### Public Comments

4.1.11 The application has been advertised in accordance with statutory provisions and the nearest residential properties surrounding the site have been individually notified. 16 objections and one neutral comment have been received. The main issues are as follows:

- i. Layout / plot density: The actual area to be built upon is 2.02 hectares which means the density of the houses in the built upon area is 21 dwellings per hectare which is considerably higher than that of both the Oakland Park estate (7.5 dwellings per hectare) and the Battle field estate (12 dwellings per hectare). Plots 22, 23 and 24 are by far the closest to the boundary with the smallest rear gardens on the whole development. What happened to providing buffers between the existing and new developments as detailed in the 2014 outline planning minutes. The owners of these existing houses will have windows directly looking down at their properties. In addition gardens that small in a family house are unacceptable, the development could be reconfigured to provide larger gardens at that point, or build single storey houses there. Not in keeping with the character of the local area and the conservation status. The size of field does not lend itself to the density of housing proposed. Plan P-01 (F) shows Plot 22 drawn very tightly to the boundary & we have particular concerns about the loss of our privacy due to this & the proposed new pedestrian access route. Some of the highest density housing is adjacent to an area occupied by older people. This new housing is likely to be occupied by young families, which, by their nature, will be more noisy than the norm for the area. Such housing is right and proper, but it needs to be positioned more sympathetically. I am concerned that because of the steep rake of the garden and the field behind that the new houses will actually loom over us, and the windows or roof lights on the plans will certainly need to be positioned so that the new occupants do not stare straight into our back bedroom on the first floor. My bungalow is not a dormer and therefore I feel that it would be dwarfed by a two storey block of semi-detached houses so close behind it especially as the land slopes upwards away from my home. Four parking places are also shown just a few yards from my bedroom window and I worry about late night noise from these.

- ii. Flooding: The very real flooding risk from surface water and who will be held accountable should our houses flood in the future. At times of high rainfall, surface-water already sometimes flows through the gardens of Battlefield properties and the lower part of the gardens on Sandford Avenue, and building on farmland further up the hill will increase this problem. A stream taking run-off from the hills passes through my back garden. In some winters the level of the stream has been high enough to touch the underside of the two small bridges that connect the two halves of the garden. Any attempts to add gratuitously the run-off from the fields above us would need careful analysis. When Sandford Avenue was re-tarmaced two years ago there was a thunderstorm during which the water accumulating on the road and running down the hill from level with the proposed development was sufficiently vigorous that it jumped the drain on the plateau, formed a fast flowing river through Amberley on the north side of Sandford Avenue, across the back of 22 Alison Road and started to form a lake around 20 Alison Road. Surface drainage is already an issue in Oakland Park as water runs off from Leasowes land down the road. Construction of the new roadway onto the proposed site is likely to add to the existing problem. There is a real problem with water runoff from this site. The back of my garden is frequently flooded causing many shrubs to die. I worry that houses and hard landscaping would only make this worse. The stream into which it is proposed to discharge the surface water runs through the back of my garden and it is sometimes unable to cope with heavy downpours as it is. The proposal states that "surface water drainage from the development will discharge to the discourse in the south of the site via land within the applicants ownership". The discourse mentioned immediately discharges into a narrow open stream in my garden (30 Alison Rd SY6 7AT) and then through gardens of 28, 26 and 24 Alison Rd when it passes into a culvert at 22 Alison Rd and then re appears as an open stream at Brook Meadow near Alison Rd. There have been flooding problems in the past during heavy rainfall running off the fields and this will be increased considerably due to the construction of up to 52 new houses. The plot on which it is proposed to discharge the water has itself implemented consent for a further detached dwelling, along with two neighbouring plots (SS/1987/306/P) and a fourth plot, which is currently being actively pursued, has full permission for a large detached dwelling. The latter also has a watercourse which discharges into the same stream. We thus have proposals for the additional discharge of surface water from 46 houses plus built infrastructure - into a very small stream.
- iii. Footpath: The Town Council have made the comment that foot access could be via Oakland Park. This is private land with no right of access. Why should residents there put up with a constant dribble of pedestrians? The need for residents from the new estate to cross the road to reach a footpath. The proposed footpath to connect the development to Sandford Avenue would be adjacent to the rear boundary of my property (Eastern) I object to this on the grounds of privacy, light and noise intrusion and especially security. The proposed footpath would be 10feet 3 inches from my rear bedroom. The footpath would be better sited alongside the access road. The proposed footpath would run along the entire length of my eastern boundary causing privacy and security issues with significant concerns of noise and nuisance. The proposed exit of the footpath would without doubt cause very serious safety concerns for all users especially young children who would have no alternative but to cross Sandford Avenue to reach the only footpath which is on the other side of

the road which is at a significantly higher level to the road surface. Much of the traffic (and this will increase with the development) fails to adhere to the current speed restrictions in place which further enhances the safety concerns for pedestrians due to poor visibility. By having the footpath adjacent to the road this would be far easier to maintain along with the highway infrastructure than on its own through the open space area. Should the proposals for the footpath go ahead the resulting effects mentioned in clause 1a above would mean that a fence with both anti-climb and acoustic properties to a height of 2.5m would be required running the full length of the boundary including across the stream.

- iv. Sewerage: The already outdated sewage system in Sandford Avenue. What problems may arise from the proposed pumping station? My understanding is that much of the infrastructure within Church Stretton is close to capacity and that a significant additional loading could be fraught. It is locally reported that approaches have been made by the developers to plug their sewage into the Battlefields system. The sewerage pump is adjacent to established housing. Can it be ensured that there will be no odour, noise or foul water discharge, particularly if it should malfunction? The pump needs to be sited further from any housing to reduce the likelihood of such problems. The sewerage and foul water pumping station is essential and I would welcome a statement confirming that noise and environmental conditions are satisfied. The location of the sewer main as illustrated would pass under a large detached house for which full planning permission has just been approved, yet this house is omitted from the plans for this development. The plan for the house was submitted before that for the sewer main for this development. Both have been submitted by the same developer.
- v. Ecology / trees: Some of the highest density housing is adjacent to a 300 year old oak tree in Alison Road. What precautions will be taken to ensure that the root protection area (rpa) is honoured in subsequent years? How many trees will be sacrificed for this development? What wildlife will be affected? There has not been any mention made whether an ecological survey has been carried out to determine whether there will be any affect to existing wildlife in the area of the open space arboretum. The hatched area on the block plan P-01F is designated for landscaping. However this land is currently unmanaged and consideration should given to its value as a wildlife habitat, and retaining it in its natural state.
- vi. Traffic / access: The effect of increased traffic along Sandford Avenue. The access road on a bend with fast flowing traffic. We are also very concerned at the likely increase in traffic volume that 43 houses will generate along Sandford Avenue & the increased difficulty for existing residents exiting their properties given the already severe visibility restrictions due to the mature lime trees.
- vii. Incursion into countryside / AONB: within an Area of Outstanding Natural Beauty and is in part at least within a Conservation Area. Out of keeping with the character of the area and would significantly damage a public visual amenity.
- viii. Other: Our water pressure is low at best and sometimes pitiful. I hope that in the planning stage this is not overlooked, and that new housing does not exacerbate



these problems. I hope the opportunity will be taken to encourage the developer to build energy efficient housing, beyond statutory requirements.

- ix. Pollution: Using the stream for drainage of surface water from paved areas raises the risk of pollution of the stream by leakage from vehicles.

4.1.12 The Strettons Civic Society (18/07/16) - Neutral: We have read the objections and comments made for this application and wish to support the representations made by Church Stretton Town Council and Shropshire Council's Tree Amenity and Protection Officer. We identify the key issues as follows:

- i. Drainage: There are drainage issues on the site of the development and concerning the possible run-off from the site to the adjacent residential area of Battlefield. We think these could be addressed by carrying out a Zone 1 Flood Risk Assessment and by making maximum use of permeable materials on new access roads and driveways.
- ii. Trees and Landscaping: The Tree Amenity and Protection Officer has commented in great detail about the omissions and shortcomings of the plans and we have no further suggestions to make. It is important for the developer to comply with the conditions for tree planting and protection and for landscaping that formed part of the approval of outline application 14/01173.
- iii. Layout, housing design and housing numbers: The original application was to build 52 dwellings on the site but in the current application the number has been reduced to 43. We think that if a few of the detached and semi-detached houses in the plan were replaced with short cluster arcs of two and three bedroom apartments then 52 could be easily achieved. We think there would be four advantages flowing from this change. First, there are strong indications from recent housing developments in Church Stretton that there is a demand for this type of accommodation which typically provides less amenity space for individual dwellings. Second, it would be practicable to locate car parking spaces and garages at the rear of the apartments which would considerably improve the street scene within that part of the development. If say, one of the apartments were built using bridging then less space would be required for an access road to the rear. The west part of the site is one candidate for this type of treatment which would benefit from placing the apartments closer to the road in order to provide more space behind for car parking, amenity space for the apartments and for tree planting and hedge maintenance instead of a close boarded fence along the Battlefield boundary. Third, some of the proposed affordable homes could be allocated within the apartment area which would facilitate the suggestion of the Town Council that the affordable homes should be integrated within the development rather than clustered together. Fourth, the increase in the number of dwellings in the development would contribute to the target for dwellings on allocated sites.
- iv. Pedestrian Access Route (footpath): The plan provides for a footpath from the housing development to Sandford Avenue along the boundary between Leasowes and the Oakland Park housing area. Would it be practicable to locate the footpath alongside house 24 to use the existing but redundant access to the reservoir which goes through Oaklands Park? This would mean building a shorter length of footpath

and would provide a shorter and safer route for pedestrians who would generally want to use the path to walk to the town centre.

## 5.0 THE MAIN ISSUES

- Policy context and principle of the proposed development;
- Environmental impacts of the proposals – traffic, drainage, sewerage, ecology, visual impact;
- Social impact – residential amenity, public safety, footpath;
- Economic impact;
- Overall level of sustainability of the proposals.

## 6.0 OFFICER APPRAISAL

### 6.1 Policy Context and principle of the development:

6.1.1 The principle of housing development at this site has been established by the outline permission and allocated status of the site in the SAMDev plan (Policy S5). The SAMDev site profile advises that ‘development is subject to satisfactory and appropriate vehicular access which must safeguard protected trees. The design and layout of development must have regard to the setting of the Conservation Area’. In view of this the principle of housing development does not need to be re-assessed as part of the current application. Determination must therefore centre on:

1. Whether the proposed reserved matters details relating to siting, design, layout, appearance and landscaping of the development are acceptable; and
2. Whether the other submitted following details relating to flood risk, tree protection and landscaping as required by conditions attached to the outline permission can be accepted.

6.1.2 The application has attracted 18 neighbour objections, particularly with respect to site layout, drainage and the alignment of a proposed footpath. The Council’s trees service has maintained an objection to certain aspects of the proposals for tree protection and landscaping. In response the applicant has submitted a significant amount of additional information, including with respect to drainage, flood risk and tree protection. The alignments of 4 plots have also been changed in response to planning consultations. There have been a number of re-consultations which have led to a substantial delay in determining the application. The individual issues raised and the extent to which they have been satisfactorily addressed is considered in succeeding sections.

### 6.2 Siting, design, layout, appearance and landscaping (reserved matters details)

6.2.1 Plot density / spacing: Some residents have objected that the layout of the site is too dense. It is accepted that as with many modern housing schemes the site has a denser layout than the existing residential areas which it adjoins. However, the SAMDev site allocation specifies 50 homes (Schedule 5.1a) and the outline permission allows up to 52 homes. By comparison the 42 homes now proposed represents a significant reduction relative to the potential density.

6.2.2 Whilst Shropshire does not have adopted standards for spatial separations such standards are widely adopted at a national level and provide a general indication as to the acceptability of a residential development in spatial terms. A key standard is that there should be a minimum of 21m between opposing 2 storey principal elevations. The proposed layout meets or exceeds this standard in all cases, including with respect to the relationship between existing and proposed properties. Other nationally adopted standards relating to spacing between existing and new properties are:

- That houses with 3 or more bedrooms should have an area of private amenity space which exceeds 65m<sup>2</sup>.
- That where principal elevations are angled there should be a minimum separation distance of 17m between an existing and a new property;
- That where a side elevation faces a principal elevation there should be a minimum separation distance of 13.5m;
- That a new property shall be positioned so that it does not obstruct daylight beyond a vertical angle of 45° measured from the mid-point of the nearest window(s) of any adjacent property.

6.2.3 All the proposed properties meet this criteria with the exception of the separation distance between some principal and side elevations in the central area of the site. However, the separation of the plots is considered acceptable having regard to the detailed relationships between the plots and the design of the proposed homes. It should be emphasised that the above standards generally relate to the separation between new and existing properties, there is no equivalent adopted spatial guidance in Shropshire.

6.2.4 Following discussions with the officer the applicant has agreed to amend the proposed housing design for plots 23 and 24 which are separated by 24m from façade of the nearest existing house at the Battlefield Estate. These would be changed from the original 2 storey homes to Type C dormer bungalows where there would just be 2 small rear facing velux windows. It is considered that this would further protect the amenity of the existing property. It is concluded on this basis that the proposed plot density and spacing can be accepted.

6.2.5 Building design and appearance: The design and appearance of the buildings is considered acceptable in this context. All would be treated with a traditional appearance red roof tile, red facing brickwork, cream render and softwood painted windows. Most would have entrance porches or canopies. All would have garages which would either be integral single / double or separate. Three of the seven housing types would have chimneys. The largest homes (Type F) would have hipped roofs. Internal floor space would vary between 61.2/66.2m<sup>2</sup> for the semi-detached Type A homes to 143.8m<sup>2</sup> for the Type F home. It is considered that the mix of design features within a common surface treatment scheme and the orientation of the properties would yield a streetscape which both visually integrated and interesting. It is considered further that the proposed design is appropriate for this area.

- 6.2.6 Landscaping: The proposed landscaping scheme makes provision for the sporadic planting of shrubs and smaller trees within the front elevations of garden areas (Holly, Silver Birch, Cherry, Rowan and Hazel). The indicative layout plan in the outline application also depicts additional planting around the site margins and in particular to the south and west of the main housing area. There is already mature hedging along the northern and eastern boundaries of this area which would be retained. It is considered that there is a strong justification for additional hedgerow planting along the southern and western margins of the housing area in order to provide improved separation from existing housing areas. A condition has therefore been recommended requiring an updated landscaping scheme to be submitted.
- 6.2.7 The Council's trees section has maintained a partial objection to the scheme with one concern being that the design is not sufficiently ambitious to reflect the location of the site. The officer has some sympathy with this viewpoint, whilst noting that the space constraints of the main housing area and associated requirements for drainage and usable amenity land preclude the ability to implement a significantly more comprehensive tree planting scheme. It is recognised that a balance must be achieved between landscaping and the ability to deliver houses with sufficient private amenity space. In this respect the outline application allows up to 52 homes and the reduction to 42 homes has allowed additional land to be laid over to private amenity space. However, the more detailed design of the current reserved matters application has highlighted that the opportunities for undertaking additional tree planting within the site are limited given the space constraints of the site. Ultimately, whilst additional planting of larger tree species may be desirable it is not considered to be practicable within the space constraints of the site if the number of dwellings is to be preserved at the currently proposed level.
- 6.2.8 In terms of visibility from the Conservation Area the main publicly accessible view of the development will be of the site access on Sandford Avenue. The applicant has taken considerable effort in the design of the scheme to protect existing trees in the eastern half of the site and ensure that the site access road does not impact on any root protection zones. No new houses would be visible from Sandford Avenue or there would only be fleeting views between existing vegetation. The site would also not be visible from the nearest public footpaths to the north, east and west due to the effect of intervening vegetation and housing. Longer distance views would be available from elevated land to the north. However, the site would be seen as a very minor element from such distances against the backdrop of existing development at Church Stretton.
- 6.2.9 It is concluded that whilst some additional planting of larger trees may have been desirable imposing this as a planning requirement cannot be justified in the detailed circumstances of the site. It is however recommended that a planning condition is imposed requiring additional shrub / hedgerow planting on the south and western margins of the main housing area.
- 6.3 Tree protection
- 6.3.1 The Council's trees service has raised a number of concerns in relation to the proposed scheme and has not withdrawn a current holding objection. The concerns

of the trees service are fully acknowledged. However, there has been a substantial delay in the determination of the application for this allocated housing site leading to uncertainty. In these circumstances the planning authority must assess whether there are mechanisms available to allow a decision to be taken whilst still ensuring that appropriate regard is had to tree protection issues. The issues raised by the trees service are considered below:

- 6.3.2 Root protection and realignment of access road: The applicant has slightly amended the alignment of the proposed access road to address engineering problems and to ensure a more even approach to the housing area with improved forward visibility. This has resulted in moving the access road closer to three trees (T4, T19 and T21) and a further unnamed tree near the site access. The realignment affects the outer root protection zone of these trees and this has not been addressed in the applicant's existing method statement. The officer considers that this matter is capable of being addressed by imposing a condition requiring a supplementary method statement regarding protection of these trees. This is on the basis that the realignment does not affect the inner root protection zones and the original alignment was as close to some trees in the vicinity of the site access. The proposed condition would require that the applicant demonstrates that appropriate protection can be given to the root protection zones in question or that the road is reinstated to its originally proposed alignment, which the trees service did not object to. It is considered that residual root protection issues can be appropriately addressed through the use of this condition.
- 6.3.3 Affordable homes and mature tree: A mature tree in the rear garden of 36 Alison Road is the only significant tree along the western boundary of the site. The trees service is concerned that the 4 affordable homes (plots 1-4) are within the sphere of influence of this tree and should be located further away. The officer has reviewed the spatial relationships with the tree. It is noted that the rear (west) facades of plots 2 and 3 are within 11-12m of the tree canopy as shown schematically on the layout plan. However, air photo imagery indicates that the canopy is actually elongated along the site boundary and the actual separation distance is 12.5-13.5m. The affordable properties are therefore sufficiently far from the tree to avoid any shading to garden areas except possibly in the late afternoon. It is not considered that the mature tree would represent an unacceptable constraint to the current siting of the affordable plots 1-4 on this basis. By contrast, air photos confirm that the existing property at 36 Alison Road is within 4m of the tree canopy and experiences significant shading of its rear garden throughout much of the day.
- 6.3.4 Plot 21: The trees service has queried why this plot has been set so far forward when this brings it into conflict with a mature tree to the south east (the officer would note that original alignment sought to maximise usable private rear garden space). The applicant has addressed this by aligning the plot so that it is set back 13m from the tree canopy, giving improved natural light.
- 6.3.5 Tree protection plan: The trees service has advised that the tree protection plan approved under the outline planning permission needs amending to take account of changes proposed by the current reserved matters application. The trees service acknowledged that an updated arboricultural statement by Old Oak Tree Care Ltd

addresses the revised new access and site layout but considers that a single updated tree protection plan should be provided. It is considered that this matter can be addressed by imposing a planning condition.

- 6.3.6 Ground levels: The trees service has expressed concern that any level changes within the site or installation of services should not affect tree root protection zones, with particular reference to the recently TPO's trees on the site's northern boundary. Condition 1.1 of the outline permission requires details of siting and ground levels of the dwellings to be provided. This information has not been provided and so cannot be approved. In all other respects however the reserved matters information has been approved. It is considered appropriate in this case to re-impose the requirement for detailed ground levels to be provided as a condition linked to the current permission. It should be noted that a 1m deep drainage ditch runs within the western boundary within the rear gardens of the proposed dwellings. This is shown as being retained on its current alignment in the submitted layout plan. Hence, there would be no implications for root protection zones of trees on this boundary. There is an anomaly however with regard to Plot 8 at the north-western corner of the site where the corner of the property is shown as extending over the ditch. A ground levels condition would allow appropriate clarity to be provided on this and related matters.
- 6.3.7 Footpath: A proposed footpath would run in a north-south direction to the west of the access road. This would join to a proposed wooden footbridge providing a pedestrian link to Sandford Avenue. There is no footpath on this side of Sandford Avenue. A pedestrian refuge would therefore be required with suitable visibility to allow safe crossing to footpath on the other side of the road. The trees section advised in April 17 that specific details for the steps, bridge and visibility splay for the proposed footpath are required in order for them to comment on the arboricultural implications of the proposed pedestrian link. The applicant subsequently provided some details including a longitudinal section of the footpath and the footbridge. This confirms that the footbridge would be supported by wooden posts which would be set in hand dug holes. Hence, the potential for damage to roots would be avoided. No details of the pedestrian refuge and the associated visibility splay have been provided. As hedge vegetation comes right up to the roadside on this side of Sandford Avenue some vegetation will need to be removed in order to provide sufficient space and visibility for the refuge / crossing point. Whilst further information on the bridge and crossing point are required, the officer considers based on a review of roadside vegetation that there would be ample opportunity to position to crossing point in a location where it would not impact on any roadside trees. Hence, it is considered that further details of the footpath and crossing point can be conditioned.
- 6.3.8 Tree planting plan: The trees service has advised that the tree planting plan required by condition 8 of the outline permission needs updating to reflect changes to the layout of the scheme. This includes the addition of plots 20 and 21 within the eastern part of the site which occupy an area originally allocated for compensatory tree planting. Whilst the trees service acknowledges the current tree planting plan is an improvement on the originally submitted scheme the trees service considers that some additional improvement is still required.

- 6.3.9 Lime avenue: The original outline scheme included a plan to plant an avenue of lime trees along the access road and the trees service considers that this should be honoured. It is stated that lime trees have been a characteristic and successful aspect of the local environment and a lime avenue would link the development to the historic landscape of the town. The access road planting includes a mix of 15 individual specimens including sessile oak, scots pine, hornbeam and beech with one giant sequoia set back from the road in an open area. The trees service considers that the revised planting along the drive as proposed is unduly complicated and tightly spaced and would not have the long term uniform impact. The applicant's trees consultant has questioned the use of just lime, stating that 'monoculture planting is not generally supported'.
- 6.3.10 The trees service has also advised that there is an opportunity for the planting of two new lime trees alongside Sandford Avenue to compensate for any medium term impact on established trees at the site entrance and the loss of the agreed amenity planting associated with the inclusion of plots 20 & 21. These matters are is not considered to be fundamental in the context of the overall scheme. A planning condition requiring submission of an updated detailed planting and landscaping scheme would allow this matter to be addressed without further delay to the determination of this application. This would include comprehensive planting schedules and specifications for all hard and soft landscaping works and would consider the potential for provision of lime trees within the planting mix and details of shrub / hedgerow planting along the western and southern site margins.
- 6.4 Flood Risk:
- 6.4.1 The land slopes to the west within the site and it is understood that there are existing surface water flows on the north, south and west sides of the site during inclement weather. Some local residents have expressed concerns that the proposals could exacerbate existing flooding problems they have experienced as fields would be replaced by impermeable surfaces.
- 6.4.2 The applicant has provided a Flood Risk Assessment (FRA) which concludes that the site is within flood zone 1 and the proposed development can be achieved without causing flood risk to the site or to any other properties. It is stated that appropriate flood attenuation will be provided within the development, with the discharge reduced to Greenfield run-off rates. Appropriate calculations are provided. The proposals include a sustainable drainage system. Additional drainage facilities will be provided in the form of French drainage and cut-off drains to collect any exceedance flows and manage surface water run-off. Permeable driveways and footways will be considered. Additional surface water storage facilities will be available in the retained open land to be provided on the western portion of the site. Following receipt of the additional drainage information from the applicant the council's land drainage team has confirmed that the proposed drainage measures are acceptable. A construction management plan condition would amongst other matters cover site drainage measures during the construction phase.
- 6.5 Other matters:

- 6.5.1 Traffic: Objectors have reiterated concerns raised at the outline stage that the proposed access would join a dangerous stretch of the public highway and would exacerbate existing traffic capacity issues. However, the means of access was approved at the outline stage and highway officers have not objected to the current proposals.
- 6.5.2 Sewerage: The applicant is proposing that foul water from the proposed dwellings would be taken to the existing foul sewer that runs nearby to the site. An underground pumping station would be employed to pump to the mains sewer. This would be an underground structure and in common with other housing schemes it would not be expected to generate any noise or odour.
- 6.5.3 Footpath: A resident have objected on the grounds of loss of privacy as a consequence of the proximity of the proposed footpath to a property at Oaklands Park. The indicative alignment shows the proposed footpath as passing within 1m of the property boundary which comprises a mature hedgerow. There would be ample scope to locate the footpath a couple of metres further from the property boundary and a condition requiring this has been recommended.
- 6.5.4 Affordable Housing: The housing enabling team has requested confirmation of the level of on-site affordable housing provision. This has been provided in the application with plots 1-4 comprising the on-site provision. A legal agreement securing an affordable housing contribution was secured in connection with the outline application and would bind the applicant with respect to the current scheme.
- 6.5.5 Infrastructure and open space management: The infrastructure and open space within the site will not be publicly managed. The responsibility for management of open space within the site and structures will rest collectively with the residents through a management company / subscription programme. Management of the private access road is covered in the legal agreement on the outline application.
- 6.5.6 House opposite access: A reserved matters application in connection with a single detached house to the south of the proposed access on Sandford Avenue in the garden of a property known as Grafton Underwood was approved on 24<sup>th</sup> May 2012 (12/01141/REM). The property ('Lime Tree') has since been constructed and is now occupied. There is currently no screening on the highway frontage of Lime Tree so it has some views towards the proposed site access. The occupant of the property has recently expressed concerns that traffic movements to and from the proposed access may result in disturbance. These concerns are acknowledged. However, it should be noted that the access was approved as part of the June 2015 outline approval and the site was also a draft allocation in the March 2014 pre-submission draft SAMDev plan. Notwithstanding this, it is not considered that the effect of vehicle turning movements on Lime Tree would be so significant as to justify a planning refusal, given the proposed number of properties and the nature of Sandford Avenue.



## 7.0 CONCLUSION

- 7.1 The principle of the development was established at the outline stage. The current reserved matters application seeks approval for the detailed design and layout of the scheme, also including landscaping and drainage.
- 7.2 Some detailed information required at reserved matters stage or under conditions attached to the outline consent has not yet been fully provided. Principally this includes details relating to landscaping and tree protection. However, the main details expected at reserved matters stage have been submitted and are considered to be acceptable.
- 7.3 It is considered that supplementary information on detailed landscaping and tree protection measures and site levels which is required before the development can commence does not affect the fundamental of acceptability of the reserved matters scheme in terms of design and layout and can be safely secured in this instance by imposing appropriate pre-commencement planning conditions. This is because acceptable solutions regarding detailed hard and soft landscaping and tree protection measures are considered to be available in practice.
- 7.4 It is therefore recommended that permission is granted for part-approval of reserved matters and discharge of condition 5v (flood risk), subject to the recommended conditions and informative notes. The applicant will be informed that permission is not yet granted for details of landscaping (reserved matters and outline Condition 8a) and tree protection (outline Condition 6a), though the information submitted by the applicant to date in relation to these matters is noted. The opportunity has also been taken to update some of the conditions attached to the original outline permission in order to reflect the findings of the planning consultations on the current application. An advisory note in Appendix 1 indicates that these updated conditions should now take precedence, where applicable, over the original outline conditions.
- 7.5 Subject to this it is considered that the development can be made sustainable and compliant with the development plan overall subject to the recommended conditions. Approval is therefore recommended.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry. If the decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will intervene where the decision is so unreasonable as to be

irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds for making the claim first arose. Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

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

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10.0 BACKGROUND

### Relevant Planning History:

- 14/01173/OUT - Outline planning consent for residential development (up to 52 dwellings) to include access. Permitted 18th June 2015
- SS/1988/1246/P/ Conversion of existing Coach House to a dwelling. PERCON 14<sup>th</sup> February 1989
- SS/1/00/11681/F Conversion of building to a dwelling. PERCON 9th March 2001
- SS/1/06/19019/TP Remove deadwood from 1 x lime tree and remove overhanging branch and deadwood from 1 x ash tree NOOBJ 25th January 2007

### Relevant Planning Policies:

### Central Government Guidance:

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

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

10.1.2 Relevant areas covered by the NPPF include:

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

10.2 Core Strategy:

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

Supplementary Planning Guidance:

Type and affordability of housing (March 2011)

10.3 SAMDev Plan:

- MD1 – Scale and Distribution of Development
- MD2 – Sustainable Design
- MD3 - Managing Housing Development
- MD8 –Infrastructure Provision
- MD12: The Natural Environment
- S5.1: Church Stretton Area

11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=O89E1DTDMPB00>

List of Background Papers: Planning application reference 13/01633/OUT and associated location plan and documents
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Cabinet Member (Portfolio Holder) Cllr D.Macey
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Local Member: Cllr David Evans, Councillor Lee Chapman
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Appendices: Appendix 1 – Conditions
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## APPENDIX 1

### 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. Subject to the conditions in this decision notice the development shall be carried out strictly in accordance with:

- i. the application form and associated supporting documents;
- ii. dated approved application documents and plans and drawings, namely:
  - P-01 Site plan rev E
  - 1628 P-10 - Housetype A - 2 Bed semi-Layout1Condition 5
  - 1628 P-11 - Housetype B - 3 Bed semi-Layout1
  - 1628 P-12 - Housetype C - 4 Bed Dormer Bungalow-Layout1
  - 1628 P-13 - Housetype D - 3 Bed Detached-Layout1
  - 1628 P-14 - Housetype E - 4 Bed Detached-Layout1
  - 1628 P-15 - Housetype F - 4 Bed Detached REVISED-Layout1
  - 1628 P-16 - Housetype G - 4 Bed Detached-Layout1
  - 1628 P-17 - Garage plans-Layout1
  - Sand 8450/A 1003

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

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

#### Drainage

- 4a. Construction of the development hereby permitted shall not be commenced until full details including a plan and calculations of the proposed sustainable drainage system (SuDS) have been submitted to and approved by the Local Planning Authority prior to the approval commencement of any development under the terms of this permission. This shall include details of the proposed maintenance regime for any sustainable drainage system, including details of who will take responsibility should be provided to ensure that the drainage system remains in good working order throughout its lifetime.
- b. If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a

drainage system to intercept water prior to flowing on to the public highway

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

5. A contoured plan of the finished ground levels shall be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. Level changes and surface soil stripping scheme for comprehensive before and after ground levels. The submitted plan shall also be designed to ensure that no level changes affect any Root Protection Areas at any stage of the site's development.

Reason: To ensure that surface water flows are managed on site, in the interests of visual and residential amenities and to protect established vegetation around the margins of the site.

#### Construction Management Plan

6. A construction management plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The plan shall detail how the construction phase will be managed in order to prevent any unacceptably adverse effects to local amenities and the environment, including with respect to construction traffic, noise, dust and management of surface water during the construction phase. The construction management plan shall be implemented in accordance with the approved details.

Reason: To ensure that the local environment and amenities are subject to appropriate protection during the construction phase.

#### Tree protection

- 7a. An updated tree protection plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The plan shall in particular provide the following details:
- i. Details of how any drainage will be constructed past the Root Protection Area of the mature tree in the garden of number 36 Alison Road;
  - ii. Details of how the water balancing tanks associated with the proposed site access road will be constructed without impacting on Root Protection Areas;
  - iii. A method statement for constructing the proposed footpath and raised wooden walkway without impacting on Root Protection Areas.
  - iv. Confirmation that the proposed alignment of the access road (as shown on plan CS-AR-002 - Junction Bellmouth and Junction Visibility) will not adversely affect the Root Protection Area of any mature trees.

- b. The approved measures 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.
- c. The Shropshire Council Natural Environment team will be notified in writing when the Tree Protection measures have been established and no construction works will commence until a written letter is received by the applicant or their agent from the Planning Authority stating that the measures have been satisfactorily established.

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.

*Note: All amendments' and modifications to the approved plans and particulars; or plans and particulars issued for the delivery of reserved matters; or establishment of services or special engineering measures that will require encroachment into the tree protection zone(s) identified in the approved tree protection plan will be supported by a supplementary arboricultural impact assessment and method statement; and the proposed amendments' / works will not be enacted upon without the written approval of the Planning Authority.*

- 8. Notwithstanding any details submitted on other approved plans and particulars, works or development shall not take place until a scheme of supervision for the arboricultural protection measures (tree protection plan) by a competent arboriculturist has been approved in writing by the local authority tree officer. This scheme will be appropriate to the scale and duration of the works and may include details of:
  - i. induction and personnel awareness of arboricultural matters.
  - ii. identification of individual responsibilities and key personnel.
  - iii. statement of delegated powers.
  - iv. timing and methods of site visiting and record keeping, including updates.
  - v. procedures for dealing with variations and incidents.

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

- 9. Exact details of the specification for the proposed footpath and raised wooden walkway and the crossing point at Sandford Avenue including visibility splays shall be submitted for the approval in writing of the Local Planning Authority prior to the commencement date. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of tree protection and pedestrian safety.

Landscaping:

- 10a. No development shall be commenced until full updated details of hard and soft landscape works have been approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
- i. Planting plans;
  - ii. Written specifications (including cultivation and other operations associated with plant and grass establishment);
  - iii. Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate; and
  - iv. Implementation timetables.
- b. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable approved in writing by the Local Planning Authority.
- c. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and to ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

*Note: The scheme should considering the potential for provision of an avenue of lime trees along the proposed access road, for the planting of 2 additional limes adjacent to the access on the public highway and for additional shrub / hedgerow planting along the western and southern site margins.*

11. No external lighting shall be installed at the development hereby permitted until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the approved lighting shall be retained thereafter for the lifetime of the development. The submitted lighting scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet 'Bats and Lighting in the UK'.

Reason: To minimise disturbance to bats, which are a European Protected Species (and in accordance with Policy CS17 of the Shropshire Core Strategy).

#### Archaeology:

12. Construction of the development hereby permitted shall not be commenced until an archaeological field evaluation has been submitted to and approved in writing by the Local Planning Authority. This shall be undertaken in accordance with a written scheme of investigation which has been agreed in writing with Shropshire Council's Historic Environment Section. The written scheme of investigation shall make appropriate provision for the carrying out of further investigation works in an agreed



timescale in the event that the field evaluation identifies features which the Council's Historic Environment Section considers requires additional investigation.

Reason: To allow for appropriate recording of any archaeological remains which may be present within the site.

*Note: A full written archaeological brief for this work can be provided by Shropshire Council's Historic Environment Team. A charge applies for this work. Further details are available on Shropshire Council's Historic Environment Team website*

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

13. Existing shrubs and hedges within and around the margins of the site shall be retained and protected from damage for the duration of the construction works. No such shrubs or hedges shall be removed unless this has first been approved in writing by the Local Planning Authority.

Reason: To ensure that the screening and amenity effect of existing shrubs and hedges around the margin of the site is protected in the interests of residential amenities.

14. All development, demolition, site clearance, landscaping and biodiversity enhancements shall occur strictly in accordance with the Ecological Assessment (Star Ecology, June 2014), unless otherwise approved in writing by the Local Planning Authority. Works shall be overseen and undertaken, where appropriate, by a licensed, suitably qualified and experienced ecologist.

Reason: To ensure the protection of and enhancements for wildlife, in accordance with MD12, CS17 and section 118 of the NPPF.

#### Informative Notes:

##### Ecology:

- i. *Bats and trees: It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences. During all works on mature trees there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working on mature trees, particularly where cracks and crevices or thick ivy covering are present. Any cracks and crevices should be visually inspected prior to the commencement of works on the tree and if any cracks or crevices cannot easily be seen to be empty of bats then an experienced, licensed bat ecologist should be called to make a visual inspection using an endoscope and to provide advice on tree felling. Works on trees with high bat roosting potential (aged or veteran trees with complex crevices and areas of dead wood) should not be undertaken without having first sought a bat survey by an experienced, licensed ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). Felling and tree surgery work should only be*

*undertaken in line with guidance from a licensed ecologist and under a European Protected Species Mitigation Licence where necessary. If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.*

- ii. 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 should if possible be carried out outside the bird nesting season, which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active birds' nests should be carried out. If vegetation cannot be clearly seen to be clear of birds' nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

*Highways:*

- iii. Any works undertaken, prior to the appropriate Highway Agreement, Permit or Licence being formally completed, is done so at the developer's own risk, and there is no guarantee that these works will be deemed acceptable and subsequently adopted as highway maintainable at public expense, in the future. Please refer to the following informative notes for details of securing any appropriate highway approval and agreement, as required.*
- iv. The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.*
- v. 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.*
- vi. The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.*
- vii. This planning permission does not authorise the applicant to:*
- construct any means of access over the publicly maintained highway (footway/verge) or;*
  - carry out any works within the publicly maintained highway, or*
  - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or;*
  - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway.*

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

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

*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.*

- viii. *The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic.*

*Drainage:*

- ix. *Highway gullies are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required that the gullies will be able to convey the 100 year plus 35% storm to the proposed surface water drainage system. Soakaways and attenuation drainage structures should not be located under the highway. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. Exceedance flow path should be provided to ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used. The surface water drainage proposals are acceptable in principle but Highway Development Control should be consulted on the location of the oversized pipes under the highway which they may object.*
- x. *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:*

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

*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.*

- xi. Consent is required from the service provider to connect into the foul main sewer. The applicant should confirm that the noise and environmental conditions from the sewerage and foul water pumping station are satisfied.*
- xii. The applicant should consider employing measures such as the following:*
- Swales;*
  - Infiltration basins;*
  - Attenuation ponds;*
  - Water Butts;*
  - Rainwater harvesting system;*
  - Permeable surfacing on any new access road, driveway, parking area/ paved area and footway;*
  - Attenuation;*
  - Greywater recycling system;*
  - Green roofs.*
- xiii. Ordinary watercourses exist on the northern boundary and through the southern section of development. Informative: Any works within the watercourse requires Ordinary Watercourse Consent from Shropshire Council in accordance with the Land Drainage Act 1991. Works should not commence until consent has been granted by the Council.*

*Electric vehicle charging:*

- xiv. The applicant is encouraged to supply an independent 32 amp radial circuit isolation switch at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point should comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and should be provided with a locking weatherproof cover if located externally to the building. Paragraph 35 of the NPPF states in this respect that "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."*

*Primacy of current planning conditions over outline conditions*

- xv. It is hereby confirmed that if there are any conflicts between the conditions attached to the outline permission reference 14/01173/OUT and conditions attached to the current permission the latter shall take precedence.*

*Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012*

- xvi. The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application.*

*This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. Further information has been provided by the applicant on indicative design, layout and housing need. The submitted scheme has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended planning conditions.*

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Committee and date

South Planning Committee

16 January 2018

## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 17/03114/CPE	<b>Parish:</b>	Bridgnorth Town Council
<b>Proposal:</b> Application for Lawful Development Certificate to confirm that the existing works of loft conversion, erection of porch with pitched roof and pitched roof over garage, installation of bow window to front elevation, creation of hardstanding to front garden, dropped kerb and erection of garden wall were within permitted development or have been completed for more than four years		
<b>Site Address:</b> 11 Greenfields Road Bridgnorth Shropshire WV16 4JG		
<b>Applicant:</b> Mrs Gillian Fuller		
<b>Case Officer:</b> Richard Fortune	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 371059 - 293777



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**Recommendation:- A Lawful Development Certificate be issued for the following reason:**

The works to which this application for a lawful development certificate relates, comprising of a loft conversion; erection of porch with pitched roof extending over the front of the garage; creation of hardstanding to the front of the property with associated dropped kerb and erection of garden boundary wall are works which constitute development under Section 55 of the Town and Country Planning Act 1990. From the information available, and on the balance of probability, all of the works were completed in excess of four years prior to the 12th July 2017. Even if any of the works did not fall wholly within the conditions and limitations of permitted development rights that were in force at the time the works were carried out, the fact that they constitute 'operational development' and were carried out more than four years ago, means the Council would be time-barred from taking any planning enforcement action. A certificate of lawful development can therefore be issued.

**REPORT**

**1.0 THE PROPOSAL**

1.1 This request for a lawful development certificate for development already carried out in respect of the following matters:

- 1) Loft Conversion
- 2) Erection of porch with pitched roof and pitched roof over garage
- 3) Bow window on front elevation
- 4) Creation of hardstanding in front garden with associated dropped kerb
- 5) Erection of garden wall

It is asserted that all the above works were within permitted development rights or have been completed for a period in excess of four years prior to the date of the application. Each element is considered in turn below.

1.2 The applicant is a member of staff, working in the Development Management Team.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The property is a detached dwelling situated outside of a conservation area. It occupies a rectangular plot with the estate road to the south east, detached properties on either side to the south west and north east. To the rear the garden backs onto a footpath, on the opposite side of which are the rear gardens to properties on Dunval Road.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The application must be determined by Committee because it relates to the property of an officer of the Council who either directly or indirectly reports to the Planning Services Manager.



**4.0 Community Representations**

Not applicable to a lawful development certificate application.

**5.0 THE MAIN ISSUES**

5.1 Under Section 191 of the Town and Country Planning Act 1990, as amended, an application may be made to the Local Planning Authority if any person wishes to ascertain whether specified works carried out are lawful. The relevant date for the determination is the date that the application was validated. In this particular case where the specified works set out at paragraph 1.1 above are 'operational development' the main issue is whether the works, at the time they were carried out, fell within permitted development rights then in force, or whether they have been substantially complete for a period in excess of four years prior to the date of submission of this application. ( Under Section 171B of the Town and Country Planning Act 1990, as amended, enforcement action may be taken in respect of a breach of planning control only within four years of the occurrence of operational development and change of use to use as a single dwellinghouse, and 10 years in all other cases).

5.2 The effect of issuing a lawful development certificate means that no enforcement action may then be taken in respect of those works covered by the certificate. The onus of proof in the submission of lawful development certificate applications relating to works already carried out rests with the applicant. Where a local planning authority has no evidence of its own, or from others, to make the applicants version of events less than probable, a certificate has to be issued.

**6.0 OFFICER APPRAISAL**

6.1 Loft Conversion: The documentation provided with the application, in the form of a letter to Bridgnorth District Council with a received date of 4<sup>th</sup> February 1976 seeking confirmation that the loft conversion the subject of building regulations application BR/1052A; letter from Crescourt Loft Conversions Limited dated 24<sup>th</sup> May 1976 to the Chief Planning Officer of Bridgnorth District Council relating to the formation of a room in the roof space confirming that the works have been completed and a ready for inspection; a copy of the Building Inspection notice of the same date advising of completion of the work. The loft conversion did not involve any enlargement of the roof space and is lit by two velux windows/rooflight on the rear elevation roof slope, with minimal projection above the top surface of the roof tiles. This information is sufficient, on the balance of probability, to demonstrate that, even if the works were not covered by 'Permitted Development ' rights in 1976, that these works have been substantially complete for a period in excess of 4 years prior to the relevant date of this request (12-07-17).

6.2 Erection of porch with pitched roof and pitched roof over garage: A Google Image photograph of the front of the property, with an 'image capture' annotation by Google of March 2009 shows the enclosed porch with a monoptych roof that extends across the front of the attached garage. As built the estate file shows that the attached garage projected forward of the main front wall of the dwelling, and its flat roof extended to form a flat roofed canopy over the front door. (Document 394/402 on file 71159385). While no details of dimensions of the porch and roof

have been supplied, and no evidence of the date that these works were carried out ascertain whether the works fell within the limits of ‘Permitted Development’ rights applicable at that time, the dated Google image is, on the balance of probability, sufficient to demonstrate that these works have been substantially complete for a period in excess of 4 years prior to the relevant date of this request (12-07-17).

- 6.3 Bow Window on front elevation: A Google Image photograph of the front of the property, with an ‘image capture’ annotation by Google of March 2009 shows the bow window installed on the front elevation of the dwelling. The dated Google image is, on the balance of probability, sufficient to demonstrate that the bow window was installed in excess of 4 years prior to the relevant date of this request (12-07-17).
- 6.4 Creation of hardstanding in front garden with associated dropped kerb: A Google Image photograph of the front of the property, with an ‘image capture’ annotation by Google of March 2009 shows the front garden of the property as a tarmac hardstanding with a narrow border adjacent to a low brick wall along the northern site boundary. This image also shows part of the pavement, but not the kerb edge where it abuts the highway carriageway. However an invoice dated 23<sup>rd</sup> August 2005 has been submitted from G.R. Minton and Sons giving the job details of “Construct new tarmac drive at the above property.” The reference to ‘drive’ and not just a hardstanding would indicate that the works involved the creation/modification of an access onto the highway. The applicant states that these works were completed in 2005. A site inspection has established that the dropped kerb extends across the whole site road frontage.
- 6.5 Greenfields Road is an unclassified road. Schedule 2, Part 2, Class B of the Town and Country Planning (General Permitted Development) Order (GPDO), through its various amendments during the period applicable to this request, has stated that the following is Permitted development:

*“The formation, laying out and construction of a means of access to a highway which is not a trunk or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part).”*

Under Schedule 2, Part 1, Class F of the same Order (In the version that was in force between 3<sup>rd</sup> June 1995 and 30<sup>th</sup> September 2008) the following is stated to be permitted development:

*“Development consisting of –*

- (a) *The provision within the curtilage of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such;*

While the hardstanding in place would not appear to have the permeable surface which, for its size is now a condition of the Class F permitted development right, this condition came into effect with an October 2008 amendment to the GPDO. The invoice supplied is considered sufficient evidence to demonstrate that the work was carried out prior to October 2008 in line with the requirements of permitted development in force at that time. In any event, the dated Google image is, on the

balance of probability, sufficient to demonstrate that the hardstanding has been substantially complete for a period in excess of 4 years prior to the relevant date of this request (12-07-17).

- 6.6 Erection of garden wall: A Google Image photograph of the front of the property, with an ‘image capture’ annotation by Google of March 2009 shows the garden wall as a boundary wall to the one side of the property. The height of this wall, as may be established from the brick courses shown on the photograph, is less than 1 metre above ground level. Schedule 2, Part 2, Class A of the GPDO states that following is Permitted development:

*“The erection, construction, maintenance, improvement or other alteration of a gate, fence, wall or other means of enclosure.”*

There are conditions attached to this permitted development right and the stipulation relevant to the wall in this particular location that it should not exceed 1 metre in height where adjacent to a highway used by vehicular traffic, or 2 metres not adjacent to such a highway, is met. In any event, the dated Google image is, on the balance of probability, sufficient to demonstrate that the wall has been substantially complete for a period in excess of 4 years prior to the relevant date of this request (12-07-17).

## 7.0 CONCLUSION

- 7.1 The works to which this application for a lawful development certificate relates, comprising of a loft conversion; erection of porch with pitched roof extending over the front of the garage; creation of hardstanding to the front of the property with associated dropped kerb and erection of garden boundary wall are works which constitute development under Section 55 of the Town and Country Planning Act 1990. From the information available, and on the balance of probability, all of the works were completed in excess of four years prior to the 12<sup>th</sup> July 2017. Even if any of the works did not fall wholly within the conditions and limitations of permitted development rights that were in force at the time the works were carried out, the fact that they constitute ‘operational development’ and were carried out more than four years ago, means the Council would be time-barred from taking any planning enforcement action. A certificate of lawful development can therefore be issued.

## 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.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Application documents.
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Members Cllr Christian Lea Cllr William Parr
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Committee and date

South Planning Committee

16 January 2018

## Development Management Report

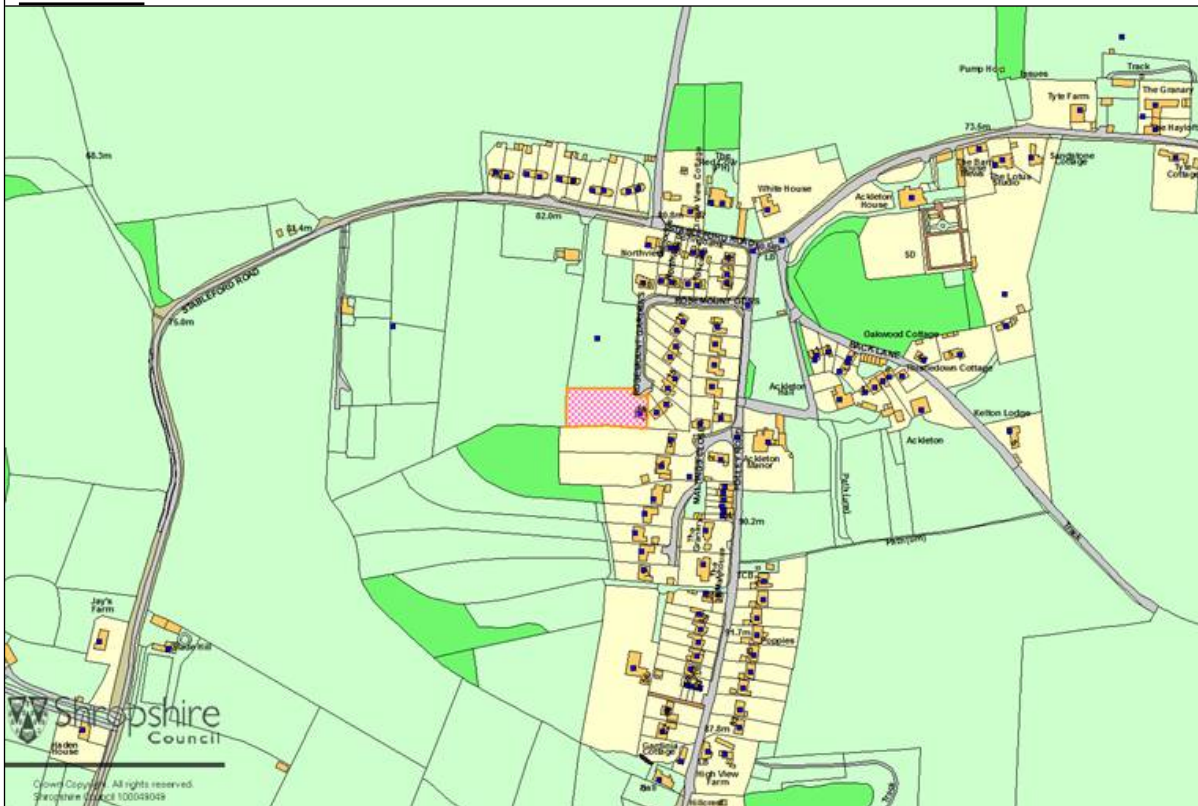
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 17/04037/FUL	<b>Parish:</b> Worfield
<b>Proposal:</b> Erection of 2 storey side extension	
<b>Site Address:</b> Brand Oak House 19 Rosemount Gardens Ackleton Bridgnorth Wolverhampton	
<b>Applicant:</b> Mr Granville Kidson	
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 376963 - 298684



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**Recommendation:- Refuse**

## Recommended Reasons for refusal

1. The site lies within Green Belt where there is a presumption against inappropriate development. The proposal would be contrary to Green Belt Policy in that the scale of the extension proposed, in conjunction with existing extensions, would amount to disproportionate additions over and above the size of the original building. The proposal is therefore contrary to Local Development Framework Shropshire Core Strategy CS5, Site Allocations and Management of Development (SAMDev) Policy MD6 and Section 9, particularly paragraph 89, of the National Planning Policy Framework. The personal circumstances put forward are not considered to amount to 'very special circumstances' of sufficient weight to justify a departure from Green Belt policy in this case and do not outweigh the harmful impact of this inappropriate development on the attributes of the Green Belt and reasons for including land within it.
2. The proposed two storey extension, which would result in a significant increase in floor area being added to a dwelling which has already benefitted from previous extensions that have increased its size, would result in the loss of a smaller open market dwelling in the countryside, contrary to the objective set out at paragraphs 2.20 and 2.21 of the Council's adopted Type and Affordability of Housing SPD 2012 and paragraph 17 of the National Planning Policy Framework.

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a two storey extension to the west facing side elevation of the dwelling at Brand Oak House, 19 Rosemount Gardens, Ackleton following removal of the existing conservatory and incorporating an existing canopy on the front elevation. The extension is proposed to accommodate a new conservatory and accessible bedroom with ensuite at ground floor level, and at first floor level an additional bedroom with ensuite and balcony for the applicant's son who suffers from several incapacitating conditions. It would measure approximately 4.3m wide x 7.75m in depth x 7m to ridge height matching that of the first floor extension on the other side of the dwelling, 4.9m to eaves. The balcony is indicated to project out a further 1.2m to the west and would be 5.75m in length. The design includes a hipped roof, bi-fold first floor doors out onto the balcony on the west facing elevation, and French doors out into the garden on the rear south facing elevation.
- 1.2 Materials are proposed to match those of the existing dwelling including facing brickwork and white render walls, concrete interlocking tiles, and white UPVC windows. The bi-fold doors are indicated to be dark grey and the balcony to have a glass balustrade with stainless steel handrail, dark grey base edging and timber decking to the floor. No alterations are proposed to accesses or parking, and no trees or hedges would be affected by the proposed development.
- 1.3 During the course of the application, a Planning Statement has been submitted in support of the application at officers' request which presents 'very special circumstances' in relation to this development proposed within the Green Belt. The

document is reproduced at Appendix 2 of this Report.

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site falls within open Green Belt countryside which washes over the settlement of Ackleton which is half way between Albrighton to the north east and Bridgnorth to the south west. It is accessed from the B4176 to the south via a Class C road from it and Rosemount Gardens, an 'L' shaped cul-de-sac which finishes outside the plot. Dwellings in Rosemount Gardens present a fairly regimented design of mid 20<sup>th</sup> Century (1960s) construction (ref 64/3439) with front facing clad gables, attached flat roof garages, canopies over the ground floor bay window and garage door, side chimneys, driveways and open front gardens. Dwellings at nos. 10, 15 and the application dwelling have previously been granted Planning Permission to construct first floor side extensions above the garages.

2.2 Brand Oak House – No. 19, is positioned at the southern end of the cul-de-sac and on the western edge of the built environment. This location allows for a larger plot than the others in Rosemount Gardens, measuring approximately 68m wide x 30m in depth. The dwelling is sited on the east side of the plot with a north facing frontage. It has a limited rear garden depth of approximately 8.6m, however a larger more generous section of garden extends approximately 56m to the west side. The property has previously benefitted from a conservatory extension to the west facing side elevation and a first floor extension with a rear balcony on the east facing side elevation above what was the garage, but which has been converted to living accommodation and is now used as a study. Additionally the front canopy has been projected out to the west to form a frame for garage door sized gates and changed from a flat structure to a pitched one.

2.3 There are neighbouring dwellings to the east side of the property at nos. 17 and 18 Rosemount Gardens which are positioned at a different angle to no. 19 to face north west onto the cul-de-sac end. The boundary between no. 18 and 19 is defined by a high wall covered in mature foliage. Limited views of the side elevation of no. 18 are achievable over the boundary, and the section that can be seen contains no windows. Additionally there is an adjoining neighbour to the rear at no.5 Maltings Close. This neighbouring dwelling is set approximately 18m to the south east and has a long garden of approximately 90m which projects just further to the west than the side garden of no. 19. The rear boundary of no. 19 is also composed of mature landscaping so that the outside amenity space at no. 5 is not visible. The impression received when in the rear garden of no.19 is that it is at a lower level than the land to the south.

## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons, the following tests need to be met:-

- (i) The contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
- (ii) The Planning Services Manager, The Team Manager – Development Management or Principal Planning Officer in consultation with the Committee

Chairman or Vice Chairman and Local Member agrees that the Parish/Town Council has raised material planning issues.

The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Officer, consider that the ‘very special circumstances’ case put forward in support of the application for inappropriate development in the Green Belt warrants consideration by the South Planning Committee.

#### **4.0 Community Representations**

##### **4.1 - Consultee Comments**

4.1.1 Worfield and Rudge Parish Council – No objection.

##### **4.2 - Public Comments**

4.2.1 None received.

#### **5.0 THE MAIN ISSUES**

- o Principle of development
- o Impact on the Green Belt
- o Design, scale and character
- o Impact on neighbours/residential amenity

#### **6.0 OFFICER APPRAISAL**

##### **6.1 Principle of development**

6.1.1 The site is situated within the Green Belt where there is a presumption against inappropriate development. Core Strategy policy CS5 states that within the designated Green Belt there will be additional control over new development in line with government guidance. While the policy references the now superseded PPG2, government Green Belt guidance has been carried forward in the National Planning Policy Framework (NPPF) and SAMDev Plan policy MD6 requires it to be demonstrated that development proposed in the Green Belt does not conflict with the purposes of the Green Belt.

6.1.2 The NPPF, at paragraph 87, advises as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It continues at paragraph 88 by stating:

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”*

At paragraph 89 the NPPF advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It then lists a number of exceptions, one of which is:

*“the extension or alteration of a building provide that it does not result in disproportionate additions over and above the size of the original building.”*



6.1.3 With regard to the principle of development, the key issue is whether the proposed extension would result in disproportionate additions over and above the size of the original building and, if so, whether there are any very special circumstances sufficient to override the presumption against inappropriate development in the Green Belt. This matter is considered below.

## **6.2 Impact on the Green Belt**

6.2.1 Green Belt Policies CS5 and MD6, and Section 9 of the National Planning Policy Framework require that the openness, permanence and visual amenity of the land within its boundaries are preserved. Within the Green Belt there is a general presumption against inappropriate development, except in 'very special circumstances'. Adopted local and national policies present the main aim of the Green Belt as preventing urban sprawl by keeping land permanently open. It is also to assist in safeguarding the countryside from encroachment by not allowing development which is harmful to the Green Belt i.e. inappropriate. Small scale extension or alteration of an existing dwelling need not be inappropriate within the Green Belt, however, the extension or alteration of a building which results in disproportionate additions over and above the size of the original building is considered to adversely impact on the openness, permanence and visual amenity of the land to be preserved and is inappropriate development.

6.2.2 The dwelling at Brand Oak House has previously benefitted from a first floor extension with a balcony to its east side under Planning Permission Ref: 10/03462/FUL granted on 15<sup>th</sup> September 2010, and a conservatory to its west side, in addition to converting the garage into living accommodation. The two storey side extension now proposed not only spans the full depth of the existing house, but projects a further 0.5m west than the existing conservatory, a further 1.7m if the balcony is taken into account. The proposed extension is also approximately 1m wider than the extension to the east side, its proposed height at approximately 7m equates to that of the existing first floor extension. Therefore the proposed extension would be a significant additional mass in itself, and taken cumulatively with the previous extensions would amount to disproportionate additions over and above the size of the original dwelling. Additionally, this significant mass would be physically and visually projectse into the openness of the garden on the west side of the dwelling which is Green Belt land.

6.2.3 During the course of the application, a site meeting was held with the applicants and their agent in order to view the site and to discuss whether an alternative form of extension would be feasible which would better accord with Green Belt policy and giving consideration to permitted development rights. It was considered that additional space could be achieved if really necessary by single storey extension to the west facing side or south facing rear, or as a wraparound to the south west corner. Potentially a balcony could be achieved, without significant first floor mass, above a single storey addition to the west side with access out from the existing bedroom 1 where there is a window on the west facing elevation. This would achieve the same effect as the bedroom and balcony currently proposed, but without the additional mass. A minor two storey extension was also discussed to enlarge the existing offer on the east side of the dwelling, however this would have a likely adverse impact on the neighbouring amenities at no. 18 Rosemount Gardens. These suggestions did not result in the submission of amended drawings

for a reduced scale of extension. The applicants have decided to leave the proposal as submitted and to submit 'very special circumstances' in order to attempt justification for the inappropriateness of the development within the Green Belt.

6.2.4 The 'very special circumstances' presented can be found under Appendix 2 of this Report. They are based on the medical conditions of the applicant and his family. Subject to the best interests of the child, personal circumstances are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. As noted in the paragraph above, the officer view is that if extension were considered to be absolutely necessary in order to support the various medical conditions presented by the applicant and his family, this could be achieved by a reduced scale of extension either with or without internal reconfiguration. The existing extended property already offers a high level of internal provision benefitting from non primary rooms such as a study and conservatory at ground floor level, and additional bedrooms at first floor level which would not appear to be in constant use. These rooms could be re-designated in an internal re-configuration - adaptations could be made to the property as existing which would cater for the family's requirements. The existing Bedroom 1 has a large window facing out into the garden on the west facing side elevation and it is suggested this could accommodate the applicant's son without the need to provide a larger bedroom which duplicates this feature. Furthermore the proposed extension is substantially larger than any extension that could be achieved on the west facing side elevation under permitted development rights.

6.2.5 The Committee needs to consider whether the case put forward in Appendix 2 would amount to very special circumstances sufficient to justify allowing a further extension to this dwelling and, if so, whether the form of extension proposed is appropriate in terms of balancing meeting that need and minimising the impact upon the openness of the Green Belt through the creation of a larger building.

### **6.3 Design, scale and character**

6.3.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. Policy MD2 of the SAMDev Plan builds on Policy CS6 requiring development to contribute to and respect locally distinctive or valued character and existing amenity value by (amongst other criteria):

- 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.

6.3.1 In addition to Policies CS6 and MD2 the Supplementary Planning Document (SPD) on the Type and Affordability of Housing notes that the size of dwellings in the

countryside can be of concern as the market trend is towards providing larger and more expensive dwellings and this tends to exclude the less well-off, including those who need to live and work in rural areas. Whilst this problem can be partly addressed through providing affordable rural dwellings, it is also important to maintain and provide an appropriate stock of smaller, lower cost, market dwellings (paragraph 2.20 of the SPD ). Therefore the Council is concerned to control the size of extensions to houses in the countryside, as these can otherwise create larger and larger dwellings. Additionally, the visual impact of such large buildings in rural areas and the need to ensure the development is sympathetic to the character and appearance of the original building are also considerations (paragraph 2.21).

6.3.2 The National Planning Policy Framework supports the local policy outlined above under paragraph 17, where one of the listed overarching roles of the planning system in decision taken is to always *'seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'*. Paragraphs 58, 60 and 64 within Section 7 – Requiring Good Design, further promote the requirement for a development to respond to local character, reinforce local distinctiveness, and improve the character and quality of an area and the way it functions, not just for the short term, but over the lifetime of the development.

6.3.3 It is acknowledged that the proposed extension would reflect the form of the 2007 extension (ref. 07/0403) on the eastern side of the original building in terms of architectural detailing, albeit on a larger scale. In the resulting built form the first floor elevation of the original dwelling would remain a distinct element, due to the gable form and the hipped roof side extensions as existing and proposed set back slightly from the line of the original first floor accommodation with ridges set slightly lower than that of the original roof. However, in terms of scale, what was originally a two bedroomed dwelling with box room (As labelled on the 1965 planning permission drawings), becoming a four bedroomed dwelling through the 2007 permission would now become a substantially larger four/five bedroomed dwelling, contrary to one of the objectives of the SPD on the Type and Affordability of Housing to maintain a supply of smaller open market dwellings in the countryside.

#### **6.4 Impact on neighbours/residential amenity**

6.4.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity, with paragraph 17 of the NPPF seeking a good standard of amenity for all existing and future occupants of land and buildings. Due to the relative positioning and distances between the extension which is proposed to the west side of the property, and neighbouring properties to the east and south east, it is considered the proposals would not unduly impact on neighbouring properties through overlooking, overbearing or overshadowing effects.

### **7.0 CONCLUSION**

7.1 The site lies within Green Belt where there is a presumption against inappropriate development. The proposal would be contrary to Green Belt Policy in that the scale of the extension proposed would amount to disproportionate additions over and above the size of the existing dwelling. The proposal is therefore contrary to Local Development Framework Core Strategy CS5, SAMDev Policy MD6 and Section 9, particularly paragraph 89, of the National Planning Policy Framework. The 'very special

circumstances' put forward are not considered to be a material consideration of sufficient weight to justify a departure from Green Belt policy in this case that would outweigh the harmful impact of such inappropriate development on the attributes of the Green Belt and reasons for including land within it.

7.2 The proposed two storey extension, which would result in a significant increase in floor area being added to a dwelling which has already benefitted from previous extensions that have increased its size, would result in the loss of a smaller open market dwelling in the countryside, contrary to the objective set out at paragraphs 2.20 and 2.21 of the Council's adopted Type and Affordability of Housing SPD 2012 and paragraph 17 of 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:  
National Planning Policy Framework  
National Planning Practice Guidance

LDF Core Strategy Policies:  
CS5 Countryside And Green Belt  
CS6 Sustainable Design And Development Principles

Site Allocations & Management Of Development (SAMDev) Plan Policies:  
MD2 Sustainable Design  
MD6 Green Belt And Safeguarded Land

Supplementary Planning Documents (SPDs):  
Type And Affordability Of Housing

### RELEVANT PLANNING HISTORY:

10/03162/FUL Erection of a first floor side extension GRANT 15th September 2010  
BR/APP/FUL/07/0403 Erection of a first floor side extension GRANT 20th June 2007  
BR/APP/FUL/07/0175 Erection of a first floor side extension GRANT 16th April 2007

11. Additional Information

View details online:

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

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) See Appendix 2.
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Michael Wood
Appendices APPENDIX 1 – Conditions Appendix 2 – Planning Statement including ‘very special circumstances’.

## APPENDIX 1

### Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. In determining the application the Local Planning Authority gave consideration to the following policies:

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

LDF Core Strategy Policies:  
CS5 Countryside And Green Belt  
CS6 Sustainable Design And Development Principles

Site Allocations & Management Of Development (SAMDev) Plan Policies:  
MD2 Sustainable Design  
MD6 Green Belt And Safeguarded Land

Supplementary Planning Documents (SPDs):  
Type And Affordability Of Housing

3. In arriving at this decision the Council has endeavoured to work with the applicant in a positive and proactive manner, as required by Paragraph 187 of the National Planning Policy Framework, by suggesting how the application might have been revised in order to achieve compliance with these policies. However, it has not been possible to reach an agreed solution in this case, and as it stands the proposal is considered contrary to policy for the reason set out above.

**APPENDIX 2**

**PLANNING STATEMENT**

*Index*

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5. Conclusion _____	15

To be read in conjunction with Drawings No AP17048 – 10, & 11A

**1.0 Introduction**

The current planning application relates to the proposed ground floor and first floor extension to 19 Rosemount Gardens, Ackleton, to replace the existing single storey conservatory.

The property has been Mr & Mrs Kidson’s home for over 45 years, during which time they have undertaken previous alterations to meet the changing needs of their family.

The current planning application looks to address a number of significant health issues, which effect all of the family members who live in the property.

The proposed scheme looks to provide a home that is fit for purpose and meets the needs of the family members, all of whom have specific requirements.

The principle behind the current application is to ensure each of the family members specific needs are addressed, and the current proposal looks to achieve this, which will allow the family to remain as a family unit and allow the care and support to be maintained.

Each family member requires the house to meet different requirements: -



### **Mr Carl Kidson (Son)**

Mr Carl Kidson, was diagnosed with M.E./CFS, in 1995, and is now highly incapacitated, in part, due to chronic and unrelenting fatigue, together with many other symptoms, which include arthritis, visual phenomenon and cognitive impairment.

These symptoms make every day tasks, such as climbing stairs an arduous challenge, and results in him being unable to move without the assistance of his family.

Further ongoing investigations, have identified that Carl may have Myasthenia Gravis, as a result of which he was placed on high dose steroids, to treat this, unfortunately this had the opposite effect and has exacerbated the condition.

Carl also has Hypothyroidism, which he takes medication for, along with a leaking heart valve which is checked on a regular basis.

Carl's general quality of life is poor and as such his sleep pattern is erratic, and as such needs to be away from general household noise. Given that he spends most of his time in bed, an enhanced view of the garden, would benefit his wellbeing greatly, something his existing room does not do.

Carl's disabilities mean that he requires constant care, which is largely provided by Mrs Kidson, and hence the need for her to have a bedroom on the first floor adjacent to Carl's proposed apartment.

Mr Carl Kidson, now rarely leaves the home other than to attend medical appointments.

Hence the living environment within which he lives is very important, and needs to be appropriate so as to allow Carl to have some quality of life, within a restricted environment.

The proposed development allows Carl to have his own purpose-built apartment, within the existing home, allowing him to have some independence, albeit with the support of his family.

### **Mr G Kidson**

Mr Kidson has been registered disabled for the past 15 years, with a number of conditions, which includes, Acute arthritis, which has resulted in both knees being replaced, and corrective surgery on both feet. Mr Kidson also has Type 2 diabetes which is constantly monitored and has also undergone heart surgery three years ago.

Mr Kidson's biggest problem is his lack of mobility, and has to rely on a walking stick and electric scooter, to get around.

The proposed development would allow Mr Kidson to have his own ground floor en suite bedroom, with access to all other areas, thus avoiding the need for him to go upstairs.

**It is for the above reasons that the proposed scheme has been developed so as to allow the family to continue to live together as a family unit, and meet their challenging medical needs, whilst offering a reasonable quality of life.**

## **2.0 Use**

The property has provided a family home for more than 45 years, and it is Mr & Mrs Kidson's intention to live out their lives there, as it has been their Sons only home.

Having spent the vast majority of their lives there, it would be both wrong and difficult to consider moving at this stage in their lives.

The dwelling at Brand Oak House has previously benefitted from a first-floor extension to its east side under Planning Permission Ref: 10/03462/FUL granted on 15<sup>th</sup> September 2010, and a conservatory to its west side, which this application looks to replace.

We appreciate that the site is within open Green Belt countryside for the purposes of adopted planning policy, and that there is a general presumption against inappropriate development, except in 'very special circumstances'. Green Belt Policies CS5 and MD6, and Section 9 of the National Planning Policy Framework require that the openness, permanence and visual amenity of the land within its boundaries are preserved, in this instance we consider that there are very special circumstances that exist to out way any minor harm this development would have.

The proposed development looks to extend out as far as the existing conservatory is located, and provide a first-floor extension, which will allow a self-contained unit to be provided for Mr Kidson's Son, with an appropriate outlook, to enhance his quality of life.

## **3.0 Design**

The proposed scheme has considered a number of alternate options, which has included restricting the development to a single storey, which we understand the Local Authority do not have such concerns about. This unfortunately would not provide the level of accommodation to meet the needs of the family, in a way that would allow them to have necessary separate accommodation.

A further extension to the rear was considered but would result in a very deep property, where natural light within the building would be an issue, resulting in internal areas with no natural light, and difficult roof details.

This would also make the rear garden very small, with little or no outlook from any windows.

The storey height on the existing dwelling will remain unchanged, and continue to reflect that of the existing surrounding properties, which are largely two storeys, so as to ensure, that the development continues to integrate well with the existing surrounding area.

The proposed new first floor extension, would look to balance that of the previous extension, whilst maintaining the existing low level pitched roof.

As this is the end property, it will form a natural end to the existing street scene.

The surrounding developments are of a residential form and scale and as such the existing dwelling reflects the height of these buildings.

The existing garden area is predominately located to the side of the existing house, which the proposed extension would overlook, whilst not overlooking any other property.

The principle elevations do not change, other than the first-floor extension which balances the development and retains a residential appearance, so as to fit within the local vernacular.

The proposed extension will allow Mr G Kidson, to have his own ground floor en suite bedroom, which will make his life easier, without the need to climb stairs, whilst maintaining access to all other facilities.

The proposed extension will allow Mr Carl Kidson, to have his own apartment within the family home, so as to provide him with a degree of independence, within an appropriate space, whilst maintaining access for the support and care that his mother provides continually caring for him.

Mrs Kidson would then have her own first floor bedroom adjacent to Carl's so that the support throughout the night can be provided as required.

#### **4.0 Support**

The Parish Council are in support of this application, as they are fully aware of the applicant's family's specific medical needs, and the time they have lived at this address, within this community.

Mrs Valerie Edwards (Clerk) Worfield & Rudge Parish Council (Supports)

#### **5.0 Conclusion**

The proposed 2 storey extension, which looks to replace an existing single storey extension, to the side of 19 Rosemount Gardens, will by its nature only look to provide a relatively small additional first floor area facing on to the Rosemount Gardens, whilst allowing the property to have a more balanced appearance, within the street scene.

The proposed impact this additional area, would have upon the openness of the green belt is minimal, as the existing foot print of the building already extends out to the West to the same extent as the proposal.

This compared to the significant impact that the proposed reconfiguration and extension to the existing home will have on not just one life but that of all the family that have lived here for more than 45 years, is immeasurable.

The proposed extension will allow the family to have a quality of life most people take for granted, and allow them to live with in an environment which meets their medical needs.

For these reasons we seek the support of the planning authority in respect to the current planning application.

This '**Planning Statement**', forms part of the supporting documentation for the approval of the Planning Application. Please refer to the additional supporting documentation and drawn information for reference and further detail.

Paul Burton  
**AP Architecture**



Committee and date

South Planning Committee

16 January 2018

## Development Management Report

### SCHEDULE OF APPEALS AND APPEAL DECISIONS

#### AS AT COMMITTEE 16 JANUARY 2018

<b>LPA reference</b>	16/05371/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs N Pound
<b>Proposal</b>	Outline application (all matters reserved) for the erection of one dwelling, detached garage, alterations to existing vehicular and pedestrian access
<b>Location</b>	Proposed Dwelling To The West Of Middleton Sidings Middleton Shropshire
<b>Date of appeal</b>	25.9.17
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	20.11.17
<b>Date of appeal decision</b>	11.12.17
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	17/00888/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs P Breakspear
<b>Proposal</b>	Outline Application for the erection of 1No dwelling and garage; alterations to an existing vehicular and pedestrian access and creation of a new vehicular and pedestrian access (all matters reserved)
<b>Location</b>	Proposed Dwelling West Of Meadowfields Caynham Woods Caynham Shropshire
<b>Date of appeal</b>	26.9.2017
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	20.11.2017
<b>Date of appeal decision</b>	12.12.2017
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	16/03599/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr David Griffiths
<b>Proposal</b>	Outline application (all matters reserved) for the erection of 1 no. open market dwelling and 1 no. affordable dwelling including widening of Lion Lane.
<b>Location</b>	Proposed Residential Development Land Adj. Fairview 3 Titrail Lion Lane Clee Hill Ludlow Shropshire SY8 3NH
<b>Date of appeal</b>	25.9.17
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	20.11.17
<b>Date of appeal decision</b>	12.12.17
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed



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## Appeal Decision

Site visit made on 20 November 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 11<sup>th</sup> December 2017

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**Appeal Ref: APP/L3245/W/17/3179269**

**Middleton Sidings, B4364 from Henley A4117 Junction to Stoke St Milborough Junction West of Lackstone, Middleton SY8 3EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs N Pound against the decision of Shropshire Council.
  - The application Ref 16/05371/OUT, dated 22 November 2016, was refused by notice dated 21 March 2017.
  - The development proposed is the erection of a dwelling and detached garage including the alteration to an existing vehicular and pedestrian access.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.
3. Both parties have had the opportunity to comment on the recent judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)*. I will address this letter in this decision.

### Main Issue

4. The main issue in this appeal is whether the proposal would accord with the Council's housing strategy in terms of its location.

### Reasons

5. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.
6. Policy CS3 of the CS states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterland. It goes on to state that balanced housing development will take place within the towns' development boundaries and on sites allocated for development. Ludlow is identified as one such Market Town. Policy S10 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015

- identifies Ludlow as the largest market town in southern Shropshire and that new housing development will be delivered primarily on the allocated housing sites east of the A49 alongside additional infill and windfall development within the town's development boundary.
7. Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the SAMDev.
  8. The appeal site forms part of a small field/paddock to the west of Middleton Sidings, which is located on the edge of the settlement of Middleton. Middleton is not identified within Policy CS3 of the CS as a Market Town or other Key Centre and nor is it identified within Policy MD1 of the SAMDev as a Community Hub or Community Cluster. Consequently, for the purposes of the development plan, it is considered to be located within the open countryside.
  9. Policy CS5 allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. This aligns with paragraph 55 of the National Planning Policy Framework (the Framework). Policy CS5 also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. Whilst the development does not fall into any of the identified examples, the list is not exhaustive.
  10. However, Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling, it would fail to accord with Policies CS5 and MD7a.
  11. I note the appellant's argument that there are few Community Hubs and Clusters in South Shropshire within the hinterland of Ludlow. The settlement selection process of the SAMDev was not based solely on the more typical approach of selecting those with the greatest level of services and facilities. Settlements were put forward by communities. The Examining Inspector recognised this and acknowledged that as a result settlements that had traditionally been considered as suitable for development are now, in some cases, to be regarded as countryside for policy purposes. Nevertheless, this approach was deemed to be acceptable and the SAMDev was found to be sound and in accordance with the Framework.
  12. The Council confirms that communities within small rural settlements that are not classified as Community Hubs can still 'opt in' as a Community Cluster in response to the *Shropshire Local Plan Review Consultation on Preferred Scale and Distribution of Development* (the LPR), dated October 2017. I note the appellant's contention that the Bitterley Parish Plan (the BPP) recognises a need for housing in the area and the subsequent support this would give the local school. However, the BPP does not indicate how much additional housing is required. Furthermore, it is not clear when the BPP was produced. Much of the evidence gathering appears to have taken place between 2006 and 2008, well before the adoption of the CS and the SAMDev. Accordingly, I can only attribute the BPP limited weight. The opportunity to address any potential need for housing in the Parish would be through representations made to the LPR, none of which are before me. As the LPR is in its early stages, I attribute it very limited weight.



13. The Examining Inspector for the SAMDev recognised that a large number of the dwellings required in the rural areas must be provided through windfall sites. The explanation for Policy MD3 of the SAMDev also reinforces the importance of windfall development, both within settlements and in the countryside, including, where sustainable, greenfield sites. The opening paragraph to Policy MD3 clearly states that it is to be read in conjunction with the Local Plan as a whole, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. Therefore, whilst Policy MD3 allows sustainable development, it must accord with the other relevant policies of the development plan. It is not to be considered in isolation. As the proposal would fail to accord with Policies CS3, CS4 and CS5 of the CS and Policies MD1 and MD7a of the SAMDev then it must also fail to comply with Policy MD3.
14. The Council confirms that they have a five year supply of deliverable housing land. The appellants do not dispute this although they state that it is not being delivered in South Shropshire. Ludlow has experienced periods of low delivery rates in recent years, far below that of the required annual build out rate of 50 units per annum. Nevertheless, as of 31 March 2017 there were 840 commitments and allocations. There is no substantive evidence that these dwellings will not come forward within the remaining lifetime of the plan. Furthermore, there is no substantive evidence that the remaining housing requirement for Ludlow could not be accommodated within the settlement boundary.
15. As the Council can demonstrate a five year supply of deliverable housing land, paragraph 49 of the Framework is not engaged. The SAMDev has relatively recently been adopted and found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
16. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS3, CS4 and CS5 of the CS and Policies S10, MD1, MD3 and MD7a of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the Framework.

### **Other Matters**

17. I have had regard to the various appeal decisions referred to me by the appellant and the Council. I acknowledge the similarities between the proposals and that there have been different interpretations of the development plan policies. However, it is not clear what evidence was before the Inspectors at the time. Whilst I have had regard to all of these decisions, I am not bound by them. I have determined the appeal based on an assessment of the evidence before me and the merits of the proposal. In this instance, the Council has provided compelling evidence that the proposal would conflict with the relevant policies of the development plan.
18. I have also had regard to planning permission ref 14/04459/OUT. Whilst finding that they had a five year supply of deliverable housing land and that relevant policies for the supply of housing were up to date<sup>1</sup>, I find that the Council nevertheless incorrectly applied the tilted balance set out in paragraph 14 of the

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<sup>1</sup> Paragraph 6.1.3 of the Development Management Report

Framework<sup>2</sup>. Therefore, the approved scheme was not considered against the correct policy considerations. As such, I attribute only limited weight to this matter and do not consider that it represents any form of precedent.

## **Conclusion**

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should... "be genuinely plan-led."
20. The proposal would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Furthermore, it would make a positive contribution, again albeit limited, to the supply of housing and support the local school. The proposal would lie on the edge of Middleton and would be a natural extension to the existing built form and would not significantly harm the character and appearance of the area. I note that there is public transport serving the village, although the details of its frequency is not before me. Moreover, footways along the adjacent highway network are limited. Consequently, it is reasonable to conclude that the proposal would result in its occupants being heavily reliant on the use of the private car to access services, facilities and employment opportunities; although I acknowledge that this is commonplace in rural areas.
21. Overall, I find that the limited benefits of the proposal do not outweigh the harm it would have by virtue of it undermining the Council's housing strategy. As I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply.
22. I have had regard to the recent judgment of 15 November 2017<sup>3</sup>, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework. However, in that instance the Council could not demonstrate a five year supply of deliverable housing land and accordingly bullet point 4 of paragraph 14 of the Framework was engaged. As I have found that the Council can demonstrate a five year supply of deliverable housing land and bullet point 4 of paragraph 14 of the Framework is not engaged, in this instance, whether or not the proposal would be considered an isolated dwelling is not relevant.
23. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>2</sup> Paragraph 6.1.7 of the Development Management Report

<sup>3</sup> Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)



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## Appeal Decision

Site visit made on 20 November 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 12<sup>th</sup> December 2017

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**Appeal Ref: APP/L3245/W/17/3179763**

**Meadowfields, Caynham Woods, Caynham SY8 3BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs P Breakspear against the decision of Shropshire Council.
  - The application Ref 17/00888/OUT, dated 23 February 2017, was refused by notice dated 26 May 2017.
  - The development proposed is the erection of a detached dwelling and garage / alterations to an existing vehicular and pedestrian access and creation of a new vehicular and pedestrian access.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis.
3. Both parties have had the opportunity to comment on the recent judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)*. I will address this letter in this decision.

### Main Issue

4. The main issue in this appeal is whether the proposal would accord with the Council's housing strategy in terms of its location.

### Reasons

5. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.
6. Policy CS3 of the CS states that the Market Towns and other Key Centres will maintain and enhance their roles in providing facilities and services to their rural hinterland. It goes on to state that balanced housing development will take place within the towns' development boundaries and on sites allocated for development. Ludlow is identified as one such Market Town. Policy S10 of the

- Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 identifies Ludlow as the largest market town in southern Shropshire and that new housing development will be delivered primarily on the allocated housing sites east of the A49 alongside additional infill and windfall development within the town's development boundary.
7. Policy CS4 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets out how new housing will be delivered in the rural areas by focusing it in Community Hubs and Community Clusters, which are identified in Policy MD1 of the SAMDev.
  8. The appeal site forms part of the garden area of Meadowfields, which is located with the settlement of Caynham. Caynham is not identified within Policy CS3 as a Market Town or other Key Centre and nor is it identified within Policy MD1 of the SAMDev as a Community Hub or Community Cluster. Consequently, for the purposes of the development plan, it is considered to be located within the open countryside.
  9. Policy CS5 allows new development in the open countryside where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. This aligns with paragraph 55 of the National Planning Policy Framework (the Framework). Policy CS5 also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. Whilst the development does not fall into any of the identified examples, the list is not exhaustive.
  10. However, Policy CS5 is complemented by Policy MD7a of the SAMDev, which goes on to state that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. Therefore, it seems to me that although Policy CS5 of the CS does not explicitly restrict new market housing in the open countryside, Policy MD7a of the SAMDev does. As the proposal is for an open market dwelling, it would fail to accord with Policies CS5 and MD7a.
  11. I note the appellant's argument that there are few Community Hubs and Clusters in South Shropshire within the hinterland of Ludlow. The settlement selection process of the SAMDev was not based solely on the more typical approach of selecting those with the greatest level of services and facilities. Settlements were put forward by communities. The Examining Inspector recognised this and acknowledged that as a result settlements that had traditionally been considered as suitable for development are now, in some cases, to be regarded as countryside for policy purposes. Nevertheless, this approach was deemed to be acceptable and the SAMDev was found to be sound and in accordance with the Framework.
  12. The Council confirms that communities within small rural settlements that are not classified as Community Hubs can still 'opt in' as a Community Cluster in response to the *Shropshire Local Plan Review Consultation on Preferred Scale and Distribution of Development* (the LPR), dated October 2017. There is no evidence before me that Caynham is opting in. Notwithstanding this, the LPR is in its early stages and as a result I attribute it very limited weight.
  13. The Examining Inspector for the SAMDev recognised that a large number of the dwellings required in the rural areas must be provided through windfall sites. The explanation for Policy MD3 of the SAMDev also reinforces the importance of

windfall development, both within settlements and in the countryside, including, where sustainable, greenfield sites. The opening paragraph to Policy MD3 clearly states that it is to be read in conjunction with the Local Plan as a whole, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a. Therefore, whilst Policy MD3 allows sustainable development, it must accord with the other relevant policies of the development plan. It is not to be considered in isolation. As the proposal would fail to accord with Policies CS3, CS4 and CS5 of the CS and Policies MD1 and MD7a of the SAMDev then it must also fail to comply with Policy MD3.

14. The Council confirms that they have a five year supply of deliverable housing land. The appellants do not dispute this although they state that it is not being delivered in South Shropshire. Ludlow has experienced periods of low delivery rates in recent years, far below that of the required annual build out rate of 50 units per annum. Nevertheless, as of 31 March 2017 there were 840 commitments and allocations. There is no substantive evidence that these dwellings, will not come forward within the remaining lifetime of the plan. Furthermore, there is no substantive evidence that the remaining housing requirement for Ludlow could not be accommodated within the settlement boundary.
15. As the Council can demonstrate a five year supply of deliverable housing land, paragraph 49 of the Framework is not engaged. The SAMDev has relatively recently been adopted and found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
16. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS3, CS4 and CS5 of the CS and Policies S10, MD1, MD3 and MD7a of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the Framework.

### **Other Matters**

17. I have had regard to the various appeal decisions referred to me by the appellant and the Council. I acknowledge the similarities between the proposals and that there have been different interpretations of the development plan policies. However, it is not clear what evidence was before the Inspectors at the time. Whilst I have had regard to all of these decisions, I am not bound by them. I have determined the appeal based on an assessment of the evidence before me and the merits of the proposal. In this instance, the Council has provided compelling evidence that the proposal would conflict with the relevant policies of the development plan.
18. I have also had regard to planning permission ref 14/04459/OUT. Whilst finding that they had a five year supply of deliverable housing land and that relevant policies for the supply of housing were up to date<sup>1</sup>, I find that the Council nevertheless incorrectly applied the tilted balance set out in paragraph

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<sup>1</sup> Paragraph 6.1.3 of the Development Management Report

14 of the Framework<sup>2</sup>. Therefore, the approved scheme was not considered against the correct policy considerations. As such, I attribute only limited weight to this matter and do not consider that it represents any form of precedent.

## **Conclusion**

19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The statutory primacy of the development plan is reinforced in paragraphs 196 and 210 of the Framework and its first core principle is that planning should... "be genuinely plan-led."
20. The proposal would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Furthermore, it would make a positive contribution, again albeit limited, to the supply of housing and support the local school. Nevertheless, whilst the proposal would be adjacent to the existing built form of Caynham, the lack of public transport services and footways along the adjacent highway network would result in its occupants being heavily reliant on the use of the private car to access services, facilities and employment opportunities; although I acknowledge that this is commonplace in rural areas.
21. Overall, I find that the limited benefits of the scheme do not outweigh the harm it would have by virtue of it undermining the Council's housing strategy. As I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply.
22. I have had regard to the recent judgment of 15 November 2017<sup>3</sup>, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework. However, in that instance the Council could not demonstrate a five year supply of deliverable housing land and accordingly bullet point 4 of paragraph 14 of the Framework was engaged. As I have found that the Council can demonstrate a five year supply of deliverable housing land and bullet point 4 of paragraph 14 of the Framework is not engaged, in this instance, whether or not the proposal would be considered an isolated dwelling is not relevant.
23. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>2</sup> Paragraph 6.1.7 of the Development Management Report

<sup>3</sup> Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)





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## Appeal Decision

Site visit made on 20 November 2017

by **Alexander Walker MPlan MRTPI**

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

Decision date: 12<sup>th</sup> December 2017

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**Appeal Ref: APP/L3245/W/17/3181605**

**Fairview, The Titrail, Lion Lane, Clee Hill, Ludlow, Shropshire SY8 3NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr David Griffiths against the decision of Shropshire Council.
  - The application Ref 16/03599/OUT, dated 8 August 2016, was refused by notice dated 29 March 2017.
  - The development proposed is the erection of two 3 bedroom detached houses (maximum floor area of each 140m<sup>2</sup>).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on this basis. A site plan was submitted with the application, and subsequently a revised site plan, indicating the siting of the dwellings and the proposed access and widening of Lion Lane. Whilst these drawings are not labelled as indicative, given that all matters were reserved, I have considered them as such.
3. Both parties have had the opportunity to comment on the recent judgement of *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)*. I will address this letter in this decision.

### Main Issues

4. The main issues are whether the proposal would accord with the Council's housing strategy in terms of its location; and, the effect of the proposal on the character and appearance of the area, including with regard to its location within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

### Reasons

#### *Housing Strategy*

5. Policy CS1 of the Shropshire Council Adopted Core Strategy (CS) 2011 sets a target of delivering a minimum of 27,500 dwellings over the plan period of 2006-2026 with 35% of these being within the rural area, provided through a sustainable "rural rebalance" approach. The policy goes on to state that development in rural areas will be predominantly in Community Hubs and Community Clusters.

6. Policy S10 of the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) 2015 identifies Ludlow as the largest market town in southern Shropshire and that new housing development will be delivered primarily on the allocated housing sites east of the A49 alongside additional infill and windfall development within the town's development boundary. The proposal does not fall within the settlement boundary of Ludlow.
7. Policy MD1 of the SAMDev identifies those settlements that fall within a Community Hub or Community Cluster. The appeal site is located on Lion Lane and is close to the settlement of Knowle. Approximately 1km to the north is Clee Hill, which Policy MD1 identifies as a Community Hub. The Council confirms that the site is not located within the settlement boundary of Clee Hill. Therefore, for the purposes of planning, the site is considered to be within the open countryside.
8. Policy CS5 of the CS allows new development in the open countryside only where it maintains and enhances countryside vitality and character and improves the sustainability of rural communities. It also provides a list of particular development that it relates to including dwellings for essential countryside workers and conversion of rural buildings. There is no evidence before me to suggest that the proposal falls within any of the development listed in Policy CS5.
9. In support of Policy CS5, Policy MD7a of the SAMDev states that new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Clusters. It sets out various types of residential development that would be permitted in the countryside, including exception site dwellings, residential conversions and essential rural workers' dwellings. The proposal includes for one affordable dwelling. However, whilst the appellant confirms that he is happy to enter into a legal agreement with the Council to secure the dwelling as such, there is no executable agreement before me. In any event, as the proposal also includes for an open market dwelling in the open countryside it would fail to satisfy Policies CS5 and MD7a.
10. The Council confirms that they have a five year supply of deliverable housing land. The appellant does not dispute this. Therefore, based on the evidence before me, I am satisfied that the Council do have a five year supply of deliverable housing land and paragraph 49 of the National Planning Policy Framework (the Framework) is not engaged. The SAMDev has relatively recently been adopted and found to be in accordance with the Framework. In addition, I find no inconsistency between the relevant policies within the CS and the Framework. The development plan has policies that are relevant to the supply and location of housing against which the appeal proposal can be considered. Accordingly, the relevant policies are considered to be up to date and consistent with the Framework. As such, bullet point 4 of paragraph 14 of the Framework is also not engaged.
11. I find therefore that the proposal would fail to accord with the Council's housing strategy, as embodied in Policies CS1 and CS5 of the CS and Policies MD1, MD7a and S10 of the SAMDev. Furthermore, it would fail to accord with the housing supply objectives of the Framework.



### *Character and appearance of the AONB*

12. The appeal site is located within an attractive rural area within the Shropshire Hills AONB. Paragraph 115 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Policies CS17 of the CS and MD12 of the SAMDev reflect paragraph 115 and seek to ensure that development contributes to local distinctiveness including the special qualities of the AONB. In addition Policies CS6 of the CS and MD2 of the SAMDev seek to protect the natural environment and contribute to and respect locally distinctive or valued character.
13. The appeal site comprises a small, open field. It is on an incline rising from south to north and is accessed off Lion Lane, which is a narrow, hedge-lined, unmade road that serves approximately 24 properties. This part of the AONB is characterised by the sporadic pattern of development that is interspersed by fields and common land, which provide an attractive rural setting.
14. The proposed dwellings and their associated garages would be adjacent to existing built form, including two recently built dwellings immediately to the east and the Golden Lion public house (currently vacant) and three newly built holiday cottages on the opposite side of the lane. However, the erection of two dwellings on the appeal site would inevitably erode the openness of the site which makes a positive contribution to the character and appearance of the area. Moreover, the intensification of the existing built form within the vicinity of the site would fail to reflect the existing sporadic pattern of development, introducing a more urbanised setting that would diminish the rural character. This urbanising effect would be exacerbated by the proposed widening of Lion Lane, which itself is very rural in its character and appearance. The increased width of such a large section of the lane, which would likely involve cutting into the land to its side and the loss of existing hedgerows, further detracting from the rural setting.
15. I acknowledge that the dwellings would be largely screened by existing buildings, hedges and trees from medium and long distances. Nevertheless, they would clearly be visible from short distances along Lion Lane. As a consequence, the proposal would be a visually intrusive form of development that would unacceptably detract from the rural character and appearance of the area and cause material harm to AONB interests. As such, it would be contrary with Policies CS6 and CS17 of the CS and Policies MD2 and MD12 of the SAMDev. Furthermore, it would fail to accord with the design objectives of the Framework.

### **Other Matters**

16. I have had regard to the neighbouring recently permitted dwellings and holiday cottages. The Council confirms that the neighbouring two dwellings are both affordable dwellings. Whilst I acknowledge that the appellant confirms that one of the proposed dwellings could be an affordable dwelling, the other would be an open market dwelling. Therefore, the policy considerations between the approved dwellings and the proposal before me are markedly different. With regard to the holiday cottages, the details of the Council's consideration of this scheme are not before me. Nevertheless, as it is holiday cottages, and not open market dwellings, again, the policy considerations are likely to be

markedly different. I have also had regard to the larger development to the north of the site. However, I cannot be certain that the approved scheme was considered in the same policy context as the proposal before me. As such, I cannot draw any direct comparison between the approved schemes and the appeal proposal.

17. I have had regard to the support of the proposal from local residents. However, whilst I have taken into account this support I have also considered the proposal against the relevant policies of the development plan.

### **Conclusion**

18. As I have found that the development plan is not absent or silent, or the relevant policies out of date, the presumption in favour of sustainable development in paragraph 14 of the Framework does not apply. In any event, the tilted balance is not engaged by virtue of footnote 9 of the Framework as the site is in the AONB and specific policies within the Framework indicate that development should be restricted.
19. The proposed widening of Lion Lane would improve highway safety. Furthermore, the proposal would provide some economic benefit, albeit limited, by creating construction jobs and using local materials. Moreover, it would make a positive contribution, again albeit limited, to the supply of housing. However, the site is not readily accessible by foot or public transport to services, facilities or employment opportunities and, as I have identified above, it would significantly harm the character and appearance of the AONB.
20. Whilst the identified benefits of the scheme weigh in favour of the proposal, I do not find that, individually or cumulatively, they outweigh the harm it would have by virtue of it undermining the Council's housing strategy and the significant harm it would have on the character and appearance of the AONB.
21. I have had regard to the recent judgment of 15 November 2017<sup>1</sup>, concerning the interpretation of the term "isolated homes in the countryside" within paragraph 55 of the Framework. However, in that instance the Council could not demonstrate a five year supply of deliverable housing land and accordingly bullet point 4 of paragraph 14 of the Framework was engaged. As I have found that the Council can demonstrate a five year supply of deliverable housing land and bullet point 4 of paragraph 14 of the Framework is not engaged, in this instance, whether or not the proposal would be considered an isolated dwelling is not relevant.
22. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR

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<sup>1</sup> Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)