



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

Date: Wednesday, 17 May 2017

**Committee:
Central Planning Committee**

Date: Thursday, 25 May 2017

Time: 2.00 pm

Venue: Shrewsbury 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 Central Planning Committee will be appointed at the Annual Council meeting on 18th May 2017.

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 257718

Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 13th April 2017.

Contact Shelley Davies on 01743 257718.

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5 p.m. on Monday 22nd May 2017.

4 Disclosable Pecuniary Interests

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

5 Land West Of Lesley Owen Way, Shrewsbury - 16/00476/OUT (Pages 7 - 42)

Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way.

6 Land West Of Nesscliffe Hotel, Nesscliffe, Shrewsbury - 16/00670/REM (Pages 43 - 60)

Outstanding reserved matters application in relation to appearance, layout and landscaping further to outline approval 12/00821/OUT and reserved matters approval for scale 13/02901/REM.

7 Stanford Farm, Stanford, Halfway House, Shrewsbury - 16/05541/FUL (Pages 61 - 76)

Application under Section 73a of the Town & Country Planning Act for the retrospective change of use of farm buildings to allow Weddings, Events and Community Activities.

8 Radbrook Nursing Home, Stanhill Road, Shrewsbury - 17/00635/FUL (Pages 77 - 90)

Erection of 2-storey extension to provide 24 additional bedrooms; re-configuration of existing rooms to provide 6 additional bedrooms; alterations to car parking to provide 38 parking spaces and minor alterations to the front elevation.

9 Proposed Residential Development Land, Condover, Shrewsbury - 17/00863/OUT (Pages 91 - 104)

Outline application for the erection of 5 detached open market dwellings to include means of access.

10 The Red Lion Inn, 32 Shrewsbury Road, Bomere Heath, Shrewsbury - 17/01120/FUL (Pages 105 - 116)

Erection of 5no dwellings, associated parking and landscaping.

11 Schedule of Appeals and Appeal Decisions (Pages 117 - 134)

12 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 22nd June 2017 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

25th May 2017

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 13 April 2017

2.00 - 3.37 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Dean Carroll, Miles Kenny, Pamela Moseley, Peter Nutting, Kevin Pardy, David Roberts, Tim Barker (Substitute) (substitute for Tudor Bebb) and Jon Tandy (substitute for Amy Liebich)

114 Apologies for absence

Apologies for absence were received from Councillors Tudor Bebb (Substitute: Tim Barker) and Amy Liebich (Substitute: Jon Tandy).

115 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 16th March 2017 be approved as a correct record and signed by the Chairman.

116 Public Question Time

There were no public questions or petitions received.

117 Disclosable Pecuniary Interests

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

Councillor David Roberts declared that he had a predetermined view of planning applications 16/03786/VAR106 – Land at Oteley Road, Shrewsbury, 16/04201/VAR – Greenhouse Meadow, Oteley Road, Shrewsbury and 16/00181/FUL – Land at Oteley Road, Shrewsbury and therefore would leave the meeting during consideration of these items.

With reference to planning applications to be considered at this meeting, Councillors Peter Nutting and Andrew Bannerman stated that they were members of the Planning Committee of Shrewsbury Town Council. They indicated that their views on any proposals when considered by the Town Council had been based on the

information presented at that time and they would now be considering all proposals afresh with an open mind and the information as it stood at this time.

118 Land At Oteley Road, Shrewsbury - 16/03786/VAR106

In accordance with his declaration at Minute 117 Councillor David Roberts left the room, did not take part in the debate and did not vote on this application.

The Planning Services Manager introduced the application for the variation of the Section 106 Legal Obligation pursuant to SA/02/0278/F which had been deferred at the meeting held on 16th February 2017 and drew Members' attention to the Schedule of Additional Letters which included a statement from the Chief Executive of the Shrewsbury Town Football Club. Reference was also made to an email received from Sport England withdrawing their objection to planning application 16/00181/FUL – Land at Oteley Road, Shrewsbury. The Planning Services Manager advised that if Members were minded to approve the application an amendment to the management provisions was required to invite Lidl to be included on the match day Liaison Group. He further advised that the suggestion in the officer report at paragraph 5.3.3 that there should be a financial penalty as a fall-back provision if the terms of the revised section 106 agreement were not complied was not now being recommended as it may be self-defeating and therefore should be omitted from the recommendation. It would be up to the Council to enforce the section 106 agreement should that be necessary.

Mr David Kilby, on behalf of the Shropshire Playing Field Association spoke against the proposal in accordance with Shropshire 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 15.1) Councillor Ted Clarke, as local ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement, a number of points were raised including the following:

- The suggestion of including Lidl on the match day Liaison Group was an interesting idea;
- He did not consider the site to be an appropriate location for a retail store; and
- He was pleased that there would now be a meaningful community facility on the site.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Jon Tandy, as local ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement, a number of points were raised including the following:

- The proposal provided good facilities for the community;

- He did not agree with the comments made by the speaker in relation to the requirement of an artificial pitch; and
- He did not consider the site to be an appropriate location for a Lidl store but was happy with the benefits for the community.

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

In response to comments from Members regarding the availability of the community pitch would be available being unrealistic, the Planning Services Manager stated that 100 hours a week was an intensive use of a turf pitch and without floodlights use of the pitch would be limited in winter months..

Having considered the submitted plans for the proposal, the majority of Members expressed their support for the Officer's recommendation subject to the inclusion in relation to the amendment to the management provisions to invite Lidl to be included on the match day Liaison Group and there not being an additional financial penalty for non-compliance with the section 106 agreement.

RESOLVED:

That delegated powers be given to the Planning Services Manager as per the Officer's recommendation to draw up a new legal agreement in consultation with the Head of Legal and Democratic Services to vary the previous agreement in regard to following:

- The position of the training pitch and community pitch;
- The provision of additional facilities at the new community pitch;
- A financial contribution of £65,000 to provide new sports facilities or enhance existing sports facilities within the area; and
- To amend the management provisions to invite Lidl to be included on the match day Liaison Group.

119 Greenhous Meadow, Oteley Road, Shrewsbury - 16/04201/VAR

In accordance with his declaration at Minute 117 Councillor David Roberts left the room, did not take part in the debate and did not vote on this application.

The Planning Services Manager introduced the application for the variation of condition 2 attached to Ref: 14/00587/VAR dated 17/03/2016 to relocate the community football pitch which had been deferred at the meeting held on 16th February 2017. Members' attention was drawn to the Schedule of Additional Letters which included a statement from the Chief Executive of the Shrewsbury Town Football Club and to an email from Sport England withdrawing their objection to planning application 16/00181/FUL – Land at Oteley Road, Shrewsbury.

Having considered the submitted plans the Committee unanimously expressed their support for the Officers recommendation.

RESOLVED:

That delegated powers be given to the Planning Services Manager as per the Officer's recommendation to approve the variation of condition 2, subject to the applicant entering into a new S106 agreement which both varies the previous agreement and also ensures the provision of additional facilities at the new community pitch and a financial contribution towards to provide new sports facilities or enhance existing sports facilities within the area.

120 Land At Oteley Road, Shrewsbury - 16/00181/FUL

In accordance with his declaration at Minute 117 Councillor David Roberts left the room, did not take part in the debate and did not vote on this application.

The Planning Services Manager introduced the application for the erection of a retail store, associated car parking and servicing facilities, site access and associated works which was approved at the meeting held on 24th November 2016 and drew Members' attention to the Schedule of Additional Letters which included a statement from Lidl. The Planning Services Manager referred to an email from Sport England withdrawing their objection to the application and suggested that if Members were minded to approve the application he advised that the wording of conditions 1 – 10 be delegated to allow officers to agree an appropriate trigger point to ensure the development was completed in a timely fashion.

Having considered the submitted plans the Committee unanimously expressed their support for the Officers recommendation.

RESOLVED:

That delegated powers be given to the Planning Services Manager as per the Officer's recommendation to grant planning permission subject to:

- The conditions set out in Appendix 1;
- The rewording of Conditions 1 – 10; and
- A legal agreement to secure a financial contribution towards improving public transport on Oteley Road and to secure match day management of the car park.

121 Proposed Fishermans Cabin, Buildwas - 16/05379/FUL

The Area Planning Manager introduced the application for the erection of a detached building to provide two separate cabins of accommodation for overnight use by fishermen. It was noted that approval was previously granted for this proposal on 20th June 2013, but this permission had now lapsed. The Area Planning Manager confirmed that the Committee had undertaken a site visit to assess the impact of the proposed development on the surrounding area when the application was previously reported to the Committee in June 2013 and drew Members' attention to the Schedule of Additional Letters which included comments from the Environment Agency and the Case Officer.

Having considered the submitted plans the majority of Members expressed their support for the Officers recommendation.

RESOLVED:

That planning permission be granted as per the Officer's recommendation subject to the conditions set out in Appendix 1.

122 Land East Of 62 Middlegate, Shrewsbury - 17/00878/FUL

(Councillor, Vernon Bushell as local member vacated the Chair. Councillor Ted Clarke as Vice-Chairman presided as Chairman for this item).

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Vernon Bushell, as local ward Councillor, made a statement in support of the application and then left the table, took no part in the debate and did not vote on this item.

The Area Planning Manager introduced the application for the erection of a dwelling and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area.

Having considered the submitted plans the majority of Members expressed their support for the Officers recommendation.

RESOLVED:

That planning permission be granted as per the Officer's recommendation subject to the conditions set out in Appendix 1.

123 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 13th April 2017 be noted.

124 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 25th May 2017 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

It was announced that this would be the last meeting that the Chairman would attend as he was not standing in the May Unitary Election. Members and Officers thanked Councillor Vernon Bushell for his service to the Committee and wished him all the best for the future. It was added that several of Members of the Committee were also

not standing for election in May and they too were thanked for their contribution to the Committee.

The Chairman stated that it had been a pleasure to work with this Committee and thanked all Members and Officers involved, in particular he noted the support he had received from the Vice-Chairman, Councillor Ted Clarke.

Signed (Chairman)

Date:



<u>Committee and date</u>
Central Planning Committee
25 May 2017

<u>Item</u>
5
Public

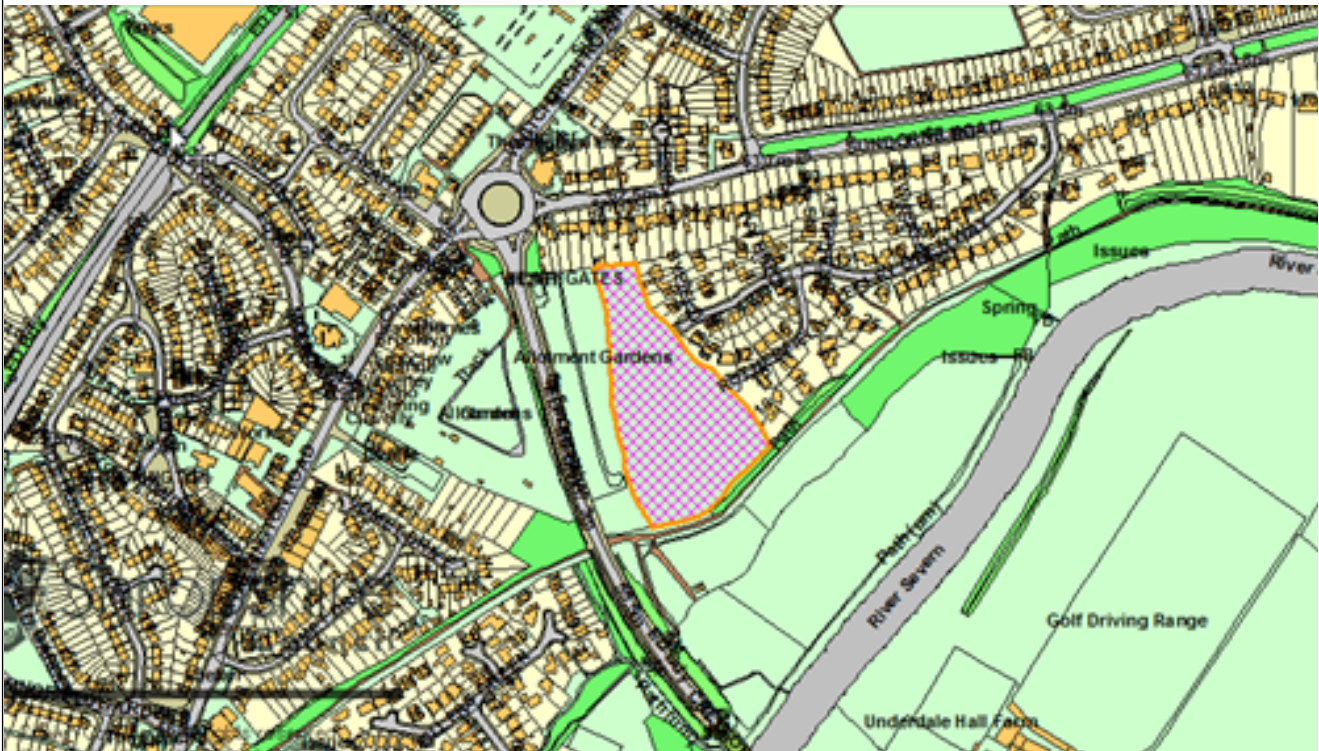
Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/00476/OUT	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way		
<u>Site Address:</u> Land West Of Lesley Owen Way Shrewsbury Shropshire		
<u>Applicant:</u> Sundorne Estate		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 350540 – 314436



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Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the relevant affordable housing contribution at the Reserved Matters stage.

REPORT

1.0 PURPOSE OF REPORT

1.1 This application was previously considered by the Central Planning Committee at its meeting on 16th February 2017. Members at that meeting were minded to refuse the application, the minutes of the meeting record the proposed reason for refusal and reason for deferral as follows:

‘That Members are minded to refuse this application on the basis that the proposed development fails to protect, restore, conserve and enhance the natural environment contrary to policy CS6 of the Core Strategy. In accordance with paragraph 17.4 of the Local Protocol for Councillors and Officers dealing with Regulatory Matters the application stands deferred to a future meeting’.

The minutes also note that members considered that more information was required regarding the impact on an outlier badger sett.

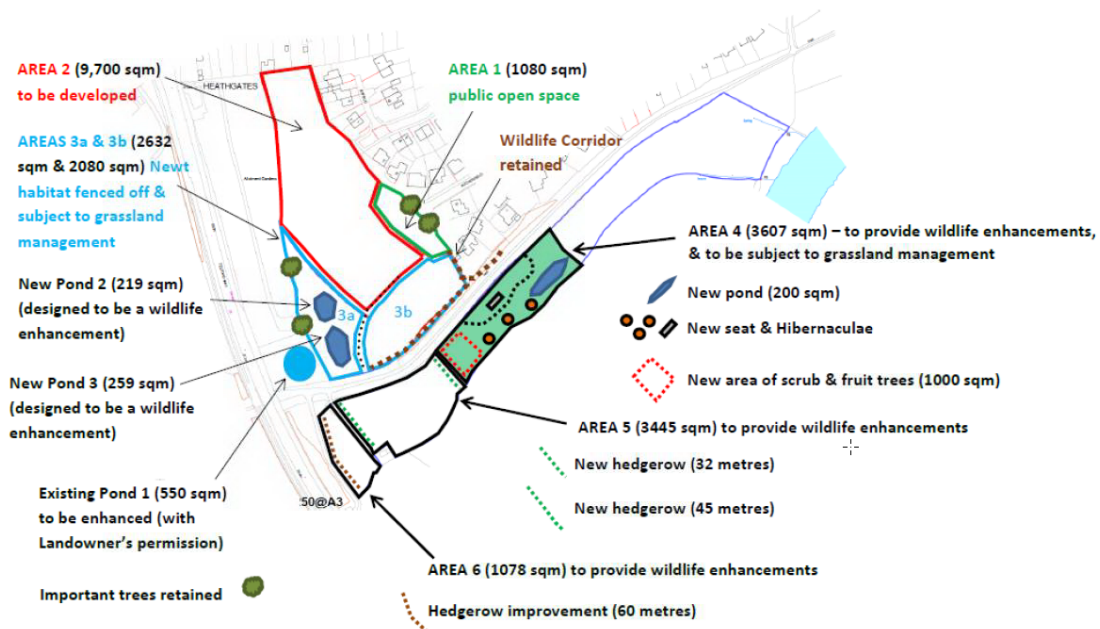
1.2 This report seeks to provide members with further information including additional responses received from consultees following the February meeting and advice on the risk associated with refusing the application for the above reason. The original report presented to members in February 2017 is attached to this report for information at appendix 3.

1.3 The risk of refusing any planning application is that the applicant appeals the decision. This is a risk in that a Planning Inspector deciding an appeal may overturn the Councils decision and allow the proposal. There are costs associated with defending an appeal against refusal but there are also risks of the Council being required to pay the appellants costs of an appeal. Costs can be awarded if the Council is considered to have behaved unreasonably, in not allowing the application or in its conduct in defending an appeal, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The purpose of the costs regime is stated to include encouraging local planning authorities to properly exercise their development management responsibilities, and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case. All involved in the appeal process should behave in a reasonable way including presentation of full and detailed evidence to support their case.

1.4 This report is before members on the basis that the suggested reason for refusal was (and is still considered by officers) to not be defensible if challenged at appeal. The report below seeks to advise members on the defensibility of the above reason for refusal.

2.0 ADDITIONAL INFORMATION RECEIVED

2.1 At the February Committee members were made aware that an amended indicative layout and Environmental report had been submitted that included a plan that showed areas for wildlife habitat protection and enhancement including Areas 3a and 3b and Area 4. The plan is reproduced here for information:



Some members expressed concern about the impact of the proposal on the natural environment and in particular the loss of an outlier badger sett and its replacement with an artificial sett. It was noted that Shropshire Wildlife Trust and Shropshire Badger Group had not responded to their re-consultation on these revisions. Following the February committee meeting the Shropshire Wildlife Trust and the Shropshire Badger Group were re-consulted again and have now provided comments on the proposal as amended prior to the February committee. The Councils Ecologist has provided a response to these comments.

3.0 CONSULTEE COMMENTS

3.1 **Shropshire Wildlife Trust:** We welcome the amendments to the plan and the provision of a greater area of green space within the development.

However we still have issues relating to the proposed development and question whether sufficient mitigation and compensation is actually being proposed. This relates not just to protected species but to the impact on the natural character of the area.

The proposals for contributing to the management of the pond at Telford Way (previously a Shrewsbury Urban Wildlife Pond) and the additional newt habitat outside the development need careful consideration. How 'additional' will these proposals actually be? Are they deliverable and enforceable? Will they be

compromised by other uses of these areas, for example is the cycle track still being considered?

In addition to the questions relating to the viability of the mitigation proposals there appear to be unresolved issues regarding the badger sett on the site.

Given the above issues and the fact that the land to the south of the site has a high local value in recreational and ecological terms we maintain our objection to the scheme.

The land to the south is not just any pathway/cycleway/bridleway it is a very well used and loved route, a national cycle route and important ecological corridor. These areas are becoming increasingly rare across the town and subjected to development at such close proximity that much of their previous value is being eroded.

We would encourage a more generous package of mitigation and compensation measures.

3.2 Shropshire Badger Group: Thank you for seeking comments from Shropshire Badger Group regarding the revised indicative layout and Ecological report produced by Greenscape Ecology. Whilst we welcome the new proposals for enhanced areas for wildlife, we would like to raise the following issues:

1.0 Outlying Sett and Construction of Simple Artificial Sett

1.1 A pre-commencement survey of the outlying sett is felt to be essential given the nature of use of this category of sett by badgers and we feel this is worthwhile explaining in more detail below. This survey must be undertaken by an Ecologist with the appropriate experience to identify current badger occupation.

1.2 An outlying sett usually comprises of one or two holes which are used sporadically by badgers. It is not a main breeding sett which is usually inhabited by badgers for the majority of the year. Outlying setts tend to be used more on an occasional basis, particularly during the summer when ectoparasite infestation is a problem at the main sett or when youngsters are dispersing from the main sett. Outlying setts are also used as a temporary shelter when badgers are foraging in the vicinity and feel the need to seek refuge for whatever reason. It is quite common to find foxes and rabbits inhabiting an outlying sett when not in use by badgers.

We feel that outlying setts provide a valuable resource to badgers and given that one outlier has already been destroyed when new fencing was erected around the allotment gardens, the loss of this further outlying sett in the field designated for building will significantly disadvantage the badgers. We therefore strongly recommend that a simple artificial sett comprising one chambers is constructed to replace the outlier that will be closed down in the field. We would like to be consulted on the final design for the artificial sett.

1.3 We have identified the site hatched in red in Area 4 on Figure 22 of the Enhancement Plan Jan 2017 designated as a new area of scrub and fruit trees to be a favourable location for an artificial sett. The embankment should aid drainage and

the artificial sett will be screened from the public. We recommend that planting should include thorny shrubs and trees to discourage human disturbance as well as elderberry trees.

2.0 Post Construction

2.1 We strongly disagree with the proposal at 6.2.3. Post Construction in Greenscape's report to provide a gap in the bottom of the fencing around new properties. Our experience has shown that new homeowners do not welcome badgers attempting to find food in their traditional foraging areas after turf has been newly laid or gardens have been established. This results in Shropshire Badger Group being called in to deal with dismayed new homeowners and having to advise on exclusion methods.

In the circumstances, given that the field to be developed is frequently used by badgers for foraging at the present time, we therefore recommend that perimeter fencing is badger-proofed to prevent such conflict occurring.

2.2 Area 3a and 3b must be excluded from the public to allow the badgers to continue to forage undisturbed. We also seek confirmation that Area 3b will be left undisturbed during the construction work.

2.3 A basic habit management plan should be agreed at the earliest possible stage to indicate how areas 3a and 3b will be managed and enhanced as suitable Great Crest Newt and Badger habitat.

2.4. We have surveyed the wooded embankment to the north of Area 4 on Figure 22 : Enhancement Plan and found this to be very valuable habitat for badgers. We strongly recommend that no vegetation is cleared in this area (as has recently been undertaken in vicinity of the old canal site). Such clearance work will not only denigrate the habitat for badgers but also for the other flora and fauna found there.

2.5 We support the proposal to create a cycleway / footpath running between Lesley Owen Way across the proposed public open space and around the protected wildlife area. This will allow badgers to continue to forage at sites around Lesley Owen Way.

2.6 We recommend traffic calming measures are installed between the current end of Lesley Owen Way and the drive to be created into the new housing development to prevent collision with badgers crossing at this point.

2.7 The Ecology Consultant should be made aware that there is a possibility of the proposed newt fencing shown on Figure 24 being compromised by badgers attempting to reach their traditional foraging on the field where the development is planned.

3.3 **SC Ecology:** SC Ecology has been asked to review our recommendations with view of the additional Shropshire Wildlife Trust, and Shropshire Badger Group planning comments (March 2017).

SC Ecology supports this proposal, and would emphasise the following comments;

- A pre-commencement badger survey is required prior to the commencement of work on site
- Details of an artificial sett should be shown on the Reserved Matters plans, this will be agreed in writing by Shropshire Council, and be appropriately constructed prior to the commencement of this development. The artificial sett will be retained for the life time of this development.
- Garden fencing should be badger proof in order to exclude badgers from domestic gardens post development.
- Areas 3a and 3b are to be excluded from the public in order to protect the environmental network, great crested newts, and badgers.
- Full details of landscape plan and habitat management plan, in particularly for areas 3a, 3b and 4, will be provided at reserved matter stage.
- The application is unlikely to impact on the pathway/cycleway/bridleway. The buffer to this existing pathway will be enhanced through planting and long term habitat management securing high quality habitat for the lifetime of this development (currently there is no restriction on how this land is managed), particularly in areas 3a, 3b and 4. To make this site work for the development and ecology it is essential to create and maintain networks that connect the site to the wider environment in line with planning policy CS17. The Proposed Site Plan, 'project number 1405, drawing number P-01 K dated 2nd December 2016', shows an area of 4670m² of land retained and fenced off from the public open space as ecological habitat which links to public open space of 1080m², and then connects with a footpath through to Lesley Owen Way.

Great Crested Newts

SC Ecology welcomes the new site plan titled 'Proposed Site Plan, project number 1405, drawing number P-01 K dated 2nd December 2016' showing an area of 4670m² of land retained and fenced off from the public open space as great crested newt habitat. This will be conditioned on a planning decision notice, with more detail to be submitted at reserved matters stage regarding landscape plan and habitat management.

In addition to the great crested newt mitigation which has been included within the red line boundary there is a proposal to enhance habitat in the area of land to the south of the development site. This is in the same land ownership. There is also referral to a financial commitment to the landowner to restore Heathgates pond;

On page 5 of the ecological report, and page 25 of the D&S, it says that the developer will provide some financial support to the council for the clearance and maintenance of Heathgates pond.

Throughout the ecological report and on page 26 of the D&S it states that the plot of land (areas 4, 5 and 6 as marked in the ecological report and named site 2 in the D&S) to the south of the development site will be used for compensation for the loss of terrestrial habitat close to a breeding pond.

Although SC Ecology welcomes the commitment of the developer to restore Heathgates pond and areas 6 and 5 in site 2 as shown in the ecological report, this

cannot be enforced through planning as it is not essential to make the development acceptable in planning terms.

Area 4 to the south of the development site is required to compensate for the loss of terrestrial habitat from the development area in the red line boundary. This area will be enhanced for badgers and great crested newts. The Greenscape Environmental report shows on Figure 22 the Enhancement plan January 2017. Area 4, which is shown as 3607m² should be conditioned to provide wildlife enhancements – this is to include grassland management, new pond, hibernacula, artificial badger sett and new area of scrub and fruit trees for the lifetime of the development.

Based on the information above, SC Ecology considers that the proposal will be able to secure an EPS mitigation licence from Natural England and that the favourable conservation status of great crested newts can be maintained.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered.

Badgers

A sett observed on the western boundary of the development site was considered to be an outlier sett in 2013. During the update survey in 2015 Greenscape Environmental Ltd has reported that this outlier sett has now been removed. There is a second outlier sett within the centre of the proposed development site.

The Badger Group has submitted formal comments and has reported that the sett which is in the middle of the proposed site is a valuable resource for badgers in the area, particular as the sett in the allotments has been lost. Mitigation required for the loss of the badger sett and foraging habitat should be provided at Reserved Matters Stage – appropriate design will reduce any impact that badgers could have on the new development. The ecological consultant should provide a scheme which helps connect a new artificial sett (and enhanced foraging area) to the main sett.

The badger group recommend that a simple artificial sett comprising one chambers is constructed in area 4 to replace the outlier that will be closed down in the field. As badgers can often cause disturbance in urban gardens the badger group has also recommended that badger proof fencing is used for garden perimeters.

Bats & Nesting Birds

The oak tree close to the boundary with the allotment gardens has potential to support bats and would require further survey work should it be removed. If the site layout changes and this tree is to be lost then bat phase 2 survey work will be required to support a reserved matters application (this should be included within the updated ecology survey to be conditioned).

The proposed development site could be enhanced for nesting birds with the incorporation of bird nest bricks within the building design. Hedgerow planting will help mitigate for any adverse impact on nesting birds.

4.0 **MATTERS FOR CONSIDERATION**

4.1 The main issues to be considered when determining this application are as follows:

- Principle of development
- Access/Highway impacts
- Layout, scale, design and appearance
- Impact on residential amenity
- Trees and landscaping
- Ecology
- Flood risk/Drainage
- Developer contributions

These issues were all fully addressed in the February committee report and considered by members. However as outlined in part 1 above members were minded to refuse the application due to their concern regarding the impact of the proposal on the Natural Environment. This report therefore only deals with the impact of the proposal on the Natural Environment and Natural Assets.

5.0 **OFFICER APPRAISAL**

5.1 Policy considerations - The local plan policies most relevant to consideration of the impact on the Natural Environment include Core Strategy Policy CS6 (Sustainable Design and Development Principles) and CS17 (Environmental Networks) and SAMDev policy MD12 (Natural Environment).

5.1.1 CS6 requires that all development protects, restores, conserves and enhances the natural, built and historic environment. CS17 also seeks to ensure that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment. MD12 provides a list of Shropshire's natural assets that includes designated sites, protected species and habitats, ecological networks, important trees, woodland and hedges, visual amenity and landscape character and sets out the level of protection to ensure that development does not have a significant adverse effect on these assets. MD12 also encourages development that appropriately conserves, enhances, connects, restores or recreates these natural assets.

5.2 Designated sites – The field proposed for development is private land and is not public open space. The site is a green field site within the Shrewsbury urban area but has no ecological, wildlife, heritage or landscape designation. The previous SABC policy that sought to protect it as greenspace is no longer relevant. The proposal would therefore have no adverse impact on a locally or nationally designated site.

5.3 Protected species and habitats, and ecological networks

5.3.1 The application is accompanied by a phase 1 and phase 2 Environmental Survey and an indicative layout that shows areas for ecological enhancement. Protected species that may be affected by this proposal include Great Crested Newts (GCN),

Badgers and Bats.

- 5.3.2 GCN – The proposed development site is close to a GCN breeding pond and there is a medium population of great crested newts within close proximity to the site boundary. There is therefore a risk of damage to individual newts during construction so work will need to follow a strict method statement and be conducted under licence from Natural England. The development of part of this site will result in the loss of potential terrestrial habitat for GCN but this loss will be mitigated and more than compensated for by the provision of high quality habitat in areas 3a, 3b and 4. There is currently no restriction on how the land in these areas is managed and as the proposal provides ecological enhancement including grassland management, a new pond, GCN hibernacula, and new area of scrub and fruit trees the proposal cannot be considered to have an adverse impact on the habitat for GCN but an enhancement of the current situation. The Councils Ecologist has confirmed that the proposed development will not be detrimental to the maintenance of the populations of great crested newts at a favourable conservation status within their natural range provided the recommended conditions are imposed regarding the method statement for mitigation works and landscape and habitat enhancements. Work will need to be conducted under licence from Natural England and an EPS three tests matrix has been completed and is attached at appendix 2 to this report and should be noted by members.
- 5.3.3 Badgers – There is a single outlier badger sett in the field to be developed and concern was expressed by members regarding the loss of this sett and the provision of an artificial sett as compensation. Members also queried the definition of an outlier sett. Badger colonies often utilize several setts including a large main sett usually in the central part of a colony's territory and occupied by most of a colony's members in addition to one or more smaller outlier setts. Outlier setts may have only one or two entrances and may be used occasionally by a small number of colony members when nearby food sources are in season or in autumn when the main sett is crowded with the year's young.
- 5.3.4 Shropshire Badger Group have now provided comments on the revised indicative layout and Ecological report and welcome the new proposals for enhanced areas for wildlife subject to the provision of a simple artificial set to replace the outlier that will be closed down in the field. They consider that area 4 of the habitat enhancement plan that includes a new area of scrub and fruit trees is a favourable location for an artificial sett. They also support the proposal to create a cycleway / footpath running between Lesley Owen Way across the proposed public open space and around the protected wildlife area as this will allow badgers to continue to forage at sites around Lesley Owen Way. They have also made requests regarding pre-commencement survey work, badger proof fencing and exclusion of the public from area 3a, 3b and 4. The Councils Ecologist agrees with these requests and has provided relevant planning conditions and provided these conditions are followed it is considered that the proposal would have no adverse impact on badgers or their habitat and that the proposal will provide enhanced areas of habitat for badgers.
- 5.3.5 Bats – The proposal would have no adverse impact on habitat for bats as there are no buildings or trees proposed to be removed that offer bat roosting potential. The proposed landscaping including hedge and tree planting, ponds and gardens will

provide enhanced foraging habitat in addition to maintaining and enhancing commuting corridors for bats.

- 5.3.6 Ecological networks - Ecological networks are vital for the movement, foraging, migration and dispersal of wildlife species through urban and rural landscapes and both CS17 and MD12 seek to ensure that connecting green corridors are preserved or enhanced. Shropshire Wildlife Trust still maintain their objection to the proposal as they consider that the land to the South of the site has a high local value in recreational and ecological terms and that the pathway/cycleway/bridleway is a very well used and loved route and important ecological corridor. They are concerned that these areas are becoming increasingly rare across the town and subjected to development at such close proximity that much of their previous value is being eroded.
- 5.3.7 The submitted enhancement plan indicates that the existing footpath and cycle route will be unaffected by the proposal and that the proposed enhancement of areas 3a, 3b and 4 either side of this route will not erode the value of the green corridor but will actually improve it. The wooded embankment to the north of Area 4 is also unaffected by the proposal. It is considered that the proposal will not sever the existing green corridor or result in a barrier to wildlife and that the ecological network will be preserved and enhanced.
- 5.4 Trees, woodland and hedges –
- 5.4.1 The detailed landscaping (which will include tree and hedgerow removal and new planting) is reserved for later approval and this will be fully considered at the Reserved Matters stage. However there are existing trees and hedgerow on the site and development should not be permitted unless it can be satisfactorily demonstrated that important trees to be retained can be protected, and that new development would not result on future pressure to remove any trees to be retained.
- 5.4.2 An arboricultural report has been submitted and concludes that the proposed scheme is not significantly constrained by the trees and will be possible with the loss of just two grade C trees. There will be no loss of amenity provided by significant trees at the site and the key Specimens (O1, O4 and O5) will be retained and can be protected using standard tree protection measures. The location of development will ensure that the existing major trees to be retained will not overshadow the proposed properties and therefore post developmental pressure on the retained trees would be low. There is considerable scope to plant a number of trees within the buffer zone between the development and the pond to the South West and a number of specimens, that will grow to be large, could be planted here to add to the amenity of the area.
- 5.4.3 The submitted tree report and tree protection measures have been reviewed by the Councils tree officer who agrees with its findings subject to the imposition of a tree protection condition. The existing trees are not within a Conservation area or protected by a TPO so could be removed without the Councils consent at any time. Approval of this development will therefore secure the retention of the important higher value trees and the provision of enhanced landscaping of the site. The proposal could therefore not be considered to have an adverse impact on these

natural assets.

5.5 Visual amenity/landscape character

- 5.5.1 The site to be developed is a small field on the edge of an urban housing estate of no significant landscape value or character. The developable area has been reduced to that first submitted and cannot be increased as the remaining land is required to be enhanced for GCN and badgers and other wildlife, and this can be secured by a condition attached to any approval.
- 5.5.2 Concern has been raised about the loss of greenspace and the impact on the semi-rural character of the area. The outlook from the houses on the Western edge of this housing estate is towards the existing field and the flood plain of the river and Shrewsbury beyond. However there is no right to a view and there is an area of open space proposed between the existing and proposed houses and as the land to be developed slopes away and down toward the river the distant views from the existing properties on the edge of Lesley Owen Way will not be significantly affected. The development will read as a small extension to the existing residential road and would not adversely impact on the character and appearance of the locality and the existing housing estate.
- 5.5.3 Public views of the site are predominantly from the footpath to the South and the allotments to the West. The existing houses and the site cannot be seen from Telford Way further to the South West due to the significant amount of trees. The development area has been reduced so that there will be a partial green buffer between the allotments to the West and a significant green buffer between the development and the footpath to the South. The proposed green buffer to the South adjacent to the canal footpath addresses the concerns expressed by Shropshire Wildlife Trust regarding the negative impact the proposal would have on this green corridor and natural setting of the route which could have been impacted on if new housing had backed directly onto the route as the existing housing does. The proposed landscaping and future management of the land either side of the footpath to be secured by condition will enhance the green natural setting of the route and tree planting will help screen both the existing and proposed housing.
- 5.5.4 Although the development may appear more prominent in public views than the existing edge of the Lesley Owen Way estate it is considered that a satisfactory layout and buildings of a satisfactory scale, design and appearance can be achieved without adverse impact on the character and appearance of the locality. The proposal will result in development of less than two thirds of the field and officers consider that this represents an extremely small incursion into the larger expanse of green space along the green corridor adjacent to the river. Landscaping of both the remaining green space within the site North of the old canal footpath and the land to the South of the canal footpath will provide significant visual enhancement of any views of the site.

6.0 **CONCLUSION**

- 6.1 The site is within the urban development boundary of Shrewsbury and the proposal

will contribute to housing supply in a sustainable location and is therefore considered acceptable in principle and in accordance with the adopted plan. The appropriate amount of affordable housing provision (to be determined at the Reserved Matters stage) will be secured by a S106 agreement and the payment of CIL will contribute towards infrastructure.

- 6.2 Access, layout, scale, appearance and landscaping of the scheme are all reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in significant or demonstrable harm to the character and appearance of the locality or highway safety.
- 6.3 The proposal would provide ecological enhancement of the undeveloped part of the site (area 3a and 3b) in addition to the area to the South of the site (area 4) and would have no adverse impact on protected species and their habitat subject to compliance with the suggested conditions. Important trees will be retained and the proposal includes enhanced areas for wildlife including tree and hedge planting, ponds and areas of scrub and managed grassland. The landscaped gardens within the proposed developed part of the site will also provide ecological enhancement and increase bio-diversity compared to its current use as a managed field. It is considered that the proposal would have no adverse impact on the natural environment but would actually protect, restore, conserve and enhance the natural environment in accordance with CS6, CS17 and MD12.
- 6.4 For the reasons given in this report officers strongly advise that the draft reason for refusal suggested by members at the February committee would not be defensible if challenged at appeal and furthermore that pursuing the draft reason for refusal may put the Council at risk of an award of costs.
- 6.5 For the reasons given above and within the original report to committee dated 16 February 2017 officers consider that the proposal accords with Shropshire LDF policies MD1, MD2, MD12, S16.1, CS2, CS6, CS11, and CS17 and the aims and provisions of the NPPF and recommend approval.

7.0 Risk Assessment and Opportunities Appraisal

7.1 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.

7.2 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.

7.3 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.

8.0 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.

9. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies: CS2, CS6, CS11, CS17, MD1, MD2, MD12, S16.1

RELEVANT PLANNING HISTORY:

92/0860/OUT/263/84: Erection of dwelling houses and construction of estate road and sewers.
REFUSE: 7 October 1992

10. Additional Information

List of Background Papers: File 16/00476/OUT
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Cabinet Member (Portfolio Holder):

Local Member: Cllr Kevin Pardy

Appendices
APPENDIX 1 – Conditions
APPENDIX 2 – EPS 3 Tests matrix
APPENDIX 3 – Committee Report 16 February 2017

APPENDIX 1: Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

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

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

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

4. As part of the first application for reserved matters details of the proposed surface water drainage scheme shall be submitted for approval. If non permeable surfacing is used on the driveway and parking areas and the driveways slope towards the highway, the submitted scheme shall include a drainage system to intercept water prior to flowing on to the public highway.

Reason: To minimise the risk of surface water flooding and to ensure that no surface water runoff from the new driveways runs onto the highway.

5. As part of the first application for reserved matters an updated tree protection plan shall be submitted for approval. All trees which are to be retained in accordance with the approved layout plan shall be protected in accordance with the approved Tree Protection Plan. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

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

6. The first submission of reserved matters shall include an update phase 1 and where appropriate phase 2 ecological surveys, an assessment of impacts from the development, and a detailed ecological mitigation strategy submitted to the local planning authority. The proposed Great Crested Newt mitigation shall be no less than the area shown on the 'Proposed Site Plan, project number 1405 drawing number P-01 K dated 2nd December 2016' showing an area of 4670m² of land retained and fenced off from the public open space as great crested newt habitat, and 3607m² of wildlife enhancement to the south of the development, in site 2, as shown as Area 4 in Figure 22: Enhancement Plan Jan 2017, in the Greenscape Environmental Ltd report

December 2016. An artificial badger sett should be included in the updated ecological mitigation. The updated ecological mitigation strategy, recommendations and method statements will be implemented as approved in writing by the local planning authority unless changes are required by Natural England in order to obtain a European Protected Species Mitigation Licence. Notification of any changes required by Natural England, including a copy of the licence, must be submitted to the planning authority prior to development commencing.

Reason: To ensure the protection and enhancement of biodiversity and protected species, including Great Crested Newts, a European Protected Species and Badgers, Protected by the Badgers Act.

7. The first submission of reserved matters shall include a Construction Environmental Management Plan (CEMP) for approval in writing by the local planning authority. The plan will be implemented as approved and shall include:
 - a) An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
 - b) Details of protective measures (both physical measures and sensitive working practices, including lighting) to avoid impacts during construction (may be provided as a set of method statements);
 - c) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
 - d) The times during construction when specialist ecologists need to be present on site to over-see works;
 - e) The role and responsibilities on site of an ecological clerk of works (EcCoW) or similarly competent person;
 - f) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be adhered to and implemented strictly in accordance with the approved CEMP unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

8. At first submission of reserved matters a scheme of landscaping should be submitted and approved in writing by the local planning authority. The works shall be carried out as approved, prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority, unless the local planning authority gives written consent to any variation. The submitted scheme shall include:

- a) Planting plans, including wildlife habitat and features (e.g. integrated bird, bat boxes, artificial badger sett)

- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate
- d) Native species used are to be of local provenance (Shropshire or surrounding counties)
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- f) Implementation timetables

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

9. The first submission of reserved matters shall include a habitat management plan. The plan shall include:
- a) Description and evaluation of the features to be managed (no less than 4670m² of land should be retained and fenced off from the public open space and managed as great crested newt habitat as indicated in 'Proposed Site Plan, project number 1405, drawing number P-01 K dated 2nd December 2016', and 3607m² of wildlife enhancement to the south of the development, in site 2, as shown as Area 4 in Figure 22: Enhancement Plan Jan 2017, in the Greenscape Environmental Ltd report December 2016);
 - b) Ecological trends and constraints on site that may influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions;
 - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
 - g) Personnel responsible for implementation of the plan;
 - h) Monitoring and remedial/contingencies measures triggered by monitoring.
 - i) The financial and legal means through which the plan will be implemented.
- The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

10. As part of the Reserved Matters details for the provision of nesting opportunities for swifts shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling(s)/building.

Reason: To ensure the provision of nesting opportunities for swifts

11. As part of the reserved matters details of the location and design of a minimum of 10 bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

12. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

13. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development site to which this consent applies immediately prior to work commencing. The site should be inspected within 3 months prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority. If the survey indicates the presence of any Badger Setts within 30 metres of the site then prior to the commencement of the development an updated mitigation plan shall be submitted for the approval of the Local Planning Authority. The mitigation shall be undertaken in accordance with this approved plan.

Reason: To ensure the protection of badgers, under the Badgers Act (1992)

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

14. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipes and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:
- a) Creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
 - b) Open pipework greater than 150mm outside diameter being blanked off at the end of each working day.

Reason: To ensure the protection of badgers, under the Badgers Act (1992)

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

15. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

APPENDIX 2: EPS 3 Tests matrix

EUROPEAN PROTECTED SPECIES – Consideration of the three tests**EUROPEAN PROTECTED SPECIES – Consideration of the three tests**

Application name and reference number:

16/00476/OUT
 Land West Of Lesley Owen Way
 Shrewsbury
 Shropshire
 Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way.

Date of consideration of three tests:

4th May 2017

Consideration of three tests carried out by:

Nicola Stone
 Planning Ecologist
 Shropshire Council

1 Is the development 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

The proposal will provide up to 29 new homes including some affordable, which will boost the housing supply in a sustainable location and as a result provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site with no adverse environmental impacts.

2 Is there 'no satisfactory alternative'?

The alternative is not to develop the site but this would not provide the boost to housing supply numbers in Shropshire and would not provide the social and economic benefits of the proposal and the ecological enhancements of the site to be secured by conditions attached to this planning permission.

3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?

I have read the above application and the supporting documents including the;

- Phase 1 and Phase 2 Environmental Survey conducted by Greenscape Environmental Ltd (2016)
- Update Greenscape Environmental Survey (April 2016)

- Proposed site plan drawing number P-01 Revision J
- Design and Access Statement January 2016
- Phase 1 and 2 Environmental Survey conducted by Greenscape Environmental Ltd (December 2016)
- Amended proposed site plan drawing number p-01 K (2nd December 2016)
- Shropshire Wildlife Trust comment dated 10th March 2017
- Badger Group comments dated 7th March 2017

There is a medium population of great crested newts within close proximity to the site boundary.

There is risk of damage to individual newts so work will need to follow a strict method statement and be conducted under licence from Natural England. A likely method statement has been provided by Greenscape Environmental Ltd which includes, but is not limited to the following;

- The licensed consultant will be employed as the Ecological Clerk of Works to oversee the work in areas sensitive to GCN on site.
- The site will be fenced with Temporary amphibian fencing and a minimum of 60 days trapping will take place.
- A toolbox talk will be conducted for and contractors will be advised not to handle GCN at any time.
- A minimum of 4670m² great crested newt habitat being created and managed, not included within public open space on the proposed development site.
- A minimum of 3707m² to the south of the proposed development (in site 2, marked as area 4) should be conditioned to provide wildlife enhancements – this is to include grassland management, new pond, hibernacula, and new area of scrub and fruit trees for the lifetime of the development.
- Creation of hibernacula and hedgerow planting

The proposed development will not be detrimental to the maintenance of the population of great crested newts recorded at a favourable conservation status within their natural range provided that the following conditions detailed in the response from Nicola Stone to Jane Raymond dated 4th May 2017 are on the decision notice and are appropriately enforced:

REM Condition 1:

The first submission of reserved matters shall include an update phase 1 and where appropriate phase 2 ecological surveys, an assessment of impacts from the development, and a detailed ecological mitigation strategy submitted to the local planning authority. The proposed Great Crested Newt mitigation shall be no less than the area shown on the 'Proposed Site Plan, project number 1405 drawing number P-01 K dated 2nd December 2016' showing an area of 4670m² of land retained and fenced off from the public open space as great crested newt habitat, and 3607m² of wildlife enhancement to the south of the development, in site 2, as shown as Area 4 in Figure 22: Enhancement Plan Jan 2017, in the Greenscape Environmental Ltd report December 2016. An artificial badger sett should be included in the updated ecological mitigation. The updated ecological mitigation strategy, recommendations and method statements will be implemented as approved in writing by the local planning authority unless changes are required by Natural England in order to obtain a European Protected Species Mitigation Licence. Notification of any changes required by Natural England, including a copy of the licence, must be submitted to the planning authority prior to development commencing.

Reason: To ensure the protection and enhancement of biodiversity and protected species, including Great Crested Newts, a European Protected Species and Badgers, Protected by the Badgers Act.

REM Condition 2:

The first submission of reserved matters shall include a Construction Environmental Management Plan (CEMP) for approval in writing by the local planning authority. The plan will be implemented as approved and shall include:

- a) An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices, including lighting) to avoid impacts during construction (may be provided as a set of method statements);
- c) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- d) The times during construction when specialist ecologists need to be present on site to over-see works;
- e) The role and responsibilities on site of an ecological clerk of works (EcCoW) or similarly competent person;
- f) Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be adhered to and implemented strictly in accordance with the approved CEMP unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

REM Condition 3 Landscape Plan

At first submission of reserved matters a scheme of landscaping should be submitted and approved in writing by the local planning authority. The works shall be carried out as approved, prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority, unless the local planning authority gives written consent to any variation. The submitted scheme shall include:

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

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

REM Condition 4: Habitat Management Plan

The first submission of reserved matters shall include a habitat management plan. The plan shall include:

- a) Description and evaluation of the features to be managed (no less than 4670m² of land should be retained and fenced off from the public open space and managed as great crested newt habitat as indicated in 'Proposed Site Plan, project number 1405, drawing number P-01 K dated 2nd December 2016', and 3607m² of wildlife enhancement to the south of the development, in site 2, as shown as Area 4 in Figure 22: Enhancement Plan Jan 2017, in the Greenscape Environmental Ltd report December 2016);
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Monitoring and remedial/contingencies measures triggered by monitoring.
- i) The financial and legal means through which the plan will be implemented.

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

Reason: To protect features of recognised nature conservation importance.

Planning Condition

1. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species



Committee and date

16 FEB 2017

Item

Public

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 16/00476/OUT	Parish:	Shrewsbury Town Council
Proposal: Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way		
Site Address: Land West Of Lesley Owen Way Shrewsbury Shropshire		
Applicant: Sundorne Estate		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the relevant affordable housing contribution at the Reserved Matters stage.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to Outline permission for mixed residential development to include affordable houses, formation of estate roads and vehicular access from Lesley Owen Way with all matters reserved for later approval.

1.2 The area of the site identified for development has been amended and reduced to that first submitted to allow for the provision of a larger area of land within the red outlined site boundary to be enhanced for GCN. The reduced developable area of the site shown on the revised indicative layout indicates 29 houses which are a mixture of detached and semi-detached. Additional habitat enhanced for newts is also proposed on land outside the development site outlined in blue.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a vacant roughly rectangular field which is narrower to the North and is situated to the East of allotments accessed off Telford Way located further to the West of the site. The Northern boundary is shared with the rear gardens of three properties that face Sundorne Road to the North, there are residential properties to the East accessed off Lesley Owen Way and to the South is a public footpath / public bridleway / cycleway and further to the South is the River Severn.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 on the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 **COMMUNITY REPRESENTATIONS**

4.1 **- Consultee Comments**

- 4.1.1 **SC Highways:** The current application seeks outline consent with all matters reserved hence access, scale and layout etc are not being considered at this stage. Whilst therefore access is not included at this stage it is somewhat implicit that access to the site would be derived via an extension of Lesley Owen Way. This is confirmed by the indicative layout drawing which shows a potential housing scale and layout. The highway authority attach no weight to the indicative drawing at this stage.

It is noted that there is strong local representation within the Lesley Owen Way Development and from the Town Council, including highway related concerns. Whilst therefore noting those concerns, the highway authority consider that a level of housing development is acceptable but that access, scale and design would need to be considered further as part of any subsequent reserved matters application. This would include further consideration of traffic calming measures being introduced to mitigate the impact of the development, in particular the interface between the site and current termination of Lesley Owen Way. Issues regarding the junction of Lesley Owen Way and Sundorne Road have been raised and again mitigation measures will need to be properly considered dependent upon the scale of development promoted.

- 4.1.2 **Environment Agency:** I would have no comments to offer on the application as the site lies wholly within Flood Zone 1, the low risk Zone. Whilst the Flood Map does indicate a small portion of Flood Zone 2 detailed modelling has confirmed that, in fact, the whole site is within the low risk zone. Paragraph 4.1.1 of the submitted Flood Risk Assessment (inc. Table 5) confirms this. You are advised to seek the comments of your Flood and Water management team with regard to surface water management on the site.
- 4.1.3 **SC Drainage:** The drainage details, plan and calculations could be conditioned if planning permission were to be granted.
- 4.1.4 **SC Learning and Skills:** Shropshire Council Learning and Skills reports that the local primary schools are at capacity and forecast to remain that way for the foreseeable future. It is therefore essential that the developers of this and any new housing in this area of town contribute towards the consequential cost of any additional places/facilities considered necessary at those schools.
- 4.1.5 **SC Affordable Dwellings:** If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted

Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full or Reserved Matters application.

The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before an application is submitted.

- 4.1.6 **SC Trees:** I have read the submitted Tree Survey and am in agreement with the findings. I am pleased to see the mature trees will be excluded from back gardens. I can support the application if a tree protection condition is imposed on any approval.
- 4.1.7 **SC Rights of Way:** Public Bridleway 108 Shrewsbury (and cycleway) abuts the southern boundary of the proposed development site, but it will not be affected by the application.
- 4.1.8 **SC Ecologist:** SC Ecology welcomes the new site plan titled 'Proposed Site Plan, project number 1405, drawing number P-01 K dated 2nd December 2016' showing an area of 4670m² of land retained and fenced off from the public open space as great crested newt habitat. This will be conditioned on a planning decision notice, with more detail to be submitted at reserved matters stage regarding habitat management.

In addition to the great crested newt mitigation which has been included within the red line boundary there is a proposal to enhance habitat in the area of land to the south of the development site. This is in the same land ownership. There is also referral to a financial commitment to the landowner to restore Heathgates pond;

- On page 5 of the ecological report, and page 25 of the D&S, it says that the developer will provide some financial support to the council for the clearance and maintenance of Heathgates pond.

- Throughout the ecological report and on page 26 of the D&S it states that the plot of land (areas 4, 5 and 6 as marked in the ecological report and named site 2 in the D&S) to the south of the development site will be used for compensation for the loss of terrestrial habitat close to a breeding pond.

Although SC Ecology welcomes the commitment of the developer to restore Heathgates pond and areas 6 and 5 in site 2 as shown in the ecological report, this cannot be enforced through planning as it is not necessary to make the development acceptable in planning terms.

Area 4 to the south of the development site is required to compensate for the loss of terrestrial habitat from the development area in the red line boundary. The Greenscape Environmental report shows on Figure 22 the Enhancement plan January 2017. Area 4, which is shown as 3607m² should be conditioned to provide wildlife enhancements – this is to include grassland management, new pond, hibernacula, and new area of scrub and fruit trees for the lifetime of the

development.

Based on the information above, SC Ecology considers that the proposal will be able to secure an EPS mitigation licence from Natural England and that the favourable conservation status of great crested newts can be maintained.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered.

Badgers

A sett observed on the western boundary of the development site was considered to be an outlier sett in 2013. During the update survey in 2015 Greenscape Environmental Ltd has reported that this outlier sett has now been removed. There is a second outlier sett within the centre of the proposed development site.

The Badger Group has submitted formal comments and is of the opinion that the sett which is in the middle of the proposed site is a valuable resource for badgers in the area, particular as the sett in the allotments has been lost. Mitigation required for the loss of the badger sett and foraging habitat should be provided at Reserved Matters Stage – appropriate design will reduce any impact that badgers could have on the new development. The ecological consultant should provide a scheme which helps connect a new artificial sett if required (and enhanced foraging area) to the main sett.

Bats & Nesting Birds

The oak tree close to the boundary with the allotment gardens has potential to support bats and would require further survey work should it be removed. If the site layout changes and this tree is to be lost then bat phase 2 survey work will be required to support a reserved matters application (this should be included within the update ecology survey work condition 1 above).

The proposed development site could be enhanced for nesting birds with the incorporation of bird nest bricks within the building design. Hedgerow planting will help mitigate for any adverse impact on nesting birds.

- 4.1.9 **Shropshire Wildlife Trust:** No comments have been received in relation to the revised scheme but objected to the application as first submitted as follows:

The site for the proposed development is immediately adjacent to the Sundorne Canal Local Wildlife Site and includes an area of open green space highlighted as being of value to local communities in our recent green spaces consultation.

Not only was the site itself identified as being of value (community appreciation of green space, ability to watch badgers, birds, etc.) the canal footpath is clearly a very important green corridor for residents of the whole of Shrewsbury and for visitors to the town. This is for a wide range of reasons (recreation, exercise, traffic free commuting/travel, etc.) but with a common theme of the green natural setting of the route. Development in close proximity would exacerbate the impact of the

current housing backing on to the route from Lesley Owen Way and Sundorne Road.

While we welcome the mitigation and compensation measures suggested they do not go far enough to address all the impacts relating to the development.

Buffers and corridors within the development site are limited and are unlikely to be successful in the long term. There is an insufficient buffer area along the southern boundary of the site with buildings coming to within 10 – 15m of the footpath and property boundaries closer still.

The proposed area for compensation (Site 2) needs to be clearly defined, a commitment made to long term management and preferably a handover to the local authority, etc. to secure the long term future of the site.

While Site 2 can be improved for GCN and biodiversity value increased it is also within the Environmental Network and so provides no compensation for the loss of green space within the Environmental Network resulting from the development.

The Environmental Network seeks to address a range of issues connected with green space not just the ecological requirements of a few priority/legally protected species.

We would recommend that the proposal to include a path/cycle route within Site 2 is abandoned

New hedgerows and the management of areas adjacent to the national cycle route should be in line with the recommendations of Sustrans guidance.

4.1.10 **Natural England:** No comments to make on this application.

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

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

Protected Species

If the proposed works could, at any stage, have an impact on protected species, then you should refer to our Standing Advice which contains details of survey and mitigation requirements.

4.2 - Public Comments

4.2.1 **Shrewsbury Town Council:** Objects (to the application as first submitted): The Town Council has concerns on a number of aspects of the proposed development as follows:

- the loss of valuable green space in the area with a corresponding detrimental impact on wildlife;
- increased traffic levels in an already congested area of Shrewsbury;
- these plans represent an over-development of the site with the current proposals;
- sustainable drainage issues of the site and the close proximity to the flood plain.

Whilst members have previously considered these proposals as part of the pre-planning consultation, they are disappointed that their concerns raised with the developer do not appear to have been addressed. The Town Council respectfully requests that this application should be considered at Committee level and not by delegated decision.

4.2.2 **Shropshire Badger Group:** We have read the (original) Ecology report produced by Greenscape Environmental Ltd and wish to express concern regarding the following points:

Reference is made to a 'potential sett' identified in the field. We feel that this is an outlying sett and it was seen to be in use in May 2015 and March 2016, evidenced by freshly excavated soil containing badger hair (we have recorded photographic evidence) A resident whose property adjoins the field regularly feeds badgers in his garden and has a video record of a sow and cub in the garden in 2015. He has seen 3 badgers in the garden on occasion. We are therefore of the opinion that this sett provides a valuable resource for the badgers in this area, particularly as the sett in the allotments was closed down.

A potential sett entrance was identified by Greenscape in 2013 under a shed in the allotments. This sett has now been removed. As far as we can ascertain, it was not closed down under licence and we are therefore unaware as to the circumstances of its closure. However the closure has resulted in the loss of a resource in an area where suitable sett sites are difficult to find.

We question the statement "Compensation for the loss of any outlying sett will be provided with the public open space being secured from public and planted with some fruit trees". We seek further clarification on the relevance of this opinion. The loss of the field will undoubtedly result in the loss of a significant resource for foraging but there is no mention of this fact in the Ecology report produced by Greenscape and no proposal for mitigation. Undoubtedly the badgers will attempt to access their traditional foraging area and we anticipate complaints from new residents regarding damage to newly laid turf and fencing.

There is no clear mention of any overall mitigation and enhancement for the badgers. In the event that the planning application is successful, we feel that a suitable site should be identified and a compensatory artificial sett constructed. Further comment is sought from Greenscape Ecology regarding compensation for the loss of foraging.

4.2.3 **Shrewsbury Civic Society:** Objects

The primary objection of the Civic Society is to the means of access via Lesley

Owen Way. It can be assumed that this number of dwellings could generate in the region of fifty extra vehicles being added to a road system that was built as a cul de sac for a limited number of houses and their cars. Unfortunately this site does not provide any alternative means of entry and exit. Whilst the Society is very much aware of the need to provide additional housing in the town this site has not, we believe, been designated within the SAMdev as a suitable site for housing and as a 'green field' site the case for building here should be substantial. Unless an alternative means of entry and exit to the site other than via Lesley Owen Way can be found we feel that permission should not be granted.

4.2.4 **Heathgates Allotments Association:**

- The report shows that the hedge on the south side, which follows the allotment boundary is to be retained. There is no detail of who will be responsible for the maintenance of this and also the ditch which also follows the hedge line. The ditch and hedge have not been maintained by Sundorne Estates and as such this affects the drainage from the allotments, this needs to be addressed and a long term plan for maintenance agreed.
- The proposal to construct new pools at the bottom of the site near the allotments is also a concern, regarding maintenance and drainage from the allotment. We would like to be assured that the drainage is improved as part of the plan.
- The housing at the top of the site is planned to be situated close to the allotment boundary which may cause privacy concerns both for the houses and allotment holders.

4.2.5 34 letters of objection and a petition with 82 signatures have been received with comments summarised as follows:

- Planning permission has previously been refused at this site over 20 years ago and nothing has changed.
- Increased traffic volume and noise population
- The roads on the estate are already congested with on street parking, which makes them narrow in places and there are blind spots along the road and at a number of the junctions.
- Lesley Owen Way is not suitable or safe for the amount of traffic currently using it and unable to accommodate a substantial increase in traffic.
- There will not be adequate visibility at the new access point close to Byfield.
- Byfield will lose its quiet, safe, pleasant, cul-de-sac position.
- Traffic already queues at the junction of Lesley Owen Way with Sundorne Road which is a very busy road with traffic queuing every morning and evening leading up to Heathgates island. This proposal will exacerbate the situation.
- Increased traffic and queuing at Heathgate roundabout which will increase air pollution
- There will need to be a traffic management system in place.
- Access onto Telford Way would be a much better means of access
- The field was previously an undisturbed area only grazed by horses and a donkey
- Alarmed that the field was being mowed by a tractor in January and hedges trimmed.

- Disturbance of the current wildlife in and around the field which includes birds, newts, bats and badgers
- Overshadowing and loss of light.
- Overlooking and loss of privacy and security
- Decreased property value
- The addition of a footpath is unnecessary as Lesley Owen Way is already served by 2 footpaths. It would not be of any benefit to residents and will attract people from the canal path up through the estate.
- It is unclear who will use the proposed public open space at the end of Rotherfield and who will be responsible for its upkeep and it may attract anti-social behaviour.
- There are existing drainage problems on the site and development might exacerbate existing drainage problems on surrounding land and existing gardens.
- In addition to other developments in the area it will put an even greater strain on local amenities and resources which has a knock on effect to the tax payer.
- Behind the site are allotments where regular fires are lit which create a considerable amount of smoke and this will be very close to the proposed houses.
- Loss of an open outlook and view of the Shropshire Hills.
- Impact on the character of the estate and the countryside setting and semi-rural character of the area by development on one of the few remaining green spaces within Shrewsbury.
- Shropshire has already met its housing target for many years to come.
- SABC Policy LNC4 was intended to ensure that the land remained open and undeveloped.
- Does not understand how it can be described as a windfall site and there is no justification for developing land other than that allocated.

5.0 THE MAIN ISSUES

Principle of development

Access/Highway impacts

Layout, scale, design and appearance

Impact on residential amenity

Trees and landscaping

Ecology

Flood risk/Drainage

Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The development will be situated in an established residential area within the urban development boundary of Shrewsbury. It is close to essential services and facilities that could be reasonably accessed by foot or by cycle and the Town Centre is readily accessible by public transport. The location of the development accords with Shropshire Core Strategy Policy CS2 that identifies Shrewsbury as the main focus for new residential development.

- 6.1.2 Some residents have expressed concern that development of this land was refused approximately 20 years ago and so should be refused again as nothing has changed since then. The development has been described as ‘windfall’ as although within the urban boundary it is not an allocated site. Some residents have commented that Shropshire has already met its 5 Five Year Housing Land Supply (YHLS) target and that this land is therefore not required to be developed and that SABC Policy LNC4 was intended to ensure that the land remained open and undeveloped.
- 6.1.3 The Shropshire Core Strategy identifies a housing requirement of 27,500 dwellings between 2006 and 2026. The Site Allocations and Management of Development (SAMDev) Plan, which seeks to deliver this housing requirement, identifies areas where new housing would be supported in addition to the allocated sites. SAMDev settlement policy for Shrewsbury (S16.1) identifies that appropriate development will be encouraged on suitable sites within the town’s development boundary and that new housing will be delivered through a combination of brownfield and greenfield sites and on sites both allocated for development and on windfall sites.
- 6.1.4 Shropshire can currently demonstrate a five year land supply for the period 2016/17 to 2020/21 based on the housing requirement within the Core Strategy. The 5YHLS statement provides a summary of the housing land supply in Shropshire considered deliverable within the next 5 years and the summary identifies a total of 12,829 dwellings which includes 700 homes to be delivered on windfall sites. There is a risk that without windfall sites such as this Shropshire would not be able to provide sufficient housing to demonstrate a 5YHLS and it’s policies would once again not be considered up to date. This would leave the Council open to speculative development for proposals that meet the NPPF presumption in favour of sustainable development but which are not in accordance with the adopted plan.
- 6.1.5 The site is a green field site but it has no ecological, heritage or landscape designation and the previous SABC policy that sought to protect it as greenspace is no longer relevant. The site is within the urban development boundary of Shrewsbury, in a sustainable location and would help contribute to the housing land supply providing both open market and affordable housing on site. Officers therefore consider the development of this site is acceptable in principle and in accordance with CS2 and S16.1. Subject to compliance with other relevant policies the proposal should be supported provided there are no other material considerations that would indicate otherwise. This will be considered in the paragraphs below.
- 6.2 **Access/Highway impacts**
- 6.2.1 Access is one of the matters reserved for later approval but the indicative layout shows that it will be achieved by an extension to Lesley Owen Way. Highways advice, whilst noting the concerns of residents and the Town Council, has confirmed that a level of housing development is acceptable but that the exact amount of development would be considered at the Reserved Matters stage.
- 6.2.2 Highways have not objected to the proposal which would have ruled out any new development at this site but have advised that at the Reserved matters stage

further consideration would be given to any requirement for traffic calming measures along Lesley Owen Way and dependent on the scale of development consideration of mitigation measures to address the issues regarding the junction of Lesley Owen Way and Sundorne Road.

6.2.3 The developable area has been reduced and this will limit the amount of development but the exact number of dwellings will not be determined until a Reserved Matters application is submitted. However it is considered that a safe means of access can be provided and any future consideration of layout will ensure sufficient parking space is provided for new residents and visitors so that they will not need to park in the street. Some residents have raised concern that they will no longer be able to allow their children to play out in the street as the existing dead end to Lesley Owen Way will become a through route to the new houses. However this is not a material consideration as Lesley Owen Way is a highway and not a playground. The NPPF advises that '*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'. It is considered that the additional traffic using Lesley Owen Way and the junction with Sundorne Road would not result in severe traffic and congestion.

6.3 **Layout, scale, design and appearance**

6.3.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built and natural environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity.

6.3.1 Layout, scale, design and appearance are all matters reserved for later approval and will be decided at the Reserved Matters stage. However the developable area has been reduced to that first submitted and cannot be increased as the remaining land is required to be enhanced for GCN and this can be secured by a condition attached to any approval.

6.3.2 Concern has been raised about the loss of greenspace and the impact on the semi-rural character of the area. However although the outlook from the houses on the edge of this housing estate is towards the existing field and the flood plain of the river beyond there is no right to a view. The development will read as a small extension to the existing residential road and would not impact on the character and appearance within this urban housing estate.

6.3.3 Public views of the site are predominantly from the footpath to the South and the allotments to the West. The existing houses and the site cannot be seen from Telford Way further to the South West due to the significant amount of trees. The development area has been reduced so that there will be a partial green buffer between the allotments to the West and a significant green buffer between the development and the footpath to the South. The proposed green buffer to the South adjacent to the canal footpath has addressed the concerns of Shropshire Wildlife Trust regarding the negative impact the proposal would have had on this green corridor and natural setting of the route that would have been impacted on if new housing had backed directly onto the route in addition to the existing. The

proposed landscaping and future management of the land either side of the footpath to be secured by condition will enhance the green natural setting of the route and tree planting will help screen both the existing and proposed housing.

6.3.4 Although the development may appear more prominent in public views than the existing edge of the Lesley Owen Way estate it is considered that a satisfactory layout and buildings of a satisfactory scale, design and appearance can be achieved without adverse impact on the character and appearance of the locality. Whilst the proposal will result in development of approximately two thirds of the field outlined in red officers consider that it will represent only a small incursion into the larger expanse of green space along the green corridor adjacent to the river. Landscaping of both the remaining green space within the site outlined in red and the land outlined in blue will provide significant visual enhancement of any views of the site.

6.4 **Impact on residential amenity**

6.4.1 Development has the potential to impact on residential amenity due to the proximity and scale of new buildings that might appear overbearing or obtrusive or result in overlooking and a loss of privacy. The application is outline only to establish the principle and consideration will be given to the impact on residents when a detailed reserved matters application is submitted. The indicative layout does however indicate that buildings can be located sufficiently far way so as not to adversely impact on existing residents.

6.4.2 The indicative layout does show that the proposed houses and their gardens to the North part of the site will be located close to the boundary with the allotments with no buffer in between. The Heathgates Allotments association has raised concern that this may cause privacy issues both for future residents and allotment holders. Allotments are not afforded the same level of privacy as private residential gardens and in any case are often close to residential gardens in many situations. The relationship between the allotments and the new houses will be more fully considered when a layout plan and landscaping including boundary treatment is submitted at the Reserved Matters stage. Their concern about future maintenance of the boundary hedge and drainage will also be more fully considered at this stage.

6.5 **Trees and landscaping**

6.5.1 The detailed landscaping of the site is reserved for later approval and this will be fully considered at the Reserved Matters stage. However there are existing trees and hedgerow on the site and development should not be permitted unless it can be satisfactorily demonstrated that important trees to be retained can be protected, and that new development would not result on future pressure to remove any trees to be retained.

6.5.2 An arboricultural report has been submitted and concludes that the proposed scheme is not significantly constrained by the trees and will be possible with the loss of just two grade C trees together with a large number of generally hawthorn scrub. There will be no loss of amenity provided by significant trees at the site and the key Specimens (O1, O4 and O5) will be retained and can be protected using standard tree protection measures. The location of development will ensure that

the existing major trees to be retained will not overshadow the proposed properties and therefore post developmental pressure on the retained trees would be low. There is considerable scope to plant a number of trees within the buffer zone between the development and the pond to the south west and a number of specimens, that will grow to be large, could be planted here to add to the amenity of the area.

- 6.5.3 The submitted tree report and tree protection measures have been reviewed by the Councils tree officer who agrees with its findings subject to the imposition of a tree protection condition. The existing trees are not within a Conservation area or protected by a TPO so could be removed without the Councils consent. Approval of this development will therefore secure the retention of the important higher value trees and the provision of enhanced landscaping of the site.

6.6 Ecology

- 6.6.1 The application is accompanied by a phase 1 and phase 2 Environmental Survey updated in December 2016 which has been viewed by the Councils Ecologist who has no objection to the proposal subject to the imposition of conditions that will provide ecological enhancement of part of the site and also land to the South of the site. Although the site might be suitable as terrestrial habitat for Newts and the development will reduce the amount of undeveloped land the proposed enhancement of this land within the red line of the application in addition to the enhancement of the land to the South will more than compensate for the loss of terrestrial habitat.
- 6.6.2 Shropshire Wildlife Trust, who originally had concerns about the development of this site not only in terms of impact on protected species but also on the loss of valued green space and the wildlife corridor within the Environmental Network, have been re-consulted on the revised proposal, but no comments have been received. However it is considered that the amended plan that provides an enhanced green buffer and enhancement of the green space to the South of the site more than compensates for the loss of part of this field to development. Furthermore the field is a private paddock that can be mown at any time and therefore could provide less ecological value than landscaped gardens and the proposed enhancement of the remaining green space.
- 6.6.3 Whilst the provision of a larger area of land within the red line to be enhanced is sufficient to ensure 'that the favourable conservation status of great crested newts can be maintained' a condition to secure enhancement of the area to the south will ensure that the management of this area is secured for the future and will provide enhancement for both GCN and badgers. The badger condition suggested by the Ecologist will also ensure that the site is re-inspected for badger sets prior to commencement of any development and appropriate mitigation proposed to include an artificial badger sett.
- 6.6.4 Compliance with all the conditions suggested by the ecologist and the provision of a detailed landscaping scheme at the Reserved Matters stage will ensure ecological enhancement of the site itself in addition to enhancement of the area of land to the South of the footpath. The proposed development will not be detrimental to the maintenance of the populations of great crested newts at a favourable conservation

status within their natural range provided the recommended conditions are imposed regarding the method statement for mitigation works and landscape and habitat enhancements. Work will need to be conducted under licence from Natural England and an EPS three tests matrix has been completed and is attached as appendix 2 to this report and should be noted by members.

6.7 **Flood risk/Drainage**

6.7.1 The Council Drainage Consultant has confirmed that the drainage details, plans and calculations can be conditioned if planning permission is granted. Any site is capable of providing a satisfactory surface water drainage scheme and attenuation measures to ensure that the site can be adequately drained and would not result in increased surface water run off to adjoining land. It is recommended that the suggested conditions and informatives provided by the drainage team are imposed.

6.8 **Developer contributions**

6.8.1 The development will be liable for payment of CIL which will provide financial contributions to infrastructure including education. A S106 will ensure the provision of the relevant amount of on site affordable housing in accordance with CS11 and the SPD at the RM stage.

7.0 **CONCLUSION**

7.1 The site is within the urban development boundary of Shrewsbury and will contribute to the housing supply in a sustainable location and is therefore considered acceptable in principle and in accordance with the adopted plan. Access, layout, scale, appearance and landscaping of the scheme are all reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in significant or demonstrable harm to the character and appearance of the locality or highway safety. The proposal would provide ecological enhancement of the undeveloped part of the site in addition to the area to the South of the site, and important trees will be retained and protected subject to compliance with the suggested conditions. The appropriate amount of affordable housing provision (to be determined at the Reserved Matters stage) will be secured by a S106 agreement and the payment of CIL will contribute towards infrastructure. It is therefore considered that the proposal accords with Shropshire LDF policies MD1, MD2, MD12, S16.1, CS2, CS6, CS11, and CS17 and the aims and provisions of the NPPF.

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<u>Committee and date</u>
Central Planning Committee
25 May 2017

<u>Item</u>
6
Public

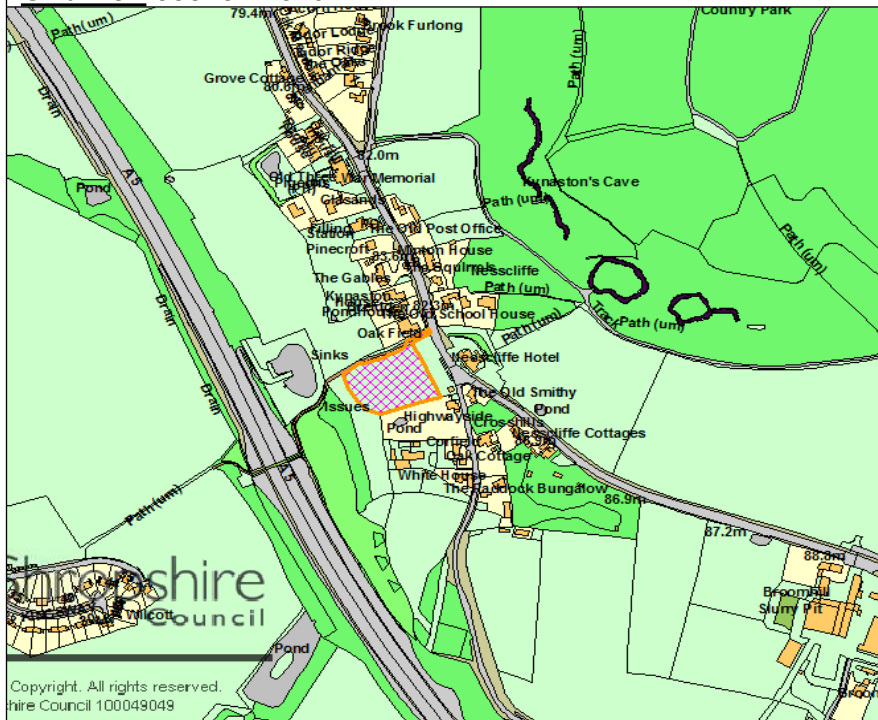
Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/00670/REM	<u>Parish:</u>	Great Ness
<u>Proposal:</u> Outstanding reserved matters application in relation to appearance, layout and landscaping further to outline approval 12/00821/OUT and reserved matters approval for scale 13/02901/REM		
<u>Site Address:</u> Land West Of Nesscliffe Hotel Nesscliffe Shrewsbury Shropshire		
<u>Applicant:</u> Mr TE Jones		
<u>Case Officer:</u> Nanette Brown		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 338281 - 319117



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks reserved matters permission for the **appearance, landscaping and layout** of the site. Outline planning permission was granted on 15th February 2013 for residential development of the site including access; a first reserved matters approval was granted on 4th July 2014 for the scale of the development where a total of 10 dwellings on the site was approved – the original submitted plans for this permission indicated 6x3bed houses, 2x2 bed houses and 2x4bed houses.
- 1.2 This application has been amended with current plans still now showing a total of 10 dwellings comprising of 9x3 bed houses and 1x4bed house, consisting of semi detached houses, with 2no. Detached dwellings. The access roadway winds its way downhill through the site.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the village of Nesscliffe, situated on land opposite The Nesscliffe Hotel. The site is set back to the rear of the hotel car park and falls downhill away from the main road that runs through the village. A public footpath runs along a track that follows the northern boundary of the application site, the closest residential dwellings to the site are set to the north of this track, fronting the main road (Holyhead Road). The closest dwelling to the south of the site is located fronting Wilcot Lane.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

- 3.1 The Parish Council has raised objections to this application on a number of grounds, including that the proposal exceeds the housing guideline for Nesscliffe; that they consider that any dwellings on the site should be of either 2 or 3 bedrooms and which should only front Holyhead Road; that the development shall impact on the public right of way that passes through the site; also concerns regarding highway safety from the proposed access and insufficient open space is proposed on site.

Issues of layout, house sizes and design have been considered as part of this application and are discussed in the sections below; the other matters raised by the Parish Council of the principle of development of the site and highway safety have already been considered by the previous outline and reserved matters planning permissions granted.

As such the scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the Area Planning Manager and Chair of the Central Planning Committee have discussed the application and planning considerations and have agreed that the

application should be determined under officer delegated powers.

4.0 Community Representations

- Consultee Comments

SC Rights of Way – Comments

The amended layout now shows Great Ness Footpath 12 being accommodated on an all-weather surface with a minimum width of 2m; this is now considered appropriate if it is a surfaced minimum width of 2m. We are aware that this path is extremely well used by the local community, especially young families and it also forms part of the promoted long distance path the Shropshire Way, therefore the applicant must be aware of the following:

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

If it is not possible to maintain public access along the footpath at all times whilst building works take place, the applicant should apply to the Mapping and Enforcement Team for a temporary closure of the route (fees apply).

SUDS – No objections

The proposed surface water drainage is acceptable.

SC Affordable Housing – Comments/No objection

The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. It is noted that plot 1 has been identified as a 3 bed affordable dwelling; it is assumed that this will be for affordable rent and will be transferred to a Housing Association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

SC Parks and Recreation - Comments

Under Shropshire Council's SAMDev Plan and MD2 policy requirement, adopted 17th December 2015, all development will provide adequate open space, set at a minimum

standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. The proposed development currently does not show any amenity POS. The provision of 31 bedrooms requires 930sqm public open space.

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

SC Waste Management - Comments/No objection

It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material).

Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes.

Recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed here:
<http://new.shropshire.gov.uk/media/2280/shropshireplusrefuse-and-recycling-planning-guidanceplusseptemberplus2015plusversionplusa.pdf>

Would prefer to see vehicle tracking of the refuse vehicle to ensure the vehicle can manoeuvre the roads of the development.

Shropshire Fire And Rescue Service - Advice

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's 'Fire Safety Guidance for Commercial and Domestic Planning Applications' which can be found using the following link:
<http://www.shropshirefire.gov.uk/planning-applications>.

SC Trees – No Objection

Have reviewed the submitted information and am satisfied that the proposed development will not significantly and detrimentally impact on the oak tree to the north of site. The tree is 15m from the house and, given that the land form elevates the house by around 2.5 metres from the tree base, this should provide reasonable separation. The tree is to the north of the property and will not significantly shade the dwelling or the garden area.

No objection is raised but the following condition is recommended:

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be

retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

SC Highways – No Objection

Subject to the development being carried out in accordance with the approved details and the suggested informatives.

The proposed layout and landscaping scheme for this development, is considered acceptable from a highways and transport perspective.

Suggested Informatives

Technical Approval

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

Landscaping

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

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the car parking and turning areas do not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway

Mud on highway (during construction)

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.

Extraordinary Maintenance (during construction)

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.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

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

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

Section 38 Agreement details (Estate Road)

If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND,

No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into

<http://www.shropshire.gov.uk/hwmaint.nsf/open/7BD73DBD0D733532802574C6002E65E6>

Great Ness & Little Ness Parish Council – Objection

The Parish Council strongly objects to the scale, density, and environmental impact of this proposal.

The housing guideline (SAMDEV) for Nesscliffe is for 30 additional houses over the period to 2026. This guideline is already been oversubscribed. SAMDEV also identifies the preferred site for development (Ness004), to which a developer has already been granted permission for 26 properties, leaving little headroom for other applications in Nesscliffe.

To limit the prospects of overdevelopment in the village, the Parish Council wish to restrict further development to ensure that there is minimal impact on the existing character of the village. In the area of this application, development has historically been of a linear nature, fronting the existing roads and of low density. For this development to conform with the existing properties, it is essential that development on this site be confined to properties that would front Holyhead Road. It is recommended that two properties of 2/3 bedroom, in size, would be appropriate to ensure the SAMDEV requirements of the community are met.

Date comment received: 06.10.2016 The Parish Council object to this planning application for the following reasons:

1. SAMDEV (S16.2 [IV]: Nesscliffe) identifies Nesscliffe as a community hub within the parish. The housing guideline is for around 30 additional dwellings over the period 2026. 15 dwellings have already been identified for the preferred site, NESS004, leaving the remaining sites to bid for the remaining 15 dwellings
2. The number and type of properties proposed for this site meets the guidelines detailed in SAMDEV, however the 'high density' layout is not in keeping with the linear development in

this part of the village. Development on this site should conform to the predominately linear configuration of adjacent properties to ensure the character and appearance of this part of the parish is retained.

3. The proposed access road appears to join with the rights of way, which presents a road safety concern for users of the right of way.

4. The additional traffic to/from the development is likely to conflict with existing traffic joining Holyhead road from Wilcot Lane and housing drives. The applicant has made no effort to improve access/egress by utilizing the hotel car park entrances rather than creating a new entrance.

5. The history of this development is that it has been in the market for over three years and has yet to be sold, which suggests that it is unlikely to be a deliverable site.

6. The suitability of the site is very much in question, a right of way has to be moved, insufficient open space has to be addressed.

Ramblers Association – Objection

Date comment received: 26.09.2016 This is an OBJECTION on behalf of a non-statutory consultee, The Ramblers

We completely agree with the comments made and reiterated by the Rights-of-Way Department. The line of Great Ness Footpath 0419/12/4 must be maintained with an adequate stoned surface of appropriate width to cater for those accessing Nesscliffe from the houses of the Wilcott Estate with push-chairs or buggies. A grass surface which could become slippery in wet weather is simply not acceptable. As the developer has made no changes to the original plans in this respect, the Ramblers now object to this Planning Application.

Date comment received: 11.03.2016 This is an observation from a Statutory Consultee, the Ramblers

As Great Ness footpath 0419/12/4, which has been legally diverted, is used by residents of Wilcott to access facilities in Nesscliffe, and has a stoned surface in its central section, over which shopping trolleys and pushchairs can safely pass; it must be ensured that the section of footpath adjacent to the access road to the development still has a surface suitable for such use i.e. not a grass surface on the rising/falling gradient of the footpath which might become difficult or slippery in adverse weather conditions. This may need to be discussed with the Rights-of-Way Department.

- Public Comments

None received

5.0 THE MAIN ISSUES

Principle of development/ Parish Council objection

Layout and appearance

Landscaping & Trees

Other Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development/ Parish Council Objection

6.1.1 The principle of residential development of this site has been accepted with the grant of outline planning permission ref:12/00821/OUT, including access, and the matter of scale with 10 dwellings to be created on site was established by an earlier reserved matters submission ref: 13/02901/REM. The matters for consideration in this reserved matters application are solely those relating to the layout, appearance, and landscaping. Details of the proposed drainage of the site have also been submitted for consideration as part of the proposals.

6.1.2 It is noted that **Great Ness & Little Ness Parish Council have objected** to the application on several grounds including that the proposal exceeds the housing guideline for Nesscliffe; that they consider that 2 dwellings on the site should be of either 2 or 3 bedrooms and which should only front Holyhead Road; that the development shall impact on the public right of way that passes through the site; concerns regarding highway safety from the proposed access and insufficient open space is proposed on site. The principle of development of the site and its means of access has already been established and agreed as set out in the paragraph above due to the granting of the earlier outline and first reserved matters application. The other issues of layout and design are discussed later on in this report.

6.2 Layout and appearance

6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. This is reflected in Core Strategy policy CS6 and SAMDev policy MD2 which seek to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.2.2 Layout –

The submitted layout shows the access road to serve the properties entering the site at its northern corner then moving down through the site in a curve with the majority of dwellings set to the south of the roadway with their rear elevations orientated south and west. One detached dwelling is now shown to be sited in the inside (to the north) of the curved roadway adjacent to the sites northern boundary. It is considered that the proposed layout maintains adequate distances between the proposed dwellings and those existing dwellings closest to the site in order to maintain and protect residential amenity/privacy.

6.2.3 The Parish Council have objected to the design of the layout of the site and have expressed their views that only houses on the site should be permitted where they front Holyhead Road directly in order to reflect more closely the layout of the street scene and other properties within the village. This site whilst having an access onto Holyhead Road is set to the rear (west) of the existing Nesscliffe Hotel Car Park. The land levels of the site

also fall away from the road not making it possible for any frontage to directly face the street. Officers note that many existing properties within the village immediately front Holyhead Road, but also that to the north of the site other dwellings in the past have also benefitted from planning permissions being granted for dwellings set away from Holyhead Road (in the area to the rear of The Three Pigeons PH). It is also noted that the allocated housing site in SAMDev will likely incorporate housing that will extend away from the road frontage. Officers consider that the proposed layout is acceptable.

6.2.4 The Parish Council have also requested that two dwellings should be of 2/3 bedrooms. Of the 10 dwellings 9 are shown to be 3 bed houses with just 1 4bed house. Officers consider that this is acceptable provision on family sized homes. One of the 3 bedroom homes are also to be an affordable dwelling.

6.2.5 Open Space – There is no shared open space proposed as part of this application. Whilst SC Parks and Recreation have commented that provision should be made, at this present time only development proposals of 20 or more dwellings are required to provide formal open space provision.

6.2.6 **Appearance –**

The semi-detached dwellings proposed are of a modern design with two storeys of red and red multi colour brickwork with brown or grey roof tiles with chimney details to their roofs and canopy style porch roofs over the front doors. The two detached properties vary in design, with the largest 4 bedroom dwelling on plot 9 at the lowest part of the site being split over 3 floors as the site due to the steeper slope at this point, with the lower floor cut into the ground. Materials for these two detached plots reflect the red brickwork and brown roof tiles proposed for the other plots. It is considered that the design and materials chosen are acceptable.

6.3 **Landscaping and Trees**

6.3.1 The proposed landscaping scheme retains the existing planting along the sites southern boundary and proposes new tree planting within the site. Areas of hard landscaping to drives and patio areas are also identified. There is a large and very mature oak tree set just outside of the northern boundary of the site. Details of tree protection measures of existing trees, including the adjacent oak tree have also been submitted.

SC Tree & Landscape Officers have reviewed the submitted information and are satisfied that the proposed development will not significantly and detrimentally impact on the oak tree to the north of site. The tree is 15m from the house and, given that the land form elevates the house by around 2.5 metres from the tree base, this should provide reasonable separation. The tree is to the north of the property and will not significantly shade the dwelling or the garden area.

Planning Officers consider that the proposed landscaping scheme is acceptable for the development proposed.

6.4 Other matters

- 6.4.1 Drainage – Details of a proposed surface water drainage system has been submitted and SC Suds Officers have confirmed that this is satisfactory.
- 6.4.2 Access and Public Rights of Way – The access into the site was previously permitted by the outline planning consent and is not for consideration as part of this application. The public right of way (Great Ness Footpath 12) will remain travelling along the northern edge of the application site. Amendments have been made to the submitted layout in order to try to protect and maintain an adequate pathway of an all-weather surface with a minimum width of 2m. SC Rights of Way Team considers that this is appropriate.

7.0 CONCLUSION

- 7.1 The principle for residential development has been agreed. The Appearance, Landscaping and Layout of the proposed development are considered to conserve and enhance the natural and built environment of this location and is appropriate in density, pattern and design taking into account the sites location within Nesscliffe. Accordingly it is considered that proposal is in compliance with the development plan and can be made acceptable by the attachment of conditions.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ② 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.
- ② 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:
NPPF

Core Strategy and Saved Policies:
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design

RELEVANT PLANNING HISTORY:

12/00821/OUT Outline application for residential development to include means of access (amended description) GRANT 15th February 2013
13/02901/REM Reserved Matters application (Scale) pursuant to Outline application reference

11. Additional Information

[View details online:](#)

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

Planning file 16/00670/REM

Cabinet Member (Portfolio Holder)

Local Member
Cllr Ed Potter

Appendices
APPENDIX 1 - Conditions

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

1. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

2. All hard and soft landscape works shall be carried out in accordance with the approved plan SA11428/01RevD; . The works shall be carried out prior to the occupation / use of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.
3. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.
 - a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.
 - b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

4. No construction (and/or demolition) works shall take place before 07:00 on weekdays and 08:00 on Saturdays nor after 18:00 on weekdays and 13:00 on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

5. No burning shall take place on site including during clearance of the site.

Reason: To protect the amenity of the area and protect the health and wellbeing of local residents.

Informatives

1. This planning permission notice must be read in conjunction with the first reserved matters notice reference 13/02091/REM granted 04.07.2014 and outline notice reference 12/00821/OUT granted 15.02.2013 where additional conditions are attached.
2. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990 that is attached to the outline planning consent reference 12/00821/OUT.
3. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy

document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

4. Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure, appropriate root protection systems (to be approved) will need to be constructed. In order to mitigate against any future root damage to roads, footways and services beneath. Also any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements. In order to maintain any required visibility splays and to keep leaf litter clear of footways and carriageways, etc., in the interests of highway safety.
5. Drainage arrangements shall be provided to ensure that surface water from the car parking and turning areas do not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway
6. Mud on highway (during construction)
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.

Extraordinary Maintenance (during construction)

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.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

This link provides further details

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

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

7. Section 38 Agreement details (Estate Road)

If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be

submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND,

No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into

<http://www.shropshire.gov.uk/hwmaint.nsf/open/7BD73DBD0D733532802574C6002E65E6>

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<u>Committee and date</u>
Central Planning Committee
25 May 2017

<u>Item</u>
7
Public

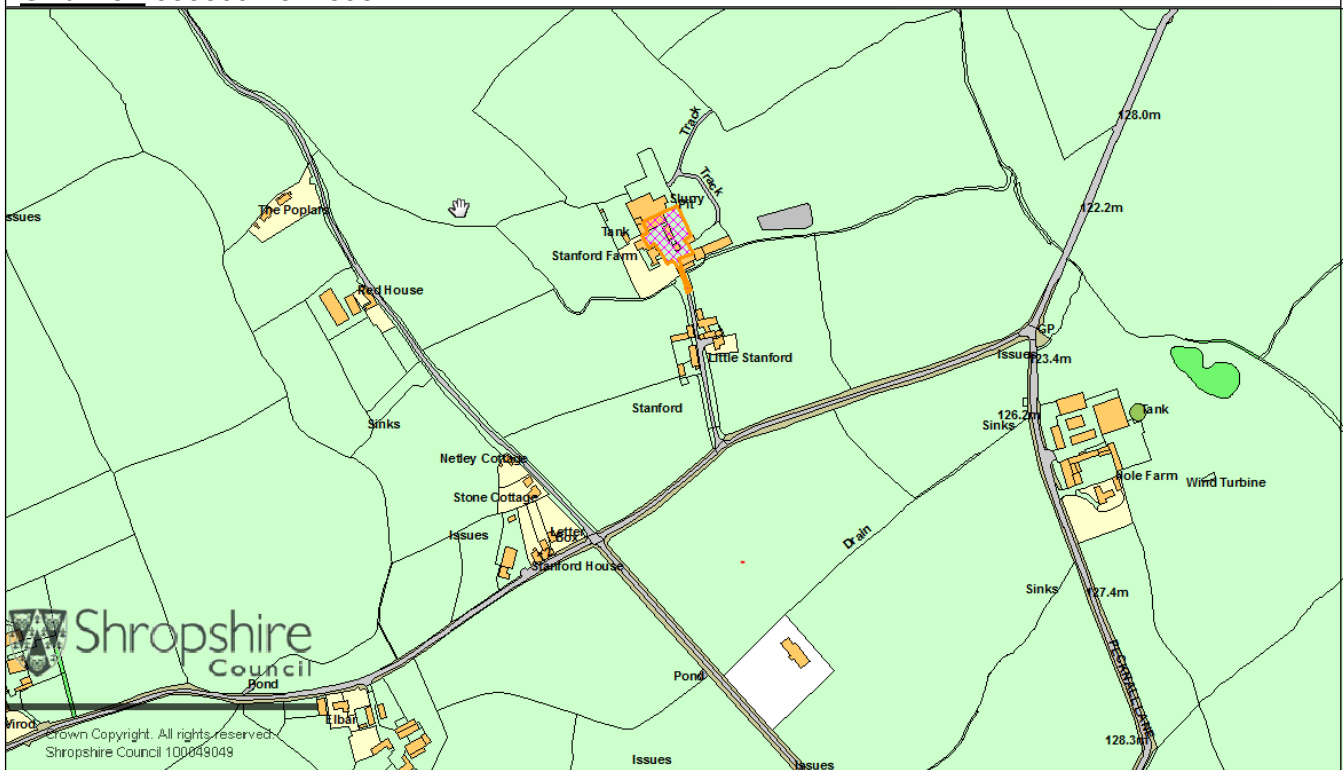
Development Management Report

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

Summary of Application

<u>Application Number:</u> 16/05541/FUL	<u>Parish:</u>	Alberbury With Cardeston
<u>Proposal:</u> Application under Section 73a of the Town & Country Planning Act for the retrospective change of use of farm buildings to allow Weddings, Events and Community Activities		
<u>Site Address:</u> Stanford Farm Stanford Halfway House Shrewsbury Shropshire		
<u>Applicant:</u> Miss L Edwards		
<u>Case Officer:</u> Cathryn Robinson	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 333809 - 312898



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Recommendation:- Grant a temporary three-year approval subject to both the approval of a Traffic/Event Management Plan and conditions set out in Appendix 1.

REPORT

1.0	THE PROPOSAL
1.1	This application seeks permission under Section 73a of the Town & Country Planning Act for the retrospective change of use of farm buildings to allow Weddings, Events and Community Activities. Permission for the conversion of a third building in connection with hosting the aforementioned activities is also sought, alongside permitting the use of a toilet and shower block contained within a further outbuilding.
2.0	SITE LOCATION/DESCRIPTION
2.1	Stanford Farm is an historic farmstead dating from the 18 th /19 th century; the main farmhouse sits to the west, with the heritage barns subject of this application occupying an 'L' shaped footprint to the east. The property, sitting approximately 1.5km North-West of the village of Halfway House, is accessed via a private access track protruding from the unclassified highway which connects C-classified Pecknall Lane to the hamlet of Stanford to the West.
3.0	REASON FOR COMMITTEE DETERMINATION OF APPLICATION
3.1	The Town Council have provided views contrary to the Officers recommendation. This has been discussed with the Local Member whom has requested a committee determination for this application.
4.0	Community Representations
4.1	- Consultee Comments
4.1.1	<p>Alberbury With Cardeston Parish Council <u>28.12.16</u> The Parish Council have some reservations about this. To get to the venue you have to drive through someone else's farmyard and so may cause disruption to them.</p> <p>Additionally the roads around the venue are narrow but that may not be a problem as people will be travelling to and from at different times. Increased use of the venue will also cause some local noise pollution from time to time.</p> <p>On the plus side it will make use of the buildings and should generate some employment and income. We recognise that farming has to evolve and we raise no formal objection to the development.</p> <p><u>04.01.17</u> Sirs, since commenting on this earlier more information has come to light and the matter will now be discussed at the Parish Council meeting on Jan 16th.</p>

	<p><u>24.02.17</u> After further consideration of this application the Parish Council now wishes to oppose the proposal. It is felt that the noise and traffic considerations will cause extreme nuisance to the local, small, community; possibly changing the character of the area completely</p>
4.1.2	<p>SC Ecology <u>13.12.16</u> SC Ecology has no comments to make on this application.</p> <p><i>NB – subsequent to the above initial comments, further information regarding the conversion of the Cow House was submitted thus warranting the reconsultation of the Local Authority’s ecologists.</i></p> <p><u>28.02.17</u> Additional information is required relating to bats and great crested newts.</p> <p>In the absence of this additional information (detailed below) I recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).</p> <p><u>21.04.17</u> No further objection; informatives and conditions recommended, please see decision notice.</p>
4.1.3	<p>SC Archaeology We have no comments to make on this application with respect to archaeological matters.</p>
4.1.4	<p>Shropshire Fire and Rescue As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Services Fire Safety Guidance for Commercial and Domestic Planning Applications which can be found using the following link: http://www.shropshirefire.gov.uk/planning-applications.</p>
4.1.5	<p>SUDs <u>12.12.16</u> We have no comment from the drainage and flood risk perspective, regarding the change of use of farm buildings to allow Weddings, Events and Community Activities.</p> <p><u>18.01.17</u> The existing septic tank of 100 litres capacity is too small for the change of use. The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.</p>
4.1.6	<p>SC Conservation <u>19.12.16</u> Background to recommendation: Stanford Farm is an historic farmstead dating from the 18th/19th century, with the proposed scheme relating to a former L-shaped barn building which had been subsequently altered and subdivided into two separate cowhouses, along with the adjacent loose boxes. These have subsequently been converted for use as a bar and wedding venue.</p>

	<p>The submitted details are noted with regard to the retrospective conversion of these buildings for use for weddings and events, and this is considered to be a less intensive use in comparison to conversion for residential use for example. 'The Stables' is evidently the best example of the historic traditional farm buildings on the site and is now used for ceremonies, with alterations appearing to have been kept to a minimum and it is understood that no further changes are proposed. Provided this is the case, no objections are raised, though the overly domestic looking external decking area is not considered to be sensitive to the character and setting of the former agricultural buildings here and it is preferred that this is removed.</p> <p>With regard to the proposed alterations to the 'cow shed' details of the new doors should be confirmed/conditioned. It is assumed that no further changes in terms of landscaping/boundary treatments etc are taking place but if this is not the case can these also be submitted/conditioned.</p> <p><u>17.02.17</u> No further comments to make. Please refer to our comments of 19th December 2016.</p>
<p>4.1.7</p>	<p>SC Highways <u>09.01.17</u> Do not approve – insufficient information and access details have been submitted to assess the implications of the proposal from the highway perspective.</p> <p><u>27.04.17</u> Based upon the submitted information accompanying the application but acknowledging also the local highway network serving the site, the highway authority would be prepared to support the granting of a temporary planning consent subject to agreeing a Traffic/Event Management Plan. Given that the activity current seeking planning consent is already operating and therefore unauthorised, the highway authority consider it incumbent upon the Traffic/Event Management Plan should be first drafted and submitted to be conditioned as part of any consent granted. The highway authority do not consider it appropriate for this matter should be dealt with by means of a planning condition.</p>
<p>4.1.8</p>	<p>SC Public Protection <u>10.01.17</u> There is not enough information for me to make any meaningful comments on this application at this time. No proposals of how the venue will operate have been provided, no details of the potential numbers of visitors to any one event are given which would help in establishing the level of potential intrusion to the area in respect of noise from traffic movements, no specified times of operation have been provided, no information on what the photographs submitted are showing is given, no information on where noisy activities would take place is provided e.g. music and bar areas and what mitigation there will be to ensure no noise impact to the surrounding area. As a result I recommend that further information to cover the points above as well as a noise assessment is submitted in order that this application can be given appropriate thought. Without further information I would recommend refusal based on the grounds that no assessment of predicted noise impact on existing nearby residential receptors has been provided.</p>

	<p><u>10.02.17</u></p> <p>A noise assessment has been submitted in support of this application reference: 7829/AAR, revision number 1. Table 7829/T11 – Limiting Noise Levels on page 13 states noise levels within the buildings to be used for events which will be necessary to ensure that the noise levels specified as suitable at nearest sensitive receptors will be achieved. The noise levels proposed are relatively low when considering the potential noise levels likely to be created at, for example, a wedding with 100 -120 people after 11pm. The figure stated is 84dB in the Cow Shed, the larger of the two buildings, which is anticipated, will have the most likelihood for noise based on the ability to fit many more people inside that the Stables that has a noise level of 89dB stated as suitable. As a result it is considered necessary for sound insulation to be put in place to ensure at least another 10dB noise insulation from the material of the Cow Shed to ensure that it is able to meet the noise levels stated in the noise assessment at all times.</p> <p>Having considered external noise levels predicted in the noise assessment the assessment is considered to be suitable, and it is agreed that noise levels can be achieved that ensure that the nearest residential receptor is unlikely to be significantly impacted by the noise of vehicles moving to and from the site assuming that the applicant can control the speed of vehicles using the access by enforcing a 5mph speed limit.</p> <p>The acoustic integrity of the Cow Shed and Stables should be increased to reduce noise spill into free field areas by at least 10dB, though 15dB would be a more suitable target. The noise report has highlighted areas of the buildings that could be targeted by additional measures and it is recommended that these be used to direct further thought. Importantly the roof, doors, and windows are likely to need attention. Suitable pre-commencement conditions shall be attached to the decision notice in this regard.</p>
4.2	- Public Comments
4.2.1	This application was advertised via notice at the site. Additionally, one neighbouring property was individually notified regarding the application. At the time of writing this report, a total of fifty-eight representations had been received.
4.2.2	<p>Forty-six comments of objection have been received regarding the scheme. The main concerns highlighted focus on the following:</p> <ul style="list-style-type: none"> • Traffic concerns - overloading of the minor local road infrastructure • Highway safety concerns • Noise pollution • Safety of neighbouring residents • Waste disposal concerns • Scale and regularity of events • Ecology concerns – Bats and Great Crested Newts noted as being in the area • Anti-social behaviour • Unsociable hours of operation • Drop in house price value • Foul drainage concerns • Concerns for future expansion

	<ul style="list-style-type: none"> • Non-conformity with local policy
4.2.3	<p>Twelve letters of support have been received, whose praise for the scheme is summarised as follows:</p> <ul style="list-style-type: none"> • The re-use of buildings that are unfit for modern agricultural purposes which would otherwise fall into a state of disrepair • The scheme 'puts Shropshire on the map' and supports local businesses • Previous events have been well organised and controlled • Safety and security at previous events has been carefully assessed and implemented
5.0	THE MAIN ISSUES
	<p>Principle of development Siting, scale and design of structure Visual impact and landscaping Neighbouring amenity Highways and access issues</p>
6.0	OFFICER APPRAISAL
6.1	Principle of development
6.1.1	<p>National planning policy set out within the National Planning Policy Framework promotes the creation of sustainable rural tourism including the provision of tourist and visitor facilities in appropriate locations. Policy CS5 of the Core Strategy builds upon this by supporting development proposals on appropriate sites which maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to small-scale new economic development diversifying the rural economy, including farm diversification schemes. The reuse/conversion of existing buildings is also supported by both aforementioned policies.</p>
6.1.2	<p>Core Strategy Policies CS6: Sustainable Design and Development Principles and policy CS17: Environmental Networks alongside Site Allocation and Management of Development (SAMDev) plan policy MD7b: General Management of Development in the Countryside work to protect and enhance the substantial number of heritage assets in Shropshire, which are of significance because of their historic, archaeological, architectural or artistic interest. The re-use of such buildings helps to ensure that these assets are retained, limit the visual impact of new construction and provide recycling of the building resource. Stanford Farm is an historic farmstead dating from the 18th/19th century, with the proposed scheme relating to a former L-shaped barn building which had been subsequently altered and subdivided into two separate cowhouses, along with the adjacent loose boxes. The two buildings seeking retrospective permission in particular are considered to be of some historic merit; as such any works to secure the future longevity of these features is supported in principle.</p>
6.1.3	<p>Core Strategy policy CS13 : Economic Development, Enterprise and Employment recognises the importance of supporting rural enterprise and the diversification of the rural economy, with particular support afforded to areas of economic activity associated with farm diversification, green tourism and leisure, and promotion of</p>

	local food and supply chains. The policy continues to note that any development proposals must also accord with policy CS5. The proposal is considered both to afford benefit to the local economy, in terms of supporting local businesses in association with event hosting e.g. florists, caterers, local B&B's etc. and meet the criteria of aforementioned policy CS5.
6.1.4	Policy CS16 promotes the delivery of high quality, sustainable tourism, and cultural and leisure development, which retains and enhances existing natural features and which do not harm Shropshire's tranquil nature. Proposals are required to be of an appropriate scale and character for their surroundings and be situated close to or within settlements. It is also recognised that tourists visit parts of Shropshire because of its intrinsic natural qualities and that they may not necessarily want to be close to a settlement and would rather be in a rural area which is typically quieter.
6.1.5	MD11 of the Site Allocations and Management of Development (SAMDev) Plan states that tourism, leisure and recreation development proposals that require a countryside location will be permitted where the proposal complements the character and qualities of the site's immediate surroundings and meets the requirements of Policies CS5, CS16, (which promotes connections between visitors and Shropshire's natural, cultural and historic environment) and MD13, (which ensures Shropshire's heritage assets will be protected and conserved).
6.2	Siting, scale and design of structure
6.2.1	Proposed is the ongoing use of two 18th/19 th brick built barns, and the conversion of the neighbouring Cowhouse; also recognised to be of 18th/19 th century origin. An existing portacabin within one of the sheds to the West of the site also houses a toilet and shower block. The Cowhouse has been subject to damage since its erection thus at present largely consists of modern metal framework and concrete blocks, with a metal roof atop. The two smaller barns are in currently a good state of repair, and have required minimal alteration works to facilitate their conversion; in terms of conversion works, the intended use for events and weddings is considered less intensive than a traditional conversion for residential use for example. As such, in respecting and enhancing these two non-designated heritage barns, the proposal is viewed favourably.
6.2.2	The Eastern wall of the Cowhouse is currently open, and thus requires rebuilding in order to facilitate conversion. Corrugated steel cladding is the intended construction material, with its colouring intended to match that of the existing courtyard. Four timber bi-fold doors, measuring 1.5m in width and 2.5m, are to be installed to this gable end; incorporating large glazed panels in each door, their installation shall afford wider views to the surrounding countryside. The notable levels of glazing is favoured in working to retain the current openness of this elevation, with the timber framing of the doors softening the overall clad appearance of this elevation.
6.2.3	At full capacity, the venue is noted to hold 200 guests; once fully renovated, the outbuildings at the application site shall be capable of accommodating of containing these guests within the buildings. The provision of 84 car parking spaces has been indicated within the supporting information; full details of these, and associated turning areas, shall be submitted and approved prior to the hosting of any further events at the development site. Forming part of a farm it is not anticipated that the provision of these elements shall be difficult to present. The submitted planning statement also makes reference to overnight camping facilities available for guests; this element of the business shall be addressed in detail via planning condition, in

	order to confirm the suitability of its scale and function.
6.3	Visual impact and landscaping
6.3.1	The development site occupies a relatively isolated location; approximately 90m separates the farmstead from the nearest residential dwelling, and open countryside surrounds the site. Visually, the alteration works proposed in association with this application are generally minimal; the undulating topography to the east, and the distances separating the site from the nearest public vantage point ensure that the development works associated with the proposal shall pose only minimal visual harm.
6.3.2	It is acknowledged that a site intended to host weddings and events will undoubtedly accumulate associated paraphernalia which will contribute, alongside the physical development works, to the visual amenity of the locality. As above noted, the surrounding topography offers shelter to the development site from surrounding public vantage points; the intended car-parking area is proposed to sit to the South-East of the main outbuilding cluster, located within an area which is broadly laid out as a rear courtyard thus allowing a comfortable relationship. Further details regarding the layout and materials of this car parking area shall be secured via condition.
6.4	Neighbouring amenity
6.4.1	The nearest neighbouring resident is located approximately 90m South namely Little Stanford, with additional neighbours located at distances over 200m to the West and South-West of the development site. Open agricultural land occupies much of this expanse with the nearest residential neighbour noted to be sited along the private track which provides access to Stanford Farm. Due to the nature of the proposal, and the requirement for associated traffic to pass by Little Stanford at close proximity, noise levels and their potential impact on the amenity of neighbouring residents must be carefully considered.
6.4.2	At full capacity, the venue is noted to hold 200 guests; once fully renovated, the outbuildings at the application site shall be capable of accommodating of containing these guests within the buildings. As such the bulk of activity and noise associated with any events held at the application shall be confined within these built structures. Permitted development rights, under Class B Part 4 of the Town The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), allow the temporary use of land for no more than 28 days in total in any calendar year; allowing the applicant to erect a marquee at the development site to host events, this has been noted as the fall-back position. In comparison to this fall back position, the use of the outbuildings shall have a lesser impact on the amenity of neighbouring residents in terms of overall noise disturbance.
6.4.3	Mitigation measures shall be sought via condition in order to further work to avoid unacceptable levels of harm to the amenity of neighbouring residents. These shall include measures to increase the acoustic integrity, targeting the generic sound escape 'problem areas' of the roof, doors and windows. To ensure that the appropriate sound levels confirmed within the submitted noise statement are met an additional 10/15dB of sound integrity should be added to the Cow House building prior to any further events taking place at the development site. The issuing of a temporary consent, alongside relevant noise monitoring conditions, shall ensure that the stipulated measures are operating as effective safeguards.

6.4.4	The application site features a courtyard area, which is likely to be utilised on occasion in association with events held; it is acknowledged that any noise produced in this area is likely to have a greater impact on the amenity of neighbouring residents. As such suitable conditions, in terms of both stipulated timeframes for outdoor noise and volume levels, shall be attached to any approval in order to protect neighbouring residents from unacceptable levels of harm.
6.4.5	The vehicular movements associated with hosted events/weddings at the development site are noted to pose some impact to the amenity of neighbouring residents, particularly neighbouring property Little Stanford who is located midway up the track which serves access to the development site. Issues surrounding highways are discussed in full below, however it is noted that suitable conditions shall be attached to any consent granted in order to safeguard the amenity of neighbouring residents as that unacceptable levels of harm shall not arise consequent to traffic movements.
6.5	Highways and access issues
6.5.1	The application site is accessed via a lane, approximately 160m in length, which falls under the ownership of neighbouring property Little Stanford; it has been noted that covenants attached to this access track provides the right of use for residential and agricultural purposes only to Stanford Farm. Though relevant to the practicalities of implementing the proposal, rights of access to Stanford farm is not strictly a planning issue; access to Stanford Farm in association with Weddings/Events is a civil matter which should be resolved amongst the applicant and associated landowner independently of any planning permission granted.
6.5.2	Core Strategy policy CS6 seeks to secure safe developments which, in the context of highway safety, means giving consideration to whether the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated and the adequacy of on-site parking arrangements. As a wedding/events venue anticipated to generate notable levels of traffic, highways is a notable consideration for this application.
6.5.3	Given the type of events that the venue is proposed to host, traffic generated is likely to be somewhat tidal; in conjunction with the local road network – rural and typically of single vehicle width – consideration is advised to be given to the most appropriate routes to and from the site, with signage and supplied visitor information deployed to assign and control this traffic accordingly. Any permission granted therefore would be subject to the approval of a Traffic/Event Management Plan which would confirm all appropriate highways elements of the proposal and offer an opportunity to provide mitigation against any potentially adverse impacts in this regard.
7.0	CONCLUSION
7.1	The application is supported in principle, with the Wedding/Events venue as proposed compliant with relevant Shropshire policies in relation to farm diversification and rural tourism. Planning conditions are to be attached to the decision notice in order to allow the Local Authority to further control the proposals particulars as to ensure that no undue harm in terms of residential amenity would arise. Subject to the approval of a Traffic/Event Management Plan, the granting of a temporary three-year approval is recommended to provide the Local Authority further opportunity to assess the appropriateness of the proposal post implementation of suitably approved mitigation measures.

8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 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. <input type="checkbox"/> The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose. <p>Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.</p>
8.2	Human Rights
	<p>Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above recommendation.</p>
8.3	Equalities
	<p>The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of ‘relevant considerations’ that need to be weighed in Planning Committee members’ minds under section 70(2) of the Town and Country Planning Act 1990.</p>

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and SAMDev Policies:

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

MD2 - Sustainable Design

MD7B - General Management of Development in the Countryside

MD11 - Tourism Facilities and Visitor Accommodation

RELEVANT PLANNING HISTORY:

SA/78/0115 Erection of an agricultural workers dwelling. REFUSE 11th April 1978

SA/90/0120 Erection of an extension to provide hall, study, utilities and sun room with additional bedroom and bathroom above. PERCON 2nd March 1990

11. Additional Information

View details online:

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

Local Member Cllr Ed Potter

Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The use hereby permitted shall be for a limited period being the period of three years from the date of this permission. Unless further permission is granted in writing by the local planning authority prior to the end of that period, the use hereby approved shall permanently cease

Reason: To enable the local planning authority to give further consideration of the acceptability of the proposed use after the temporary period has expired.

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

Reason: To safeguard the architectural and historic interest and character of the Heritage Asset.

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

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

5. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

6. Prior to the hosting of any further events at Stanford Farm full details, location and sizing of the existing drainage fields should be provided including previously carried out percolation tests to ensure that it can cater for the new development. The sizing of the drainage fields

should be designed to cater for 200 persons and in accordance with the Building Regulations H2.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

7. Prior to the hosting of any further events at Stanford Farm details for the parking, turning, loading and unloading of vehicles shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter only be used at all times for those purposes.

Reason: This detail is required prior to commencement to provide for the parking loading and unloading of vehicles off the highway in the interest of highway safety.

8. The applicant will commission a noise assessment to monitor noise at the nearest residential dwelling to ensure that both noise from entertainment and road noise achieves no more than 40dB LAeq(1hr) at the façade of the residential dwelling and no more than 60dB L_Amax due to road noise. A report to show the results shall be provided to the local authority. No further events shall take place until the assessment report has been approved in writing by the LPA. Should additional work be necessary to achieve the noise levels required no further activities shall take place until works have been proposed and approved by the LPA and carried out in full at which point another noise assessment monitoring period shall be carried out at the expense of the applicant. These steps shall be repeated until such a time that noise levels are achieved at the full expense of the applicant. Once achieved these noise levels shall be achieved at all events. Should the local authority undertake monitoring and find limits are not being achieved in future the applicant shall return to the start of this condition and be required to provide further noise assessments.

Reason: To protect the health and wellbeing of residents.

9. No overnight camping in association with Weddings/Events shall take place at Stanford Farm without the prior consent in writing of the local planning authority. Full details, including the site layout and practical operation of this element of the business, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity.

10. Prior to the hosting of any further events at Stanford Farm a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented prior to hosting any further events at Stanford Farm.

Reason: In the interests of amenity.

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

11. No amplified or other music shall be played externally at the premises between the hours of 22.00 and 10.00.

Reason: In order to protect the amenity of occupiers of nearby properties.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the temporary use of land in accordance with Part 4 of Schedule 2 of that Order is not permitted on land within the blue line denoted by the approved location plan.

Reason: In the interests of residential amenity.

13. The use hereby permitted shall operate between the hours of 10:00 and 23:00 hours Sunday to Thursday and 10:00 and 01:00 hours on Fridays and Saturdays only.

Reason: In the interests of the amenities of existing residential property in the locality.

14. The use of the buildings labelled 'Bull Barn', 'The Stables' and 'Cow House' on the approved block plan shall only be used for the purposes of weddings/events. The number of guests for weddings/events shall be a maximum of 200 and no more than 28 weddings/events shall take place in a single calendar year

Reason: To preserve the amenities of the area and highway safety/ free flow of traffic.

Informatives

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

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

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

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

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

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

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

4. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

5. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

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

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

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Committee and date
 Central Planning Committee
 25 May 2017

Item
8
 Public

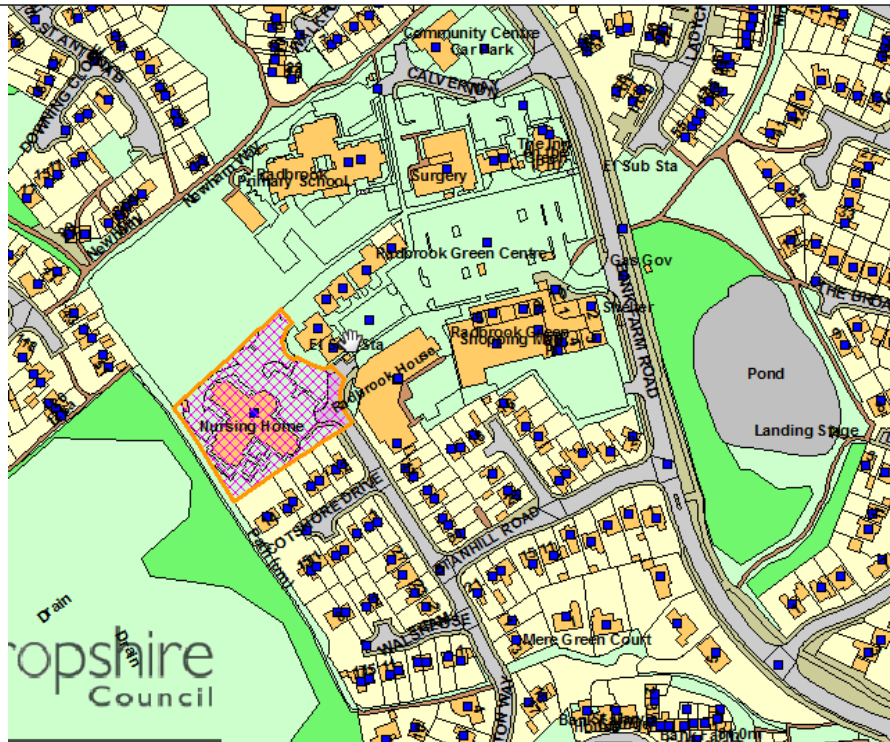
Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/00635/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of 2-storey extension to provide 24 additional bedrooms; re-configuration of existing rooms to provide 6 additional bedrooms; alterations to car parking to provide 38 parking spaces and minor alterations to the front elevation		
<u>Site Address:</u> Radbrook Nursing Home, Stanhill Road Shrewsbury SY3 6AL		
<u>Applicant:</u> Morris & Company Limited		
<u>Case Officer:</u> Nanette Brown		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 347551 - 311203



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

REPORT

1.0 THE PROPOSAL

- 1.1 This proposal seeks full planning permission for the construction of a two storey front extension to Radbrook Nursing Home. This application is a revised scheme, a previous two storey extension having been granted planning permission as part of an earlier application ref 16/00851/FUL increasing the number of bedrooms by 20 (net gain of 16).

This revised application proposes a slightly larger extension, with additional depth of 4 metres and an increase in width of 1.2metres. The extension will provide 24 additional bedrooms and will include re-configuration of existing rooms within the existing building to provide a further 6 additional bedrooms, with a resulting net gain in bedrooms on site of 26. Externally the car parking on site will be amended to provide 38 parking spaces as well as other minor alterations to the front elevation.

- 1.2 The access into the site remains unchanged.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the settlement boundary of Shrewsbury as delineated on Policy Map Shrewsbury S16 INSET 1.

- 2.2 The site is located adjacent to the Radbrook Primary School field and is close to the Radbrook Green Shopping/Community Complex, set to the east of the site. Residential neighbours also lie to the south of the nursing home in the form of dwelling houses and a block of retirement flats is set to the south east of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development is considered to accord with the requirements of the Councils relevant adopted policies. The locally elected member has requested that this application be determined by the Central Planning Committee and the Area Planning Manager and Planning Services Manager have agreed that this application should be determined by the Central Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

SC Suds – No objection

Suggested conditions

SC Highways – No objection

Subject to the development being carried out in accordance with the approved details and the following conditions/informatives.

The application includes a thorough and robust assessment of the car parking facilities proposed and the use thereof. It is considered that this evidence has demonstrated that the number of car parking spaces being provided should be adequate for the size of development.

Notwithstanding the above, this proposal will involve a significant level of vehicular activity, as part of the construction of the development. This activity will need to be well planned, coordinated and controlled to minimise the disruption and adverse effects on the surrounding residential road network.

Suggested conditions – On Site construction method statement to be submitted and the parking, loading and turning areas shown to be provided before the development is brought into use.

Shrewsbury Town Council – Comments

The Town Council understands the need for the additional accommodation and does not object to the extension and it's design of which members feel is in-keeping with the existing building. However, they have concerns as to whether the parking allocation will be sufficient for staff, residents and visitors. They also sympathise with the local residents who are concerned about the increased traffic on the residential roads.

Cllr Keith Roberts - As the Councillor for Radbrook division I request that this application is determined by the Central Planning Committee.

4.2 - Public Comments

22 Objections submitted to this application from 16 addresses and summarised as follows:

Principle of development

The increase in size of the nursing home will be an over-development of the site in

terms of density of buildings on site and an over-intensive use of the land; proposal will alter adversely the feel of the area, bringing increased traffic and parking issues.

Access/Parking

Residents of Radbrook House has a lease in place for car parking spaces that are not utilised by Radbrook Nursing home; new car park layout shows the access to Radbrook House spaces which is maintained by Radbrook House occupants also used to access spaces for the nursing home use – unfair to add this wear and use to adjacent neighbours; increase in traffic accessing the site is a concern for highway safety; increased use of the narrow pavement that goes past Radbrook House used by all local residents and school children accessing the adjacent school site.

Residential Amenity

Increase in size of nursing home will lead to increase in traffic, noise and pollution impacting on adjacent residents – detrimental to residents rights to a quiet and peaceful enjoyment of their possessions and safe environment; overlooking between the new extension and Radbrook House will be unacceptable; will result in a loss of views for neighbours; loss of planting detrimental to the appearance of the area.

Design and appearance

The proposed extension seems to be overpowering in size in comparison to the space and other buildings nearby; re-siting the kitchen to the lower ground floor will result in a three storey building.

5.0 THE MAIN ISSUES

Principle of development

Character and Appearance

Residential Amenity

Highway Safety

Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The application site is located within the settlement boundary of Shrewsbury to which there is a presumption in favour of development. Policy CS2 of the Core Strategy states that Shrewsbury will provide the primary focus for development for Shropshire, providing approximately 25% of its additional housing. The policy goes on to state that Shrewsbury will be a major focus within Shropshire for the provision of infrastructure and services to meet the needs of the town and its wider catchment area. Policy S16.1 of the SAMDev also states that appropriate development that accords with the Strategy will be encouraged on suitable sites within the town's development boundary.
- 6.1.2 Policy CS11 of the Core Strategy supports the provision of housing for vulnerable people and specialist housing provision, including nursing homes, in appropriate locations and where there is an identified need. Policy CS8 also seeks to protect and enhance existing facilities, services and amenities that contribute to the quality of life of residents and visitors. Particular attention will be given to the needs of the elderly in accordance with the Shropshire Sustainable Community Strategy.
- 6.1.3 Policy MD3 of the SAMDev states that planning permission will be granted for sustainable housing development, having regard to relevant planning policies.
- 6.1.4 The extension would provide a net increase of 26 no. bedrooms, which would help to meet the demand for bed space within this Nursing Home for residents of Shrewsbury and the wider catchment area.
- 6.1.5 The site is considered to be sustainably located within Radbrook, approximately 300m north west of the nearest bus stop and within walking distance of nearby services and facilities including a doctors surgery and chemist, grocery and other shops, and allowing ease of access for visitors travelling to the Nursing Home via public transport.
- 6.1.6 In respect of the above, the principle of development is still considered to be acceptable and would accord with Policies CS2, CS8 and CS11 of the Core Strategy and Policies MD3 and S16.1 of the SAMDev.

6.2 Character and Appearance

- 6.2.1 The application site is considered to be of a sufficient size to accommodate the proposed extension without appearing overly cramped or incongruous in this location.
- 6.2.2 The overall scale of the extension has been increased slightly by the revised design now submitted with additional depth of 4 metres and an increase in width of 1.2 metres. It is however still considered to be acceptable when viewed in the context of the existing building. The proposed ridge height of the extension would also slightly exceed that of the existing building by approximately 0.5m; but this would

not result in an extension which could be considered to be overly dominant or result in an obtrusive addition to the existing building.

- 6.2.3 Although its siting would be to the front elevation, the extension would be located at the furthest end of the building, away from the adjacent highway and north of the existing car park. This is considered would help to minimise its prominence when viewed from the street scene. There will be a distance of approximately 45 metres between the private living accommodation of Radbrook House and the side elevation of the extension, and approximately 38 metres between the conservatory to Radbrook House and the extension.
- 6.2.4 Materials are stated to match existing which would help to integrate the extension with the existing building.
- 6.2.5 Overall, the character and appearance of the proposal would appear appropriate in its context and is not considered would result in any adverse impacts on existing or proposed levels of visual amenity, complying with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.

6.3 Residential Amenity

- 6.3.1 Separation distances between existing properties and the proposed extension are considered to be appropriate. There will be a distance of approximately 45 metres between the private living accommodation of Radbrook House and the side elevation of the extension, and approximately 38 metres between the conservatory to Radbrook House and the extension. It is not considered that these distances will result in any significant detrimental impact through overlooking or over-dominance of residents in Radbrook House. It is also noted that the rear elevations of the other closest residential properties to the application site, that front Cotshore Drive, are located 54 metres away.
- 6.3.2 The existing tree line boundary to the north would help to screen the extension from the adjacent playing field and is shown to be retained. The location of the proposed refuse store and kitchen within the lower ground floor of the extension are also considered to be acceptable.
- 6.3.3 The nursing home is located adjacent to an area where the community of Radbrook Green is centred in terms of facilities and services; in addition to the nursing home it has an existing school, doctor's surgery and chemist, shops, public house, and takeaways. This already attracts visitors/customers to this area who pass through and near to the site throughout the day. Whilst the provision of an additional net increase of 26 beds to the nursing home would increase footfall and vehicular traffic to the site and area surrounding, it is not considered that this increase would have any significant and detrimental impact on the occupants of adjacent residential properties.

6.3.4 Overall it is considered that the proposed development would not result in any undue loss to existing or proposed levels of residential amenity and the development is considered to comply with Policy CS6 of the Shropshire Core Strategy and Policy MD2 of the SAMDev.

6.4 Highway Safety

6.4.1 Access into the site remains unchanged from existing.

6.4.2 SC Highways consider that the number of car parking spaces shown to be provided would be adequate for the size of the resulting development and that the likely increase in vehicle movements to the site during the actual building works can be controlled by condition requiring a Construction Method Statement to be submitted and approved by the Local Planning Authority.

6.4.3 Amended plans have been submitted that it is understood now show the correct number of parking spaces that are leased to residents of Radbrook House within the application site. Agreement between the applicants and residents with regards to the lease and its detailed contents are a private civil matter between the parties involved.

6.5 Drainage

6.5.1 SC SUDS raises no objection to the scheme subject to a condition to secure a surface water drainage scheme.

7.0 CONCLUSION

7.1 Core Strategy Policies CS8 and CS11 support the proposal for specialist housing provision provided there is an identified need and the proposed location is sustainable. This revised proposal would provide the additional accommodation required meeting the increased demands which the Nursing Home is experiencing, within the settlement boundary of Shrewsbury, to which Core Strategy Policy CS2 and SAMDev Policy MD3 also supports. The principle of development is considered to be acceptable.

7.2 The proposed development is considered to be appropriate in terms of its overall layout and scale and would be sympathetic in terms of its impact on the existing and proposed locational context. Any impacts on existing and proposed levels of residential amenity are considered to be appropriate and the scheme would raise no highway safety or drainage implications.

7.3 Overall, the proposed development is considered to be acceptable and would comply with the above mentioned policies in the Core Strategy and SAMDev.

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:
NPPF

Core Strategy and Saved Policies:
CS2 - Shrewsbury Development Strategy
CS6 - Sustainable Design and Development Principles
CS8 - Facilities, Services and Infrastructure Provision
CS11 - Type and Affordability of housing
MD2 - Sustainable Design
MD3 - Managing Housing Development

RELEVANT PLANNING HISTORY:

16/00851/FUL Erection of extension to provide 20 bedrooms (net 16), alterations to car parking and minor alterations to the front elevation GRANT 6th July 2016

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items

containing exempt or confidential information)

Planning file 17/00635/FUL available on public register

Cabinet Member (Portfolio Holder)

Local Member
Cllr Keith Roberts

Appendices
APPENDIX 1 - Conditions

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development involving the use of any facing or roofing materials shall take place until details or samples of the materials to be used have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless any variation is agreed with the Local Planning Authority.
Reason: To ensure that the external appearance of the building is acceptable and to comply with Policy CS6 of the Core Strategy and Policy MD2 of the SAMDev.
4. Prior to commencement of development, detailed proposals for disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
Reason: In the interests of managing surface water flood risk impacts both on and off site, potentially resulting from the development proposals in accordance with Core Strategy Policies CS18 and CS6 and SAMDev Policy MD2.
5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works
 - control and management of hgv's including turning facilities and routingReason: To avoid congestion in the surrounding area and to protect the amenities of the

area in accordance with Core Strategy Policy CS6 and SAMDev Policy MD2.

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

6. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter, free of any impediment to its designated use.
Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area in accordance with Core Strategy Policy CS6 and SAMDev Policy MD2.

Informatives

1. The Local Planning Authority (LPA) in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

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

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
5. 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.
6. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage

or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

7. 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 (i.e. construction vehicles).

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Committee and date
 Central Planning Committee
 25 May 2017

Item
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 Public

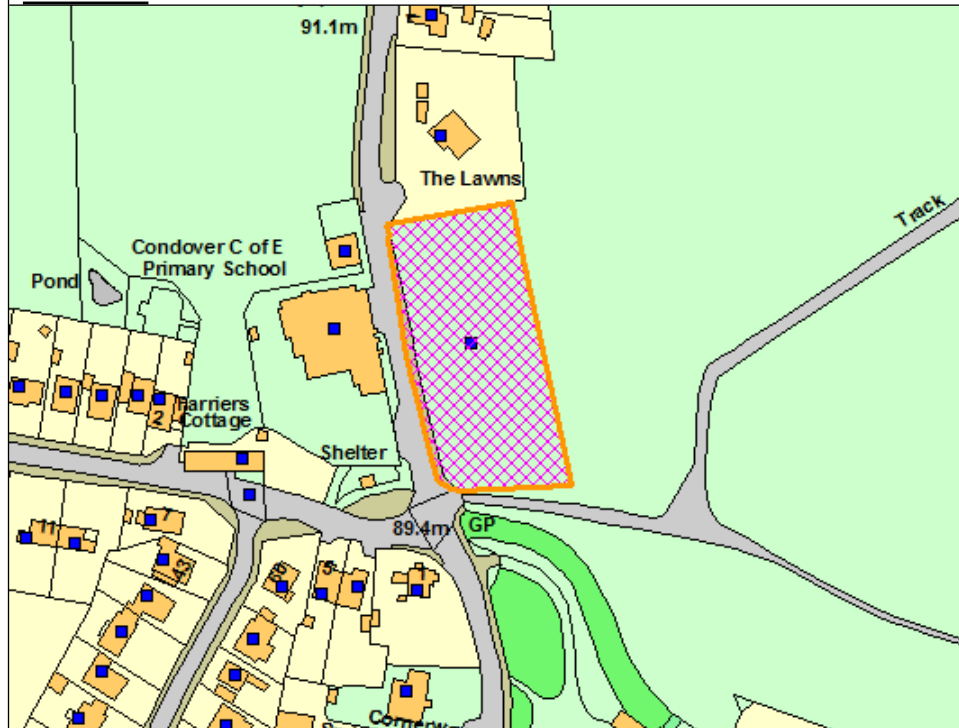
Development Management Report

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

Summary of Application

<u>Application Number:</u> 17/00863/OUT	<u>Parish:</u>	Condover
<u>Proposal:</u> Outline application for the erection of 5 detached open market dwellings to include means of access		
<u>Site Address:</u> Proposed Residential Development Land Condover Shrewsbury Shropshire		
<u>Applicant:</u> Mrs Wendy Maddox		
<u>Case Officer:</u> Frank Whitley	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 349402 - 306188



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

- 1.1 The application seeks Outline application for the erection of 5 detached open market dwellings to include means of access only.
- 1.2 The indicative layout proposes five dwellings facing, though set back from the road, with a single access from the highway to serve all five dwellings. Parking and turning space is proposed to the front of each dwelling
- 1.3 The application has been submitted alongside 17/00862/OUT which relates to a parcel of land 100m to the north. That application for three dwellings was approved under delegated powers on 20 April 2017.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a rectangular parcel of unmanaged land extending to 3,300sqm approx., situated immediately opposite Condover CofE Primary School. There is evidence of an old hard surface covering much of the site under existing vegetation.
- 2.2 The site is allocated for housing under the SAMDev Plan under ref CON0006 with a provision for 5-10 dwellings, subject to satisfactory access, layout and design.
- 2.3 The site lies adjacent to the highway, bordered by a mature hedgerow. There are generally unrestricted views across the site towards open farmland and the Wrekin to the east.
- 2.4 The northern boundary is marked by a line of trees but are just outside of the application site.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers

4.0 Community Representations**Consultee Comments****4.1 Public Protection- no objection**

Having considered the details contained within the applicaiton I have no objection

in principle and no conditions to recommend. Should planning permission be granted and a reserved matters application be received I would recommend the applicant keeps properties positioned to the rear of the site away from the road to remove noise impacts from the road on any future residents of the proposed properties.

4.2 **Ecology- no objection, conditions and informatives only**

4.3 **Conservation- no objection**

In considering this planning application, due regard to the following local and national policies, guidance and legislation is required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF) and the Planning Practice Guidance. As the proposal is immediately outside of and on a main approach road into the Condover Conservation Area, special regard to Section 72 of the Planning (Listed Buildings and Conservations Area) Act 1990 is also required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area.

A Design and Access Statement has been submitted with this proposal but this does not appear to address or recognize the position of this site directly across from and immediately north of the northerly arm of the Conservation Area boundary. As noted in our recent comments on a similar application north of this site (17/00862/OUT) the site is located on the main approach road from the north into the historic settlement of Condover, much of which is designated as a Conservation Area, and the position of the Conservation Area is relevant to this proposal and should be addressed accordingly in the application and in the Design and Access Statement. There are also heritage assets located in close proximity to the subject site, including the Grade II listed former Smithy on Station Road, the Grade II listed timber framed Old School House at the highway junction with Station Road, and the current Condover Primary School which is evident on historic mapping. Other listed buildings are located to the south of the property within and at the edge of the settlement. The impact of this development on these heritage assets should be addressed by this application and should inform the development pattern and built form on these lands.

As we similarly commented on application 17/00862/OUT, the subject site forms a very wide gap between the modern dwelling known as The Lawns and the edge of the settlement to the south and this generous gap in the built form currently allows for views across rural/agricultural fields to the east; this affords and establishes a visual relationship between the edge of the settlement and the agricultural lands adjacent which is a characteristic feature of this part of Condover. The hedging running along the frontage of the site also contributes to a sense of enclosure to the property.

The indicative pattern of development presented in the current scheme is very suburban in form and layout and this may not be appropriate for this site. As noted in our comments on application 17/00862/OUT, our mapping indicates a particular pattern of development that has been established along the east side of the approach road into the settlement which consists of a series of mostly semi-detached dwellings or three-unit dwellings such as Pyepit Cottages that allow for decent gaps between the built forms along this row, and results in an established visual relationship with the agricultural fields to the east, which is desired to be retained. While it is understood that this is an indicative proposal, a less suburban pattern and form of development would likely be more appropriate in this location and would better accord with the relevant policies, guidance and legislation referenced above in terms of the historic environment.

We would again note that the built form should represent an appropriate set back, layout and pattern as well as architectural detail, materials and finishes which retains the edge of settlement context of the area and which follows the existing overall development pattern and vernacular detail of the existing built form making up the area. Should this application be approved we would ask that our Team is consulted at the Reserved Matters stage so that these matters as well as hard surfaces and landscaping, and boundary and enclosure details can be fully assessed and agreed.

4.4 **SC Highways- no objection, conditions and informatives only**

The proposal is an outline application for 5 dwellings with approval for the means of access and all other matters reserved for future approval.

The site is located at the southern end of a row of dwellings in a linear grouping along the Class C road through Condover which has a 30 mph speed limit. The proposal is for five dwellings served by a single point of access from the Class C road. A single point of access is required at this location which is directly opposite Condover C of E Primary School and was requested by highways officers who were approached for an informal talk prior to the application being submitted. Adequate parking and turning can be provided for each dwelling and vehicles will be able to exit in a forward gear. It is considered that the proposal would be acceptable from a highways perspective.

Further comments received:

Further our recent conversation regarding multiple accesses being formed along the site frontage, it is highly unlikely that visibility requirements would be met, particular towards the northern end of the site. The visibility splay shown from the central point of access shown on the block plan affords 2.4 x 43 metres, which is in accordance with Manual for Streets.

4.5 **Archaeology- no objection**

We have no comments to make

4.6 Parish Council- object

At its meeting on 4th April 2017, Condover Parish Council resolved to object to this planning application on the following grounds:-

1) Village Sustainability - Provision of footpath.

This development fronts directly onto the main route for traffic into and out of the village. We want to see provision of a footpath included in this application from the proposed new properties to the school as per discussions with Shropshire Council Highways Department (Dan Sims 22/9/16) and as per the Condover Place Plan (CIL 1/2/3 list) which was submitted to Shropshire Council on 28/10/16 (David Fairclough).

2) Village Sustainability - Cumulative development.

SAMDEV which was adopted on 17/12/15, covers the period up to 2026 and includes the provision of between 20-25 new houses for Condover. In the 15 months since approval, the village of Condover has seen the addition of 19 new houses (7 at The Coppice, 10 in Brook Close and 2 in the conversion of Condover House), with the 20th currently under construction (at Condover House).

Whilst this site is within the village development boundary, recent cumulative development is out of scale with both the size of the Village and with the wishes of the community as consulted in the preparation of the "Condover Village Design Statement (May 2010)" which specifically calls for the provision of housing to be phased over the period up to 2026.

3) Design

The number of car parking spaces proposed for each property needs to be increased as there is no overflow parking possibility in the vicinity. Additionally the layout of the driveways needs to be rethought such that vehicles are guaranteed to exit the properties driving only in a forward direction.

4.7 Public Comments- three representations received

- ☐ One neutral representation requests that the development should incorporate affordable housing suitable for first time buyers.
- ☐ One objection has been received on the grounds of highway safety, particularly due the primary school opposite and the volume of traffic and parked cars at drop off/pick up times.
- ☐ One objection has been received from the Condover pre-school which states that the layby, bus stop and parking area outside the school are not clearly shown on the plans, therefore parking issues have not been fully taken into account in the application. An alternative access to the south of the plot

should be an alternative.

5.0 THE MAIN ISSUES

Principle of development
Character and Appearance
Affordable Housing
Highways and Access
Trees
Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise.

6.1.2 Since the adoption of the Shropshire Council Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

6.1.3 Shropshire Council Site Allocations and Management of Development (SAMDev) Plan was adopted in December 2015. The SAMDev Plan document sets out Development Management policies which provide specific guidance to meet national policy requirements principally in the NPPF or to provide more detailed guidance to supplement those policies already adopted in the Core Strategy. The Inspector's report on the SAMDev Plan (October 2015) found that a five year housing supply (5YHLS) was in place and the vast majority of appeals where the 5YHLS has been considered as a main issue, have decided in the Council's favour.

6.1.4 The Council has published a revised 5YHLS Statement on 26 August 2016 which has confirmed 5.97 years supply of deliverable housing land.

6.1.5 The application site lies in a countryside location under Core Strategy CS5 where open market residential development would not normally be supported. However the Parish of Condover has opted to be a Community Cluster settlement in the adopted SAMDev Plan where, under CS4, some residential development is supported.

6.1.6 CS4 refers to SAMDev plan to identify Community Hubs and Clusters and is dealt with by MD1 (Scale and Distribution of Development) and MD3 (Delivery of

Housing Development).

- 6.1.7 Policy S16.2(vii) (Dorrington, Stapleton and Condover) states:
Dorrington, Stapleton and Condover are a Community Cluster in Condover Parish where development by infilling, groups of houses and conversions of buildings may be acceptable on suitable sites within the development boundaries for the villages identified on the Policies Map, with housing guidelines of around 30-35 additional dwellings in Dorrington, 5 in Stapleton, and 20-25 in Condover. There are allocated housing sites in Dorrington and Condover which are identified on the Policies Map. The Parish Council's Village Design Statement seeks phasing of the two sites in Condover and stresses the need for the sites to include an element of affordable housing.
- 6.1.8 The site has been allocated for 5-10 dwellings according to the Master Policy Map of the adopted SAMDev Plan under reference CON006, though is subject to satisfactory access, layout and design.
- 6.1.9 Having regard to the requirements of Shropshire Council settlement strategy, S16.2 (vii), CON006, the principle of development is established.

6.2 **Character and Appearance**

- 6.2.1 The indicative plans submitted do not include elevation drawings, though it can be concluded from the plans that in principle, five dwellings fit comfortably within the site in accordance with CS6. Whilst not amounting to an objection, SC Conservation team has commented that the indicative layout has a suburban appearance and potentially in conflict with the historic setting of the nearby Conservation Area. Conservation has also noted the value of views to the east between gaps in existing dwellings further north, which the indicative plans do not replicate.

Having regard to the indicative plans, it is considered on balance that Conservation concerns do not amount to a reason to refuse the application as there is scope to address them at the Reserved Matters stage.

6.3 **Access**

- 6.3.1 CS6 seeks to ensure that all development is designed to be adaptable, safe and accessible to all.
- 6.3.2 The application proposes a single access point mid-way along the road frontage of the site. Notwithstanding the fact that this access has raised no objection, SC Highways team has re-visited the site to assess whether an alternative could be provided which would accommodate the views of the Parish Council and Conservation.

6.3.3 SC Highways has confirmed that multiple accesses along the road frontage would not achieve the required visibility in both directions. In doing so, representations made by the Parish Council and School have been taken into account.

6.3.4 It should also be noted that the existing field gate into the site from the south is accessed from a track which is outside of the applicant's control.

6.4 **Affordable Housing**

6.4.1 Condover is not a designated rural Parish, therefore the threshold for affordable housing contributions is 10 dwellings and 1000sqm floor area.

6.4.2 The Council's housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required.

6.5 **Trees**

6.5.1 There are no trees within the application site though it is noted that there is a line of existing trees along the northern boundary, albeit outside of the boundary. It is recommended by way of informative that an AIA is submitted at the reserved matters stage to demonstrate how rooting zones will be protected.

6.6 **Other Matters**

6.6.1 The Parish Council has raised concern about the impacts of cumulative development in Condover. In this case the application is allocated for housing as per the adopted SAMDev Plan. It is not considered reasonable to refuse an application, even if housing number guidelines according to S16.2(vii) may already have been exceeded.

7.0 **CONCLUSION**

7.1 Overall the principle of development is established as per SAMDev Plan policies S16.2(vii) and CON006. Access arrangements are considered acceptable. In other respects the indicative plans submitted are considered to comply with the relevant sections of the NPPF, CS4, CS5, CS6, MD1, MD3 MD12 and MD13. Outline planning permission is 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, 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework
 CS4 - Community Hubs and Community Clusters
 CS5 - Countryside and Greenbelt
 CS6 - Sustainable Design and Development Principles
 MD1 - Scale and Distribution of Development
 MD3 - Managing Housing Development
 MD12 - Natural Environment
 MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

17/00863/OUT Outline application for the erection of 5 detached open market dwellings to include means of access PDE

11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder)
Local Member
Cllr Dan Morris
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

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

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

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

5. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.
Reason: To ensure a satisfactory means of access to the highway.

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

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

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

8. Prior to first occupation / use of the buildings, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the great crested newt RAMMS, as set out in section 6.3 of the Phase 1 Environmental Survey (Greenscape Environmental, July 2014).
Reason: To demonstrate compliance with the great crested newt RAMMS.

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

- A minimum of 2 external bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site.
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.
Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 118 of the NPPF.

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

10. Notwithstanding the provisions of the Town and Country General Development Order 1995 (or any order revoking or re-enacting that order with or without modification), Any fence or other means of enclosure at the road junction/access of the site shall be set back to a point 3 metres from the adjoining carriageway and no obstructions placed or allowed to remain above 150mm. Those areas shall thereafter be kept free of any obstruction at all times.

Reason: In the interest of highway safety

Informatives

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

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

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

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

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

2. Mud on highway

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

No drainage to discharge to highway

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

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:
construct any means of access over the publicly maintained highway
(footway or verge) or

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

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

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

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

3. The application form state that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval at the reserved matters stage. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

4. It is recommended that an Arboricultural Impoact Assessment (AIA) is submitted at the Reserved Matters stage to demonstrate that adjacent trees outside the northern boundary of the site can be safeguarded.



Committee and date

Central Planning Committee

25 May 2017

Item

10

Public

Development Management Report

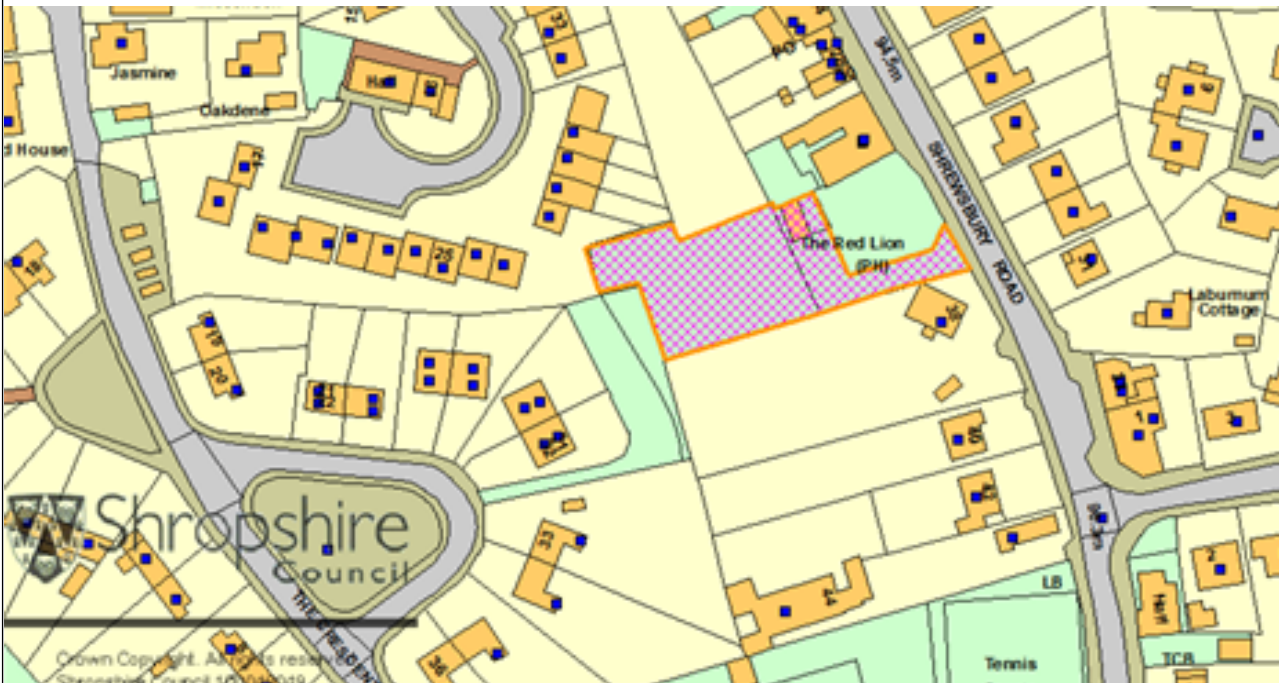
Responsible Officer: Tim Rogers

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

Summary of Application

<u>Application Number:</u> 17/01120/FUL	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Erection of 5no dwellings, associated parking and landscaping		
<u>Site Address:</u> The Red Lion Inn 32 Shrewsbury Road Bomere Heath Shrewsbury SY4 3PD		
<u>Applicant:</u> Mr Stephen Nuttall		
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 347444 - 319577



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of five dwellings (a terrace of three and two semi-detached) and associated parking and landscaping.
- 1.2 It is a re-submission following approval in 2014 for three detached houses (13/02072/FUL) which is an extant permission.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site for the houses is a small grassed 'paddock' area, which has previously been used as part of the pub garden. The site is surrounded on the North, West and South by residential gardens and the pub car park and Shrewsbury Road lies to the East. There are mature trees on land to the North and West. The proposed vehicular access is via a new access to the pub car park and there is currently a path to the rear running along the Southern boundary and is used by the public as a convenient route between 'The Crescent' and 'Shrewsbury Road'.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the Area Planning Manager considers that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Highways:

Recommendation: No Objection – subject to the development being constructed in accordance with the approved details, and the recommended conditions and informatives.

Observations/Comments: This application is an amended scheme to the previously approved planning permission 13/02072/FUL for erection of three detached dwellings, which itself was an amended scheme to previously approved permission 11/00320/FUL for the erection of two detached houses. The amendments to the layout change the dwellings to 5 two bedroom dwellings. The amendments are all internal to the site and the access arrangements remain the same as those previously approved. Each dwelling will have two parking spaces with three of those spaces located within the car park of the public house and these should be clearly marked. The turning space at the end of the drive for house 1 appears tight, adequate turning space is required so that vehicles will exit in a forward gear. I do not raise any highway objections in principle to permission being granted for this application and recommends conditions to be attached to any permission granted:

- 4.1.2 **SC Drainage:** The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.
- 4.1.3 **SC Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.
- 4.1.4 **SC Ecology:** Provides informatives regarding landscaping and wildlife including bats and birds
- 4.1.5 **SC Trees:** In terms of the impact and implications on trees and the arboreal environment, the proposed development is essentially an amendment to an existing approved application ref: 13/02072/FUL. The application will not result in any additional impact to retained trees or bring about a situation where trees impact on future residential amenity of the dwellings. No objection is raised to the application, however the tree protection details, including the 'no dig drive, method statement need to be updated and agreed prior to the commencement of any development. Recommends a tree protection condition.

4.2 Public Comments

- 4.2.1 Bomere Parish Council: Voted unanimously to object to this proposal. Councillors felt that there was not enough space on the site to fit 5 houses , even though they covered a footprint similar to the 3 houses previously accepted by planning.
- ☒ The recommended number of houses per hectare would be breached and the whole site would be too compressed.
 - ☒ Pedestrian flow along the right of way leading to The Crescent would be endangered with up to 6 cars reversing out of houses on to the narrow service road.
 - ☒ The houses have no garages and linear parking as at nos1 and 2 is most congesting and dangerous to children walking to school along the right of way.
 - ☒ The loss of parking spaces due to the creation of the new car access and the allocation of three places to the new houses means that the already congested car park especially at school times will be almost impossible to use safely.
 - ☒ The reduction of this carpark is a reduction in a village amenity.
 - ☒ Councillors felt that 3 houses on this site represent a reasonable number whilst accepting that 5 houses may be easier to sell than 5

4.2.2 One letter of support from Joules brewery in support of the application:

- ② The development will support the pub for a number of reasons.
- ② The area will be visually improved and 5 more modest starter homes is better suited to the location than 3 more expensive detached houses.
- ② There is no right of access from 'The Crescent' to 'Shrewsbury Road' and the proposal will secure the use of the currently unkempt footpath by the public and improve security and safety and improve access to the pub in addition to the village amenities.
- ② The pub is happy for the car park to continue to be used by the public who are visiting the shop or taking and collecting children from school and it is not fully utilised by pub customers.
- ② The redesign and remarking of the carpark to be paid for by the developer will improve its usability for all and the provision of 3 parking spaces for the proposed houses would have negligible impact on the overall use of the car park.

4.2.3 Three letters from nearby residents summarised as follows:

- ② The proposal will result in the loss of valuable green space previously enjoyed by residents.
- ② The area was previously either a beer garden for the pub or the garden for the pub landlord.
- ② The development does not respect local context and street patterns and in particular the scale and proportions of surrounding buildings and would significantly alter the fabric of the area.
- ② The proposal is an over development of the site with very little space for landscaping and fitting five dwellings in will be out of scale and out of character with the surrounding development.
- ② It would impact on wildlife habitats, trees and neighbouring residential gardens.
- ② The trees along the boundary with Chapel Close overhang the gardens and branches fall into the garden.
- ② Concerned about the proximity of the new dwellings to the new replacement bungalows in Chapel Close that might result in overlooking.
- ② Concerned that the construction activities and removal of trees might impact on a 150 year old garden wall at 38 Shrewsbury Road.
- ② Noise, disturbance and loss of privacy as a result of five families and the

new road adjacent to the boundary with 38 Shrewsbury Road.

- ② Highway safety implications due to increased traffic.
- ② The proposed access road will run through the footpath that provides access for school children and will be a danger to pedestrians.
- ② The proposal would impact on the footpath to the Crescent and Chapel Close that connects with Shrewsbury Road.
- ② There is no footpath indicated on the roadway to the houses.
- ② The lands slopes towards the pub car park and the proposed tarmac road could result in flooding. The buildings and hard surfacing will exacerbate existing drainage problems on neighbouring sites and in the vicinity.

5.0 THE MAIN ISSUES

Principle of development
Layout, design, scale and appearance
Impact on neighbours
Access and parking
Impact on trees

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The site is located within the village of Bomere Heath which is identified as a 'Community Hub' within SAMDev and under settlement policy S16.2(iii) where development by infilling, groups of houses and conversions of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. Some residents have questioned the acceptability of the loss of the beer garden to accommodate residential development. However the site has not been in use as such for several years and residential development of the site has already been established by an extant permission for three houses in July 2014 (13/02072/FUL) and a previous permission in 2011 (11/00320/FUL) for two 4 bedroom detached houses. Residential development of the site is therefore acceptable in principle.

6.2 Layout, design, scale and appearance

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity.
- 6.2.2 The proposal is for a terrace of three houses and two semi-detached houses and will be a simple traditional design with cottage style windows and a pitched roof

canopy over each of the front doors. The PC and a couple of residents have expressed concern that five is an over development of the site and will result in a cramped form of development not in keeping with the surrounding properties.

6.2.3 The footprint of the proposed development as now proposed is actually less than the footprint of the development previously approved and each proposed house will be provided with more than satisfactory private rear garden. An area of garden will also be retained to the rear of the pub. The plots sizes are similar in size to the development to the rear in Chapel Close that has recently been re-built. The buildings will not appear prominent in the street as they will be set back behind the existing pub. It is considered that the location, scale, design and appearance of the proposed dwellings are acceptable and would have no adverse impact on the character and appearance of the locality.

6.2.4 It is also considered that five lower cost two bedroom starter homes will better meet the housing need compared to three larger more expensive properties and will be a more appropriate design of property for this location.

6.3 **Impact on residential amenity**

6.3.1 The dwellings will be situated to the rear of the pub with the front of the dwellings facing an existing footpath and proposed new driveway as in the previously approved schemes. Given the orientation of the dwellings and the distance between the windows in the rear and front elevations and those of the neighbouring properties it is considered that there will be no overlooking issues as a result of the development. The proposed development would also not appear obtrusive or result in overshadowing of neighbouring properties. A nearby resident has expressed concern about the provision of a driveway and footpath along the side garden boundary. However vehicle movements associated with the development would not be significantly different to those currently experienced by the use of the car park adjacent to the site and the use of the footpath that runs along the front of the site that will continue to be used by pedestrians. It is therefore considered that the proposed development would have no significant adverse impact on residential amenity.

6.4 **Access and parking**

6.4.1 The proposed access and parking arrangements remain much the same as previously approved and includes closing off the existing pub car park entrance and creating a new access to the car park that will also provide a driveway to the proposed dwellings and continue to serve as a footpath for use by the public. Two parking spaces will be provided for each of the dwellings including three spaces that will be on the pub car park leaving 21 spaces for pub customers.

6.4.2 The PC have raised concern that the proposal will impact on the safety of pedestrians using the footpath, that the linear parking in the driveways is also dangerous and that the loss of parking spaces on the pub car park is unacceptable as it is already congested and will be unsafe to use at school times and result in the loss of a village amenity.

- 6.4.3 The footpath currently in use by the public as a convenient short cut between Shrewsbury Road and 'The Crescent' is not a public right of way. This proposal will ensure that the footpath is improved and made safe and secure for future use by the public. The linear parking on the driveway referred to by the PC (one behind the other) is a conventional way of parking and the same as previously approved with one space in front of a garage space. Any vehicles using the pub access and the driveway to the houses will be driving at very slow speeds and the safety of pedestrians will be no different to the current situation where they have to walk across the pub car park.
- 6.4.4 Although the number of spaces available on the pub car park will be reduced by 3 this is not a significant reduction and 21 spaces will remain for customers which is more than sufficient for a pub located centrally within the village. The PC refer to the car park being congested and that the reduction in parking will result in the loss of a village amenity. However the car park is only congested due to parking by the public during school drop off and pick up times and this use is at the discretion of the owner of the pub, and the pub car park is private and not a public amenity as described by the PC. Whilst the owner of the carpark is willing to continue to allow the public to use the car park when not actually visiting the pub the loss of 3 spaces impacting on the availability of public parking is not a material consideration relevant to the determination of this application.
- 6.4.5 Highways have no objection to the proposal which will provide a safe means of access to both the pub car and the proposed dwellings to the rear. Adequate parking will be provided for the occupiers of the new houses and the customers of the pub and the continued use of the car park by the general public is at the discretion of the pub owner. The proposal will also improve and formalise the foot path linking Shrewsbury Road and The Crescent. The proposal is therefore considered to be acceptable in terms of highway and pedestrian safety.
- 6.5 **Impact on trees**
- 6.5.1 The proposed development as an amendment to the extant permission will not result in any additional impact to retained trees or bring about a situation where trees impact on future residential amenity of the dwellings. The tree officer has no objection to the application provided the tree protection details, including the 'no dig drive, method statement are updated and agreed prior to the commencement of any development. A condition will ensure that full tree protection details and the method for the no dig driveway are submitted for approval.

7.0 **CONCLUSION**

- 7.1 Residential development of the site is acceptable in principle under SAMDev policy MD1 and S16.2(iii) and has already been established by the previous permissions. The scale, design and layout is considered acceptable and would have no adverse impact on the character and appearance of the locality and would not cause detrimental harm to the living conditions of neighbouring residential properties. Tree protection conditions will ensure that trees to be protected are retained and it is considered that the proposal will enhance the overall visual amenity of the locality. A safe means of access and adequate parking will be provided for both the

new houses and customers of the public house and the proposal will formalise the footpath to the rear of the site and secure its use by the public in the future. The proposal is therefore considered to be in accordance with Shropshire LDF Core Strategy Policies CS6 and CS17 and SAMDev policies MD1 and S16.2(iii).

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: NPPF

Core Strategy Policies: CS6 and CS17

SAMDev policies: MD1 and S16.2(iii):

RELEVANT PLANNING HISTORY:

11/00320/FUL Erection of two 4-bedroom detached dwellings with formation of new vehicular access GRANT 4th July 2011

13/02072/FUL Erection of 2 No four bed and 1 No three bed dwellings, including associated car parking and amenity space GRANT 30th July 2014

Erection of 5no dwellings, associated parking and landscaping PDE

11. Additional Information

List of Background Papers: File 17/01120/FUL
Local Member: Cllr Lezley Picton
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

d) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

e) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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

4. Prior to above ground works details of a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. Prior to above ground works and notwithstanding the details shown on the approved drawings, full engineering details of the proposed vehicular access into the site from Shrewsbury Road shall be submitted to and approved in writing by the Local Planning Authority; the vehicle access shall be fully constructed and implemented in accordance with the approved details prior to the dwellings being first occupied.

Reason: In the interest of highway safety.

6. Prior to above ground works details for the parking and turning of vehicles shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

7. The existing vehicular access shall be permanently stopped up within one calendar month of the new access being first brought into use.

Reason: In the interest of highway safety.

8. Within two calendar months of the new access being formed, the dropped kerbs across the original access shall be replaced with full height kerbing consistent in level with the adjacent kerbing and the footway reinstated accordingly.

Reason: To reinstate the footway to the required level and specification in the interests of highway safety

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

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

10. No above ground works shall be commenced until full details of both hard and soft landscape works (to include improvements to the footpath to 'The Crescent' and all boundary treatments) have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

11. Prior to first occupation of the buildings the following bat and bird boxes shall be erected:

- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).

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

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

Development Management Report

Responsible Officer: Tim Rogers

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

LPA reference	15/05522/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Malcolm Tipton
Proposal	Outline application for residential housing development to include means of access (re-submission)
Location	Moorlands Kennels Station Road Condover Shrewsbury
Date of application	18.12.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	03.08.2016
Date of appeal	20.01.2017
Appeal method	Written Representations
Date site visit	10.04.2017
Date of appeal decision	26.04.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	16/04252/DIS106
Appeal against	Appeal Against Refusal
Appellant	Mr J & Mrs P Hilditch
Proposal	Variation of Section 106 for planning application number 1/08/20543/F
Location	The Berries Gravels Bank Minsterley Shrewsbury Shropshire
Date of application	20.09.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	18.01.2017
Date of appeal	19.01.2017
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/02239/OUT
Appeal against	Appeal Against Refusal
Appellant	Galliers Homes Limited
Proposal	Outline application for residential development to include means of access (amended description)
Location	Land East Of Bicton Lane Bicton Shrewsbury
Date of application	20.05.2014
Officer recommendation	Grant Permission
Committee decision (delegated)	Committee
Date of decision	21.09.2015
Date of appeal	04.12.2015
Appeal method	Hearing
Date site visit	05.04.2016
Date of appeal decision	21.02.2017
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS ALLOWED
Details	

LPA reference	15/04035/FUL
Appeal against	Appeal Against Refusal
Appellant	Galliers Homes
Proposal	Erection of 15 No. dwellings, new access road, link footpath and landscaped public open space
Location	Land East Of Bicton Lane Bicton Shrewsbury
Date of application	17.09.2015
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	17.12.2015
Date of appeal	06.01.2016
Appeal method	Hearing
Date site visit	05.04.2016
Date of appeal decision	21.02.2017
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

LPA reference	14/05676/OUT
Appeal against	Appeal Against Refusal
Appellant	Messrs. Davies
Proposal	Outline planning application (all matters reserved) for mixed residential development
Location	Proposed Residential Development North Side Of Station Road Dorrington Shrewsbury Shropshire
Date of application	19.12.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	14.07.2015
Date of appeal	14.01.2016
Appeal method	Hearing
Date site visit	10.05.2016
Date of appeal decision	31.03.2017
Determination time (weeks)	
Appeal decision	DISMISSED – COSTS REFUSED
Details	

LPA reference	16/04024/TPO
Appeal against	Appeal Against Refusal
Appellant	Mr David Arkinstall
Proposal	Application for the felling of one Silver Birch tree covered by Shrewsbury & Atcham Borough Council (Meole Brace) Tree Preservation Order 2002.
Location	5 Elswick Close Washford Park Shrewsbury
Date of application	25.08.2016
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	25.10.2016.
Date of appeal	23.11.2016
Appeal method	
Date site visit	18.04.2017
Date of appeal decision	10.05.2017
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

Appeal Decision

Site visit made on 10 April 2017

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

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

Decision date: 26 April 2017

Appeal Ref: APP/L3245/W/17/3167644

Moorlands Kennels, Station Road, Condover, Shrewsbury SY5 7BS

- 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 Malcolm Tipton against the decision of Shropshire Council.
 - The application Ref 15/05522/OUT, dated 17 December 2015, was refused by notice dated 3 August 2016.
 - The development is described as "Outline application for residential development (maximum 5 dwellings)."
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application that led to this appeal was in outline with the only reserved matter for consideration being access. Accordingly, I have assessed the appeal on the same basis, and treated the plans as merely illustrative insofar as they refer to other reserved matters.
3. The Council's Decision Notice included a reason for refusal concerning the proposed development's potential effects on the ecological heritage of the appeal site. However, an ecological report was submitted with the appellant's statement which addresses the Council's concerns in this respect to some degree. Consequently, the Council consider that ecological heritage concerns could be adequately addressed by suitably worded conditions. For these reasons the effect of the proposed development on the ecological heritage of the site is not a main issue in my consideration of the planning merits of the appeal.

Main Issue

4. The main issue in this appeal is whether the site would be a suitable location for housing having regard to local planning policy.

Reasons

5. Bounded to one side by the railway, and to another by Station Road, a narrow and winding highway fringed by mature hedges, the appeal site is in an area with a strong rural character imparted by the open fields to the north studded by mature trees, and the verdant expanse of the golf course to the south of Station Road. The appeal site comprises the existing access from Station

Road, and to the rear of the two-storey former station house, a long narrow strip of land, roughly rectangular, currently occupied by several structures of varying sizes used in connection with the kennels business, which are predominantly faced in materials typical of more modern rural outbuildings. The proposed development seeks to replace these outbuildings with residential development, with an indicative layout plan showing 5 dwellings arranged around a cul-de-sac using the existing access to the site.

6. The appeal scheme would introduce residential development in an area outside of a settlement boundary and thus identified as open countryside for the purposes of Shropshire's Site Allocations and Management of Development Plan (adopted December 2015) (SAMDev). As a consequence, development plan policies that are generally restrictive of residential development in such locations apply to the appeal site. Policy CS5 of Shropshire's Core Strategy (adopted March 2011) (the Core Strategy) seeks to limit the development of dwellings in the open countryside to those to house agricultural, forestry or other essential countryside workers and other affordable housing to meet local needs.
7. I note that as part of its overall settlement strategy the SAMDev could be permissive of residential development outside of settlement boundaries where certain conditions are met. However, Policy MD3 of SAMDev establishes that this would be conditional, in the first instance, on a settlement guideline housing requirement appearing unlikely to be met in the plan period, which runs until 2026. I have been supplied with no substantive evidence to suggest that the relevant settlement guideline for the area looks unlikely to be met within the plan period. Moreover, the Council have submitted details of permissions¹ (comprising 10 affordable and 10 open market dwellings) and SAMDev allocations (two sites of between 5 to 10 dwellings each) within the Condover settlement which, taken together, provide compelling evidence that the settlement guideline of 20 to 25 new dwellings could be met. As a consequence, I consider that the appellant has not successfully demonstrated that the appeal scheme should come forward as a windfall site.
8. Moreover, as it has not been demonstrated that the proposed development would be necessary to house agricultural, forestry or other rural workers; or would supply affordable housing to meet local needs, it would clearly conflict with Policy CS5 of the Core Strategy. Furthermore, as an outline permission in this case would establish the principle of residential use of the site, an assessment of whether or not the proposed development would meet the exceptions to the generally restrictive approach of Policy CS5 is essential to a consideration of the planning merits of the appeal. Consequently, conditions which could be attached to this scheme or subsequent reserved matters permissions specifying the type of dwellings would not help to establish the principle of development at this outline stage.
9. I note that the appellant considers that wider visibility of the appeal site is limited by its topography, shape and level of natural screening. However, as the appeal site is outside of the development boundary, this matter does not address the proposed development's fundamental conflict with the development plan in this regard.

¹ Council references: 15/03531/FUL; 15/03572/FUL; 15/00671/FUL

10. Accordingly, for the reasons given above, the proposed development would not constitute a suitable location for housing having regard to local planning policy. The proposed development would thus conflict with Policies CS1, CS4, CS5 and CS10 of the Core Strategy; and Policies MD1, MD3, MD7a, and S16.2 (vii) of the SAMDev. Taken together, and amongst other matters, these policies seek to ensure that new dwellings in Shropshire's rural area are directed to community hubs and clusters and meet local needs.

Other Matters

11. I note that the appellant considers the site to be a sustainable one. For the purposes of the National Planning Policy Framework (the Framework) sustainable development has three aspects; the economic; the social and the environmental.
12. Like most residential development there would be economic benefits flowing from the appeal scheme. These would include employment and ordering arising from construction activity and the potential for future occupants of the scheme to use local services and businesses. However, due to the largely temporary nature of the economic benefits flowing from construction activity, and the relatively limited amount of residential development, and additional occupants, these economic benefits attract only modest weight in the overall planning balance.
13. In terms of social benefits the proposed development, would supply additional housing. However, the Council can demonstrate a 5-year supply of housing land, a matter uncontested by the appellant. Moreover, whilst I note that the appeal site is close as the crow flies to Condover and the A49 and related bus routes, and around 2 miles from Bayston Hill, it is located on a narrow, undulating and largely unlit road, which would be unwelcoming for pedestrians particularly during the hours of darkness. As a consequence, I consider that future occupants of the proposed development would for all practical purposes be heavily reliant on the private car, and this would limit the accessibility of the site in the broadest sense of the word, and weigh against its overall social sustainability. As a consequence, the proposed development would constitute a low level of social sustainability, and this is a matter that weighs against it to a considerable degree in the overall planning balance.
14. In environmental terms, the proposed development would re-use previously developed land with infrastructure available on the site. I note that this is an objective set out in the Framework and other Government policies. However, I have been supplied with no substantive evidence to suggest that use of the appeal site for this purpose would necessarily reduce pressure on development of agricultural land, and the Council's five year supply position, and wider settlement strategy, taken together, would also considerably reduce any pressure in this regard. As a consequence, these matters carry only modest weight in favour of the proposed development.
15. Residential development would lead to the removal of the outbuildings currently occupying the appeal site. However, the existing buildings are of a type not unusual in countryside locations, and moreover, I have been supplied with no detailed designs of the proposed development or its landscaping scheme on which to base an assessment of its comparative effects. As a consequence, this is a matter which attracts minimal weight in favour of the scheme.

16. The proposed development could avoid harm to ecological heritage of identified importance; have acceptable flood risk effects; and no special designations such as Green Belt, conservation areas, listed buildings, areas of outstanding natural beauty or tree preservation orders apply to the site. However, these matters would not be positive benefits of the scheme and thus have only a neutral effect on the overall planning balance.
17. A previous appeal decision has been drawn to my attention by the appellant²; however, I note that the decision pre-dates the adoption of SAMDev and that the site subject to that appeal appears to have been considerably closer to a village centre and relevant services than the appeal site is. These are factors that clearly differentiate the previous appeal from the current case, and in any event, each proposal needs to be addressed on its own planning merits. As a result, this previous decision does not alter my conclusions in respect of the main issue.

Conclusion

18. In the overall planning balance, the low level of social sustainability of the scheme is a matter of considerable weight that outweighs its modest economic and environmental benefits. This indicates that the proposed development would not comprise sustainable development in a rural area, and thus would conflict with paragraph 55 of the Framework.
19. Moreover, the proposed development would conflict with the development plan insofar as the policies that have been drawn to my attention are concerned. None of the other material considerations that have been advanced in favour of the proposed development outweigh this conflict. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR

² APPLI3245/W/15/3003171

Costs Decisions

Hearing held on 5 April 2016

Site visit made on 5 April 2016

by M C J Nunn BA BPL LLB LLM BCL MRTPI

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

Decision date: 13 April 2017

Costs application in relation to Appeal A Ref: APP/L3245/W/15/3139973 Land off Bicton Lane, Bicton, Shrewsbury, Shropshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Galliers Homes Ltd for a full award of costs against Shropshire Council.
 - The application Ref: 14/02239/OUT, dated 16 May 2014, was refused by notice dated 21 September 2015
 - The appeal was made against the refusal of outline planning permission for a residential development comprising 15 dwellings, estate roads and public open space.
-

Costs application in relation to Appeal B Ref: APP/L3245/W/16/3141878 Land off Bicton Lane, Bicton, Shrewsbury, Shropshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Galliers Homes Ltd for a full award of costs against Shropshire Council.
 - The application Ref: 15/04035/FUL, dated 16 September 2015, was refused by notice dated 17 December 2015
 - The appeal was made against the refusal of planning permission for the erection of 15 dwellings, new access road, link footpath and landscaped public open space.
-

Decisions

1. The application for an award of costs is allowed partially in respect of Appeal A in the terms set out below, but refused in respect of Appeal B.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Accordingly, it is possible for costs to be awarded against the 'winning' party to an appeal. For an application for costs to succeed, an applicant will need to demonstrate clearly how any alleged unreasonable behaviour has also resulted in unnecessary or wasted expense.
-

3. Although costs cannot be claimed for the period during the determination of the planning application, the PPG is clear that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in considering whether or not costs should be awarded.¹ Cost applications may relate to events before the appeal was brought, but costs that are unrelated to the appeal are ineligible².

Appeal A

4. The Council resolved to grant outline planning permission on 9 April 2015 at a meeting of the Planning Committee, subject to the completion of a legal agreement to secure affordable housing. The terms of the legal agreement were subsequently agreed and it was signed by the appellant on 28 July 2015, and returned to the Council on 6 August 2015 for sealing and completion. However, the Council did not complete the legal agreement, but instead put the planning application back to the Planning Committee for further consideration on 10 September 2015. At that meeting, the Planning Committee, contrary to officers' recommendation, refused permission. A refusal notice was subsequently issued on 21 September 2015.
5. The Council's reason for referring the application back to Committee was based on the view that the weight to be given to some policies in the Shropshire Site Allocations and Management of Development Plan ('the SamDev') had changed since the initial resolution to grant permission in April, and specifically that greater weight could be given to certain policies, following the publication of the Main Modifications to the SamDev. However, this notwithstanding, the officer recommendation to grant permission remained unchanged in the later September 2015 Committee Report.
6. The timeline of events is important here. The SamDev was submitted to the Planning Inspectorate for examination on 1 August 2014. Examination Hearings were held between 11 November and 18 December 2014. Publication of the Main Modifications took place for 6 weeks from 1 June 2015. The Inspector's Report was published on 30 October 2015, and the SamDev was finally adopted on 17 December 2015.
7. Hence it is clear that the only material change in circumstances between the date of the original resolution to grant permission in April 2015 and the date the application was referred back to the Planning Committee in September 2015 was that the Main Modifications had been published and consulted on. Importantly, however, the Inspector's report, including her recommendations on the Main Modifications, had not been published at that point. In the absence of the Inspector's report, the final form of the SamDev and its policies was still uncertain and unresolved at that stage.
8. The relevant legislation³ requires that applications or appeals be determined in accordance with the statutory development plan unless material considerations indicate otherwise. This is reiterated in the National Planning Policy Framework

¹ Paragraph: 033 Reference ID: 16-033-20140306

² Paragraph: 032 Reference ID: 16-032-20140306

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004

- (‘the Framework’)⁴. At the time the application was first considered in April, the SamDev did not form part of the statutory development plan because it had not been adopted. That situation had not altered in September 2015, notwithstanding the publication of the Main Modifications.
9. The Framework⁵ states that decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation, and that the more advanced the stage of preparation, the greater the weight that may be given. The Framework also says that when assessing the weight to be given to emerging plans, the extent to which there are unresolved objections may be considered: the less significant the unresolved objections, the greater the weight that may be given.
10. The Council notes that Policy S16.2(vi) of the SamDev was not subject to modification, although extensive modifications were proposed to Policy MD3. On this basis, it argues it was entitled to give more weight to the former policy and less to the latter. The problem with this approach is that Policy S16.2 cross refers to Policy MD3, with a clear requirement that both policies must be read and applied in conjunction with another. In these circumstances, I consider differential weighting of these policies to be inappropriate and unsatisfactory since it would result in an unbalanced and uneven approach to decision making.
11. Moreover, the April 2015 Committee Report clearly concluded that the scheme accorded with adopted Core Strategy Policy CS4⁶. The status of this Core Strategy policy did not change in the interim period to September, when the application was reconsidered. In addition, the April 2015 Report concluded that the scheme was ‘in line with emerging development plan policy’⁷. However, rather confusingly and contrary to the earlier April Report, the September 2015 Report concluded that ‘development of the proposed site would be contrary to the development plan policies for the location of housing in both adopted and emerging policy’⁸. Nonetheless, notwithstanding this latter comment, the Report still recommended permission be granted on the basis that ‘the benefits of the proposal tip the balance in favour of supporting this application’⁹. I find the Council’s approach in the two Committee Reports displays inconsistency.
12. Indeed, it is hard to see how circumstances, including the interpretation and application of policies, had altered so radically between April and September so as to justify a different outcome on the planning application. Given the overall recommendation of officers remained to grant permission for the scheme in September, it is difficult to understand why it was deemed necessary to refer the matter back to the Planning Committee at all. Although I accept that modifications had been published for consultation, I do not consider the overall status of the SamDev had changed so significantly or dramatically as to warrant, firstly, the application being referred back to the Planning Committee, nor secondly, a different decision being taken.

⁴ Paragraph 196

⁵ Paragraph 216

⁶ Paragraph 7.1

⁷ Paragraph 7.1

⁸ Paragraph 4.1

⁹ Paragraph 4.1

13. As the PPG notes, applicants are entitled to a degree of consistency in decision making¹⁰. In this case, there was a clear resolution to grant permission made in April 2015 subject to the completion of a legal agreement. The appellant had a legitimate expectation that planning permission would follow. It was incumbent on the Council to seal and complete the accompanying legal agreement as expeditiously as possible following that resolution. Referring the matter back to Planning Committee some months later and then taking a contrary decision, runs counter to the requirement to deal with cases in a consistent manner.
14. My decision was to dismiss this appeal. Thus, I have come to the same ultimate decision as the Council's Committee. However, it is important to note that my decision was made in different planning policy context, as compared to circumstances at the time of the Council's deliberations and decision. At the time of my decision, the SamDev been adopted, its policies finalised, and its full statutory status had been confirmed. This was not the case in September 2015.
15. To sum up on Appeal A, I do not find the manner in which the Council processed the application to accord with good practice, nor the reasons for referral back to Committee or the reasons for its change in position to be convincing. Notwithstanding my decision to dismiss Appeal A, I find the Council's conduct to be inconsistent and unreasonable. This has resulted in unnecessary expense for the appellant. An award of costs is therefore justified in respect of Appeal A.

Appeal B

16. The appellant's case is that Appeal B would not have been necessary if the Council had behaved reasonably in relation to Appeal A, and granted the outline application as per the Planning Committee's resolution in April 2015. Whilst this may be so, the circumstances in respect of Appeal B are significantly different.
17. The full planning application, subject of Appeal B, was submitted on 17 September 2015¹¹. However, this was *after* the Planning Committee's decision on 10 September to refuse the outline scheme¹². As a consequence, it could not have come as a surprise to the appellant that the Council would refuse this later application. Indeed, to have permitted it would have been inconsistent with its earlier decision on the outline application. As the Council notes, the appellant could have awaited the outcome of an appeal against the refusal in the first outline application before proceeding with the second full application and the additional subsequent appeal. Given my decision to dismiss Appeal B, I consider the Council's decision to refuse the second application to be justified. Furthermore, by that time, the development plan context had changed: the date of the refusal notice coincided with the adoption of the SamDev¹³.

¹⁰ Paragraph: 049 Reference ID: 16-049-20140306

¹¹ Appellant's Statement of Case, Paragraph 1.1. The planning application form is dated 16th September 2015

¹² The decision notice was not issued until 21 September 2015

¹³ 15/04035/FUL was refused on 17 December 2015, the same date as the SamDev's adoption

18. Crucially, in respect of the second application, there was no 'change in position' by the Council or inconsistency in how it dealt with the planning application. Therefore, contrary to the situation in respect of Appeal A, I find in relation to Appeal B that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Conclusion and Costs Order

19. The question that arises is whether a full or partial award of costs is justified in respect of Appeal A. The PPG is clear that some cases do not justify a full award of costs where, for example, the appeal is considered jointly with another appeal, and there is evidence in common¹⁴. In this instance, both Appeals A and B have evidence in common. Consequently, given my conclusion in respect of the Appeal B costs application, and the commonality of evidence, I do not consider a full award of costs is justified in respect of Appeal A. Nonetheless, I am satisfied that a partial award of costs is justified for the work that was required in relation to Appeal A, which was not common to Appeal B.
20. In exercise of the powers under Section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Shropshire Council shall pay to Galliers Homes Ltd the costs of the appeal proceedings for work relating to Appeal A, which was not common to Appeal B.
21. The applicant is now invited to submit to Shropshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Office is enclosed.

Matthew C J Nunn

INSPECTOR

¹⁴ Paragraph: 041 Reference ID: 16-041-20140306

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Costs Decision

Hearing held on 10 May 2016

Site visit made on 10 May 2016

by Alexander Walker MPlan MRTPI

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

Decision date: 12th April 2017

Costs application in relation to Appeal Ref: APP/L3245/W/16/3142479 Land North of Station Road, Dorrington, Shrewsbury, Shropshire SY5 7LH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Shropshire Council for a full award of costs against Mr James and Mr Edward Davies of Messrs Davies.
 - The hearing was in connection with an appeal against the refusal of planning permission for mixed residential development.
-

Decision

1. The application for an award of costs is refused.

The submissions for Shropshire Council

2. The costs application was made in writing with final comments made orally at the hearing following the submission of the appellants' written rebuttal. The basis of the application is that the proposal is the resubmission of a previous similar scheme that was refused and subsequently dismissed on appeal, whereby the Inspector found that it did not represent sustainable development. Following the previous appeal decision, there has been no change in circumstances other than the SAMDev has since been adopted, therefore strengthening the Council's position.

The response by Mr James and Mr Edward Davies of Messrs Davies

3. In response to the Council's submission, the appellant submitted a written rebuttal at the Hearing. The appellants state that housing land supply was a key element of the previous appeal. Following the appeal decision, the Local Plan has changed, by way of its adoption, and the interpretation of national policy has been clarified through recent appeal decisions and case law. There was no suggestion by the previous Inspector that the development of the site would be permanently unacceptable and does not rule out the site as 'unsustainable'.

Reasons

4. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

5. The proposal is similar to the previously dismissed proposal. However, I have had regard to a number of matters that have since arisen. Firstly, whilst the SAMDev has now been adopted, and on the face of it strengthens the Council's case, the appellants argue that its policies weigh in favour of the proposal and due to its status it can be attributed greater weight than previously. Whilst I appreciate that the Council do not agree with the appellants' interpretation of the relevant policies, they have not behaved unreasonably in making their case. The appellants' evidence is complete, precise, specific and relevant to the application. It clearly states the policies of the development plan that the proposal would conflict with. Reference has also been made to various appeal decisions and High Court cases that are material to the consideration of the proposal that were not previously available.
6. Furthermore, recent appeal decisions have raised some doubt over whether or not the Council have a five year housing land supply. Whilst these decisions have been somewhat surpassed by the publication of the Council's publication of the Full Objectively Assessed Housing Need Report (FOAHN) on 6 July 2016 and the Five Year Housing Land Supply Statement on 26 August 2016, the appellants have not been unreasonable in submitting evidence in support of their case with regard to this issue.
7. I acknowledge the Council's dissatisfaction with the appellants' submission of a previously dismissed proposal. Whilst the proposal has not changed, there are a number of matters that have and the appellants have not behaved unreasonably in pursuing these, which weren't considered in the previous appeal.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason an award for costs is therefore not justified.

Alexander Walker

INSPECTOR



Appeal Decision

Site visit made on 18 April 2017

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

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

Decision date: 10 May 2017

Appeal Ref: APP/ENV/3163723

5 Elswick Close, Washford Park, Shrewsbury SY3 9QR

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr David Joseph Arkinstall against the decision of Shropshire Council.
 - The application Ref: 16/04024/TPO, dated 25 August 2016, was refused by notice dated 25 October 2016.
 - The work proposed is fell silver birch tree.
 - The relevant Tree Preservation Order (TPO) is Shrewsbury and Atcham Borough Council Tree Preservation Order relating to Meole Brace 2002, which was confirmed on 6 December 2002.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the removal of the silver birch tree on the character and appearance of the area, and whether sufficient justification has been demonstrated for its removal.

Reasons

3. The tree is located in the front garden of No 5 Elswick Close adjacent to its boundary with No 4. It is a youthfully mature specimen with a balanced conical form commensurate with its age. The wider estate has a range of mature trees and shrubs in both gardens and public areas, including a number of other mature silver birch trees of similar size and form. Whilst it is not clear whether the appeal tree was part of the original landscaping of the estate, it is nonetheless part of the informal landscape setting which gives this area its pleasantly verdant character.
4. The appeal tree itself is notable as a central element of the street scene within this short Close, with its appearance in the view into the Close from Pendle Way being particularly striking. It is also part of the backdrop to the wider area, including Washford Road. As such, whilst I agree that there is a reasonable density of trees and shrubs within the garden of No 5 and this local area, the appeal tree itself makes a significant contribution to the landscape setting. Its loss would therefore cause harm to the character and appearance of this area. Whilst I note that the appellant would accept a smaller replacement tree this would be unlikely to make a comparable contribution to the local landscape.

5. In this context any reasons given to justify the harm caused by the removal of the tree need to be convincing. It is to those reasons, the second main issue, to which I now turn.
6. There is nothing before me to suggest that the tree is of poor health or vigour, or that it is suffering from pests, disease or decay. Furthermore I saw nothing on site to suggest that the tree was unstable or more likely than any other healthy tree to drop branches in high winds, or that it would not live for many more years to come.
7. I recognise that the tree has caused some damage to the pavement, though this appeared to have been repaired at the time of my site visit. Concern is also expressed about the potential damage to the pavements on the driveway to No 4. Without details of the means by which the pavements have been laid it is not possible to say for certain whether or not damage could occur, however I accept the Council's view that significant root development in this area is unlikely to occur. Furthermore, no evidence has been presented to suggest that further damage to the pavement is likely to be a significant problem in the future.
8. I accept that given the position and orientation of the tree it has an impact on the sunlight and daylight reaching the front garden and front elevation windows of this property and its neighbour, at certain times of the day. At the time of my site visit, at around 11.30am, the tree did shade part of the front garden, though much of it was in full sun. I recognise that this situation changes throughout the day (and times of the year) but it seems to me that the tree does not block sunlight or daylight from most of the property and garden areas for most of the time.
9. I recognise that there is some local support for the removal of the tree, particularly based on the view that the leaf and seed drop from such trees can cause nuisance at certain times of the year. Reference is made to potential damage to property and to such litter being a health and safety hazard, particularly when wet. However, whilst I recognise that the appellant also has to manage leaf and seed fall from other local trees and shrubs, the inconvenience of regular maintenance and management is not uncommon within areas characterised by a mature landscape which provides for an attractive setting.
10. I accept that birch pollen can affect those people sensitive to such allergens at certain times of the year, however there is no evidence before me to suggest that this is a particular problem in the present case.
11. Whilst the appellant refers to the felling of trees on a nearby traffic island, details of the circumstances of this case are not presented and so I am unable to draw comparisons.
12. In any application to fell a protected tree a balancing exercise must be undertaken. The essential need for the work proposed must be balanced against the resultant loss to the amenity of the area. In this case there has simply been insufficient evidence put forward to justify the removal of this protected tree.
13. In conclusion, I have found that the loss of the silver birch tree would result in significant harm to the character and appearance of the area. As insufficient justification has been provided to fell this tree the appeal should be dismissed.

AJ Mageean INSPECTOR