



Committee and date

South Planning Committee

1 March 2016

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> 15/03170/OUT	<u>Parish:</u>	Highley
<u>Proposal:</u> Outline application (access, layout, scale not reserved) for residential development		
<u>Site Address:</u> Proposed Residential Development Land East Of Bridgnorth Road Highley Shropshire		
<u>Applicant:</u> Mr Andrew Maiden		
<u>Case Officer:</u> Richard Fortune	<u>email:</u> planningdmse@shropshire.gov.uk	

Grid Ref: 373923 - 284093



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Recommendation:- Refuse

Recommended Reason for refusal

The Council acknowledges that the housing proposed would contribute economically and socially by boosting the housing supply, including a contribution towards affordable housing, would provide limited support for the existing services in the village and would not detract from the visual amenities and character of the area. However it is considered that these factors are outweighed by the following harm: The proposed development would fall outside of the development boundary for Highley where Core Strategy policy CS5 and SAMDev policy MD7a restrict new build housing development to dwellings to house essential countryside workers and to meet identified local affordable housing need. No such need has been demonstrated in this case. The proposal is not consistent with the Plan-led approach to development set out in the National Planning Policy Framework and would be contrary to Development Plan policies CS3, CS4 and CS5 of the Shropshire Core Strategy and policies MD1, MD3, MD7a and S9 of the Site Allocations and Management of Development (SAMDev) Plan. There are no other material considerations of sufficient weight to justify a departure from adopted Development Plan policies in this case.

REPORT**1.0 THE PROPOSAL**

- 1.1 This proposal seeks outline planning permission for residential development, but reserved matters for which approval is being sought at this stage include access, layout and scale. (Only appearance and landscaping would need to be the subject of future reserved matter(s) applications should this application be granted planning permission). The submitted details show that consent is sought for nine 2 bedroomed bungalows on the land. The proposed access road would lead from the existing access onto the B4555 road and would involve the realignment of a section of farm track which is also a bridleway. The bridleway would continue on its current route in a north easterly direction, with the proposed road to the bungalows following a curving arc in an easterly direction. The access road would terminate in a turning head in the main body of the site. Four of the bungalows would be served by individual private drives leading from the turning head. The two bungalows on the southern side of the turning head would share a parking area. The three remaining bungalows would be to the south of the access road and would share a private drive. The bungalows would have generous garden areas and an informal layout within the site.
- 1.2 The site is situated outside, but immediately adjacent to the Highley settlement development boundary shown in the Site Allocations and Management of Development (SAMDev) Plan.
- 1.3 This application is identical to one which was submitted in 2014 (ref 14/02129/OUT). An appeal was lodged against non-determination of that application, which resulted in a report being brought to the March 2015 meeting of the South Planning Committee to establish what the Council's reasons for refusal would have been, had the Council still been able to determine that application. The

Committee carried out a site inspection as part of that consideration. The Committee's decision at that time was to indicate to the Planning Inspectorate that they would have refused this application solely for the following reason:

"In the absence of the agreement to make a contribution towards affordable housing provision, the proposed dwellings would be contrary to Policy CS11 of the Shropshire Council's Local Development Framework Core Strategy and to Shropshire Council's Supplementary Planning Document on the Type and Affordability of Housing."

(It should be noted that this decision, and that of the Planning Inspector who determined the appeal, was made prior to the adoption of the SAMDev Plan and the implications of the adoption of SAMDev is discussed later in this report.)

- 1.4 The Planning Inspector, in determining the appeal on the 13th July 2015, concluded with respect to the affordable housing contribution that:

"I conclude on this issue that the absence of a completed legal agreement to secure appropriate affordable housing provision as part of the development in line with the Council's adopted development plan policies renders the proposal in conflict with the requirements of Core Strategy CS11 and the Type and Affordability of Housing SPD. Notwithstanding the WMS and NPPG, and despite the acceptability of the proposal and its sustainability credentials in other respects, I consider that this represents an overriding reason why planning permission should not be granted."

- 1.5 With regard to the other planning issues the Inspector commented on the site's sustainability credentials that:

"11.The site is adjacent to the development boundary, relates well to the existing built form and would not represent significant encroachment into the surrounding countryside. Although the eastern edge of the settlement is elevated above the Severn Valley the proposed low form of development would sit comfortably alongside the existing built form and would not harm the character or appearance of the Severn Valley. The scale and density of the proposal is appropriate for the site and its edge of settlement location."

12. The site is within walking distance (about 500m) of town centre facilities and services, and is closer still to the community facilities of the Severn Centre. The development can be accommodated without adverse implications for flooding ecology or other environmental issues in terms of access and highway safety."

With regard to other matters raised by neighbours and the Parish Council he commented:

"20. I have considered all other matters raised, including representations by some neighbouring residents and the views of the Parish Council. I consider that the position and orientation of the proposed bungalows would be such that, given the levels of the site relative to adjoining dwellings and subject to appropriate handling of boundary screening and the design of the external elevations at the reserved matters stage, the development"

could be accommodated so as to avoid harm to the living conditions of neighbouring occupiers. For this reason I do not consider that the proposal would cause undue loss of privacy or overlooking. While such occupiers naturally value the existing view over an open field, and this would inevitably be lost, this does not alter my conclusion that neighbouring occupiers would continue to enjoy adequate levels of amenity.

21. The highway authority considers that acceptable access can be provided and that no harm to highway safety would result. Nor does the balance of evidence show, having regard to the responses of other statutory consultees and the Council's submissions, that there are significant objections to the proposal in terms of provision of infrastructure, adequacy of local amenities, interference with rights of way or the effects of past mining activity. I have dealt with points raised by the Parish Council concerning the site's location outside the development boundary on the east side of the settlement and its effect on the Severn Valley landscape building as part of my consideration of the first main issue above.

22. Consequently, none of these matters in my opinion comprise good reasons for refusing permission. However, this does not disturb my conclusion that the lack of a completed legal agreement concerning affordable housing provision constitutes a compelling reason why planning permission should not be granted."

- 1.5 The present application is accompanied by a unilateral undertaking to make the appropriate affordable housing contribution that will be due in this case.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is a parcel of land roughly 0.79 hectares located on the east of B4555 (Bridgnorth Road) on the edge of Highley. The site is currently pasture land accessed off the B4555 via a single width track, which is part tarmacked at the junction with the road, before dissipating into a rough gravelled surface. The land slopes down towards the south and east towards the Severn Valley.
- 2.2 The existing access is also a bridleway and a right of way runs along the boundary with the east of the application site. To the south lies the residential properties of Vicarage Lane, north is further pasture land and to the west the rear gardens of the dwellings fronting Bridgnorth road all bound the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 There is a Parish Council objection and this is a complex application which, in the view of the Planning Services and Area Planning Managers in consultation with the Committee Chairman, should be determined by the South Planning Committee.

4.0 Community Representations

- Consultee Comments

- 4.1 Highley Parish Council – Object:
The Parish Council object to this application on the grounds that it is outside the

building line and in an area of high landscape value within the Severn Valley. The Parish Council are also concerned about the access to this development. The application is contrary to Shropshire Councils local plan with no new developments to be built to the east of the village, which was approved by Shropshire Council. The Parish Plan for Highley stated that there was sufficient housing commitment for current and future requirements.

4.2 SC Rights of Way – Comment: No reference to the public right of way which would be affected by the proposed development. Copy of plan supplied to show where the proposed access and the bridleway coincide.

4.3 SC Drainage – No Objection: The following drainage details, plan and calculations could be conditioned if outline permission were to be granted:

1. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% 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. Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site.

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

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway.

3. Highway gullies are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. Confirmation is required that the gullies will be able to convey the 100 year plus 30% storm to the proposed surface water system. Alternatively, a contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site. Exceedance flow path should be provided to ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not

being used.

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

4. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

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

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

Water Butts

Rainwater harvesting system

Permeable surfacing on any new access, driveway, parking/paved area

Greywater recycling system

Attenuation

Green roofs

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

6. Informative: On the Surface Water Flood Map, the southern boundary is at risk of surface water flooding. The applicant should ensure that the finished floor levels are set above any known flood level.

Reason: To minimise the risk of surface water flooding.

- 4.4 Coal Authority – No consultation required; site located within the defined Development Low Risk Area; no requirement for a coal mining risk assessment to be submitted
- If this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

4.5 SC Ecology – No Objection:

I have read the above application and the supporting documents including the Phase 1 Environmental Survey conducted by Greenscape Environmental Ltd (February 2015). Please include the conditions and informatives below on the decision notice.

Nesting boxes

A total of 2 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

Roosting boxes

A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

Lighting

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.

Nesting birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

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

Trenches

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

4.6 SC Affordable Housing – Comment:

As an Outline application, the affordable housing contribution will be based on the prevailing target rate at the time of the Reserved Matters or full application. If the current prevailing target rate remains as existing, then a financial contribution will be required. I would welcome an opportunity to discuss the Unilateral Undertaking with the Council's Solicitor, given that it is likely to need an amendment.

4.7 SC Highways Development Control – No Objection:

Highway Observations & Comments:

The site is currently 'greenfield' (agricultural) and is served from an existing private track with an access to the adjacent Bridgnorth Road (B4555). The point of access is located on the apex of an outside of bend on the classified highway. The road frontage is predominantly developed and residential in nature as well as being subject to a 30mph speed limit.

This development will also significantly increase the likelihood of slow moving and stationary vehicles undertaking turning movements at this location, which would not be unexpected in this semi urban environment. Therefore, as long as the proposed new access is constructed to an appropriate specification, including satisfactory visibility splays, parking and turning areas, then there is unlikely to be any issues for highway safety, associated with this development proposal.

Conditions:**E1. New Access**

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 use hereby approved is commenced or the building(s) occupied.

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

E2. Road Design

No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

E5. On-site Construction

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

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative

- displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

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

E8. Access Prior to other operations

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

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

Informatives:

HN1. 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.

HN5. Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.

HN8. Provision of access over footway or verge (S.184 License)

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

HN10. Works within the highway (S.50 License)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway. The applicant should apply to the Coordination Manager at the appropriate Area Office: -

- **Bridgnorth - Bridgnorth.highways@Shropshire.gov.uk**

Who shall be given at least 3 months' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an appropriate licence, approved specification for the works together and a list of approved contractors, if required

4.8 Shropshire Area Ramblers – Comment:

Please note that Section 24 of the Planning Application has been completed incorrectly as the farm access track indicated on the Location and Block Plan is also a Public Bridleway Highley 0127/13/1. Please make this mistake clear to the Applicant. It was correctly identified on the previous Planning Application, but no mention of the Right-of-Way was included in that Design and Access Statement, a fact on which the Rights-of-Way Department commented. It was also mentioned in

the Development Management Report. As a result of this, please check that there are no other discrepancies between this and the previous Planning Application.

-Public Comments

(The comments received are summarised below and may be inspected in full on the Council's web site)

4.9

2 Objections:

-Objections made to appeal application 15/02212/NONDET still apply.

-Proposed works will affect all neighbouring properties restricting their view over the surrounding countryside; this was one of the primary reasons he purchased his property in April 2015.

-Serious impact upon standard of living.

-Loss of privacy and overlooking.

-Application does not state how foul sewage will be disposed of.

-Water pressure in summer is regularly poor.

-Application form incorrect in stating no trees affected as site includes two rows of trees that run along the length of the bridleway.

-Site can be seen from the bridleway and public footpath.

-If the Council's only objection to development in this area was the lack of an affordable housing contribution it shows that local residents concerns and feelings are not considered when planning the future of the village; rhetoric that local wishes are taken into account is completely false.

-Important to protect valuable farm/grazing/pasture land from unnecessary development; still ample unused vacant brownfield land within the village boundary.

-Further development down the prominent ridge of the Severn Valley would further detract from the appearance of the attractive unspoilt countryside.

-Access to/from site on a dangerous bend near brow of a hill, where pedestrians frequently cross the road

-Several accidents have occurred in the last five years on this bend.

-B4555 Road in poor condition.

-Proposed access is a bridleway regularly used by horse riders.

-Local amenities substandard for the size of the village.

-Few employment opportunities in the area.

5.0 THE MAIN ISSUES

Principle of development

Access and Highway Safety

Right of Way

Layout and Scale

Visual impact and landscaping

Drainage

Biodiversity

Residential and neighbour amenity

Open Space
Affordable Housing Contribution
Impact on local services

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the adopted Shropshire Core Strategy and the adopted Site Allocations and Management of Development (SAMDev) Plan 2015 for the Highley area..
- 6.1.2 The National Planning Policy Framework promotes sustainable development and states that new housing applications should be considered in the context of the presumption in favour of sustainable development. Notwithstanding that presumption, paragraph 2 of the Framework reiterates that planning law requires that applications for planning permission must be determined in accordance with the Development plan, unless material considerations indicate otherwise.
- 6.1.3 Policy CS1 establishes a settlement hierarchy with new development focussed in Shrewsbury, the Market Towns, identified Key Centres and, in the rural areas, the Community Hubs and Community Clusters. These are considered to be the most sustainable places to deliver the overall strategy of managed growth which will reinvigorate smaller settlements within the rural areas using an approach termed 'rural rebalancing'. The application site is situated immediately adjacent to, but outside of the development boundary for Highley, which Policy CS3 (The Market Towns and Other Key Centres) identifies as a settlement which will have development that balances environmental constraints with meeting local needs. The application site constitutes open countryside where new build housing is normally limited to dwellings to house essential countryside workers or affordable housing to meet local needs. The proposed bungalows in this case would not fall into either of these categories.
- 6.1.4 SAMDev Plan policy MD3 relates to the delivery of housing development. It advises that in addition to supporting the development of allocated housing sites, permission will also be granted for other sustainable housing development having regard to the policies in the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a., Whilst this policy is supportive of the principle of windfall housing, which this proposal could be regarded as being an example of, section 2 of the policy makes it explicit that the settlement housing guideline is a significant policy consideration. Section 3 of the MD3 policy states that where a settlement housing guideline appears unlikely to be met, additional sites outside the settlement boundaries that accord with the settlement policy may be acceptable subject to the

considerations set out in section 2 of the policy, which relate to i) the increase in number of dwellings relative to the guideline; and ii) the likelihood of delivery of outstanding permissions; and iii) the benefits arising from the development; and iv) the impacts of the development, including cumulative impacts of a number of developments in a settlement; and v) the presumption in favour of sustainable development.

- 6.1.5 SAMDev Policy S9 relates to the Highley Area. Policy S9.1.1 states that, to support the settlement's role as a key centre, Highley will have growth of around 200 dwellings in the period up to 2026. Policy 9.1.2 states that new housing development will be delivered primarily on the allocated housing site at Rhea Hall, alongside additional small-scale infill and windfall development within the town's development boundary. The supporting explanation for this policy is set out on paragraphs 4.96 and 4.97 of the SAMDev Plan which state:

"4.96 The scale of future development proposed in Highley reflects its role in meeting local needs with a growth aspiration of around 200 houses and a minimum of 0.6 ha of new employment land between 2006 and 2026. Since around 162 houses have already been built since 2006 or have planning permission for development, the SAMDev Plan makes provision for about a further 38 new houses to help deliver the local aspiration for growth.

4.97 To deliver this, a site at Rhea Hall is allocated for around 30 houses with access off Coronation Street. This allocation sits in a predominantly residential area with good access to services in the town. The site does not extend Highley along the B4555 or to the west or east of the prominent ridge on which the village stands. In addition to the site allocation, there are further limited opportunities for development of windfall sites within the existing development boundary. Shropshire Council has also resolved to grant permission for residential development at Jubilee Drive (ref: 13/04789/OUT), subject to S106 AGREEMENT, which is in addition to the SAMDev requirement."

The Jubilee Drive development of 58 dwellings is now underway. With regard to the allocated housing site at Rhea Hall, that site has also received planning permission (ref 12/02334/OUT; 15/01269/REM and 15/05128/REM) and work has commenced. However the scheme being implemented by Shropshire Towns and Rural housing is only for 17 bungalows, and not 30 properties as envisaged by the SAMDev allocation.

- 6.1.6 The site is considered to be in a sustainable location and its layout and scale are appropriate for the area. The development would relate to existing built development being bounded by housing to the south and west does not represent significant encroachment into the surrounding countryside. It is considered on balance the scheme would not be of significant detriment to visual amenity or the character and appearance of the Severn Valley. The scheme can be implemented without compromising highway safety or exacerbating flooding, further the scheme can be development in a manner so as not to result in undue harm on residential amenity.

- 6.1.7 However, the development would be on land outside of the development boundary for Highley shown in the SAMDev Plan and would not be affordable housing or essential rural workers accommodation, which is normally the only form of new build dwellings that may be acceptable outside of the Market Towns and other Key Centres (Core Strategy policy CS3) and Community Hubs and Clusters (Core Strategy policy CS4).

Having regard to the considerations that are applicable to such situations set out in SAMDev policy MD3.2, and setting to one side the proposals location outside the development boundary, the increase is relatively modest for this CS3 settlement, given only nine properties are proposed; the provision of bungalow accommodation has often been requested in development proposals for the area; the impact nine 2 bedroomed bungalows on village services would be limited; and the site, in location terms, is in a very sustainable location with good access to village services by non-car modes of travel and would cause no environmental harm. The development would make a small contribution to boosting housing supply.

- 6.1.8 On the other hand, with Shropshire Council being able to demonstrate a five year plus supply of housing land, it can be argued that there is no compelling reason to release land for open market residential development on land outside the development boundary of a policy CS3 settlement at the present time. Policy MD3.3 envisages new build open market housing beyond a settlement boundary as a possibility, but only where the settlement housing guideline appears unlikely to be met. The latest available housing figures indicate cumulatively that completions (86), commitments (92) and the recent consent for 30 dwellings on the Cedars site would total some 208 units in comparison to the housing guideline of around 200 dwellings for the plan period to 2026 set out in Policy S9, and there is no evidence that further infill and windfall development is unlikely to come forward within the Highley development boundary and be considered through MD3.2. It is not considered necessary or appropriate to engage policy MD3.3 by seeking additional sites outside of the Highley development boundary in an area of open countryside, and this would be contrary to the development strategy for the area. A core planning principle in the NPPF, set out in paragraph 17, is that development should be genuinely plan-led, empowering local people to shape their surroundings, and this is what the recently adopted SAMDev Plan has achieved, providing a practical framework within which decisions on planning applications can be made. The use of this land for residential development would undermine the NPPF's objective of a Plan-led approach to development.

- 6.1.9 The presumption in favour of sustainable development runs through the NPPF is a relevant material consideration, but it is not considered that this 'presumption in favour' should outweigh the significance and primacy of the up-to-date development plan policies in making decisions. On balance, it is considered that the proposal would not be acceptable, being contrary to Policies CS3, CS4 and CS5 of the Core Strategy, and SAMDev Policies MD1, MD3, MD7a and S9.

6.2 Access and Highway Safety

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

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

6.2.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It also seeks to secure safe developments, which requires the local road network and access to the site to be capable of safely accommodating the type and scale of traffic likely to be generated. A transport assessment accompanies this application.

6.2.3 To comply with the ‘Manual for Streets’ documents the splays would need to be 2.4m by 43m. The Councils Highways Officer considers that on the basis that a typical domestic dwelling generates on average 6 vehicle movements per day the 9 dwellings proposed would generate possibly 54 movements, plus any associated with the farm access, although it is noted that the dwellings are bungalows and are likely to be occupied by older people who may not make as many journeys each day.

6.2.4 The scheme proposes to utilise the existing access onto the B4555. This section of the highway is within a 30mph zone and in the vicinity of a number of domestic dwellings, each with their own access onto the road. As such drivers passing through Highley at this point would be expecting regular vehicle movements on and off the carriageway at all times due to the nature of the area.

6.2.5 Taking into consideration the above factors the Councils Highways Officer considers that whilst the proposal would have some effect on traffic flow through Highley the impact would not be of a level to cause detriment to highway safety. This assessment was accepted by the Committee in the consideration of the previous application 14/02129/OUT and the subsequent appeal was not dismissed on highway safety grounds. Planning conditions on any approval issued would relate to access construction and sight lines; road construction within the site and the submission for approval of a Construction Method Statement.

6.3 Right of Way

6.3.1 It is noted that part of Bridleway 13 Highley runs along the first section of the access to the proposed development. Should permission be granted the developers would need to either apply to divert the Bridleway or seek to incorporate solutions to secure the safety of users of the right and way. It is considered that there is ample space either side of the proposed access to enable the development of either solutions.

6.4 Layout and Scale

6.4.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment. SAMDev policy MD2 gives further guidance on seeking to ensure developments contribute positively to local character and amenity.

- 6.4.2 Although the appearance of the properties is indicated through the provision of a front and side elevation drawing this is indicative only as the appearance is reserved for later approval. The current submission however does allow for consideration as to whether the layout, density and scale are appropriate or not in relation to the context in which it is proposed.
- 6.4.3 The proposed site plan (drawing number Highley Pr-01-Rev C) shows a cul-de-sac of nine detached bungalows to sit around the turning head and the section of the new access road to the rear of the properties facing the Bridgnorth Road. Each bungalow is proposed to have its own parking, and gardens. Four of the bungalows are proposed to have their own accesses off the turning head, with the remaining five sharing two separate drives before splitting into separate parking spaces next to their bungalows. The elevation drawings show a ridge height of approximately 5.3m and an eaves height of around 2.3m.
- 6.4.4 The existing residential dwellings in the area vary in type and size and the majority have spacious gardens. The application site is considered to be of relatively low density which results in the proposed plots being spacious, this and the single storey nature of the dwellings would be fitting for an edge of settlement location such as this and compliments the character of the surrounding estates.
- 6.5 Visual Impact and landscaping**
- 6.5.1 The site forms part of a 'broad location' considered to have medium capacity for housing in the Landscape Sensitivity study (part of the evidence base that informed consideration of sites within the SAMDev Plan preparation) and is considered 'moderate' in the generalised landscape character assessment. The site is much smaller than the broad location in the landscape sensitivity study but clearly the impact on the setting of Highley, recognising the prominent ridge upon which the village stands, and its potential impact on the visual amenity of the area and the Severn Valley needs careful consideration when determining the application.
- 6.5.2 The site adjoins the current development boundary that runs along the eastern edge of Highley. The proposed layout shows that the built part of the proposal would not project past the existing built development at Vicarage Lane as such it is considered that the scheme would relate well with existing built development and would not encroach significantly into the open countryside.
- 6.5.3 It is acknowledged that due to the location of Highley on the ridge the built development at the edge of Highley is visible from public view points in the wider landscape and it is inevitable that the proposed development would, like the adjacent dwellings, be visible.
- 6.5.4 The scale and density of the development is considered appropriate for the size of the application site and its edge of settlement location. The single storey nature of the dwellings would create a low level development which would go some way towards reducing the potential visual impact. Landscaping and appearance of the dwellings are matters to be dealt with at reserved matters stage should outline planning permission be granted, however it is considered that there is sufficient space to enable the integration of design solutions and landscaping which takes into account the sloping nature of the site to further help mitigate potential impacts

on the visual character and appearance of the area. Given these factors it is considered on balance that the impact on visual amenity and the Severn Valley would not be significantly detrimental to justify refusal. The Appeal Inspector on the previous application 14/02129/OUT concurred with this assessment, as may be seen from the paragraphs from the appeal decision letter at 1.5 above.

6.6 Drainage

- 6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. The Councils drainage team are satisfied that subject to conditions securing details of the drainage method, the development can be adequately drained without causing or exacerbating flooding in the site or vicinity.

6.7 Biodiversity

- 6.7.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible. Core Strategy policy CS17 and SAMDev Plan policy MD12 set out how biodiversity will be protected and enhanced. A Biodiversity Survey and Report has been submitted with this application. The Council's Ecology Team are content that biodiversity interests can be adequately safeguarded by conditions relating to the provision of artificial nests, bat boxes and external lighting.

6.8 Residential and neighbour amenity

- 6.8.1 Core Strategy Policy CS6 requires all development to safeguard the amenities of neighbouring residents. In this case the layout of the site has been submitted for approval, it is possible, in part, to consider the potential impact on the existing residents around the site, although without elevations and appearance of the dwelling it is not considered possible to fully establish the impact.
- 6.8.2 There are residential dwellings to the south and west of the application site, there is no right to a view across private land. In terms of the risk of overlooking, loss of light and overbearing impacts as a result of the development the layout plan submitted indicates that there would be minimum separation distance between the existing and proposed dwellings of approximately 14m with the dwellings to the south and around 27m with the dwellings to the west. Such distances are normally accepted as being sufficient so as not to result in undue impacts on light, privacy or overbearing development.
- 6.8.3. The single storey nature of the dwellings further limits the potential for the development to be overbearing and the risk of overlooking is generally less as appropriate boundary treatments can be sought that can act as effective screening between properties and protect privacy. Such boundary treatment can be sought through the landscaping proposal for the site, which would be considered during any reserved matters application.

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

6.9 Open Space

- 6.9.1 The amount of open space that should be sought in housing developments is set out SAMDev policy MD2 and the associated Open Space Interim Planning Guidance adopted in January 2012, and is a standard of 30 square metres per bedroom. The amenity open space within the proposed development would be adjacent to the access road and would be sufficient for a scheme of nine 2 bedroomed bungalows. The equipping of any open spaces with formal play equipment would have to be through the use of Community Infrastructure (CIL) receipts.

6.10 Affordable Housing Contribution

- 6.10.1 Core Strategy Policy CS11 requires all new open market housing developments to make appropriate contributions to the provision of local need affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index. For site of 5 dwellings and above the provision of affordable housing is expected on site. As the application is outline and council policy requires the number of affordable dwellings be set at the prevailing rate in force at the time of the submission of the reserved matters application: This is normally achieved through a Section 106 Agreement signed by all parties, including the Council, which refers to the formula figure rather than provide a specific number.
- 6.10.2 An acceptable alternative is for an applicant to submit a unilateral undertaking to achieve the same end. The Council's Affordable Housing Team has commented that the unilateral undertaking submitted with this application is likely to need an amendment. Should the Committee resolve to grant planning permission in this case, the permission would not be issued until negotiations on the content of this legal agreement have been satisfactorily completed.

6.11 Impact on Local Services

- 6.11.1 Concerns have raised comments about the capacity of local infrastructure and services to cope with the additional demand arising from a further 9 houses being built. It is the duty of the individual service providers to respond to increased demand in line with Government requirements. Many of the services, including the Education and Health Authorities, are involved at a strategic level in local planning and develop their services in accordance with projected increases in population. The development would pay a Community Infrastructure Levy.

7.0 CONCLUSION

- 7.1 The site is considered to be in a sustainable location and the proposed layout and scale would be appropriate for the area. The development would relate to existing built development being bounded by housing to the south and west would not represent significant built, encroachment into the surrounding countryside. It is

considered on balance the scheme would not be of significant detriment to visual amenity or the character and appearance of the Severn Valley. The scheme can be implemented without compromising highway safety or exacerbating flooding, further the scheme can be developed in a manner so as not to result in undue harm on residential amenity. The Inspector in the July 2015 appeal decision, prior to the adoption of the SAMDev Plan, reached these same conclusions about the proposed development.

- 7.2 However, the development would be on land outside of the development boundary for Highley shown in the now adopted SAMDev Plan and would not be affordable housing or essential rural workers accommodation, which are normally the only form of new build dwellings that may be acceptable outside of the Market Towns and other Key Centres (Core Strategy policy CS3) and Community Hubs and Clusters (Core Strategy policy CS4) allowed for by Core Strategy policy CS5 and SAMDev policy MD7a. Having regard to the considerations that are applicable to such situations set out in SAMDev policy MD3.2, and setting aside the location being outside of the village development boundary, the increase in the number of dwellings proposed for the context of a CS3 settlement is relatively modest, given only nine properties are proposed; the provision of bungalow accommodation has often been requested in development proposals for the area; the impact nine 2 bedroomed bungalows on village services would be limited; and the site, in location terms, is in a very sustainable location with good access to village services by non-car modes of travel and would cause no environmental harm. The development would also make a small contribution to boosting housing supply.

On the other hand, with Shropshire Council being able to demonstrate a five year plus supply of housing land, it can be argued that there is no compelling reason to release land for open market residential development on land outside the development boundary of this policy CS3 settlement at the present time. Policy MD3.3 envisages new build open market housing beyond a settlement boundary as a possibility, but only where the settlement housing guideline appears unlikely to be met (MD3.3). Cumulatively, the proposal, taking into account completions (86), commitments (92) and the consent for 30 dwellings on the Cedars site would total some 208 units in comparison to the housing guideline of around 200 dwellings for the plan period to 2026 set out in Policy S9, and there is no evidence that further infill and windfall development is unlikely to come forward within the Highley development boundary and be considered through MD3.2. It is not considered necessary or appropriate to engage policy MD3.3 by seeking additional sites outside of the Highley development boundary in an area of open countryside, and this would be contrary to the development strategy for the area. A core planning principle in the NPPF, set out in paragraph 17, is that development should be genuinely plan-led, empowering local people to shape their surroundings, and this is what the recently adopted SAMDev Plan has achieved, providing a practical framework within which decisions on planning applications can be made. The use of this land for residential development would undermine the NPPF's objective of a Plan-led approach to development.

The presumption in favour of sustainable development runs through the NPPF is a relevant material consideration, but it is not considered that this 'presumption in favour' should outweigh the significance and primacy of the up-to-date

development plan policies in making decisions. On balance, it is considered that the proposal would not be acceptable, being contrary to Policies CS3, CS4 and CS5 of the Core Strategy, and SAMDev Policies MD1, MD3, MD7a and S9.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

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

Shropshire Core Strategy:
CS1 Strategic Approach
CS3 The Market Towns and other Key Centres
CS4 Community Hubs and Clusters
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS10 Managed Release of Housing Land
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Site Allocations and Management of Development (SAMDev) Plan:
MD1 Scale and Distribution of Development
MD2 Sustainable Design
MD3 Delivery of Housing Development
MD7a Managing Housing Development in the Countryside
MD12 The Natural Environment
MD13 The Historic Environment
S9 Highley Area

SPD on the Type and Affordability of Housing
Open Space IPG

RELEVANT PLANNING HISTORY:

14/02129/OUT Outline application for residential development to include access, layout and scale 15th July 2015

Appeal

15/02212/NONDET Outline application for residential development to include access, layout and scale DISMIS 13th July 2015

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

Design and Access Statement

Transport Assessment

Biodiversity Survey and Report

Unilateral Undertaking

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Dave Tremellen

Informatives

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 187, the proposed development is contrary to the policies set out in the Committee Report and referred to in the reason for refusal, and it has not been possible to reach an agreed solution.