



Committee and date

Central Planning Committee

28 April 2016

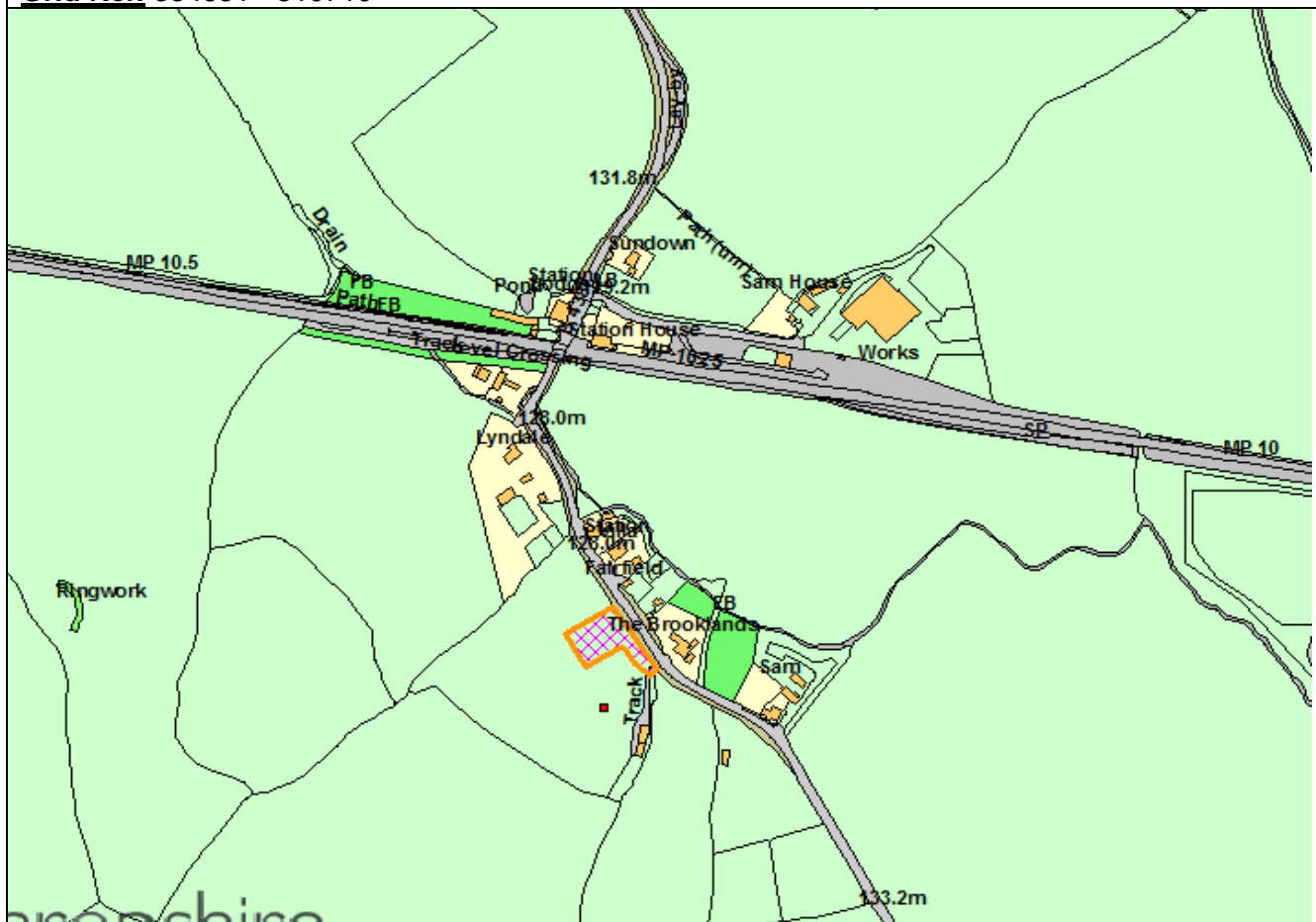
Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 16/00120/FUL	Parish: Westbury
Proposal: Erection of 1no affordable dwelling and detached garage	
Site Address: Proposed Affordable Dwelling Westbury Shrewsbury Shropshire	
Applicant: Mr & Mrs A Owen	
Case Officer: Frank Whitley	email: planningdmc@shropshire.gov.uk
Grid Ref: 334651 - 310710	



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Recommendation:- GRANT PLANNING PERMISSION subject to the applicants entering into a S106 agreement to secure the property as affordable and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission for the erection of 1 no affordable dwelling and single space detached garage. This is a revised application from an earlier scheme which proposed a dwelling set back from the road, further into the field.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site lies in existing pasture land adjacent to the B4387 which connects the settlements of Westbury and Halfway House. The application would add to an existing cluster of dwellings comprising Sarn, the Brooklands, Fairfield, Station Villa (on the east side of the road) and Lyndale which is further north on the west side of the road. Collectively these properties are considered to form part of the dispersed settlement of Westbury. According to Agricultural Land Classification West Midlands region the site is Grade 3 (good to moderate) agricultural land.

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. At the request of the locally elected member, the Area Planning Manager and Chair of the Central Planning Committee have decided that the application should be decided by elected Members.

4.0 Community Representations

Consultee Comments

4.1 SC Ecology- no objection

Informatives are recommended for inclusion on the decision notice

4.2 SC Affordable Housing- no objection

My comments remain unchanged from October 2015

PROPOSED AFFORDABLE DWELLING 'land at Westbury Shrewsbury Shropshire

Single plot application: Mr Allan Owen and Mrs Emma Owen

I can confirm that Allan Owen has demonstrated strong local connections to the Westbury Parish Council local administrative area. After considering the Owen's family housing needs and personal circumstances, I can confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied.

The Local Housing Need elements of the family's application were established as follows from information presented to me in July 2015.

' Mr Owen intends to construct a 100 sq m (max) affordable single storey dwelling at the above site to occupy as his long-term family home. This dwelling will be subject to a Section 106 Agreement prescribing local occupancy criteria, size and also restricting any potential future sale value.

' Mr and Mrs Owen currently live in rented accommodation in Middletown, this property is not deemed suitable for the long term need of the family as they wish to become home owners and move back to the Westbury area.

' Westbury Parish Council were able to confirm that Mr Owen has strong local connections to the parish.

' Mr Owen has close family and friends that live within the local area. He grew up in the parish and attended the local primary school in Westbury. Mr Owen his wife and children have animals that they keep on land within the parish they often currently travel several times per day to check that they are safe, fed and well.

' Development of the new affordable dwelling will not only provide more suitable accommodation for Mr Owens future needs (and be significantly cheaper to run), but will also be close to his parents and family to enable mutually beneficial help and support.

' Mr Owens doctor has written to support his application confirming his medical needs and the support his parents currently require and will need in the future.

' Mr Owen has been looking to purchase a property within the parish for a while but due to issues regarding affordability and availability he has been unable to secure a suitable home.

' Mr Owen has therefore demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability he is unable to meet his own housing need within the parish without assistance from this policy.

4.3 **SC Flood and Water Management – no objection**

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: www.shropshire.gov.uk/environmental-maintenance-and-enforcement/drainage-and-flooding/flood-risk-management-and-the-planning-process.

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

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Connection of new surface water drainage systems to existing

drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

4.4 **SC Highways- no objection**

Recommendation

No objection – subject to the imposition of the following conditions and informatives on any consent that may be granted.

The context, scale and point of access of the proposed development remains the same as the earlier withdrawn application 15/04184/FUL and therefore from the highway perspective proposes no fundamental changes to those previously presented and commented upon.

4.5 **Public Comments**

9 objections have been received based on the following issues:

- Surface water and flooding
- Highway issues
- Absence of footpath
- The application site is not within a named settlement
- Development exceeds 100sqm limit for affordable housing
- Dwelling could be constructed elsewhere on land owned by family
- Setting a precedent for similar development in the future
- Development is proposed on prime agricultural land

10 representations of support have been received.

4.6 **Parish Council - neutral**

There was no resolution to the question as to whether this site is a named settlement, and we had one councillor absent, and two unable to vote due to conflict. There was one vote against, one in favour and 5 sitting on the fence, so I have to report that The Parish Council is neutral on this matter.

Locally Elected Member- confirmed preference that application should be decided by elected Members

5.0 **THE MAIN ISSUES**

Principle of development
Siting, scale and design of structure
Residential Amenity
Flooding
Visual impact and landscaping

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.1.1 Shropshire Council Core Strategy Planning Policies CS1, CS5 and CS11, along with the National Planning Policy Framework, allow for the building of affordable dwellings on rural 'exception sites' to meet specific local needs.

- 6.1.2 Policy MD7a (Managing Housing Development in the Countryside) of the Site Allocations and Management of Development (SAMDev) Plan states that in order to protect the long term affordability of single plot exception dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions.
- 6.1.3 In this case, as summarised above, the Council's Housing Enabling Officer finds that the policy requirements in respect of housing need are satisfied. Planning permission would be subject to prior completion of a Section 106 agreement to ensure that the dwelling remains a discounted sale dwelling which would limit its value in perpetuity.
- 6.1.4 The Type and Affordability of Housing SPD states that rural exception sites are still required to be within or adjoining "recognisable named settlements" and should not constitute isolated or sporadic development. The application site lies very close to a cluster of five existing dwellings, which are considered related to the settlement of Westbury. The proposed site is not considered isolated or sporadic development which would adversely affect the landscape, local historic or rural character, as per para 5.14 of the Type and Affordability of Housing SPD (Housing SPD). Para 5.16 of the Housing SPD states that recognisable settlements will usually, but not always be named on the Ordnance Survey Map. In this case, there does not appear to be named settlement directly associated with the site. However on balance, the site is considered to accord with the Location requirements of the SPD, paras 5.13-5.18. It is noted that the Parish Council were unable to resolve whether or not the site forms part of a named settlement.
- 6.1.5 It is considered therefore that the plot is suitable in terms of location for a rural exception site and meets the requirements of the relevant sections of CS1, CS5 and CS11.
- 6.2 Siting, scale and design of structure**
- 6.2.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 6.2.2 The proposed two bedroom bungalow is modest in scale, its gross internal floor area not exceeding the 100m² limit specified in the SPD Type and Affordability of Housing. 'Permitted development' rights for subsequent extensions will be removed, both to ensure that the property remains of a size which is affordable to local people and in the interests of visual amenity. The plot is large enough to provide sufficient outdoor amenity space for the applicants themselves without exceeding the 0.1ha restriction imposed by the aforementioned SPD.
- 6.2.3 The detached garage is considered appropriate in scale and design. The dwelling is to be constructed from brick under a slate appearance tiled roof. Window frames and doors are to be constructed from timber. An open sided porch area is proposed to project from the rear of the dwelling to provide quiet amenity space for the occupier. The submitted plan shows 12 Photovoltaic panels are to be fitted to the south west facing roof elevation. Overall the siting, design and use of

materials is considered acceptable and in accordance with CS6 (Sustainable Design and Development Principles) and MD2 (Sustainable Design).

6.2.4 The Type and Affordability of Housing SPD states that dwellings on exception sites must also be constructed to a minimum of an equivalent to the 'Code for Sustainable Homes' level 3 for energy and water efficiency. It is therefore necessary to impose a condition ensuring that the dwelling is constructed to an equivalent of this Code.

6.2.5 A package treatment plant and herringbone soakaway to the rear of the dwelling is considered acceptable.

6.3 Residential Amenity

6.3.1 The proposed dwelling has been located to integrate with the existing group of dwellings, though has been positioned slightly to the north of the existing field access so as not to directly face main part of The Brooklands. The site is separated from nearby properties by an existing hedge to the front which is to be retained and the B4387 itself. It is not considered that there will be significant impacts upon neighbouring residential amenity.

6.4 Flooding

6.4.1 The site lies entirely in Flood Zone 1 (lowest risk of flooding), though land immediately to the east of the existing group of dwellings opposite falls within Zones 2 and 3.

6.4.2 Concerns have been raised by objectors about run off from the field which contains the application site. Photographs have been supplied which appear to show the B4387 flooded. However there is no evidence that the proposal would exacerbate the alleged flooding issue and it is noted that the proposal includes a soakaway and a permeable drive surface. No concerns have been raised by either Shropshire Council Highways or the Flood and Water Management Team. The proposal is considered to accord with CS18 (Sustainable Water Management).

6.5 Visual impact and landscaping

6.5.1 CS6 seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.

6.5.2 The development is single storey and modest in scale such that the visual impact is limited. Additional screening is to be planted around the perimeter of the application site.

6.5.3 The proposal is considered to respect the existing scale and character of buildings in the surrounding area and it is judged the dwelling and detached garage would not significantly detract from the rural character of the area.

7.0 CONCLUSION

7.1 The proposal is judged to be acceptable in principal since it is for an affordable dwelling to meet an identified local need and the site is sufficiently related to a recognisable named settlement to accord with the locational requirements of the Housing SPD. The dwelling as proposed would have no significant landscape impact, and the design of the proposed garage is satisfactory. Furthermore, there are no undue concerns in respect of residential amenity, drainage or ecology. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to prior completion of a legal agreement to ensure that the property remains 'affordable' in perpetuity, and to conditions to reinforce other critical aspects. The development is considered to accord with the requirements of the NPPF, CS1, CS5, CS6, CS11, CS17, CS18, MD2 and MD7a and the Type and Affordability of Housing SPD.

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 SAMDev Plan
CS6, CS11, CS17, CS18, MD2, MD7a
Type and Affordability of Housing SPD

RELEVANT PLANNING HISTORY:

SA/89/0106 Erection of an extension to provide sitting room and cloaks on ground floor and bedroom and bathroom on first floor, enlargement of two bay windows. PERCON 18th April 1989

11. Additional Information

[View details online:](#)

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

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David 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.

3. The dwelling hereby permitted, shall not exceed 100 square metres gross internal floor area, including any future extensions. No further internal habitable space shall be created within the dwelling by internal alterations.

Reason: To ensure that the dwelling is of a size appropriate to the local affordable housing market.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

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

5. Prior to the occupation of the dwelling details of the boundary treatments shall be submitted to and approved by the Local Planning Authority. The works carried out shall be carried out prior to the occupation of the dwelling or in accordance with a timetable agreed with the Local Planning Authority.

Reason: To ensure the boundary treatment is appropriate to the rural area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

6. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved site plan drawing no.625/PA/02 prior to the dwelling being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

7. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

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

8. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

9. The new dwelling hereby permitted shall be constructed to an equivalent to the Code for Sustainable Homes, Level 3 star rating for energy and water efficiency.

Reason: To ensure the dwelling is constructed with a view to reducing its carbon footprint and ensuring environmental sustainability, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy and SPD Type and Affordability of Housing.

10. The detached outbuilding included in the development hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the new dwelling as a single dwelling unit, but shall not be converted into or used as habitable accommodation, or used for commercial or business purposes, without the prior written consent of the local planning authority.

Reason: To ensure that the outbuilding is not used as a separate dwelling and that the property as a whole remains of a size which 'affordable' to local people in housing need, in accordance with Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

11. Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall

be erected within the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.