

## Development Management Report

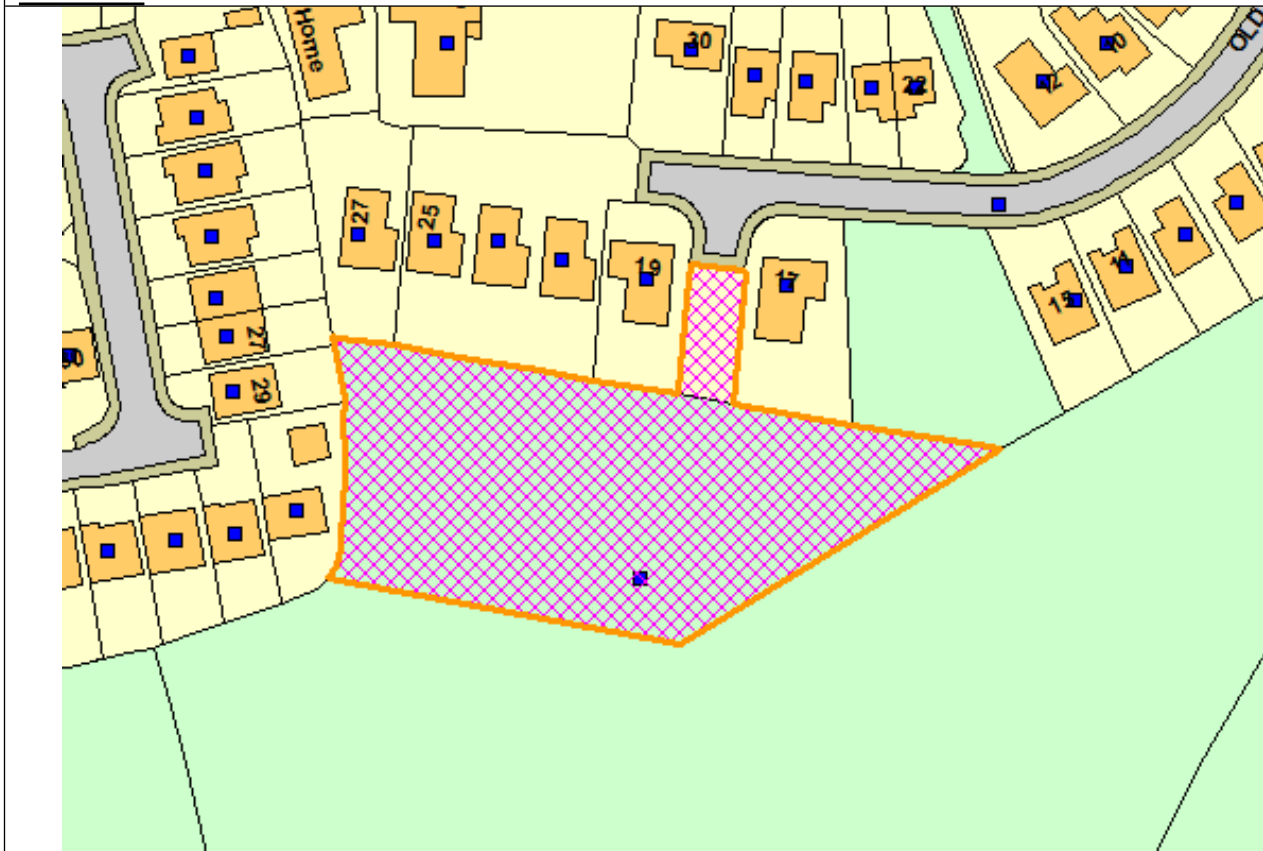
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 15/04152/REM	<b>Parish:</b>	Oswestry Rural
<b>Proposal:</b> Approval of Reserved Matters (layout, appearance and landscaping) pursuant to permission 13/03846/OUT for the erection of 10 no. single storey dwellings; formation of parking and vehicular access		
<b>Site Address:</b> Land South Of Old Mapsis Way Morda Shropshire		
<b>Applicant:</b> Mrs Elizabeth Burton		
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 328557 - 327598



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

- 1.1 This application was previously considered by the Planning Committee at the meeting in March where members resolved to defer the application to enable further investigation into the site layout and in particular positioning of the communal bin area, the collection of bins and issues surrounding the future maintenance of hedges.
- 1.2 The proposal involves the construction of 10 single storey bungalows as an extension to an existing modern housing estate. Outline planning permission was granted in December 2013 (13/03846/OUT) where, appearance, landscaping and layout were all reserved for later approval. The outline planning consent therefore only established the principle of 10 dwellings, its access and the scale of the development on the site. This application is therefore to consider all of the outstanding reserved matters (layout, appearance and landscaping)

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located outside any development boundary, this is because under SAMDev Morda is neither a hub or a cluster and as such the whole settlement is classed as open countryside for the purposes of planning policy.
- 2.2 Access to the site would be provided off the existing turning head, where a gap was created in the adjacent development to allow access to the field and to maintain the opportunity for future built development.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The local member and the chair of the planning committee consider that the Parish Council have raised material planning issues that warrant the application being determined by committee.

**4.0 COMMUNITY REPRESENTATIONS****4.1 Parish Council**

Made comments neither objecting to or supporting the Planning Application. At the meeting of Oswestry Rural Parish Council held on **26 April 2016** it was noted that the issues regarding waste management had been addressed by the revised site layout. The Council did not wish to comment on other issues.

At the meeting of Oswestry Rural Parish Council held on **26 January 2016** it was resolved to continue to object to the application and the comments submitted on 28 October 2015 were still relevant. Following a review of the re-consultation documents the following comments were made:

- The Council raised serious concerns regarding the proposal of a single waste storage area. It was considered it could attract vermin, be a health hazard, attract fly tipping and detrimentally impact on the amenity of the existing neighbouring property.
- The Council has been advised that there is an official footpath running through the site. The Council requests this be investigated.
- The Council requests that should the application be approved it is conditional that once started, the development completes within a 2 year period. This is to avoid the potential of partially developed properties remaining unfinished for an unacceptable period of time.

At the meeting of Oswestry Rural Parish Council held on **27 October 2015** it was resolved to object to the application. The Council has serious concerns regarding the site levels when compared to other properties in the vicinity. The Council does not support the proposed approach and would request the site is levelled to the lowest point and a retaining wall placed around the site where necessary. This is to reduce any adverse impact to the amenity and privacy of neighbouring properties.

#### 4.2 **Highways**

The proposed parking provision has been provided in accordance with the outline permission condition and included 3 visitor spaces. The trees on the eastern side of the private drive prevent a continuous unobstructed pedestrian link between the proposed properties and the existing footway facility on Old Mapsis Way. The trees should be removed and a more direct continuous link designed across the turning head to the opposite side of the cul-de-sac adjoining parking space no.4.

In addition no refuse bin storage area has been considered, and the applicant may wish to liaise with Council's Waste Collection Team to address this. It may also be advisable to consult with them as to whether or not the refuse lorry is able to turn within the proposed private drive turning head.

#### 4.3 **Parks and Recreation**

The layout of the 10 single storey dwellings should not obscure the views from the current Community Orchard Open Space provided at Old Mapsis Way, looking out to the south. Indeed some of the development land adjoining the POS should be added to the Community Orchard to create a rather larger space for the local community to enjoy. The minimum POS requirement would be 30m<sup>2</sup> per bedroom.

#### 4.4 **Affordable Housing**

A development of 10 dwellings would need to provide 1 affordable dwelling on site in accordance with the SPD.

#### 4.5 **Drainage**

The proposed surface water drainage details, plan and calculations should be submitted for approval prior to the approval of the Reserved Matters as per Drainage Condition 4 on Outline Application 13/03846/OUT.

#### 4.6 **Archaeology**

Note Condition 6 of planning permission ref. 13/03846/OUT. No further comments to make.

**4.7 Severn Trent Water**

No objection subject to condition.

**4.8 Waste Management**

The tracking details provided for the refuse vehicle it appears that the vehicle can manoeuvre around the site.

**4.9 Conservation**

No comments to make on the application.

**4.9 - Public Comments**

Since the application was previously considered by committee and the submission of amended plans objections have been received from 7 individual addresses raising the following further issues:

No safe turning area in Old Mapsis Way as turning area would be a through route.  
Maintenance of the area.

Plots 7,8, 9 and 10 are too high resulting in loss of privacy.

The land should be levelled.

Retaining walls are a safety hazard

Representations received from 3 individual addresses commenting on the following issues:

To many buildings on the site

There is no infrastructure to support more housing.

Overlooking

Impact upon human rights

Impact upon highway safety

Increased traffic

Impact on outlook

Long term maintenance of the landscaping

Impact on archaeology

Risk from contaminated land

Refuse collection area should be appropriately constructed

In sufficient/ inadequate parking area

Small gardens

Design/ layout

Impact on wildlife

Council now has a 5 year supply

**5.0 THE MAIN ISSUES**

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

6.1.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire

Core Strategy 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. The development should also safeguard residential and local amenity and ensure sustainable design and construction principles are incorporated within the new development.

6.1.2 The principle of 10 units on the site has already been established along with the means of access by virtue of the outline planning consent.

## 6.2 **Scale, Density and Design**

6.2.1 Old Mapsis Way is a relatively modern development of mainly detached 2 storey dwellings. As the road reaches the turning head the existing development changes to bungalows with a private shared driveway continuing straight ahead serving 5 bungalows which have their rear gardens backing onto the application site. The proposed development also consists of small single storey bungalows which are considered to be in keeping with the context of the site. The design of the bungalows has been amended since previously been considered by members, this has involved moving the main entrance door to the front and some minor changes to the internal layout and slightly increasing the footprint.

6.2.2 The proposed bungalows are small 2 bed units with open plan kitchen, dining, and lounge areas measuring 63 sqm gross internal floor area in total. This is smaller than the bungalows on the neighbouring development and therefore the proposed development is at a higher density in terms of the number of dwellings per hectare. Despite the density of the development it will still provide good sized rear gardens and space for the parking and turning of vehicles. Each of the units will have 2 parking spaces available; this is in accordance with condition 8 of the outline planning permission. The parking area will be provided in a communal arrangement on the northern side of the proposed bungalows.

6.2.3 The levels of the site climb away from the proposed access in a westerly direction with the land climbing steeply towards the north western corner. The proposed bungalows will gently follow this incline in the same way that the existing bungalows to the north do. The applicant has provided full levels surveys and site sections to show how the proposed development will relate to the existing levels and the levels of the surrounding development.

6.2.4 The application demonstrates that the western most existing bungalow on Old Mapsis Way (no.27) has a ridge height of 107.7 AOD and the proposed western most bungalow will be 107.9 AOD, this equates to the ridge height of the proposed dwelling being 20cm higher than the existing neighbouring bungalow. The difference between existing and proposed ridge heights reduces towards the east to the point where the ridge height of no's 19 and 21 Old Mapsis Way would be 10cm above the nearest proposed bungalow. As such, the plans indicate that at the most there would be a 20cm difference between the ridge heights of the proposed and existing bungalows.

6.2.5 Across the site the western most proposed bungalow would be 3.2 m higher than the eastern most proposed bungalow. This is only 0.3m different to the change in heights of the existing bungalows on Old Mapsis Way where there is a change of 2.9m from no.27 down to no.17.

6.2.6 To the west of the application site there are two storey dwellings on Cae Onan, these sit on an even higher level than the application site.

6.2.7 It is acknowledged that there is a significant change in levels across the site, however this is comparable to the change in levels that the existing neighbouring development experiences. As such the development of the site would not appear out of context with its surroundings. The steepest part of the site is in the north western corner and adjacent to the neighbour's boundary fence. This area will remain as an open area as it is too steep to be used as part of the parking area. An appropriate condition will be imposed to secure an appropriate landscaping scheme and to ensure the long term maintenance of the area. An appropriately landscaped area will contribute positively to the overall appearance of the development.

6.2.8 Morda contains a wide mix of dwelling types, ages and styles. This site is on the edge of the village adjacent to another modern development. The site, or the surrounding area is not within a conservation area or any specific designation. However, policy CS6 still requires developments to be design to a high quality which respects and enhances local distinctiveness. The original submission was for a very poorly designed development of identical bungalows. In negotiation with Officers the applicant has made some changes to the scheme in an attempt to introduce some visual interest and variety. It is considered on balance that the proposed development, as amended, is of an acceptable design and would not have a detrimental impact upon the character and appearance of the locality.

### 6.3 **Impact on Neighbours**

6.3.1 The neighbours most affected by the proposal are those directly to the north who have their rear gardens backing onto the site. The neighbours either side of the access road have a dual aspect with the front doors facing towards the proposed access road. The minimum separation between the rear elevations of the existing properties to the front elevations of the proposed dwellings would be 14.7 metres, this is measured from the conservatory of no.17 rather than the main part of the neighbour' dwelling. The proposed plots 1 and 2 would be positioned at a 45 degree angle rather than facing directly towards the rear elevation of no. 17. The other properties on Old Mapsis way have separation distances of around 27 metres which is in excess of the 21m figure often used as a best practice minimum.

6.3.2 The existing neighbours are likely to experience some small amount of noise from the manoeuvring of cars and the shutting of car doors as the parking area will be directly behind their garden boundary. It will be a noise that neighbours do not currently experience but it is considered that given the small number of dwellings proposed it would not be to such an extent where it detrimentally impacts upon the neighbour's enjoyment of their gardens. Any noise generated would only be at a level that is typical of any other housing estate.

### 6.4 **Highway Safety**

6.4.1 Representations received from neighbours relate to increased traffic and highway safety. The access to the dwellings would be off an existing turning head off the existing estate road. When the rest of the estate was built this section of the road was built to such a standard firstly to provide a turning area but to also potentially provide access to the application site. The proposed development would increase

the number of vehicles using the estate road but this would not be to such an extent where it adversely impacts upon the free flow of traffic or the safety of highway users. The junction between the existing estate road and the main highway network is considered suitable to accommodate the small increase in vehicle movements as a result of the development proposed. The existing turning head in Old Mapsis way would continue to be used for such uses although it will now double up as the route of the access drive to the proposed development.

6.4.2 The Highways Officer also requested a continuous unobstructed footpath into the development. The revised plans show a continuation of the existing footpath from the turning head and pedestrians will be able to cross the parking area and through the wide gaps created in the line of parked cars. This revised scheme has broken up the mass of parking and introduced landscaped area and pathways to allow occupants to easily access the parking area.

6.4.3 By providing gaps in between the parked cars and providing an increase in landscaping has necessitated the loss of the visitor spaces originally proposed, however the revised parking provision of 20 spaces still complies with the condition attached to the outline consent.

## 6.5 **Affordable Housing**

6.5.1 The S106 attached to the outline planning permission required affordable units to be provided in accordance with the adopted SPD which currently requires a 10% provision. In accordance with the S106 the applicant will need to provide a scheme for the affordable dwellings detailing location, tenures etc prior to the commencement of development.

## 6.6 **Refuse Collection**

6.6.1 Following the debate by members at the previous committee meeting the applicant has amended the scheme to allow dustbins to be collected from the front of the individual properties instead of having a communal collection area as previously proposed. In response to the comments made by the Council's refuse collection team the applicant has now also shown the tracking for the refuse collection vehicles to demonstrate that there is adequate space for the vehicles to enter the site and be able to turn around before leaving in a forward gear.

6.6.2 It is considered that the revised refuse collection arrangements are much improved and help to preserve the amenity of the area and the neighbouring occupiers.

## 6.7 **Archaeology and Contamination**

6.7.1 The issue of the archaeological value of the site and any contamination of the land was considered at the time of the application for outline planning permission. Both of these issues were covered by planning conditions numbered 6 and 7 which both require further information to be submitted and approved by the Council.

## 6.8 **Landscaping**

6.8.1 The revised layout has allowed some of the previously large areas of amenity land to be incorporated into private gardens and thereby significantly increasing the likelihood that they will be well maintained. More communal areas of planting remain to the northern side of the site and on the entrance drive. Members and residents expressed concern about how these areas would be maintained. The

applicant has produced a maintenance schedule which is used on other sites they manage and sets out regular lawn cutting, hedge cutting, leaf collection and cleaning of hardstanding area. It is considered that the principle of such a schedule is appropriate. With most of the land within private gardens it is likely that occupants will want to maintain their own areas. The proposed planting and the ongoing maintenance schedule for this particular site could be appropriately conditioned as part of any planning permission granted.

## 6.9 **Other matters**

- 6.9.1 The Parish Council have commented on a public footpath that may cross the site. To clarify the nearest public right of way is a footpath which crosses the field to the south east, this is approximately 60 metres away from the edge of the application site.
- 6.9.2 The Parish Council have requested that a condition be imposed requiring the development to be completed within 2 years of starting. The use of such a condition would not meet the tests of being reasonable or enforceable as set out in the Planning Practice Guidance notes.
- 6.9.3 The Council's Parks and Recreation Officer has stated that the dwelling should not obscure views from the adjacent Community Orchard. This Orchard does not have any special statutory designation. The gardens of the eastern most bungalow will back onto this orchard. Although the proposed development will be clearly visible from the Orchard it will generally maintain its view across the open fields although partially obstructed by any boundary treatments proposed.
- 6.9.4 The Council's Parks and Recreation Officer has a minimum requirements of 30m sq of public open space per person. However, policy MD 2, paragraph 5 of SAMDev states that, "For developments of 20 dwellings or more, this should comprise an area of functional recreational space for play, recreation, formal or informal uses including semi-natural open space". It is considered that the size and type of development, which is only for 10 bungalows and where it includes reasonable sized private gardens and area of landscaping/ planting, there is not a requirement for any other formal public open space to be provided.

## 7.0 **CONCLUSION**

- 7.1 The principle for residential development has been agreed as part of the outline consent. It is considered that the proposed design and layout of the bungalows will respect the rural character of the area and of the adjoining housing estate and will not impact upon the amenities of any neighbours. The proposed access will provide adequate visibility in both directions for emerging vehicles and a suitable level of off street car parking and manoeuvring space is provided within the development. It is therefore considered that the proposed development complies with policies CS6 and CS17 of the adopted Core Strategy.

## 8.0 **Risk Assessment and Opportunities Appraisal**

### 8.1 **Risk Management**

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



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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

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

### RELEVANT PLANNING HISTORY:

13/01675/OUT Outline application for the erection of 10 semi-detached bungalows to include access and scale REFUSE 2nd August 2013

13/03846/OUT Outline application (access & scale) for the erection of ten single-storey dwellings; formation of parking area and vehicular access GRANT 20th October 2014

### Appeal

13/02067/REF Outline application for the erection of 10 semi-detached bungalows to include access and scale DISMIS 27th January 2014

## 11. Additional Information

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 Joyce Barrow
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 REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

2. Notwithstanding the details submitted, a continuous footpath shall be provided from the eastern side of the existing turning head into the proposed development. The design and construction of any roadways, footways, and accesses shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The approved details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied (whichever is the sooner).

Reason: This detail is required prior to commencement to ensure a satisfactory means of access to the highway.

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

3. No above ground works shall be commenced until full details of both hard and soft landscape works 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, timescales and maintenance schedule. 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

4. Prior to the above ground works commencing details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

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

5. Construction works shall not take place outside 0730 hours to 1600 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area

6. The development hereby permitted shall not be occupied until the car parking shown on the approved plan has been provided, laid out and hard surfaced. The area shall thereafter remain free of any obstruction for the lifetime of the development.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

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