

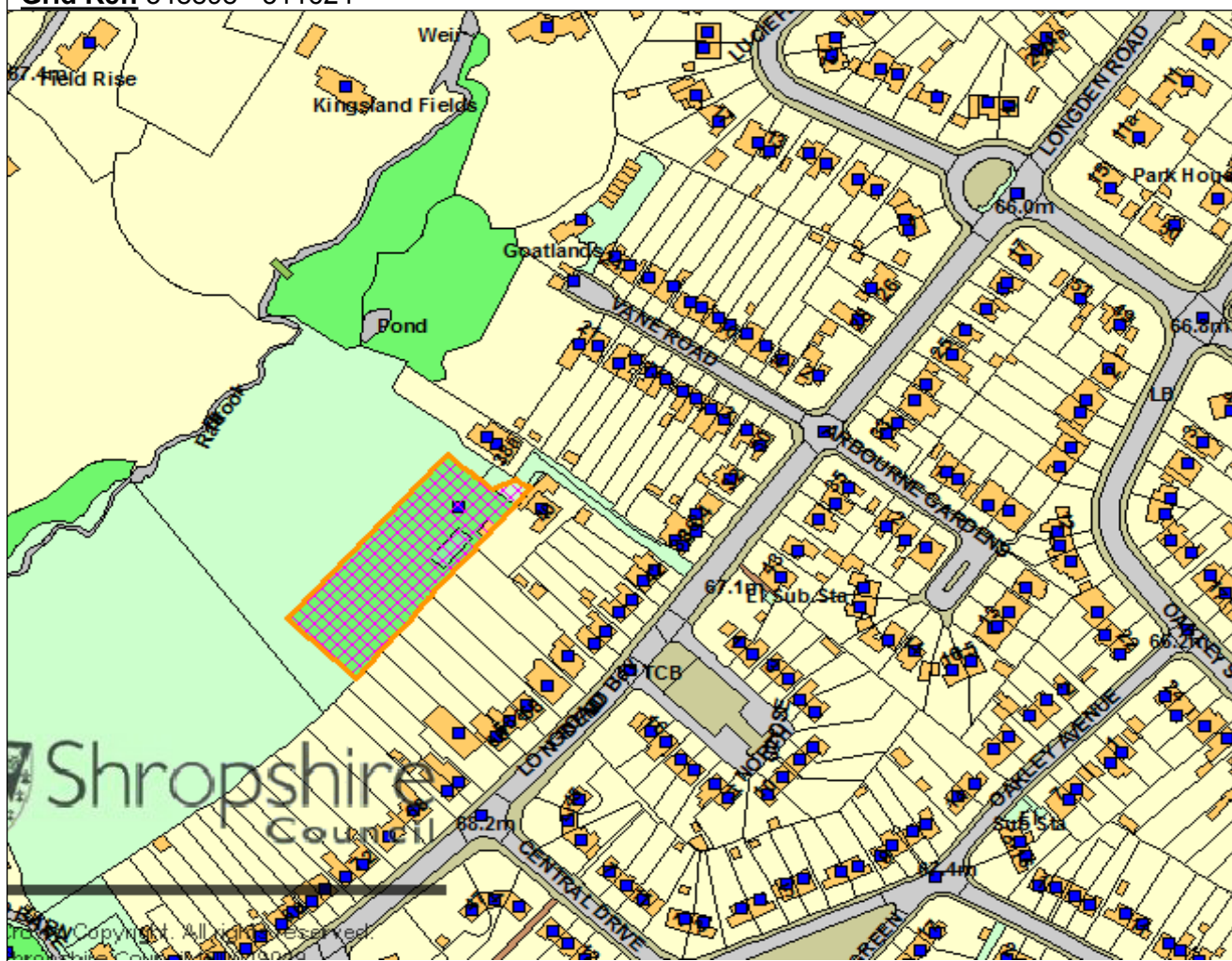
Development Management Report

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

Summary of Application

Application Number: 15/05091/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of two residential dwellings; formation of driveway		
Site Address: Land Adj 38 Longden Road Shrewsbury Shropshire		
Applicant: Mr D Davies		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 348898 - 311624



Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to secure affordable housing contribution and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks planning permission for the erection of two detached dwellings and formation of a shared driveway.
- 1.2 The site has been subject of a previous appeal against non-determination of application ref: 14/00267/FUL. This previous application also sought planning permission for the erection of two detached dwellings and formation of a driveway. The appeal was dismissed on the grounds that the proposed dwellings because of their height and large footprint would result in an unacceptable visual intrusion into the valley and would neither preserve nor enhance the character or appearance of the Shrewsbury Conservation Area.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the urban conurbation of Shrewsbury. The site lies within an area of green space that forms the valley surrounding the Rad Brook. The valley is bounded by the area of Kingsland to the north, with Coleham to the south and Roman Road to the west. Shrewsbury's town centre lies approximately 800 metres to the north.
- 2.2 The application site is set back approximately 80 metres from Longden Road with access gained via a shared private access track/driveway that runs to the north east of No.42 Longden Road. No's 38 & 40 Longden Road also utilise this track as their main access to their properties and the occupants of No.42 use the track to access a rear parking area. The site contains a derelict greenhouse that it is understood was formerly used as part of a market garden.
- 2.3 To the south-east of the development site lie the rear gardens of residential dwellings that front Longden Road. No.38 Longden Road is a bungalow, situated to the north east of the appeal site, with an access/opening to the adjacent field running between its south west boundary and the application site. No.40 is also set to the north east of the appeal site. To the north and west the site is surrounded by fields and trees that form part of the Rad Brook valley.
- 2.4 The application site is situated within the southerly boundary of the 'Kingsland Special Character Area' which forms part of the larger Shrewsbury Conservation Area, with the Conservation Area boundary coinciding with the sites south-eastern boundary. There are no listed buildings within the immediate vicinity of the property.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Shrewsbury Town Council and the Local Elected Member have submitted a view contrary to officers recommendation for approval based on material planning reasons that cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman or vice chairman agree that the Town Council and Local Member have raised material planning issues and should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Affordable Housing – No objection

The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.1.2 SuDs – No objection

Suggested conditions and informatives should planning permission be granted relating to surface water drainage.

4.1.3 Cllr Chebsey (Locally Elected Member) – Objection

Having examined the application it appears to be very similar to previous proposed plans for the site. Therefore the same reasons for refusal apply to this current application. The fact remains that the new houses are encroaching into the Radvalley area which is a wild life haven and corridor within the urban area and the access is appalling and difficult. It is very important that the valley has no further development allowed in order to maintain this location for local residents to enjoy. For these two reasons I strongly object to this application.

There have been a number of applications for this site but still there is the problem of the dangerous access and egress on to Longden Road. It is many years since the site was used as a market garden and the volume of traffic on Longden Road has increased since that time. The lane will not support any further development, it is not simply the residents who may live in the new properties but also the access required during construction and thereafter servicing the properties.

Having just looked at the amended plans my earlier comments still stand. In principle I am against any development at this location due to the poor access and also any further erosion of the open space in the valley. This area should be kept as an amenity facility for the local residents and the green space should be preserved.

4.1.4 CPRE – Objection

Near repeat of previous application and CPRE objection to development of the site still stands; site is valuable open space previously identified by SABC as greenspace and is within the conservation area; this is one of the few remaining green corridors in town that the Council should preserve; access to the site is totally unsuitable as an access to further larger properties; will set a precedence of urban

creep into the Rad Valley; urge that this application is refused.

4.1.5 **Shrewsbury Town Council – Objection**

The Town Council has objected to the previous applications for this land as they feel that any development would encroach onto a rare green corridor in Shrewsbury, which they feel should be preserved for the benefit of both the residents and the wildlife in the area. Members are adamant that the green spaces within Shrewsbury should be protected and preserved without question and they have concerns that the proposals will have a negative visual impact to the detriment of a variety of people who use the area as an outdoor recreation space. The development will set a precedence of urban creep into the Rad Valley and an erosion of valuable green space. Shrewsbury Town Council objects to this application.

The Town Council has considered the updated plans for this application and in the light of few obvious changes to the details, members feel that their objections remained as previously stated.

4.1.6 **SC Archaeology – No comments**

4.1.7 **SC Highways – No objection**

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

The development seeks to construct 2 detached dwellings on land which once served a market garden site. The existing private accommodation track is narrow and somewhat overgrown along the adjacent property boundaries which could create difficulties with vehicles accessing the site. It is appreciated that the former use of the site (market garden) could possibly generate more traffic than could be expected by these two new dwellings and may also have included HGV's. Therefore it would not be appropriate to recommend refusal on this situation alone. However, there is the possibility of improving this track with appropriate pruning and vegetation clearance, which may also help make these new properties more marketable. The existing access onto Longden Road is considered acceptable to serve these two new dwellings, as the pedestrian and/or vehicular activity generated by this proposals is unlikely to be contrary to the interests of highway safety.

4.1.8 **SC Ecology – Comments**

Have read the above application and the supporting documents including the

- Extended Phase 1 Habitat Survey and Outline Ecological Impact Assessment and Confidential Appendix Pertaining to Badgers by Eco Tech both dated January 2014.
- Supplementary Information on Great Crested Newt dated May 2014
- Confidential report pertaining to badgers by Eco Tech dated February 2016

Recommend conditions and informatives.

The layout of the development has been amended on drawing SA20511 01 Rev A to provide a 15 metre new broadleaved tree planting belt on the western site boundary and a 15 metre buffer between this new planting and built development. I am satisfied that this planting, together with retention of trees on the northern site boundary, adequately protects the Environmental Network.

Partial conditions and informatives are suggested relating to landscaping, badgers, external lighting, and provision of bat boxes and protection of wild birds.

4.1.9 **SC Conservation – Objection**

Previously provided comments at the pre-application last September on this new application which follows on from an Appeal Decision dated March 26th 2015 which dismissed an appeal on the refusal to grant planning permission for two new dwellings on these lands.

The main issue of concern in terms of historic environment matters, confirmed in the Appeal Decision, was whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area. As noted in the Appeal Decision the site lies within the Kingsland Special Character Area, which forms part of the larger Conservation Area, and is part of the Rad Brook valley which provides an important 'green lung' extending into the heart of Shrewsbury and which makes a significant contribution to the setting of the historic town.

Two particular issues –

- a) the size, footprint and height of the proposed dwellings, and
- b) the impact of the dwellings on the trees on the site – were highlighted in the Appeal Decision.

While a revised house design with a smaller footprint and siting within the property has been submitted remain concerned that the dwellings still appear to be larger and taller than the existing dwellings at the end of the lane. Any revised proposal for these lands would need to more than adequately address this specific issue and remain concerned that the current proposal does not clearly demonstrate that the scheme would preserve and enhance the character and appearance of the wider Conservation Area and the immediate vicinity of this property. A high quality bespoke house design incorporating details, materials and finishes that better reflects and respects the nature and location of these valley lands should be considered. Also note that any revised proposal for these lands would also need to more than adequately demonstrate to our Trees Team that the substantial trees on the site would a) be protected and b) not impact adversely on the living conditions of the potential residents of the new dwellings and therefore not be subject to pressure for their removal.

Further comments dated 14th March 2016:

Further to the earlier comments dated January 21, 2016, revised plans have been submitted which add a planting buffer between the proposed built development and new planting on the site, moves the lots closer to the southern boundary of the site further from the trees along the northerly boundary, and which re-orientates the proposed building footprints on the site, with some detailing also added to the

building design, among other revisions described by the agent.

Reiterate that the main issue of concern in terms of historic environment matters, confirmed in the Appeal Decision, was whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area. While SC Trees Team have advised that subject to the inclusion of conditions the revised layout positions of the proposed dwellings are acceptable, the remaining issue highlighted in the Appeal Decision - the size, footprint and height of the proposed dwellings – in our view has not been adequately addressed. Having reviewed the further revised house design that has been submitted remain concerned that the dwellings do still appear to be larger and taller than the existing dwellings at the end of the lane. Reiterate that proposals for these lands would need to more than adequately address this specific issue, and remain concerned that the revised scheme does not clearly demonstrate that the proposal would preserve and enhance the character and appearance of the wider Conservation Area and the immediate vicinity of this property.

Had recommended in last comments that a high quality bespoke house design incorporating details, materials and finishes that better reflects and respects the nature and location of these valley lands and this specific site within them needs to be considered. Add that any development here needs to better assimilate with this predominantly wooded and natural area, and blend better with its surroundings. The proposed house designs reflect a more urban residential development which could appear out of context on this site. Should development on these lands be acceptable, the opportunity to better appreciate and understand the context of this site should be taken, and this should inform the design of development on these lands, including the incorporation of external materials, finishes and detailing which have better regard for the context of the site.

Further comments received 13th May 2016

Refer you to earlier series of comments on this application and would advise that while the height and design of the proposed Plot 1 house only has been reduced in scale, the March 14, 2016 comments are still relevant to this current revised scheme and direct you specifically to the last paragraph in these comments – the scheme including the house designs and site layout remains urban in nature and out of context with the valley land surroundings. Repeat that should development on this site be acceptable, the opportunity to better appreciate and understand the context of this site should be taken, and this should inform the development here including a higher regard for the context of the site.

4.1.10 **SC Trees – No objections**

The revised layout positions the dwellings at a more acceptable distance from the significant trees along the north west boundary. The development will still result in the loss of minor trees on the site; however this is being mitigated through planting of broadleaf trees to the south of the site. The species and exact positions of these new trees must be carefully selected to prevent any long-term impact to the residential amenity of the new properties.

Recommend conditions be applied to any grant of planning permission to protect retained trees and provide new planting.

4.2 - Public Comments

4.2.1 27 objections received from 8 different addresses and 1 petition (of 17 signatures from 9 different addresses) summarised as follows:

Principle

This scheme is not different than the previous scheme; should consist of affordable housing not luxury homes; contrary to policy including policies CS6 and CS17; should be a committee decision and not a delegated officer decision; market garden use ended on or before 1988 and its operation rarely required traffic/deliveries to site; SAMDev does not identify this area as suitable for housing

Visual Impact

New buildings should not be located within this part of the conservation area, detrimental to character and appearance; this area provides an important 'green lung' making an important contribution to this part of the setting of the town; damaging to local environment; retaining a few trees/landscaping shown will not provide sufficient mitigation; the shown elevation of the buildings is also a concern as they appear to be above the tree line and would be clearly visible in both summer and winter; visual blight; bland design makes no attempt to use the setting of the site and its views available; new dwellings would be a dominant feature in the landscape and will set a precedent; loss of 66 trees to this emerging woodland with many reaching over 12 metres in height will be a considerable loss of the immediate environment; excavation works will be required to link site to the main drainage; proposed house designs are still larger and taller than the bungalow to No.38;

Ecology

Loss of a range of habitat environments for wildlife; development will introduce additional artificial lighting; will cause ecological degradation replacing important environmental functions of the area with hard urbanisation; dislocating the subtle links between the open countryside and green spaces along the Rad Valley and into River Severn and Quarry; loss of 66 trees will reduce available habitat for insects, birds, animals and plants; local wildlife includes wild birds and badgers; the land is emerging woodland;

Residential Amenity

The construction and use of the proposed dwellings will have a detrimental impact on neighbours through noise and disturbance; vehicles will pass within 6 metres of the front of adjacent properties, including construction traffic; the site currently has no services and the application does not state how these will be provided; waste and recycling are only collected from the kerbside;

Highways Safety

The access track is substandard in width and also by its layout at its junction with the county road; intensified use of the track increases chance of vehicles meeting and times requiring vehicles to reverse into the road; no passing places; cars leaving the access track onto Longden Road have poor visibility and also cannot be seen by oncoming vehicles;

5.0 THE MAIN ISSUES

- Principle of development
- Previous appeal decision – Planning Inspectors conclusions
- Visual impact on the Conservation Area – current proposal
- Highway Safety
- Ecology
- Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Relevant planning policies are contained in Shropshire Local Development Framework: Adopted Core Strategy and the Adopted Site Allocations and Management of Development (SAMDev) Plan. Core Strategy Policy CS2 (Shrewsbury - Development Strategy) of the core strategy identifies Shrewsbury as the primary focus for development in Shropshire. The policy also identifies that development will have regard to the promotion, conservation and enhancement of the town's natural and historic features, green corridors and spaces including the corridors of the River Severn and its tributaries. Policy MD1 of SAMDev also supports sustainable development in Shrewsbury. As this site is clearly located within the built area of Shrewsbury in principle the site is in an area where new residential development could be found to be acceptable subject to consideration of other material planning considerations.
- 6.1.2 Policy CS6 (Sustainable Development and Development Principles) and Policy MD2 (Sustainable Design) both set out the sustainable design and development principles of the Council and seek to ensure that the health and well being of communities, including residential and local amenity is safeguarded. These Policies also seek to ensure that 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.
- 6.1.3 Core Strategy CS9 (Infrastructure Contributions) requires developments providing additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure including contributions from residential developments towards affordable housing as also required by policy CS11 (Type & Affordability of Housing).
- 6.1.4 Policy CS17 (Environmental Networks) and policies MD12: The Natural Environment and MD13 The Historic Environment set out that developments will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. Both policies state that this will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological,

geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.

6.1.5 The Type and Affordability of Housing SPD was adopted by Shropshire Council on 12th September 2012. This SPD sets out the requirement for all new open market developments to make a contribution to the provision of affordable housing.

6.1.6 Policies CS9 and CS11 require new small scale housing developments to help deliver more sustainable communities by making contributions to local infrastructure including contributions from residential developments towards affordable housing. Such a contribution would usually be secured by a s106 legal agreement and the applicant's agent has submitted a proforma form confirming their clients are willing to pay the relevant contribution.

6.2 Previous appeal decision – Planning Inspectors conclusions

6.2.1 This site has been subject to a previous appeal (ref APP/L3245/A/14/2228392) that was dismissed. This previous scheme was also for the erection of two detached dwellings. The Planning Inspector set out that were two main issues to consider:

- Whether the proposed development would preserve or enhance the character or appearance of the Shrewsbury Conservation Area;
- The impact of the proposal on highway safety.

6.2.2 Conservation Area - The Inspector expressed concerns relating to the size and design of the proposed dwellings and their impact on the trees on the site. He considered that many of the trees on site are self-set and their loss would not be significant but many of those trees on the northern and western boundaries are more substantial specimens. Although the dwellings were shown to be sited outside of the root protection area for these trees, the Inspector concluded that this relationship would have an adverse impact on living conditions through limited light, resulting in difficulty in resisting future pressure to have them removed. He considered that the loss of these more substantial trees would have an adverse impact on the character and appearance of the area and the proposed dwellings would be more obvious as a result.

The Inspector also considered that the proposed dwellings would be larger and taller than the two bungalows currently accessed off the track and whilst there is a building on site he considered that the proposed houses would because of their size (footprint and height) result in an unacceptable visual intrusion into the valley.

6.2.3 Highways – The Inspector acknowledged that the site had been previously used as a market garden and whilst it has not been used for some time, he found no evidence to show that it had been abandoned. He noted that such a use would likely generate traffic and possibly large delivery vehicles and concluded that the proposed two dwellings would not generate significantly more traffic than if the site returned to a commercial market garden. He determined that the proposals impact on highway safety would not justify the withholding of planning permission.

6.2.4 The Inspector therefore concluded that the proposed two dwellings would create harm to the conservation area and dismissed the appeal.

6.3 Visual impact on the Conservation Area – current proposal

- 6.3.1 The application site has been previously used as a market garden and this was noted by the previous appeal inspector. Whilst it appears that the site has not been used for this purpose in any commercial sense in recent years, no evidence has been put forward to indicate that this use has been abandoned. An old greenhouse still exists on the site and Officers note that this use could be continued. One of the main issues therefore for this site is the potential impact of the chosen designs of properties on the character and appearance of the surrounding conservation area.
- 6.3.2 Amended plans have been submitted for this application that have revised the design and size of the proposed dwellings significantly from the designs put forward on the earlier planning submission and subsequent appeal. The latest drawings now show both dwellings proposed set further towards the northern end of the site and so will be further away from existing mature trees. Plot 1, set closest to the site entrance is shown to be a detached 4 bedroom bungalow, and Plot 2 is a detached 4 bedroom two storey dwelling, its height just exceeding 7 metres at its tallest ridge height. The design of both properties has been chosen to reflect traditional housing, with pitched roofs and chimney detailing. The shared driveway to the properties would enter the site at its northern boundary, off the end of the existing private drive/access and will curve around the western side of both dwellings in order to allow the buildings to be set as far away from the retained trees as possible.
- 6.3.3 The submitted plans show the majority of self set trees within the centre of the site to be removed with most of the trees along the northern and western site boundaries retained. SC Tree & Landscape Officers have confirmed that they are satisfied that the revised layout positions are at a more acceptable distance from the significant trees along the north west boundary and have withdrawn their previous objections, with suggested conditions to secure details of new proposed planting and also a tree protection plan and Arboricultural method statement.
- 6.3.4 It is therefore considered that the revised positioning of the two dwellings within the site would overcome the previous Appeal Inspectors concerns relating to future pressures on the existing trees retention/removal. Conditions could be added to any consent granted withdrawing permitted development rights for both properties requiring that any extension works or outbuildings are subject to local authority consideration in order to preserve the new tree planting and existing trees on site.
- 6.3.5 As well as raising concern over the potential for future pressure of removal of the trees in the previous submission the appeal inspector also identified concerns relating to the size of both the footprint and height of the proposed dwellings and the visual impact this would have on the character and appearance of the conservation area.
- 6.3.6 The amended designs of both plots reduce the size of footprints previously considered at appeal and have also attempted to reduce the height of the dwellings. Plot 1 at the northern end of the site, situated closest to adjacent neighbours and at the highest part of the site in terms of land levels has been reduced in scale and height to a bungalow, with accommodation shown only at ground level. This design attempts to more closely reflect the scale and size of the

adjacent bungalow, No.38. It will also have less impact on the amenities of the closest neighbour, No.40 as discussed in the following sections of this report. Plot 2 whilst still a two storey dwelling has been reduced in size in terms of its footprint and although its overall height at its tallest ridge point has not been reduced since the previous application, the design incorporates a gabled design that includes differing ridge heights over different sections of the dwelling which aids to visually break up the overall mass of the dwelling.

- 6.3.7 Whilst it has been advised by SC conservation officers that the design of the development of this site should better assimilate with this predominantly wooded and natural area it is considered that the retained trees along the western site boundary as well as the additional deciduous tree planting indicated at the southern end of the site would further screen any new buildings. It is also noted that the design of the properties at No.38 and 40 are of traditional pitched roof designs utilising regular materials, brick, tiles etc. Whilst this site could have provided an opportunity for alternative designs and materials as hinted at by conservation officers it is considered that in this instance for the reasons above, the proposed designs are acceptable and would not result in any unacceptable visual intrusion into the valley. The proposed scheme is therefore considered to preserve the overall appearance and character of the conservation area.

6.4 Highway Safety

- 6.4.1 The site will be accessed via a private shared access that leads down from Longden Road. The application site is set at the end of this access drive. SC Highways Officers have not raised any objections to the proposed scheme. It is noted that the previous market garden use could be brought back into use with the potential to create more potential traffic movements than that of two dwellings. Officers consider that the existing access onto Longden Road is acceptable to serve these two new dwellings, as the pedestrian and/or vehicular activity generated by this proposal is unlikely to be contrary to the interests of highway safety.

6.5 Ecology

- 6.5.1 Submitted with the application were an Extended Phase 1 Habitat Survey; Outline Ecological Impact Assessment and Confidential Appendix pertaining to Badgers and Supplementary Information on Great crested Newts by Eco Tech dated January & May 2014 as well as supplementary Information on Great Crested Newt dated May 2014 and a further confidential report pertaining to badgers by Eco Tech dated February 2016. The LPA considers that the contents of the reports are satisfactory.
- 6.5.2 SC Ecologists also note that the layout of the development has been amended to provide a 15 metre new broadleaved tree planting belt on the western site boundary and a 15 metre buffer between this new planting and built development and are satisfied that this planting, together with retention of trees on the northern site boundary, will adequately protect the Environmental Network.

6.6 Residential Amenity

- 6.6.1 Objections have been raised by occupants of adjacent properties including Nos.38 & 40 Longden Road and the other properties fronting Longden Road to the south

east of the site. Their objections included loss of privacy and loss of amenity by noise and disturbance from the occupants of the new dwellings and likely traffic movements to and from the site.

- 6.6.2 Officers consider that the use of the site would not have any significant detrimental impact on residential amenity to immediate adjacent neighbours. The two residential properties proposed would be located within the appeal site at a sufficient distance away from No.40 Longden Road not to result in any direct overlooking and plot 1 has now been amended to a single storey dwelling which would further reduce any potential impacts. Between the appeal site and No.38 lays a vehicular access point to a field situated lower down in the valley and it is considered that this would help to ensure a sufficient degree of separation between the properties.
- 6.6.3 The houses located fronting Longden Road all have lengthy rear gardens that extend to the application sites eastern boundary. The submitted plans show land levels on the site fall away in a westerly direction down into the valley and also indicate the positions and heights of the new dwellings. Officers are satisfied that the new dwellings would not result in any significant opportunity for overlooking of these rear gardens and rear elevations of the properties fronting Longden Road.
- 6.6.4 Officers also consider that the traffic movements likely to be generated by the two residential properties included in this application would not have any significant detrimental impact on the residential amenity of occupants of adjacent dwellings through noise and disturbance.

7.0 CONCLUSION

- 7.1 The application site is situated within the built area of Shrewsbury and in principle the site is in an area where new residential development could be found to be acceptable subject to consideration of other material planning matters.
- 7.2 The application site is located within the Shrewsbury Conservation Area and also within the identified Kingsland Special Character Area. It is considered that the proposed amended scheme and the detailed proposed designs of the two dwellings to replace the former market garden use are acceptable. Their design and appearance as well as the amount of trees to be both retained and new trees to be planted on site, will cumulatively not result in any unacceptable visual intrusion into the adjacent valley. The proposed scheme is therefore considered to preserve the overall appearance and character of the conservation area and special character area. It is also considered that due to the proposed layout and size and design of dwellings proposed the development would not have any significant or detrimental impact on the residential amenity of adjacent or nearby neighbours.
- 7.3 The submitted ecological habitat reports and statements are acceptable and the development will not have any adverse impact on the surrounding natural environment and protected wildlife.
- 7.4 The likely traffic movements created by this development would be less than the potential traffic movements from the existing/latest market garden use. It is also considered that the existing access from the access drive out onto Longden Road

is acceptable as the pedestrian and/or vehicular activity generated by this proposal is unlikely to be contrary to the interests of highway safety.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:

CS2: Shrewsbury – Development Strategy

CS6: Sustainable Design and Development Principles

CS9: Infrastructure Contributions

CS11: Type and Affordability of Housing

CS17: Environmental Networks

MD1: Scale and Distribution of Development

MD2: Sustainable Development

MD12: Natural Environment

MD13: Historic Environment

Type and Affordability of Housing Supplementary Planning Document (SPD)

RELEVANT PLANNING HISTORY:

14/00267/FUL Erection of two detached dwellings; formation of driveway NONDET 6th January 2015

Appeal

14/02171/NONDET Erection of two detached dwellings; formation of driveway DISMIS 26th March 2015

11. Additional Information

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

containing exempt or confidential information)

Planning file: 15/05091/FUL

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Anne Chebsey

Appendices
APPENDIX 1 - Conditions

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).
Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.
4. 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 worksReason: To avoid congestion in the surrounding area and to protect the amenities of the area.
5. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.
 - a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and

particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

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

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

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

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

6. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a landscaping and tree planting scheme, prepared in accordance with of BS 8545: 2014 Trees: from nursery to independence in the landscape, has been submitted to and approved by the local planning authority and these works shall be carried out as approved. The submitted scheme shall also include:

Means of enclosure, including all security and other fencing;

Hard surfacing materials;

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting);

Planting plans, including wildlife habitat and features (e.g. hibernacula);

Written specifications (including cultivation and other operations associated with plant and grass establishment);

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, native species used to be of local provenance (Shropshire or surrounding counties);

Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;

Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design and to ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrate the development into the local environment.

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

7. Prior to the first occupation of the dwellings details of a minimum of three bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- hard surfacing
- fences, gates or walls
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area.

9. No windows or other openings shall be formed above ground floor level in the South East (rear) elevations of either dwelling.

Reason: To preserve the amenity and privacy of adjoining properties.

10. The first floor windows in the South East elevation of Plot 2 shall be permanently formed as a high level top hung opening light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

11. No site clearance works or development shall commence until the badger sett on site has been closed under licence in accordance with details given in the Confidential report pertaining to badgers by Eco Tech dated February 2016

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

12. 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.