



Committee and date

South Planning Committee

21 June 2016

## Development Management Report

**Responsible Officer:** Tim Rogers  
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### Summary of Application

#### Summary of Application

<b><u>Application Number:</u></b> 16/00952/VAR	<b><u>Parish:</u></b>	Worthen With Shelve
<b><u>Proposal:</u></b> Variation of Condition 2 (approved plans and drawings) of 15/04032/REM erection of 6 no. dwellings		
<b><u>Site Address:</u></b> Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT		
<b><u>Applicant:</u></b> S Y Homes Ltd		
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Recommendation: That Members note the further amendments to the scheme and Grant Permission subject to the conditions sets out in Appendix 1 of Annex 1. This is subject to amendment to condition 1 in order to refer to the most recent amended plans.**

#### 1.0 BACKGROUND TO THE REPORT

- 1.1 This application was reported to the committee on 24<sup>th</sup> May 2016. The original officer report is attached as Annex 1. The application seeks to regularise some changes to the development which have occurred since the reserved matters approval (15/04032/REM) dated 8<sup>th</sup> December 2015.
- 1.2 The officer emphasised that the application related to variations to the approved reserved matters scheme and that the principle of constructing 6 two floor homes on this existing residential site has already been established by the outline and reserved matters permissions.
- 1.3 Members resolved 'that consideration of the application be deferred to a future meeting of the South Planning Committee with a request to the developer to come back with further amendments in relation to elements of the application that members expressed concern about'.

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1.4 The main elements which Members were concerned about were:

- the height of plots 3-6 which was 44cm higher than was approved under the reserved matters application;
- more brick had been used in the conservatories for plots 1 and 2 giving a more 'solid' appearance than in the approved reserved matters plans
- some queries were also raised regarding the rationale behind the landscape planting which had been undertaken.

The variation application also seeks to regularise some changes to window and door openings in plots 1 and 2 and changes to the design and pitch of window gables.

1.5 Since this time the applicant has amended the scheme in response to the above concerns, and has provided further information seeking to address the concerns of the committee. The application is being reported back to the committee on this basis.

## 2. OFFICER APPRAISAL

2.1 The applicant's response to the above issues is considered in subsequent sections.

2.2 Ridge height of plots 3-6: A survey has confirmed that the ridge height of plots 3-6 is 44cm higher than the level specified in the approved reserved matters plan. Some local residents have objected that this increase in height has resulted in an overbearing appearance for the development. In an attempt to address this concern the applicant put forward a proposals for half-hipping of external-facing gables within the development and enhanced landscaping measures. However, Members did not consider that the half-hipping provided sufficient mitigation.

2.3 At the May meeting it was suggested that the applicant should investigate the possibility of lowering the ridge height of plots 3-6 to a level nearer to that approved under the reserved matters application. The officer noted to Members at the time that initial discussions regarding this matter suggested that the ridge heights of plots 3-6 could potentially be reduced by 17cm without the need to disassemble the rooves. This option has been looked at further since the committee. Whilst the ridge beam can be lowered to this extent capping requirements mean that the overall height reduction would only be 10cm which is not considered to be material.

2.4 In view of this the officer has discussed with the applicant the option of introducing more extensive hiping and amended plans have been provided on this basis. The revised scheme involves hiping of all gable ends at a lower level and a shallower angle than the original variation scheme. The effect of this is:

- To reduce the area where the roof ridge is at its maximum height by 50%;
- To reduce the average height of the rooves by significantly more than the lower height approved under the reserved matters scheme;
- There is corresponding reduction in the mass and increase in skyline.

2.5 The officer considers that the greater symmetry of the design improves the architectural balance and adds visual interest to the buildings. The roof form also mirrors other properties in the village, giving a more tradition 'cottage' type appearance and improving the visual integration of the development. The applicant

has agreed that this measure would apply for all plots including plots 1 and 2 which are at the level approved in the reserved matters permission.

2.5 The increase in height for plots 3-6 relative to the reserved matters scheme was unfortunate and the concerns of local residents are acknowledged. The applicant has however acted to address these concerns and the officer considers that the scheme as now proposed fully mitigates this concern. It could also be to yield an overall design improvement relative to the approved reserved matters scheme.



Fig 1 - Revised elevations for detached and semi-detached plots showing amended hipping detail.



Fig 2 - Elevations approved under reserved matters permission (15/04032/REM)

2.6 Detailed discussions between officers and the applicant have confirmed that no other measures are technically possible to mitigate for the increased height of plots 3-6 within the structural constraints of the roof design. In summary, suitable measures are available to mitigate for the increased roof height of plots 3-6. It is therefore considered that requiring disassembly and re-construction of the rooves of plots 3-6 would not be reasonable or justifiable in the terms of the Council’s enforcement protocol.

2.8 Conservatories of plots 1-2: The applicant has amended the conservatories of plots 1 and 2 in order to re-instate windows in the external elevations in place of the existing brickwork. A letter has been provided from the building control service which confirms

that these are the largest windows allowable under Building Regulations for a structure of this nature (see Fig 3).

- 2.9 The windows openings effectively re-instate the detail approved under the reserved matters scheme (Fig 2 – south east elevation). They would be obscure glazed in order to further protect the privacy of adjoining residents, although there are no direct views across relevant boundaries due to established hedges and fencing. The conservatories would be specified with glass rooves as per the approved reserved matters design.
- 2.10 The officer considers that the effective reinstatement of the approved reserved matters design for the facades in question is sufficient to fully address concerns regarding this matter.



**Fig 3 - Conservatory window opening**

- 2.11 Landscape methodology: Landscaping including planting trees around a site margin is an established way of integrating a development with its surroundings. Accordingly the applicant put forward a landscaping scheme as a condition of the reserved matters approval and this was subsequently expanded in the context of the current application. Some Members however expressed concerns during the site visit and at the subsequent committee meeting regarding the methodology behind the landscaping measures. It was suggested that some tree species may not be appropriate for their context.
- 2.12 The officer has requested that the applicant's landscape contractor has provided a statement in support of the justification for the landscaping scheme which has involved a significant investment on the part of the applicant:
- i. Trees: have been specifically chosen to provide screening. They are predominantly native varieties and will provide interest throughout the seasons. They will provide shelter and food for local birdlife. They are long-lived and are considered garden-friendly specimens. They will provide connectivity with existing veteran trees.

- ii. Shrubs: have been selected to enhance the front elevations and offer demarcation lines between the dwellings. The selected varieties are robust and long-lived and will again offer all year round appeal. All tree and shrub stocks comply with BS3936 and the HTA National Plant Specification. Vegetation has been planted at appropriate depths into specially cultivated topsoil and so as to avoid any conflict with underground services. Any dead plants would be replaced at the end of the first growing season.
- iii. Plot 6: Screen planting to the side and rear of plot 6 is of native trees with average heights of 3m. These varieties will help to blind the side elevation of plot 6 from neighbouring properties. They are ornamental trees which will fill out without becoming overbearing or onerous regarding future maintenance.
- iv. Plot 2: The tree planted in the rear garden of plot 2 (*Quercus Ilex* – ‘Holly Oak’ or ‘Holm Oak’) is a long lived tree native of southern Ireland. It is evergreen with a dense crown and therefore offers all year screening from adjacent properties. The head can easily be controlled by pruning if required and is suited to topiary. It is versatile in that it grows in exposed and even coastal conditions, is tolerant of urban pollution and thrives best in free draining soil.

2.13 The applicant has confirmed that the location above the dwarf wall where the Holm Oak has been planted will be provided with appropriate drainage holes.



**Fig 4 – Mature unpruned Holm Oak tree, heather heathland, Shottisham Heath, Suffolk**

2.15 The officer considers that the applicant has provided sufficient justification for the landscaping scheme and that this will assist in integrating the development with its surroundings. The selection of larger trees and shrubs will ensure some screening and filtering is provided from an early stage.

- 2.16 Other matters: The variation involves some changes to the design of openings on plots 1 and 2 as described in section 2.2 of annex 1. It is not considered that these changes result in any material impacts relative to the approved reserved matters scheme.
- 2.17 The variation also involves an amendment to the design of dormers which can be appreciated by comparing figures 2 and 3. These are shallower relative to the reserved matters details and are treated in brick rather than lead. The reduced dormer pitch is now the same as the pitch of the proposed hips, improving the visual cohesion of the development. The shallower dormer pitch also protrudes less aggressively into the roof slope. The officer considers that this gives a perception of reduced height / prominence to the development, thereby helping further to address the above – mentioned concerns of residents.
3. Other objections on layout and design
- 3.1 As noted above, the principle of erecting six houses with 2 storey living accommodation has been established by the outline and reserved matters planning consents and cannot be re-visited. Notwithstanding this, some local residents have objected to the scheme from its inception at outline stage citing various concerns about design and layout. It is recognised that the principle of establishing 2 floor dwellings in a sloping location where bungalows previously existed raises additional issues of sensitivity. The applicant advised however at the outline stage that development of bungalows on the site would not be financially viable. The following can be said in relation to these objections:
- 3.2 The applicant has sought to address the above concerns by making a number of changes to the scheme in discussion with officers. In particular, the scheme was amended at the reserved matters stage to specify 1½ height buildings rather than full 2 storey facades. This resulted in an average 1m reduction in height relative to the outline scheme. The importance of keeping ground levels as low as possible was also stressed to the applicant and a specific condition relating to ground levels was imposed on the reserved matters permission. It is unfortunate that detailed ground conditions meant that the developer was unable to comply fully with this condition with respect to plots 3-6.
- 3.3 Parish Council has maintained that the development remains out of keeping with the streetscape and higher than surrounding houses. However, the officer considers that site inspection and the applicant's cross sections (Fig 5) do not support this conclusion as the roof ridges remain at or below the height of existing properties to the north and east. As noted above, the officer also considers that an appropriate mitigation solution has now been identified for the increased height of plots 3-6.



**Figure 5 – Cross sections indicating relative heights of existing and new dwellings.**

The ridges of plots 3-6 remain at or below the height of surrounding properties to the north and east notwithstanding the hipping proposals.

- 3.4 Another concern raised by some residents relates to the positioning of the new plots in relation to existing residential properties. This was closely discussed with the developer at both outline and reserved matters stages. The officer assessed the spatial relationships between existing and proposed properties and found that these were fully compliant with general nationally adopted standards. This conclusion has since been reiterated by the applicant’s planning consultant.
- 3.5 One particular area of concern raised by an objector relates to the proximity of the external gable of plot 6 to the adjoining property of Ash Cottage to the east. Generally adopted national standards indicate a minimum separation distance of 12m between a blank 2 storey gable and a principal rear elevation. In this case the separation (17.6m) significantly exceeds this. The comprehensive landscaping along this boundary provides additional mitigation.
- 3.6 A second area of concern raised by residents is the extent to which plots 2 and 3 have been said to impact on the amenity of the garden of 17 Millstream to the west which they adjoin on 2 sides and is defined by low walls and 1.5m hedging. There is however no overlooking from these blank gables (in contrast to 16 Millstream which has views of the garden), hence national spatial standards are met. Nor is it considered that there would be any material loss of natural light given the relative height and orientation of the properties. Privacy is also maintained as the gardens of plots 2 and 3 are at a lower level.
- 3.7 The garden of 17 Millstream was previously enclosed by roofs of bungalows which faced towards this garden on 2 sides. The gable of plot 3 is closer to this boundary and the building is taller, but as noted above, is 1m lower than the former bungalows. The applicant’s landscaping scheme also provides planting to filter views of the development. It is considered therefore that the scheme remains fully compliant with relevant spatial standards.

#### 4. CONCLUSION

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- 4.1 The applicant has sought to regularise changes to the scheme which was approved at outline stage through submission of the current variation application. At the May committee Members were not satisfied that the proposed mitigation measures were sufficient to fully address their concerns. Since this time the applicant has put forward a revised roof design involving more extensive hipping which results in an overall reduction in average roof height for all properties relative to the approved reserved matters scheme. The officer considers that this also improved the design of the development.
- 4.2 The applicant has also reinstated a window in the conservatories of plots 1 and 2, ensuring compliance with the reserved matters details in this respect. In addition, the applicant has provided specific justification from a landscape consultant for the choice of landscaping species. No other significant issues were highlighted by Members during the site visit or the May committee meeting.
- 4.3 It is concluded that the proposed variation scheme as amended represents the only practical option for mitigation and is capable of fully mitigating concerns raised regarding the changes to the currently approved scheme. It is considered that the proposals in some respects represent an improvement on the reserved matters scheme and that the overall development can be accepted as sustainable and compliant with the development overall. This is subject to an amendment to condition 1 recommended in Appendix 1, Annex 1 in order to update the reference to the amended plans.

5. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O3DJGLTDL0E00>

List of Background Papers: Planning application reference 15/01919/FUL and associated location plan and documents
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member: Cllr Mrs Heather Kidd
Appendices: Appendix 1 – Conditions



## **ANNEX 1**

### **REPORT TO MAY 2016 SOUTH PLANNING COMMITTEE**



#### **Development Management Report**

**Responsible Officer:** Tim Rogers  
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<b><u>Proposal:</u></b> Variation of Condition 2 (approved plans and drawings) of 15/04032/REM erection of 6 no. dwellings		
<b><u>Site Address:</u></b> Proposed Residential Development at Old Mill Close, Worthen, Shropshire, SY5 9JT		
<b><u>Applicant:</u></b> S Y Homes Ltd		
<b><u>Case Officer:</u></b> Graham French	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

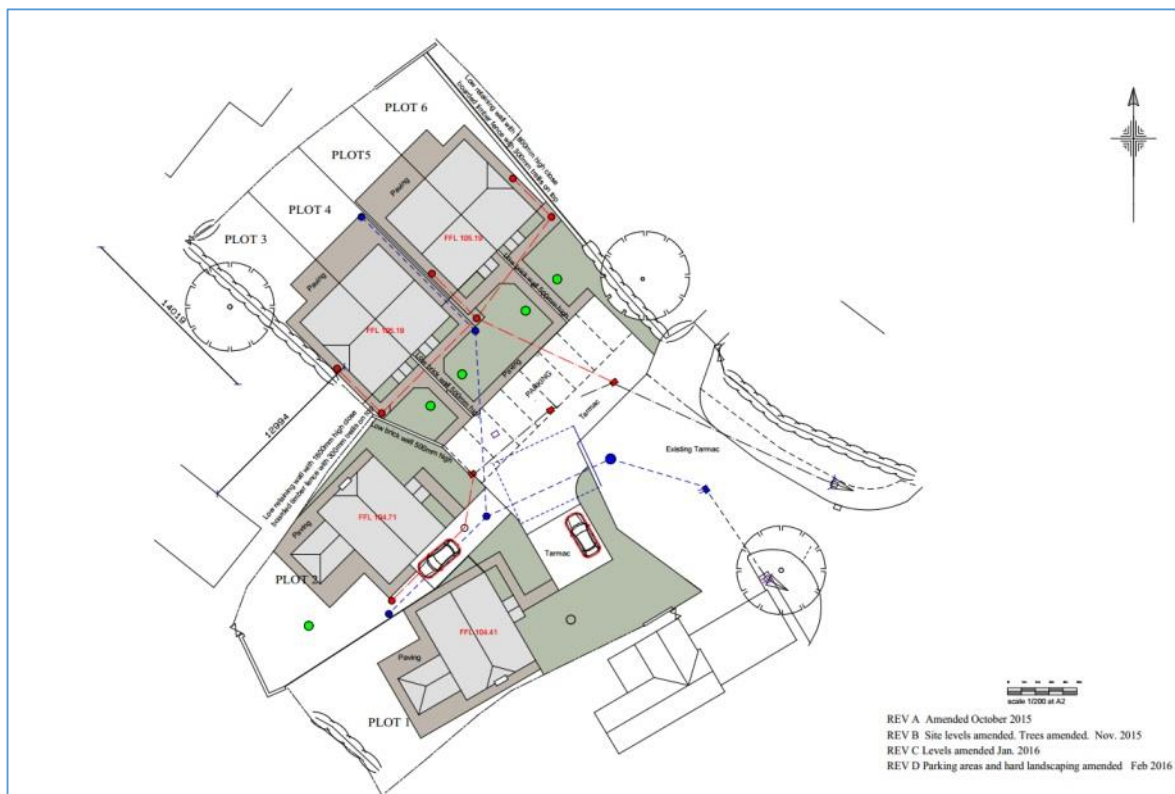
**Recommendation: Grant Permission subject to the conditions sets out in Appendix 1**



## REPORT

### 1.0 BACKGROUND

- 1.1 Outline planning permission was granted for the erection of six 3 bedroomed dwellings (2 detached and 4 semi-detached) for open market sale on land at Old Mill Close, Worthen, some 10 miles west of Shrewsbury on 18<sup>th</sup> March 2014 (13/05121/OUT). Subsequently, a reserved matters application was approved on 8<sup>th</sup> December 2015 (reference 15/04032/REM) and confirms the following details:
- i. The siting and ground levels of the dwellings;
  - ii. The design and external appearance of the dwellings;
  - iii. Details of the materials, finishes and colours of the dwellings;
  - iv. Details of the landscaping of the site.
- 1.2 Further information required by conditions attached the outline and reserved matters permissions was subsequently approved under discharge of conditions applications 15/05411/DIS (surface treatments) and 16/00345/DIS (drainage, landscaping, external lighting and ecology). The applicant amended the design of the scheme at reserved matters stage in order to take into account concerns raised by local residents. The principal concern related to the height of the proposed houses and privacy issues.



**2.0 THE PROPOSAL**

2.1 During the course of construction, a number of amendments have been made to the houses. The applicant states that this is as a result of site conditions, improvements to the internal layout and/or meeting building regulations requirements.

2.2 The current application is being made to vary condition 2 (approved plans) of the Reserved Matters approval (ref. 15/04032/REM). This is in order to substitute revised drawings for those currently approved in order to regularise the amendments. The approved drawing numbers 812/15/4B, 812/15/10A and 810/15/11A would be replaced by drawing numbers 812/15/4D, /12B, /15C, /19D, /20C, /26, /27 and ADL143b.

2.2 The amendments are as follows:

**PLOTS 1 AND 2**

- 1) Position of conservatory amended. (To move further away from boundary)
- 2) Side window to conservatory omitted. (To avoid overlooking neighbour)
- 3) Width of end window to conservatory reduced (Building regulations)
- 4) One bathroom window omitted. (Internal alteration to layout)
- 5) Position of porch and front door amended. (Internal alteration to layout)
- 6) Rear exit door moved to side elevation. (Internal alteration to layout)
- 7) Base of chimney amended. (to accommodate wood burner)
- 8) Pitch of dormers amended. (To match plots 3-6)
- 9) Gable to dormers amended to brick.
- 10) Hip added to one side of roof. (To match plots 3-6)

**PLOTS 3 – 6**

- 1) Finished floor level raised by 440mm. (Due to difference in level between new ground level and neighbouring garden of Ash Cottage)
- 2) Hip added to gable of plot 6 and 3. (To compensate for raised roof level)
- 3) Pitch of dormers reduced. (To compensate for raised roof level)
- 4) Gable to dormers amended from lead to brick.

#### SITE LAYOUT

- 1) Parking areas to plots 3-6 amended. (To accommodate underground gas tanks)
- 2) Low brick walls, 500mm high added to front boundaries. (To act as fire wall to gas tanks – building regulations)
- 3) Boundary to plot 6 amended. Low brick retaining wall added with 1800mm high close boarded fence with 300mm trellis above. (To provide greater screening for Ash Cottage)
- 4) Landscaping drawing amended to accommodate changes to site layout.

2.3 Single solar panels have also been added to the centre of each roof on the south-facing elevation and are similar in tone to the surrounding tiles. This would comprise householder permitted development for occupied properties.

## 2.0 SITE LOCATION & DESCRIPTION

2.1 The site is located in an existing residential area of Worthen and is surrounded on 3 sides by other dwellings at varying angles to the plot boundary. This includes 3 bungalows on slightly higher ground to the north-west and west in relatively close proximity (3-4m at closest) to the plot boundary, and 3 two storey properties set back 8-18m from the north eastern boundary. The site margin is defined by wooden fencing with some associated hedges.

2.2 Access is obtained from Brookside / Millstream to the south east which links to the main Worthen – Shrewsbury Road approximately 60m to the north. Land falls gently from north to south across the site, towards a brook 11m to the south of the plot. Brook End, a grade 2 listed property is located to the north east of the site on lower ground behind a mature hedgerow. The gable end of this 2 storey rendered property extends to within 10m of the site boundary.

2.3 A public footpath is located 15m to the south on the opposite side of the brook but would be unaffected. A small part of the access into the site is located within a flood plain but levels here would not be affected by the proposals.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 At an agenda setting meeting in April 2016 it was agreed that the application could be determined under officer delegation on the basis that the proposed variations were not significant in the context of the approved scheme. The Parish Council challenged this decision and the matter was reported back to the subsequent May 2016 agenda setting meeting when it was determined that the application should be referred to committee given the nature of local concerns.

## 4.0 COMMUNITY REPRESENTATIONS

- 4.1.i. Worthen With Shelve Parish Council: The Parish Council formally request that this application is considered at a planning committee meeting. There are numerous concerns regarding the site and the processes which have allowed this situation to arise and progress. Works have been undertaken which were not approved on the reserved matters planning permission and there are a number of unauthorised changes to the development which the applicant is seeking to regularise by submitting the variation order. The amended reserved matters layout has been assessed on Shropshire Council's GIS system and has been considered to remain compliant with nationally accepted criteria for separation distances and orientations between principal windows.
- ii. The scheme seeks to avoid overlooking by plot siting, alignment of principal windows, obscure glazing on upstairs side windows and boundary planting. However, the effect of the overall capacity, layout and density of the development when considering the grading of the land, topography of the site and surrounding area, the local context, street patterns, scale and proportion of existing buildings have culminated in the loss of visual and residential amenity. It is considered by the Parish Council that the proposed variations are inadequate to address this detrimental impact and the overall visual effect of the development. The proportions of the houses on the development in relation to, but not limited to, the building heights and solid brick conservatories are considered overbearing as they are considerably larger than the bungalows, cottages and semi-detached properties which are located around this development site.
- iii. There are a number of properties overlooking the site and the increased roof heights and window level has resulted in a negative residential visual amenity and a non-uniform roof line. It is considered that the size and height of the new buildings does little to maintain the amenity and privacy of adjoining houses or indeed properties located close to the site. Whilst, the variation order seeks to mitigate the loss of privacy, overlooking, overshadowing and loss of light it is again considered the measures suggested do not redress the impact of this site.
- 4.2 SC Highways – No objection. The changes do not compromise highway access/safety.
- 4.3 SC Affordable Houses: - No objection. The original application related to replacement dwellings and therefore did not result in the requirement for any affordable housing provision. The situation is unchanged from an affordable housing perspective.
- 4.4 SC Drainage: - No objection. The proposed surface water drainage system remained unchanged.
- 4.8 SC Ecology: – No objection. SC Ecology would like to see more native, local species being used in the landscape plan. We have no comments to make on the variation of housing layout.
- 4.9 SC Trees: No objection. We note that the applicants' agent has stated in their design statement that plan 143B (Landscape is submitted in support of the variation, on the actual plan the reference number is 134B not 143B. We also note that the rear garden tree planting is hard up against boundaries which means the crowns of these trees will start to encroach across the boundaries into neighbouring gardens as soon as they start to become established. Also, due to the limited space for meaningful tree

planting it is likely that most of these trees will not reach full maturity before being removed. In particular we would question the merit of planting a holm oak in the confined rear garden of plot 2, this tree has potential to fill the whole garden space but it is unlikely to be given the chance to before being removed.

### Public Comments

- 4.11 The application has been advertised in accordance with statutory provisions and the nearest residential properties have been individually notified. Objections have been received from 8 individuals who raise the following concerns:
- i. This developer, Sy Homes, has totally flouted the Planning and Conditions required at the passing of this application late last year. From the start before consent he had dug the footings and grubbed out hedges against the conditions. The change of size and the foot prints were slipped in whilst the planning officer was concerned with the heights of the build; the ridges of plots 5 & 6 are now 1:46 m higher than the plans approved. This was pointed out over 6 weeks ago and I requested the heights to be checked. Up to then no base height or eve height had been checked. This height has nothing to do with ground levels at Ash Cottage, as he states in The Access Statement. The developer supplied an A4 sized plan giving minimal heights with no reference to adjacent properties from a non-accredited surveyor. The change of the hips will not lower the ridge to the correct height. It will make no difference to the overbearing flank walls at the rear of Ash Cottage and the rear of 17 Millstream. The rooves of plots 5 & 6 need to be removed and the brickwork removed 1:46m at the eve's level. He has carried on building hoping this is not required. The conservatories at the rear of plots 1 & 2 are not conservatories but full brick additions, (just another example of pushing the envelope and hoping no one would notice). Doors are added and internal design altered with limp excuses. These major changes go against Government Guide Lines and are required to be granted at the outset of permission. He is still continuing to build hoping to get it passed. He is making a mockery of your Planning Authority and they are ignoring all the information supplied by the residents in the area. This needs to go to a full planning meeting giving all interested parties as voice.
  - ii. I am concerned that the developer is trying to secure consent for altered plans which have been amended to fit what he has already built. The issues which this raises are very contentious and significant and therefore must not be dealt with by delegation to the planning officer. Please treat this objection as a formal request for this application to be taken before planning committee. From the start of this development the builder has been allowed to flout the Planning Consent and Conditions. The footings were dug before consent was granted. Hedges were grubbed out before consent or a landscaping plan was agreed and in contravention of the eventual planning consent which require that they be retained. The rooves are built too high again ignoring the planning consent detail. The builder and the delegated officer were informed of this issue over 7 weeks ago, however the builder has been allowed to carry on with the work, with no effective enforcement action being pursued by the LPA. No amount of hip roof will change a fundamental contravention of consent for 'roof height'. As the roof height is wrong what other heights are also wrong? Surely the significant alterations to the consented scheme cannot be dealt with by a variation application. In the Variation of Planning Condition 2 Application Statement dated Feb 2016 the blame for the finished height error at PLOTS 3-6, is attributed to being 'Due

to difference in level between new ground level and neighbouring garden of Ash Cottage' The levels were the same height before digging took place. The reason the height is wrong is insufficient earth was removed at the start of the development and no measurements were taken at ground level or pad level. The pitches to the dormers have not been changed, apart from the time (late January) we informed the builder and Planning Officer that the front dormer heights were some 400mm too high when they were first installed. The next day the builder accepted they were wrong and had them lowered. The rear dormers are higher than consent by some 10mm due to timber thickness. The foot prints and size of plots have vastly changed from the outline indicative scheme, seemingly unnoticed by the Officer, who was more interested in the building types, rather than their altered locations. The builder has built hoping to get retrospective consent from a planning officer who has commented that he thinks the developer should be allowed to make something out of the plot. I don't believe that the builder's financial circumstances are a material planning issue, and I find it worrying that this appears to have been a consideration for the officer. This will be at the local resident's expense and to Shropshire Councils cost in the future, as it sends the wrong message to other Developers which is: Breaches of consent are allowed in Shropshire. This Application should be taken to full planning committee; in advance of this the full planning committee should attend the site to understand what has taken place and enable a full realisation of the situation on the ground. Local residents also wish to address the committee when it sits to consider this application.

- iii. The development site at the above is surrounded by bungalows, cottages and a Grade II Listed building. What is being built is out of character with the area and has rendered the living conditions of the adjacent neighbours unacceptable. At the outset. Amendments have been made continuously, since the Outline Planning Application was approved, in breach of planning and without consent. These amendments are in no way directly linked to the site conditions, improvements to internal layout nor meeting building regulations. This latest application 16/00952/VAR basically is NOT variation but a retrospective planning application as a lot of the so-called amendments were built from the outset so no alterations have occurred. Adding hips to all of the roofs will NOT reduce the height of the ridges in any way and certainly not by the 0.46m over height on the semi-detached houses. Nor will all the landscaping in the world soften the effect of the overbearing flank walls which impact negatively on the adjacent neighbours. Minimum distances between overlooking principle rooms has also not been complied with. Including heights of houses from redundant plans, on 812/15/12C, is irrelevant. It would be more relevant to include the heights of the original bungalows to show the actual increases in height. There should now be a full and detailed independent survey carried out by an accredited surveyor and the results uploaded as a relevant document for the application. Every house in this development has been aligned incorrectly. The semis have been pushed back by nearly 5m and the detached houses have changed according to plan 812/15/26. These misalignments must surely be in breach of planning. There are gross omissions on plan 812/15/4D. If, due to Building Regulations, fire walls are necessary where gas tanks are underground then surely there should be fire walls for every gas tank. There are six such tanks - one for each house - but only 3 fire walls appear on the plan. The gas tanks are not drawn on the plan so judging whether the walls are in the correct place is impossible. A correct plan must include the position of each gas tank and the distances between them and the fire walls. There are no fire walls on Plot 1 and Plot 2; the former giving me great concern since there

is no protection for Stourton Cottage. This plan must be corrected for it to be a viable document. In an email from the Planning Officer dated 04/03/2016 it was stated that: 'In the period prior to determination of the variation application the developer has been advised that work should cease on the conservatories and this has occurred'. This is NOT the case. Several days after this stop was issued, sills were put into place on the rear conservatory windows in blatant breach of the planning notice. To date there have been no sanctions imposed on the developer. In fact the Planning Authority has ignored breach after breach of the Planning, allowing the developers to carry on building just they please. The consequences of all this mismanagement is far-reaching and detrimental to the well-being and livelihoods of all who live in the area. In conclusion I would like to place on record my very strong objections to this variation application on the grounds that there are considerable inaccuracies and gross omissions. I would ask, therefore, that the Planning Authority refuse this application.

- iv. The effect of this on neighbours, particularly nos 16 and 17 Millstream, which I consider to be intolerable. There needs to be a practical solution acceptable to the neighbours and the wider community and I suggest the following are considered:
- Lowering the roofline, possibly by using a flat top or a Gambrel design roof - perhaps with sloping end(s).
  - Eliminating windows overlooking immediate neighbours.
  - Compensation payable to the severely affected neighbours for their loss of amenity and reduction in the value of their properties.

This application should be referred to the Planning Committee as it is contentious and there are significant issues relating to the handling of this project by the planning officers. It is not obvious from the plans how seriously the neighbouring properties are affected. I suggest that the planning committee make a site visit.

- v. From my perspective it is the height of the buildings. As we are new to the area we were aware that houses were going to be built. Unfortunately it is only when buildings are built that you see the full impact. It is too late now, however bungalows would have suited the area far more than houses. It is unfortunate that planning permission was granted for this development in the first place, as in my view it is not in keeping with the surrounding bungalows and cottages. The height towers over existing properties and in our case overlooks a bedroom. Whilst landscaping may go a little way to provide some screening, and I am sure the aim was to provide a small development, it does not escape the fact that the houses appear to be too large and too high for the area.
- vi. Since the Planning Application was approved, the developer has continuously ignored and shown total disregard to the planning consent and conditions he should be adhering to. The Planning Officers were made well aware of the residents' concerns in relation to these breaches at a very early stage of the build but they failed to respond to a succession of letters, emails and telephone calls from residents, their representatives and our Local Councillor. They have failed to support the local residents at a most critical time and this is totally unacceptable. By the time representatives from the Planning Department did react and take time to visit the site, building had continued at a pace. Only at this point in time were they able to see first-hand the total disregard that the developer has shown to the Rules and Regulations of the Planning consent. The buildings are very obtrusive and in extremely close proximity to the neighbouring properties and due to the developer flouting planning



regulations he has caused the residents untold distress and inconvenience, impacting severely on their daily lives. Building work has continued outside the times specified in the original planning consent, the siting of the houses has been moved, roof ridge heights are higher than was agreed, conservatories not being built to approved plan, extra doors have appeared on the side of the detached houses which are not on the original plan etc. We fully support the comments made by Mr and Mrs Cass, Mr and Mrs Ritchie, Ms Merryweather, Mr Payne, Mrs Welham, Mr Williams and the Parish Council.

- vii. I am co-owner of no: 17 Millstream, the property that is bordered on 2 sides by the current housing development. Last November, I recorded my objections "on-line" to the planning department. I observed that on the builder's plans, the houses were larger, and had been set further back than on the approved Shropshire Sheltered Housing plans that had outline planning permission. Also that we would lose privacy to our sun room/guest bedroom. Fast forward to the present day, and we are having to live with that reality! The way forward? As far as I am concerned, one positive aspect about what has happened is as follows: we will have a bit more privacy and less noise if the brick wall on our side of the "conservatory" is left as it is! Hopefully our concerns will now be listened to, and the current situation will be brought to a satisfactory conclusion.
- viii. I fail to understand how, by adding a hip to the gable of a roof, reduces the height of the ridge. The developer has not complied With the approved plan and must therefore rectify, otherwise it makes A mockery of the planning system.

## 5.0 THE MAIN ISSUES

- Principle of development and policy context;
- Assessment of the proposed variations;
- Environmental implications of the proposed variations.

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development and policy context:

6.1.1 The principle of residential development on this site has been accepted with the grant of outline planning permission 13/05121/OUT. The details of the development have also been approved as part of the reserved matters permission 15/04032/REM and by 2 associated discharge of conditions approvals. The current application seeks retrospective approval for some variations to the approved details. The current variation application does not require a reassessment of the principle of providing 6 houses of the currently approved design on this existing housing site. Instead, the committee must consider the extent to which the proposed variations can be accepted as amendments to the approved scheme.

6.1.2 Worthen forms part of a community cluster where principle of additional infill residential development is accepted under SAMDev policy S2. The current scheme also represents a redevelopment of the site which formally accommodated a larger number of single storey housing association bungalows. It was therefore possible to accept the principle of redevelopment at the outline stage. The site had also been disused for a few years and there was a potential risk of further deterioration. Hence, there was a recognised need to re-develop the site.

- 6.1.3 A scheme for 6 houses was proposed at outline stage and with 2 detached and 4 semi-detached properties and was subsequently refined at the reserved matters stage. Details discussions took place between the developer and the case officer at both stages and the design was amended as follows at the reserved matters stage:-
- i. Ridge Heights: All first floor windows are were changed to semi dormers, enabling ridge heights to be lowered by 400mm. The overall reduction in ridge height from scheme proposed originally in the reserved matters submission for four houses was 1400mm for the detached houses and 900mm for the semi-detached houses.
  - ii. Ground Levels: Ground levels of each plot were reduced as much as possible without compromising drainage levels, services, tree and hedge roots. On average levels were reduced by about 500mm below the present ground level.
  - iii. Landscaping: Proposed trees to the north of Stourton Cottage were replaced with small ornamental trees.
  - iv. Layout: The semi-detached properties (plots 5&6) were moved 3.6m to the north-west in order to provide front gardens with space to accommodate essential utilities whilst preserving parking.
- 6.1.4 The reserved matters layout incorporating the above provisions was subsequently approved. However, during the course of the construction works a number of changes were implemented as listed in section 2.2 above. The developer is seeking to regularise these through the current variation application.
- 6.1.5 It is necessary to consider whether the proposed variations to the approved reserved matters scheme remain compliant with relevant planning policies and guidance or whether they would amount to unsustainable development in conflict with policies Core Strategy policies CS6, CS17 and SAMDev policies MD2, MD12 and MD13. The individual changes are assessed below:
- 6.2 Assessment of the proposed variations
- 6.2.1 Ground levels at plots 3-6: One of the main concerns by objectors is that the finished floor level of plots 3-6 (the semi-detached properties) has been raised by 440mm relative to the approved level in the reserved matters scheme. This has resulted in a corresponding increase in ridge heights for these properties which objectors consider has led to an overbearing appearance for these properties. The officer negotiated an overall reduction in ridge height of 1400mm for the detached houses and 900mm for the semi-detached homes during the course of processing the reserved matters application and the need to adhere to these levels was further emphasised a planning condition requiring a survey of levels to be provided.
- 6.2.2 However, due to the sloping nature of the site and the difference in levels between the site and Ash Cottage the applicant encountered difficulties in excavating the base level of the semi-detached properties. Substantial volumes of soil were excavated from the site and this is emphasised by the presence of excavated banks exceeding 1.5m on the north-west and north-east boundaries of the site. It is considered that

the concerns of objectors regarding height were exacerbated by the fact that the previous structures on the site were low-level housing association bungalows.

- 6.2.3 The planning authority received a complaint from an adjoining local resident when the timber frame of plot 6 was erected to the level of the gable and immediately reminded the developer of the need to comply with the ground survey condition. Unfortunately there was a delay of a further month before this information was provided to the Council, at which stage a 0.44m discrepancy in height for plots 4-6 was established. A meeting subsequently took place between with the developer at which the officer indicated that the levels were unauthorised. The developer advised that a retrospective variation would be sought immediately and further ways of mitigating any impact associated would be investigated as part of this process. The application would also incorporate the other aspects listed in section 2.2 above. The officer advised that any subsequent work pending resolution of the situation would be at the developer's own risk. The officer also instructed that work on the detached conservatories should cease (see below). Since this time work has continued on the main properties.
- 6.2.4 The developer has proposed to add hipped rooves on external-facing gables of the development to give a 'recessive' effect to the rooves. Enhanced landscaping works around the site boundaries are also proposed as part of the current variation application in order to assist in mitigating for the increase in levels for plots 3-6. In addition, the developer is intending as part of private agreements with the respective owners:
- i. To gift a strip of land above the excavation slope to the occupant of Ash Cottage (north east of plot 6) and to fund / undertake appropriate landscape planting of this area.
  - ii. To gift an area of land adjacent to the site access to the owner of Stourton Cottage to the immediate west.
- 6.2.5 Objectors maintain that the proposed landscaping measures do not go far enough to remedy the initial breach of planning control. The officer considers however that the proposed mitigation measures are sufficient to address any loss of amenity as a consequence of the 0.44m height increase at plots 3-6. The officer considers that the hipped gables do succeed in reducing the prominence of the rooves as seen from adjoining properties and that the proposed landscaping measures, yet to be implemented, will also assist significantly in integrating the properties into their surroundings. This includes the proposal to plant a number of 3.5m high shrubs / trees around the site margins.
- 6.2.6 The Parish Council has remarked that the houses appear discordant with other rooves as seen from higher ground to the north. The officer notes however that public views towards the development from the north are quite limited. The presence of mature trees, other nearby 2 storey properties and the general slope of the land serves to visually integrate the development from external viewpoints and this will be further assisted by the proposed landscaping. It is also noted that the 0.44m height discrepancy amounts to less than 1/17th of the overall height of plots 3-6. It is not considered therefore that this variation in height for plots 3-6 would result in any materially discernible increase in visual impact relative to the approved scheme from available public viewpoints. It should also be noted that before it was amended, the

original reserved matters plans included proposals for ridge heights which were 0.46m higher than the current situation for plots 3-6.

- 6.2.7 The officer does not consider that the increase in height of 0.44m for plots 3-6 would be likely to result in any material adverse visual impact to the surrounding area relative to the approved scheme. The increase in height may result in some increase in visibility of the development locally and the development would be more visible than the 9 small bungalows which previously occupied the site. However, this does not necessarily amount to an adverse impact. The applicant has confirmed that it would not have been economically feasible to re-develop the site with bungalows.
- 6.2.8 It is an established principle of UK planning law that there is no private 'right to a view'. It is considered that the proposed variations would not result in significant and demonstrable harm on amenities or an overbearing impact relative to the approved scheme. This is having regard also to the proposed landscaping measures. Acceptable spatial relationships would continue to be maintained between the development and existing properties as would mutual privacy and levels of natural light.
- 6.2.9 The applicant has confirmed that the proposed planting works are likely to be carried out by the end of June, with on-site irrigation provided. Tall specimens will be planted and it is considered that this will provide meaningful visual mitigation from an early stage. The removal of scaffolding is also likely to assist in reducing the visibility of the development. The applicant's intention to gift land with planting to 2 of the nearest residents is a private matter and would not affect the above conclusions. It is acknowledged however that, if this is delivered, it would hopefully assist further in addressing local concerns. (Core Strategy Policy CS6, 17, SAMDev Policy MD2, 12, 13)
- 6.2.9 Other changes to plots 3-6: In addition to the hipped rooves referred to above the pitch of the dormers has been reduced in order to compensate visually for the raised roof level. The gable to the dormers was also amended from lead to brick. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.10 Amendments to conservatories (plots 2 and 3): The position of the conservatories has been amended to move them further away from the plot boundaries. A brick wall has also been provided in place of the originally proposed side window on the external facing conservatory facades. This change had been requested and is supported by the nearest resident as providing increased privacy. The width of the end window of both conservatories has also been reduced in order to comply with building regulations.
- 6.2.11 Substitution of brickwork for glass gives a more 'solid' appearance to the conservatories, thereby contributing to the overall ground floor mass of the detached properties. The officer does not however consider that this would result in an unacceptable development. The conservatories are still registered as such and would not be a dominant feature from any external viewpoints. There would be some improvements in privacy relative to the approved scheme.

- 6.2.12 Other changes to plots 1-2: One bathroom window has been omitted, the position of the porch and front door has been amended and the ear exit door has been moved to the side elevation. These changes are due to an internal alteration to layout. The base of the chimney has been amended to accommodate a wood burner. The pitch of the dormers has amended and a hip added to one side of roof to match plots 3-6. The gable to dormers have also been amended to brick. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.13 Amendments to site layout: The parking areas to plots 3-6 have been amended in order to accommodate underground gas tanks. Low brick walls, 500mm high have also been added to front boundaries, to act as a fire wall to gas tanks under building regulations requirements. The boundary to plot 6 has been amended to provide a low brick retaining wall supporting an 1800mm high close boarded fence with 300mm trellis above. This is in order to provide greater screening for Ash Cottage. The landscaping drawing has been amended to accommodate these layout changes. The officer does not consider that these changes would in themselves result in the potential for any increased impacts on the local area and amenities.
- 6.2.14 Layout – alignment of plot 6: A resident living to the north-east of plot 6 has objected that plots 5 and 6 have moved further to the north-west between the original block plan and the final approved block plan for the reserved matters application. It is stated that this increases the visual prominence of the north-east gable of plot 6 from this property relative to the original block plan. This is because a greater length of the gable end is available and this has become a more significant component of views from the resident's garden.
- 6.2.15 The parish council was consulted on and did not object to the revised / approved block plan during the reserved matters application. The plan was also available for inspection online for over a month prior to the determination of the reserved matters application. The revised layout forms part of the approved scheme. It is not therefore be a valid grounds for objection to the current variation application as no further change to layout is proposed. It should however be noted that whilst Shropshire Council does not have an adopted policy for separation distances the standard which is generally adopted nationally is for a minimum separation distance of 12m between a principal elevation and a blank gable. At 17.6m the spatial separation between Plot 6 and Ash Cottage significantly exceeds this, notwithstanding the landscaping which is proposed for this boundary.

### 6.3 Environmental implications of the proposed amendments

- 6.3.1 The officer does not consider that the proposed variations will result in any additional impacts on the environment. No technical consultees have objected and there would be no implications in terms of drainage, highways or public protection. The proposed landscaping measures would result in a biodiversity enhancement relative to the currently approved scheme.

6.3.2 For the reasons stated above, it is not considered that the variation would lead to an unacceptable visual impact or an overbearing development when compared with the currently approved scheme. The officer considers that the proposed landscaping measures and removal of scaffolding and laydown areas will significantly enhance the visual amenity of the development within a short timescale.

#### 6.4 Affordable Housing

6.4.1 No contribution is due as the proposals relate to the replacement of dwellings on an existing residential site.

#### 7.0 CONCLUSION

7.1 The proposed variation application seeks to regularise some amendments to the scheme which have occurred during the development phase. It would have been preferable for these changes to have benefitted from prior planning approval and the retrospective nature of the application has underscored local objections. However, the applicant has worked closely with the planning authority in order to seek to regularise the situation.

7.2 The proposed amendments would result in a development which does not differ materially from the current approved scheme. The proposed landscaping measures and roof design changes would mitigate the impact of the increased height for plots 3-6. Acceptable standards with respect to spacing, privacy and natural light would also be maintained. It is not considered that amendments would result in any unacceptably adverse impacts relative to the approved scheme, either individually or in combination.

7.3 It is considered that the proposals are sustainable in environmental, social and economic terms and are compliant with the NPPF, Core Strategy Policy CS6, SAMDev Policy MD2 and related policies and guidance. Permission is therefore recommended, subject to appropriate conditions.

#### 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 - written representations, a hearing or inquiry. If the decision is 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 intervene 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 a) promptly and b) in any event not later than three months after the grounds for making 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 1970.

## 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.

## 10.0 BACKGROUND

### Relevant Planning History:

#### RELEVANT PLANNING HISTORY:

- PREAPP/11/01525 Redevelopment of site to provide open market housing PREAIP 27th January 2012
- 13/05121/OUT Outline application for the erection of 6 no. dwellings and associated works to include access and layout following demolition of 8 no. existing dwellings GRANT 18th March 2014
- 15/04032/REM Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to permission 13/05121/OUT PDE
- 15/05411/DIS (surface treatments) and 16/00345/DIS (drainage, landscaping, external lighting and ecology).

### Relevant Planning Policies:

#### Central Government Guidance:

### 10.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

10.1.1 The National Planning Policy Framework (NPPF) The NPPF emphasizes sustainable development and planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan,

and every decision’. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;
- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

- CS6: Sustainable Design and Development Principles:
- CS17: Environmental Networks
- CS4 - Community hubs and community clusters
- Policy CS5: Countryside and Green Belt;
- Policy CS7: Communications and Transport;
- Policy CS8: Facilities, services and infrastructure provision.
- CS11 - Type and affordability of housing;

10.3 SAMDev:

- MD1 – Scale and Distribution of Development
- MD2 – Sustainable Design
- MD3 - Managing Housing Development
- MD7a – Managing Housing Development in the Countryside
- MD8 –Infrastructure Provision
- MD12: The Natural Environment

## 11. ADDITIONAL INFORMATION

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O3DJGLTDL0E00>

List of Background Papers: Planning application reference 15/01919/FUL and associated location plan and documents
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member: Cllr Mrs Heather Kidd
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Appendices: Appendix 1 – Conditions
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## APPENDIX 1

### Planning Conditions

#### CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

1. Condition 2 of permission reference 15/04032/REM is hereby varied in order to substitute the drawings approved under the above permission (numbers 812/15/4B, 812/15/10A and 810/15/11A) with drawing numbers 812/15/4D, /12B, /15C, /19D, /20C, /26, /27 and ADL143b which are approved under the current variation.

Reason: To define the approved scheme as varied.

#### INFORMATIVES

1. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
2. All other conditions imposed on the original reserved matters planning permission dated 8<sup>th</sup> December 2015 remain in full force and are unaffected by this notice.
3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.