

## Development Management Report

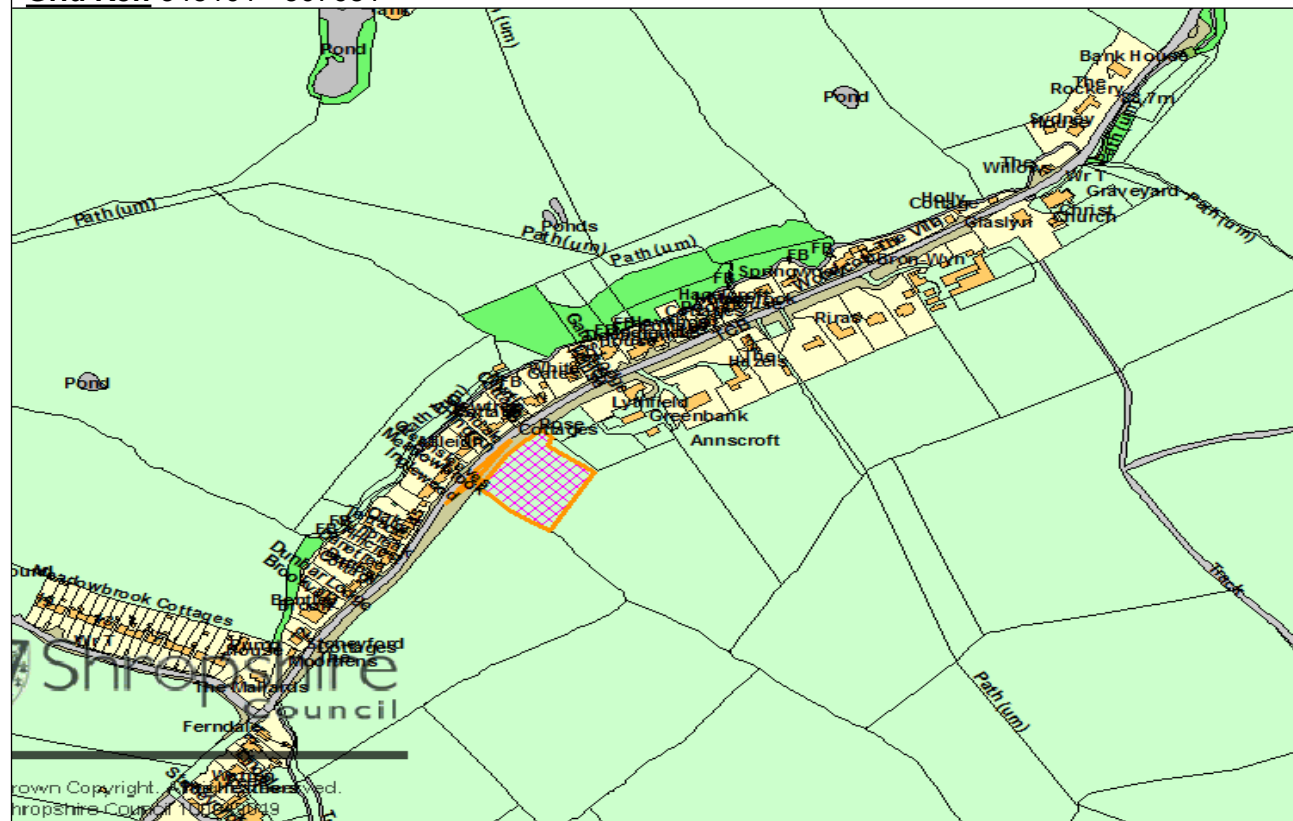
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b><u>Application Number:</u></b> 16/01873/OUT	<b><u>Parish:</u></b>	Longden
<b><u>Proposal:</u></b> Outline application for the erection of 3 no. detached dwellings to include means of access		
<b><u>Site Address:</u></b> Land To The South Of Annscroft Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Mr Jonathan Lovegrove-Fielden		
<b><u>Case Officer:</u></b> Nanette Brown	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 345101 - 307681



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**Recommendation: - Refuse subject to the conditions below.**

## Recommended Reason for refusal

1. The proposed development would provide three detached residential properties adjacent to a settlement being put forward by the Parish Council as a 'Cluster' within the emerging 'Site Allocations and Management of Development' document (SAMDev). However the site is not consider to be located within this settlement and is therefore located in open countryside for planning policy purposes. The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to policies CS5, MD3 & MD7a.

The Local Planning Authority considers that the scheme would not protect, restore, conserve and enhance the natural and built environment. This would result in the scheme being in conflict with Core Strategy Policies CS5, CS6, CS17 and SAMDev policies MD2, MD3, MD7a , MD12 & MD13. There would be significant conflict with the environmental role of sustainability. Whilst there would be limited economic and social benefits associated with the proposal, the Framework is clear at paragraph 8 that the 3 roles of sustainability should not be undertaken in isolation, because they are mutually dependent. Given that, it is considered that the proposal would conflict with the environmental role, and that the proposal would not result in sustainable development.

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks outline planning permission for the erection of three detached dwellings to include means of access. All other matters relating to appearance, landscaping, layout and scale are to be considered at a later reserved matters stage.
- 1.2 The proposed access would be taken into the site from the road that passes the north west boundary of the site, excavating into the existing embankment to provide one single shared point of access.
- 1.3 This site was subject of an earlier outline planning application 15/01684/OUT that was refused under officer delegated powers and is now subject of an undetermined planning appeal (Planning Inspectorate reference APP/L3245/W/16/3146736). The previous reasons for refusal were:

1. *The proposed development would provide three detached residential properties adjacent to a settlement being put forward by the Parish Council as a 'Cluster' within the emerging 'Site Allocations and Management of Development' document (SAMDev). However the site is not considered to be located within this settlement and is therefore located in open countryside for planning policy purposes. The proposal is a departure to the*

*development plan in that the site is situated within open countryside and is contrary to CS5.*

2. *The Local Planning Authority considers that the scheme would not protect, restore, conserve and enhance the natural and built environment. This would result in the scheme being in conflict with Core Strategy Policies CS5, CS6 and CS17. There would be significant conflict with the environmental role of sustainability. Whilst there would be limited economic and social benefits associated with the proposal, the Framework is clear at paragraph 8 that the 3 roles of sustainability should not be undertaken in isolation, because they are mutually dependent. Given that, it is considered that the proposal would conflict with the environmental role, and that the proposal would not result in sustainable development.*

The applicant's agent has requested that this application be determined by the local planning authority prior to receiving an appeal decision.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site lies to the south east of the main road that passes through Annscroft, set at an elevated position above the roadside on top of an existing embankment and forming the western part of an existing open field. To the north east of the site lies a site that has formerly been granted outline planning permission (ref 14/00973/OUT) and beyond that an existing dwelling, Lythfield.
- 2.2 To the north west of the road lies further existing housing that forms the built and developed part of the village, with open fields to the south east and south west of the site.

## **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Longden Parish Council and the Local Elected Member have submitted a view contrary to officers recommendation for refusal 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 Parish Council and Local Member have raised material planning issues and should be determined by committee.

## **4.0 Community Representations**

### **4.1 - Consultee Comments**

#### **SUDS – No objections**

Suggested informative relating to sustainable drainage.

**SC Affordable Houses – No objection****SC Highways – No objections**

The proposed development of three dwellings is considered to be acceptable from a highway perspective, subject to access layout and visibility splays as submitted are formed as the first phase of development.

**SC Ecologist – No objections**

Conditions and informative are recommended.

**Longden Parish Council - Supports**

After discussion it was agreed to fully support this application. Whilst they are over the 50 properties for the SAMDev The Parish Council consider this to be in a sustainable location and does not go against any policies

**4.2 - Public Comments**

2 letters of **support** from the owners of the adjacent site summarised as follows:

We own the land adjacent to this application (which is mentioned on the plans). We intend to build a family home to live in ourselves. We have existing planning permission for our own access from our land to the road, but as yet have not developed this. If this application was passed, we would be able to share access and sewerage. This would mean that we did not have to remove hedgerow and trees on our property - thus benefiting the neighbours on the opposite side of the road considerably by reducing construction disruption and potential overlooking. By approving this application there would also be a beneficial effect to wildlife by retaining the wildlife corridor which runs from our land and the road as this would no longer need to be removed. This development is small scale and in keeping with the plot size.

This development is clearly infilling; nearby property is Lindale, Annscroft, an odd little cluster of Annscroft with about 7 houses - to the south is the end of the village/open countryside with the proposed site is to the north; on the map there is a gap of land between Lindale and Lythfield which is the proposed site; infilling a little gap within the village.

One letter of **objection** received summarised as follows:

It would appear that the application is the same as that refused previously under reference 15/01684/OUT on 23 September 2015; object to the application and consider that the refusal reasons given at that time remain appropriate in that; the site is outside the settlement of Annscroft; the site is situated within open countryside; the proposal does not protect, restore, conserve and enhance the natural and built environment; the development would result in significant conflict with the environmental role of sustainability as set out in the National Planning

Policy Framework.

## **5.0 THE MAIN ISSUES**

**Principle of development**

**Site Access**

**Residential Amenity**

**Ecology**

**Affordable Housing Contribution**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Applications for planning permission must be determined in accordance with the adopted development plan (Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date local plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
- 6.1.2 The adopted development plans for Shropshire are the Local Development Framework (LDF) Core Strategy, the Site Allocations and Management of Development Plan (SAMDev) and the Supplementary Planning Document (SPD) on the Type and Affordability of Housing. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.
- 6.1.3 The council published a revised 5 year housing land supply statement in November 2015 which demonstrates that the Council has a 5.53 year land supply. Therefore, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF paragraph 49 and therefore these provide the starting point for considering planning applications.
- 6.1.4 The application site is located within the parish of Longden. It does not lie within a settlement with any identified development boundary under SAMDev policies. It is therefore considered to be within open countryside. Policy CS5: 'Countryside and the Green Belt' of the Shropshire LDF Core Strategy does not support the provision of new open market residential development in the countryside. Policy MD7a also requires that new market housing be strictly controlled outside of the main towns, key centres and community Hubs and clusters. This policy lists acceptable types of housing that would be found to be acceptable but this does not include open market housing.
- 6.1.5 Policy CS4 states that development in rural areas should be focused in Community Hubs and Community Clusters, and should be of a scale that is appropriate to the

settlement and should accord with CS6. Policy CS6 states that development should be appropriate in scale, density, pattern and design to its surrounding environment and should also safeguard residential and local amenity. Policy MD2 of SAMDev also requires that development proposals respond positively to local design aspirations in terms of both visual appearance and how a place functions as well as contributing to and respecting local distinctive or valued character and amenity for the surrounding area.

- 6.1.6 As set out in the SAMDev documents (Policy S16.2 (xi) Longden, Hook-a-Gate, Annscroft, Longden Common, and Lower Common/Exfords Green are identified as a Community Cluster in Longden Parish where development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the villages, with a housing guideline of approximately 10-50 additional dwellings over the period to 2026. Of these dwellings, 25-30 are to be in Longden village, with the remainder spread evenly amongst the other Cluster settlements. The Parish Council has adopted a Longden Parish Development Statement (2013) as an addendum to the Parish Plan (2010), indicating that no individual site should be of more than 10-15 houses.
- 6.1.7 As a whole the cluster in terms of numbers of new dwellings to be built is considered to be close to reaching its target number of dwellings already either granted planning approval or with current officer recommendations for approval. Planning approval could still however be granted for further development in Annscroft in principal by infilling, conversions of buildings and groups of dwellings on suitable sites. In this instance it is the location of the proposed site that is the key issue and needs to be considered and assessed against its potential relationship to the village. It is noted that Policy MD3 also confirms that the settlement housing guideline is a significant policy consideration.
- 6.1.8 The application site forms the western end of an existing open field that is identified as grade 3 agricultural lands, of good to moderate quality. The field extends out from its narrowest point to the south east of the road, widening out into the open countryside beyond. The field is set at an elevated position above the adjacent road and from views taken from within the village and from along the roadside the site is seen as being situated above and separate to the existing residential properties. It is therefore considered that the development of this part of the field would result in built development extending out and beyond the existing natural boundary of the village, encroaching into what is currently an open field with open vistas across the surrounding countryside and creating a more urban feel to this area of land, causing harm to the character and appearance of this area of the open countryside.
- 6.1.9 It is considered that the proposal does not therefore protect, restore or conserve the natural or built environment of this area of countryside and would cause harm to the character and appearance of this area of open countryside. The proposal is contrary to policies MD2, CS5, CS6 and CS17.
- 6.1.10 Paragraph 14 of the NPPF states that there should be a 'presumption in favour of sustainable development'. Sustainable sites for housing, where any adverse

impacts do not significantly and demonstrably outweigh the benefits of the development, will still have a strong presumption in favour of permission under the NPPF. The 5 year housing supply is a minimum requirement and the NPPF's aim of significantly boosting housing supply remains a material consideration.

- 6.1.11 However in this case the Local Planning Authority considers that the scheme would not protect, restore, conserve and enhance the natural and built environment. This would result in the scheme being in conflict with Core Strategy Policies CS5, CS6 and CS17. There is therefore significant conflict with the environmental role of sustainability. Whilst there may be limited economic and social benefits associated with the proposal, the Framework is clear at paragraph 8 that the 3 roles of sustainability should not be undertaken in isolation, because they are mutually dependent. Given that point, it is considered that the proposal would conflict with the environmental role, and that the proposal would not result in sustainable development.

## **6.2 Site Access**

- 6.2.1 The proposed site access would be shared between the new dwellings, the access would be excavated through the existing bank, and has been designed to minimise the loss of the existing boundary planting/hedge along the boundary of the field whilst still providing the required visibility splays. The SC Highway Officers have raised no objections to the proposed access subject to requested conditions requiring the provision of adequate visibility splays, gradients and surfacing materials.
- 6.2.2 However, it is also noted that by its design and form the access driveway would lead up and away from the roadside and other properties within the village and from the submitted illustrative plans would result in the dwellings being set back some distance from the road. This would further limit any visual connection with the existing properties in this part of the village that are sited with a much closer frontage to the road.

## **6.3 Residential Amenity**

- 6.3.1 As stated above, as the proposal is for outline consent, it is not be possible to assess the full impact upon neighbouring properties. The indicative plan does, however, indicate a good degree of spacing between the proposed dwelling and neighbours properties. It is therefore considered that as a preliminary appraisal there will be no impact upon outlook or privacy upon neighbouring residents to the north east or north west of the site.

## **6.4 Ecology**

- 6.4.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the potential impact of a development on the natural environment. The Council's Planning Ecologist has assessed the application and is satisfied that the proposal can be provided without harm to any statutorily protected species or habitats, however, do request that a conditions are attached to any planning permission granted requiring details of any external lighting to be provided and

provision of artificial nests, and informative be attached which notifies the applicants of their duties with regard to protecting the wild birds.

## **6.5 Affordable Housing Contribution**

6.5.1 Shropshire Council's Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for "A Flourishing Shropshire". The Shropshire Council policy requires anyone developing a new open market dwelling (subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision.

6.5.2 However, following the Court of Appeals decision of 11<sup>th</sup> May 2106 has confirmed that the Written Ministerial Statement (WMS) of 28<sup>th</sup> November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas still applies.

6.5.3 Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000sqm floor area in the majority of cases. The Local Planning Authority are therefore no longer requesting that a Section 106 agreement in relation to the financial contribution for affordable housing for this proposal.

## **7.0 CONCLUSION**

7.1 The proposed development would provide three residential detached properties adjacent to a settlement being put forward by the Parish Council as a 'Cluster' within the adopted 'Site Allocations and Management of Development' document (SAMDEv). However the site is not consider to be located within this settlement and is therefore located in open countryside for planning policy purposes. The proposal is a departure to the development plan in that the site is situated within open countryside and is contrary to CS5 and MD7a.

7.2 The Local Planning Authority considers that the scheme would not protect, restore, conserve and enhance the natural and built environment. This would result in the scheme being in conflict with Core Strategy Policies CS5, CS6, CS17 and MD2. There would be significant conflict with the environmental role of sustainability. Whilst there would be limited economic and social benefits associated with the proposal, the Framework is clear at paragraph 8 that the 3 roles of sustainability should not be undertaken in isolation, because they are mutually dependent. Given that, it is considered that the proposal would conflict with the environmental role, and that the proposal would not result in sustainable development.

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

## 8.1 Risk Management

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

- ⑦ 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.
- ⑦ 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:  
CS5, CS6, CS17, MD2, MD3, MD7a, MD12, MD13  
Supplementary Planning Document (SPD) on the Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

15/01684/OUT Outline application for the erection of 3 no. detached dwellings to include means of access REFUSE 23rd September 2015

### Appeal

16/02421/REF Outline application for the erection of 3 no. detached dwellings to include means of access INPROG

## 11. Additional Information

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Roger Evans
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Appendices APPENDIX 1 - Conditions
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