

Development Management Report

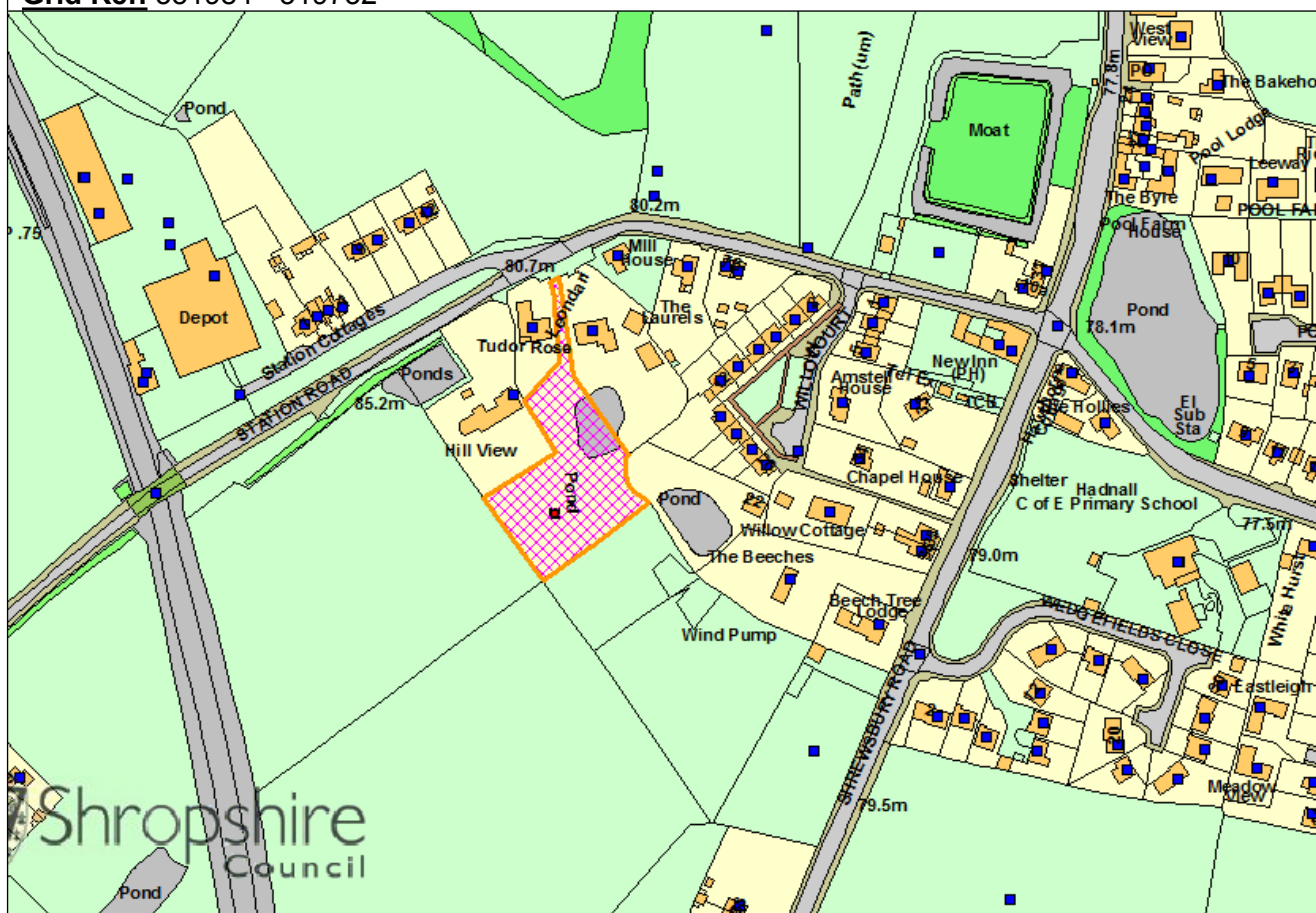
Responsible Officer: Tim Rogers

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Summary of Application

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| <u>Application Number:</u> 15/05450/REM | <u>Parish:</u> | Hadnall |
| <u>Proposal:</u> Application for approval of reserved matters (layout, scale, appearance and landscaping) pursuant to 14/03159/OUT for the erection of a dwelling | | |
| <u>Site Address:</u> Land South West Of Leondari Manor Station Road Hadnall Shropshire | | |
| <u>Applicant:</u> Mr A Maoudis | | |
| <u>Case Officer:</u> Karen Townend | | <u>email:</u> planningdmne@shropshire.gov.uk |

Grid Ref: 351984 - 319732



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

- 1.1 The current application seeks consent for approval of reserved matters for the layout, scale and appearance of the proposed dwelling and also for the landscaping of the site. The application is submitted with full plans and details required to determine whether the matters reserved at outline consent are acceptable or not.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located on the edge of the village of Hadnall, off Station Road. It is a large site with a number of trees, and is located to the rear of Leondari Manor, Tudor Rose and Hill View. At the time of the outline application the site was laid to lawn and maintained as part of the curtilage of Leondari Manor, since that consent the applicant has undertaken ground works within the site to level out the area proposed for the dwelling and also install services to the site. This has been raised as a complaint by a neighbouring resident, however much of the work could be done as maintenance of the garden and it would also be unreasonable for the Council to take enforcement action to revert the land to its previous condition when an application for the development is pending.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council response is contrary to the recommendation from the case officer and the local member has advised that they consider the issues raised are both material planning considerations and should be debated at committee.

In discussion with the chair and vice chair of the planning committee it was concluded that the application should be a committee determination for the reasons given above.

As such the scheme of delegation has been followed and a committee decision is required.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments**

- 4.1.1 **Parish Council** – Hadnall Parish Council Planning Committee met to discuss the above application. No declarations of interest were made.

Councillors object to the proposal on the grounds that the building is too high, being three storey and it is not in keeping with surrounding properties and Hadnall Village.

- 4.1.2 **Affordable Housing** – As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at

the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed

- 4.1.3 **Highways** – The principle of the development has been approved under the outline consent 14/03159/OUT therefore the highway comments are solely related to the details for the reserved matters from a highway perspective.
Appearance – not a highway consideration
Landscape – not a highway consideration in respect of the development proposed
Layout – no objection subject to the imposition of the following condition and informatives.
Scale – the proposed scale of the development is considered acceptable from the highway perspective.

Recommends conditions.

- 4.1.4 **Ecology** – There are no ecology comments on the details submitted with this Reserved Matters application.

Please note that condition 5 of consent 14/03159/OUT requires that all work on site must be carried out strictly in accordance with the Arbor Vitae Environment Ltd (February 2015) Method Statement To Avoid Damage To Great Crested Newts Leondari, Hadnall. This includes covering excavations and restrictions on ground works.

- 4.1.5 **Trees** – Can support the application the retained trees are protected in accordance with the submitted Tree Protection Plan and with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction".
- 4.1.6 **Drainage** – The proposed surface water drainage details, plan and calculations should be submitted for approval before the development commences as per Drainage Condition 6 on Outline Application 14/03159/OUT.

4.2 **Public Comments**

- 4.2.1 A site notice was erected and 2 neighbour notification letters were sent to individual properties to notify the public of the planning application.

Correspondence has been received from one property raising the following concerns:

- Proposed house is not smaller than existing as it was intended to be at outline
- Three storey property will overlook neighbours
- Minor amendments do not overcome the issues
- No garage/ outbuildings shown on current application and will result in future pressure for these buildings
- Outbuilding has been erected without consent
- Existing landscaping removed
- Services have been laid in a trench and hardcore applied to the site, the

applicant has commenced development without consent or regard to neighbours

5.0 THE MAIN ISSUES

- ☐ Policy & principle of development
- ☐ Layout, scale and design
- ☐ Impact on residential amenity
- ☐ Highways, access, parking and rights of way
- ☐ Ecology and trees
- ☐ Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 The granting of the outline planning consent has accepted the principle of the development proposed. The site is located within the village of Hadnall. Since the adoption of the SAMDev in December 2015 Hadnall has been considered as countryside for planning purposes as it was not put forward as either a Community Hub or part of a Community Cluster. However, the current application is for approval of reserved matters and therefore is not considering the principle of the development. The outline consent was granted before SAMDev was afforded full weight and as such was considered against the NPPF and supported as a sustainable development.

6.1.2 The outline granted consent for the erection of 1 dwelling and approved the access details at the time of the outline. As such the current application is for approval of the layout, scale, appearance and landscaping of the proposal.

6.1.3 With regard to affordable housing, noting the comments of the Affordable Housing Officer, this is not a matter for the current application. The Outline consent was subject to a S106 agreement which requires the payment of a financial contribution which will be put with other contributions and used in the local area for the provision of affordable housing.

6.2 Layout, scale and design

6.2.1 Layout, scale and appearance are submitted as matters for consideration in this application. The layout proposed shows a new driveway between the existing two dwellings, Tudor Rose and Leondari, which uses an existing access and section of drive and extends the drive further into the site. This proposed drive leads to a turning head and parking area and the proposed dwelling. The dwelling is positioned within the existing trees and shows the closest trees with their root protection areas which were shown on the outline consent. The proposed dwelling is orientated to face towards the access driveway but as a modern design does not have a standard shape or form.

6.2.2 The proposal is for a single dwelling with living/ dining room, kitchen, utility rooms, larder, entrance and WC on the ground floor, three bedrooms (one with dressing room and ensuite) and a family bathroom on the first floor and a storage room in the roof space. The roof storage has windows in the north elevation, all other windows are at ground or first floor level. A cross section drawing has been provided which shows that the windows to this storage room in the roof space are

above head height and that the roof slopes down to a height of just over 1m above floor level. The dwellings is orientated on the site so the south elevation faces down the driveway and provides the main entrance facing the drive.

- 6.2.3 Amended plans have been received during the consideration of the application which have made slight alterations to the design but which officers consider are a significant improvement on the design. The amendments include greater overhanging roofs and changes to the shape and size of some of the windows, including the windows to the single room in the roof and changes to the materials to be used in the finishing of the property. The design is accepted as modern, however there is no policy requirement for new dwellings to match existing, officers consider that this site, behind existing dwellings provides a good opportunity for a modern designed house.
- 6.2.4 As noted in section 4 above neighbouring properties and the Parish Council have both objected to the proposal. The Parish Council objection is based purely on the height of the dwelling being three storeys. Neighbours have also commented that the proposed house is not smaller than existing as it was intended to be at outline and that the dwelling will result in overlooking. This latter matter is dealt with in the next section. It is also accepted that the amendments made to the proposal do not overcome the neighbours objections, however, this does not mean that the development is not acceptable.
- 6.2.5 In terms of scale the proposed dwelling has a ridge height of 8.94m. The dwelling will have two storeys of habitable rooms and a room in the roof. This is currently shown for storage and although it may be used as a habitable room in the future it also may not. The usable floor space in this room is limited and, as already noted, the windows are above head height. As such officers do not consider that the proposed dwelling is a three storey property but is rather two storey with a room in the roof. The applicants existing property, Leondari Manor, sits to the left of the approved access to the site and is a three storey five bed dwelling which was granted consent prior to 1997. The property to the right of the access drive, Tudor Rose, was granted consent in 2002 as a two storey, five bed dwelling. The approved plans show Tudor Rose to have a ridge height of 7.9m. As such the proposed dwelling will only be 1.04m higher than the neighbouring property and could not be considered to be significantly out of scale or proportion with the existing dwellings either side of the access drive.
- 6.2.6 The neighbour's comment that the proposed dwelling is larger than the existing dwelling and therefore not what was proposed in the outline is not strictly correct. Leondari Manor is a 5 bed dwelling, the proposed house has 3 bedrooms. The footprint and floor area of the proposed property is only a little smaller than the existing dwelling but it is smaller. Furthermore, the outline did not restrict the size of dwelling to be built on the site. The neighbour quotes from the design and access statement on the original application but this was not binding on the applicant. There were no conditions on the outline consent preventing a larger dwelling being applied for or built.
- 6.2.7 In conclusion although the modern design of the house and the height does not match the adjacent development officers consider that the design and scale is not harmful to the character of the area. Both national and local policy seeks to

ensure that development relates to the area in which it is to be built, however neither policy requires new development to match existing designs or house types. There is no policy presumption against modern designs or materials and the proposed development is considered to be modern but not intrusive or harmful. The key issue will be to ensure that the materials are of a high quality to ensure that the designs are enhanced and sell themselves. An appropriately worded condition can be used to ensure these are appropriate.

6.3 Impact on residential amenity

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The nearest neighbouring residential properties to the north are the three detached dwellings; Hill View, Tudor Rose and Leondari (the applicants existing home). The nearest of these is Hill View which is approximately 39 metres from the proposed dwelling. This distance will ensure that there is no direct overlooking between the existing and proposed dwellings. There will be overlooking between gardens but this is generally accepted between neighbouring properties, the existing dwellings already overlook each other, the new dwelling will not significantly overlook to any greater extent. The proposed dwelling is at least 15 metres from the edge of its own curtilage which is considered to be an acceptable distance to ensure overlooking is not harmful.
- 6.3.2 The other two detached dwellings, Tudor Road and Leondari sit either side of the approved access driveway. The access was approved as part of the outline planning consent and as such the principle of serving one dwelling between the two existing dwellings has already been accepted. The level of traffic movement both during construction and post construction is not significant and would not cause unacceptable harm to the amenities of these neighbouring properties.
- 6.3.3 To the east of the proposed site there is a group of linked, semi-detached, bungalows set around a grassed courtyard. These are over 50 metres from the proposed dwelling and as such would not be affected by the proposed dwelling. Between these bungalows and the proposed dwelling is the end of a neighbours garden. To the southeast is an area of land used by touring caravans as a small caravan park. These will be the closest "properties" to the proposed dwelling but are not occupied as permanent dwellings and are likely to be sited end on to the existing hedge line. Overall it is considered that the proposed dwelling is sufficiently distant from any existing dwelling to not result in any direct overlooking and to minimise overlooking of neighbouring gardens.
- 6.3.4 The correspondence received from the neighbour also raises concerns that the services have already been installed prior to consent being granted and without consideration of the neighbours or the conditions on the outline consent. Furthermore an outbuilding has been erected. The agent has advised that all the work done to date, including the outbuilding, can be done without consent as providing services to the rear of the applicant's garden and as surfacing an area within the existing garden. The outbuilding falls within the permitted development restrictions for new buildings within the curtilage of an existing dwelling. Notwithstanding this any work is done at the applicant's risk. The principle of constructing a house on this site is approved and so is the position of the access. As such the development of the site does have consent albeit that the details are

yet to be approved. Therefore the Council would not seek to take enforcement action against the applicant to require him to remove the services installed. The work was all done within the applicants land and any impact on the neighbours ability to access their property has now passed.

6.4 Highways, access, parking and rights of way

6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.4.2 The access to the site was submitted with the outline planning application and approved at that time, subject to conditions. There are no changes proposed to the access and the Council Highway Officer has confirmed that they have no objection to the layout of the site subject to the imposition of a condition and informatives and that the proposed scale of the development is considered acceptable from the highway perspective.

6.5 Ecology and trees

6.5.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The potential for impact on protected species was considered in detail during the determination of the outline planning application and conditions were imposed accordingly to enable improvements to ecology.

6.5.2 The Council Ecologist has confirmed that they do not wish to make ecology comments on the details submitted with this Reserved Matters application. As noted by the Ecologist, any work on site must be carried out in accordance with the GCN Method statement and the applicant has been reminded of this requirement given that they have installed the services to the site and also are constructing an outbuilding in the curtilage of the existing dwelling.

6.5.3 With regard to trees the Council Tree Officer requested a Tree Protection Plan and Arboricultural Method Statement. Both of which have been supplied by the agent and show that the proposed dwelling is not within the canopy of any of the trees to be retained and detail how the work will be carried out having regard to the trees, including the erection of protective fencing.

6.5.4 On the basis of this additional information the Council Tree Officer has advised that they can support the application on the providing that the retained trees are protected in accordance with the submitted Tree Protection Plan and with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction". It is considered that this can be controlled by condition and that the development as proposed is therefore acceptable in terms of impact on ecology and trees.

6.6 Drainage

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Drainage of the site was considered, in principle, at the outline stage and a condition was imposed on the outline consent requiring details of the foul drainage and surface water drainage systems to be submitted for approval.

6.6.2 The condition on the outline consent remains and the details required by that condition will need to be provided as part of a separate application to discharge conditions. Drainage of the site is therefore not a matter for consideration in this reserved matters application.

7.0 CONCLUSION

7.1 It is considered that the proposed scale, appearance and landscaping of the proposed dwelling are acceptable and would not have an adverse impact on the character and appearance of the locality or the amenity of neighbouring properties. A safe means of access and adequate parking and turning space will be provided and subject to conditions the proposal would have no adverse highway, drainage or ecological implications. It is therefore considered that the proposal accords with Core Strategy Policy CS6.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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.

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 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 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 give 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**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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

National Planning Policy Framework

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

Relevant planning history:

14/03159/OUT Outline application for the erection of a dwelling to include means of access

GRANT 30th September 2015

11. **Additional Information**

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| 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 Simon Jones |
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| Appendices APPENDIX 1 - Conditions |
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APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

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

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

3. The development hereby permitted shall not be brought into use until the areas shown on the approved plan 1628 D02B for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

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

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

4. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.