

## Development Management Report

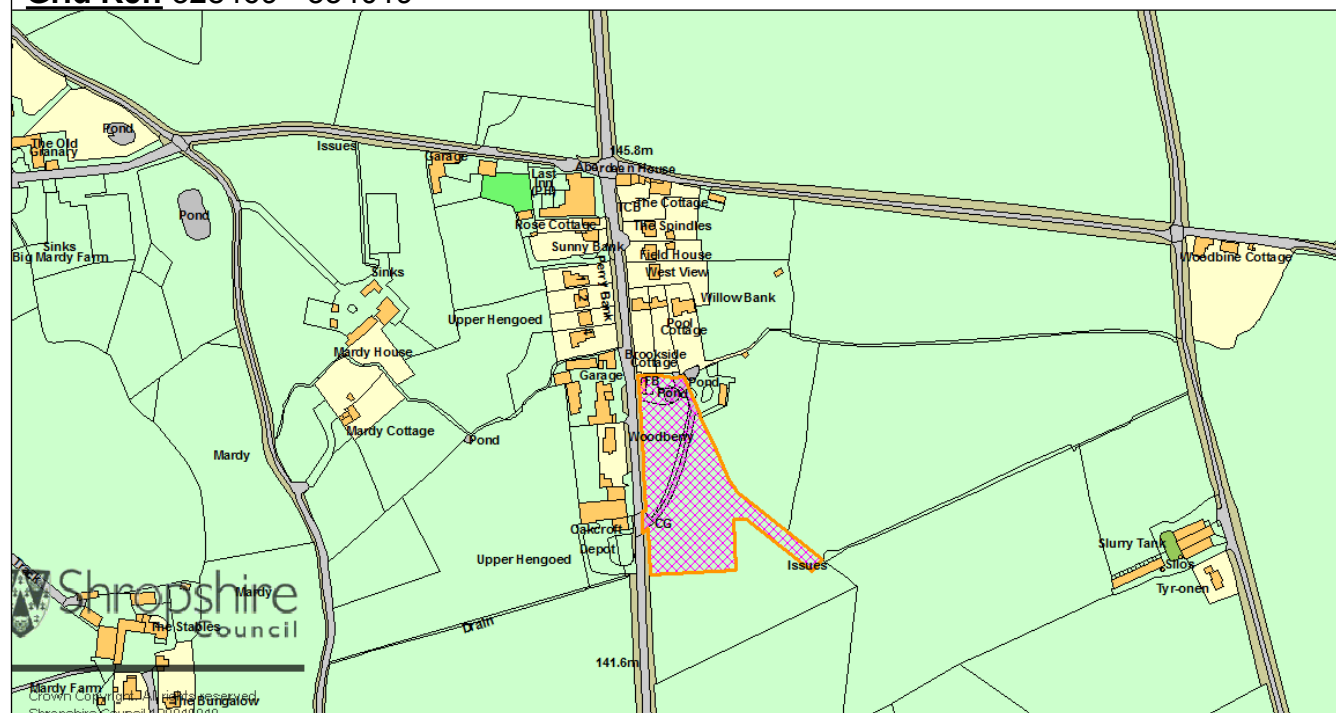
Responsible Officer: Tim Rogers

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### Summary of Application

|  |                       |   |
|--|-----------------------|---|
| <b><u>Application Number:</u></b> 16/02005/VAR   | <b><u>Parish:</u></b> | Selattyn And Gobowen  |
| <b><u>Proposal:</u></b> Removal of Condition 1 (approved site/ block plans) pursuant to 15/04481/REM to allow for an amendment to affordable housing provision |                       |   |
| <b><u>Site Address:</u></b> Residential Development Land Adj Willow Bank Hengoed Shropshire  |                       |   |
| <b><u>Applicant:</u></b> Mr & Mrs James & Eileen McNally   |                       |   |
| <b><u>Case Officer:</u></b> Mark Perry   |                       | <b><u>email:</u></b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a> |

**Grid Ref:** 328469 - 334019



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**Recommendation:- subject to the conditions set out in Appendix 1 and the variation to the S106 attached to 11/05648/OUT to secure the reduced affordable housing provision.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 Outline planning permission was originally granted in 2011 for the erection of 13 dwellings of which 8 were secured as affordable dwellings by a S106. The subsequent reserved matters approval was then granted on the 3<sup>rd</sup> February 2016.

This application now seeks to amend condition 1 attached to the reserved matters approval. Condition 1 reads as follows:

*“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.”*

- 1.2 On the approved site plan it states that plots 1 to 8 will be affordable dwellings to be provided by Wrekin Housing Trust. The applicant now wants to change this so that only plot 7 is provided as an affordable dwelling. Other than the change to the affordable housing provision the rest of the development will remain as was previously approved at the reserved matters stage.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in an area of open countryside and appears to have been used as grazing land in the past with a mature hedgerow along the roadside boundary and post and rail fencing separating it from the adjoining agricultural land. To the north of the site there are two existing dwellings, Brookside Cottage and Pool Cottage, both of these dwellings have their access through the middle of the application site. On the opposite side of the road there is a detached bungalow which is flanked by industrial units which have been used by vehicle repair businesses.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Chair/ Vice Chair consider that the application raises issues which should be considered by the Planning Committee.

### 4.0 Community Representations

- 4.1 - Consultee Comments

- 4.1.1 Parish Council- We object to the removal of condition 1 and we adhere to our original comments when consent was initially granted (below).

Parish Council comments to 11/05648/OUT

*“Selattyn and Gobowen Parish Council support this application because it will provide affordable housing to meet local need. However the Parish Council would require a condition placed on the development that will ensure that priority for the affordable housing should be provided to local residents in the first instance.”*

#### 4.1.2 Affordable Housing-

As at 1st June 2016 and the number of people who have requested Selattyn and Gobowen Parish as their first preference is 63, 62 of these are wanting Gobowen and 1 Selattyn. 71 would look at Selattyn and Gobowen as a 2nd choice but of these 68 want Gobowen, 1 Pant Glas, 1 Selattyn and 1 Upper Hengoed. The need for Hengoed is limited at the moment. Wrekin Housing Association have confirmed that they wouldn't want any units.

#### 4.2 - Public Comments

4 representations have been received objecting commenting on the following issues:

- There is a shortage of social housing
- If built there would be no shortage of prospective tenants.
- The housing associations were never committed to developing the site.
- The developer should be made to provide the affordable dwellings
- Great crested newt survey should be updated.
- Who will maintain the play area and treatment plant
- Existing dwellings have access over the private drive
- Highway Safety

### 5.0 THE MAIN ISSUES

- 5.1
  - Back ground to the application
  - Principle of the development
  - Affordable housing provision.

### 6.0 OFFICER APPRAISAL

#### 6.1 Background to the Application

- 6.1.1 Outline planning permission was granted in 2012 for the erection of 13 dwellings, eight would be provided as affordable dwellings and five as open market dwellings. When the original outline planning application was being considered a letter of support was provided by Severnside Housing Association who confirmed that they were committed to the delivery of affordable housing and they believed that the development offered a good opportunity to provide much needed high quality sustainable affordable accommodation. At that time the Council's Affordable Housing Officer confirmed that there was requirement for additional 2 and 3 bedroom family houses in the Parish; although this does not specifically relate to Hengoed. The proposed scheme also received support from the Parish Council who recognised the benefit of providing affordable housing to meet a local housing need
- 6.1.2 Following permission being granted, Wrekin Housing Trust were then intending to build out the affordable part of the scheme. The Trust have since removed their commitment to providing the affordable dwellings as they have been unable to secure the necessary funding. They have not been able to get the funding because inadequate housing need has been identified in Hengoed specifically. Although the Council's Affordable Housing team have confirmed that there is a need in the wider Parish which includes Gobowen and Selattyn, however this does not assist in securing the funding.
- 6.1.3 To make the scheme of 13 dwellings financially viable and therefore deliverable the

applicant is now looking to reduce the affordable housing provision down to a level that is in line with current adopted planning policy (10%), this would equate to 1 affordable dwelling being provided on site plus a financial payment.

## 6.2 Principle of Development

6.2.1 The principle of developing the site for 13 dwellings has already been established by the original outline planning consent and the later approval of the reserved matters where the appearance, scale and landscaping of the development were considered. However, these decisions were based upon the fact that 8 of the 13 dwellings would be affordable properties. Now that the applicant is proposing to provide just a single dwelling and an affordable housing payment the balance of consideration has now shifted and also the proposal must now be considered against the most up to date planning policies.

6.2.2 Since planning permission was granted in 2012 Shropshire's SAMDev plan has been adopted and is now a material consideration that can be afforded full weight. SAMDev identifies Upper/ Middle and Lower Hengoed as part of a community cluster along with Selattyn and Pant Glas. Policy S14.2(x) of SAMDev sets out the housing growth for the cluster and reads as follows:

*"The settlements of Selattyn, Upper/ Middle/ Lower Hengoed and Pant Glas are a Community Cluster which will provide additional affordable housing for young families or small live/work developments. Reflecting the level of recent commitments, including a recent consent for 13 dwellings in Upper Hengoed, the sustainability of the cluster will be further improved by about 5 further homes in Selattyn as infill development within the development boundary. Further housing development in Lower Hengoed, Middle Hengoed, Upper Hengoed, or Pant Glas will not be supported during the period to 2026. Critical infrastructure investment priorities include waste water treatment infrastructure".*

The policy specifically references the approved scheme of 13 dwellings (the application site), because of this commitment that was in place at the time SAMDev was being produced it was considered that the cluster should include a further provision of about 5 dwellings and that these should be in Selattyn. In addition, because of the existing approval for the 13 dwelling it states that, "Further housing development in Lower Hengoed, Middle Hengoed, Upper Hengoed, or Pant Glas will not be supported during the period to 2026". Therefore, without the development of the application site happening, the cluster would then be under delivering on its overall housing target of 18 dwellings. In addition, whilst SAMDev refers to the consent for the 13 dwellings it does not specifically refer to how many of these are affordable dwellings.

6.2.3 Representations received from the Parish Council understandably show that they believed the site was to provide a substantial number of affordable dwellings and it was for this reason why the Parish Council felt that they could support the original planning application. However, with the current financial burden of 8 affordable dwellings it is unlikely that any of the 13 dwellings would be built. The scheme as proposed would provide 8 smaller 2 and 3 bedroom dwellings which because of their size are likely to be more affordable than much of the existing housing stock in Hengoed which are predominantly large detached dwellings. In the last 5 years and within 0.25 miles of the application site there have been 5 house sales and these

have ranged between £180,000 and £290,000 demonstrating a lack of dwellings in the immediate locality that are likely to be both suitable and affordable for young families. The future provision of housing for younger families within the cluster is a type of housing that is specifically referred to in S14.2(x) of SAMDev.

- 6.2.4 The change proposed by the applicant would still mean that one of the properties would be provided as an affordable dwelling at a rate in accordance with adopted policies. Without this development and based upon the housing targets set out in SAMDev no affordable housing of any kind would be provided within the community cluster unless another scheme were to come forward as an exception site. In addition, the recent changes to the threshold at which affordable housing contribution must be paid would also mean that none of the potential 5 infill developments in Selattyn would have to make any affordable housing contributions.

## **7.0 CONCLUSION**

- 7.1 The proposed development will deliver substantially less affordable dwellings than was envisaged by the Local Planning Authority, the Parish Council and neighbours when the planning application was originally considered in 2012.
- 7.2 With the approved scheme the number of affordable dwellings makes the scheme financially unviable and confirmation has been received from Wrekin Housing Trust that they are not willing to build out the scheme as they cannot secure the necessary funding. As such it is very unlikely that any of the 13 dwellings would be provided. Whilst the scheme as now proposed would only provide a single affordable dwelling it will also continue to provide the 8 smaller properties and these are likely to appeal to younger families more than Hengoed's existing and more expensive housing stock currently does.
- 7.3 The delivery of the site for 13 dwellings does also make up a sizeable portion of the overall housing target for the settlement. Without this provision the sustainability of the cluster would be detrimentally affected.
- 7.4 It is considered by Officers, on balance, that despite the reduction in the number of affordable dwellings the scheme would continue to provide community benefits by providing extra housing in the cluster that is of an appropriate scale, it would include the provision of one affordable dwelling plus an affordable housing payment. In addition the reduction in affordable dwellings would also mean an increase in the Community Infrastructure Payments (CIL) that would be payable to the Council. Without the scheme being a financially viable proposition for a developer none of these benefits would be achieved. It is therefore the Officer's recommendation that members approve the variation of condition subject to the applicant entering into a deed of variation to the S106 so that the appropriate affordable housing payment is provided in accordance with the target rate as set out by adopted planning policy CS11.

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

### **8.1 Risk Management**

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

As with any planning decision the applicant has a right of appeal if they disagree

with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

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

## **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and SAMDev:

CS4- Community Hubs and Community Clusters

CS6- Sustainable Design and Development Principles

CS11- Type and Affordability of Housing

S14.2(x): Selattyn, Upper/ Middle/ Lower Hengoed and Pant Glas

Relevant planning history:

11/05648/OUT Outline planning application (access, layout) for residential development of 13 dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads GRANT 24th October 2012

14/05687/VAR Variation of Condition No 4 attached to Planning Permission 11/05648/OUT dated 15 October 2012 Outline planning application (access, layout) for residential development of 13 dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads to accommodate a right of way (to Pool Cottage) which occurs along the existing drive GRANT 13th October 2015

15/04481/REM Approval of Reserved Matters (appearance, scale and landscaping) pursuant to permission 11/05648/OUT (varied under planning reference 14/05687/VAR) for residential development of 13 no. dwellings (part affordable); installation of package treatment drainage system; formation of vehicular access and estate roads GRANT 3rd February 2016

## 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) |
| Cabinet Member (Portfolio Holder)<br>Cllr M. Price   |
| Local Member<br>Cllr David Lloyd MBE<br>Cllr Robert Macey  |
| Appendices<br>APPENDIX 1 - Conditions  |

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

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

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

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

2. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure the provision and maintenance of adequate amenity land.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved plan (drawing no. 04). The works shall be carried out prior to the occupation of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.