



Committee and date

South Planning Committee

13 September 2016

Development Management Report

ADDENDUM TO COMMITTEE REPORT

Responsible Officer: George Candler, Director of Place & Enterprise

Summary of Application

<u>Application Number:</u> 14/04245/FUL	<u>Parish:</u>	Shifnal
<u>Proposal:</u> Erection of 5 no. dwellings; formation of new access and associated drainage works following demolition of derelict outbuilding (amended description).		
<u>Site Address:</u> Land Off Tanyard Place, Shifnal, Shropshire		
<u>Applicant:</u> Alastair Stewart, Saxonby Homes		
<u>Case Officer:</u> Lynn Parker	<u>email:</u> planningdmse@shropshire.gov.uk	

Recommendation: Grant Planning Permission subject to the conditions set out Appendix 1 of the Committee Report dated 6th October 2015.

1.0 Background & Principle of Development

- 1.1 The South Planning Committee resolved to approve the above application for the erection of 5 no. open market dwellings at their meeting on 6th October 2015, subject to the prior signing and completion of a Section 106 agreement to secure the affordable housing contribution and to planning conditions. The application is still pending as the Section 106 Legal Agreement for the provision of a financial contribution in relation to affordable housing in line with policy CS11 'Type and Affordability of Housing' of the Shropshire Core Strategy has not yet been completed. The October 2015 Committee Report is attached as Appendix A..
- 1.2 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. However account must now be taken of the Written Ministerial Statement discussed below.

2.0 Written Ministerial Statement

- 2.1 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28th 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.
- 2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31st July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.
- 2.3 The Government challenged this decision through the Court of Appeal which over turned Mr Holgate's decision on the 11th May 2016. Consequently the WMS still applies and is reflected in amended NPPG of the 19th May 2016.
- 2.4 In addition to this the Housing & Planning Act gained Royal Assent on the 12th May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions.
- 2.5 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not automatically require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000m² floor area in the majority of cases where the site is not located in a designated rural area.

3.0 Conclusion

- 3.1 This development proposes a provision of five dwellings, a net gain of five. The proposed development site is not within a designated protected rural area and, in any event, would be just below the threshold that still allows an affordable housing contribution to be sought in those designated areas. A significant number of new affordable dwellings are being delivered through the large housing developments currently underway in Shifnal. Therefore it is now considered that no Affordable Housing Contribution could be justified in this case, having regard to the material change in national policy discussed above.
- 3.2 Since the application was considered by the South Planning Committee in October 2015, the Site Allocations and Management of Development (SAMDev) Plan has been adopted. The policies in that then emerging Plan were taken into account in the Committee Report. While the 'saved' Bridgnorth District Local Plan policies referred to in that report relating to development boundaries (S1) and residential developments in main settlements (H3) no longer form part of the Development Plan, they have been replaced by SAMDev Plan policies MD3 relating to the delivery of housing development and policy S13 relating to Shifnal. The principle of open market housing development on this site within the Shifnal development boundary remains in accordance with the adopted Development Plan.

4.0 Recommendation

- 4.1 The application is recommended for approval without a Section 106 agreement in relation to the financial contribution for affordable housing. The Approval Decision can therefore be released if this recommendation is accepted.

5.0 Appendices

Appendix A – Report on application 14/04245/FUL to South Planning Committee, dated 6th October 2015.

APPENDIX A

COPY OF OFFICER REPORT AND RECOMMENDATIONS - CONSIDERED 06th OCTOBER 2015 SOUTH PLANNING COMMITTEE

Committee and date

South Planning Committee

6 October 2015

Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

Application Number: 14/04245/FUL	Parish:	Shifnal
Proposal: Erection of 5 no. dwellings; formation of new access and associated drainage works following demolition of derelict outbuilding (amended description).		
Site Address: Land Off Tanyard Place Shifnal Shropshire		
Applicant: Mr Alastair Stewart		
Case Officer: Lynn Parker	email: planningdmse@shropshire.gov.uk	

Grid Ref: 374779 - 307971

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

REPORT

1.0 THE PROPOSAL

- 1.1 This application as originally submitted proposed the erection of 6 no. open market dwellings including new vehicular access and associated drainage works on land off Tanyard Place, Shifnal, following demolition of a derelict outbuilding. The residential units would have comprised of 2 terraces of, 3 dwellings each as follows:

Western Block – Plots 1, 2 and 3

- 3 storey, 3 bedroom
- constructed as dual pitched with side gables, storm porch over front door.
- one dormer each on front and rear elevations, rooflight to rear
- ground floor = hall, WC, kitchen, living/dining area
- first floor = bed 2, bed 3, bathroom
- loft = bed 1 with ensuite and dressing room
- block = 16.43m wide x 8.32m in depth x 9.33m to ridge height, 4.65m to eaves
- footprint of each dwelling = 45m²

Eastern Block – Plots 4, 5 and 6

- 2 storey, 2 bedroom
- constructed as dual pitched with side gables, storm porch over front door
- ground floor = hall, WC, kitchen, living/dining area
- first floor = bed 1, bed 2, bathroom
- block = 16.43m wide x 7.3m in depth x 8.36m to ridge height, 4.65m to eaves
- footprint of each dwelling = 40m²

- 1.2 Various sets of amended plans have also been submitted during the application process in order to improve the design of the dwellings in relation to the surrounding Conservation Area and to find a balance between development and landscaping in relation to the trees at the site. The final set of amended plans submitted on 10th December for the Western Block and 23rd January 2015 for the Eastern Block show a reduction in the number of proposed dwellings from 6 to 5 with the direct removal of Plot 6, and include additional design details such as, corbelling below the eaves, stone headers and cills, dated stone plaque, venting details, stone band above ground floor windows, and more alignment of the openings.

Design and Access Statement Rev B dated January 2015 was also submitted on January 23rd 2015 to reflect the amendments made.

- 1.3 Access to the site would be via the existing estate road to the north serving Tanyard Place. Ten parking spaces (two spaces per dwelling) and a vehicle manoeuvring area would be located in a central courtyard between the two blocks.

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- 1.4 Materials are indicated to be facing brick and render walls, clay roof tiles, brick window head details and reconstituted stone cills, and the storm porches of timber. Hardstanding areas will be allocated as tarmac for the access/private drive, block paving for the parking, paving slabs for pathways, patios and 2m maintenance access to communal area.
- 1.5 Both foul sewage and surface water drainage are indicated to be disposed of via the main sewer as the use of soakaways, infiltration trenches, permeable paving, grassed swales, ponds and wetlands are inappropriate for this site due to its clay subsoils, the steep gradient and lack of available space within the development. Therefore, sustainable on site storage and attenuation for surface water disposal (SUDs) is to be incorporated. It is confirmed that finished floor levels will be set above the 1 in 100 year flood level (plus climate change) in accordance with EA guidelines.
- 1.6 Planting would form part of the central courtyard to create a sense of place. The existing area of green space to the west would be upgraded to create an amenity area, also allowing for flood water during extreme flood events.
- 1.7 In addition to the Design and Access Statement and during the course of the application several further supporting documents have been submitted at officer's request as follows:

Ecological Assessment dated October 2014

The proposed development will result in the loss of ecologically poor garage and hardstanding and will also involve the clearance of dense scrub and piles of vegetation. In order to protect bordering habitats and maintain and increase biodiversity of the site it is recommended the following mitigation measures and safe working methods are incorporated into the proposals.

The proposed areas of groundworks will need to be confined to areas that will not impact on the root systems of the retained trees. An appropriate buffer, as detailed in BS5827:2012, will need to be established prior to works commencing on site.

Proposed drainage will need to ensure that any polluted run-off water from the site does not enter the adjacent Wesley Brook. Methods to ensure there is no pollution and/or excessive run-off during development works will also need to be incorporated in the development / site management plan.

No evidence of protected species was found within or immediately adjacent to the proposed development footprint during the survey. There are however habitats with limited suitability for bats, badgers, otter; nesting birds, Great Crested Newts and reptiles within or adjacent to the proposed construction areas.

Tree Condition Report/Arboricultural Impact Assessment Pre-Design/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18th November 2014, received on 27th November 2014.

This document was amended to remove the 'Pre-Design' element and resubmitted on 23rd January 2015 as,

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Tree Condition Report/Arboricultural Impact Assessment/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18th November 2014.

- 1.8 An Affordable Housing Contribution Proforma has been submitted agreeing to pay a financial contribution of £62,880 towards off site affordable housing provision as the internal floorspace is identified as being over 93.156m² average (0.15 x 93.156m² x 900 x 5 dwellings = £62,880).

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site falls within the development boundary of the Market Town of Shifnal approximately 200m north of the Town Centre and located within the Shifnal Conservation Area. The rectangular plot is located to the rear of no. 43 Broadway (which is the B4379) a Grade II Listed Building and within the former Medieval area of the town which is now of mixed tenure residential and commercial properties laid out as terraced or semi-detached on varying building lines. A number of more recent developments set behind the older building line which fronts Broadway, including Tanyard Place directly to the north of the site and Broadway Close beyond that.

- 2.2 The plot itself is level and includes significant levels of hardstanding with mature trees and landscaping around its perimeter. It is set at a lower level than no. 43 Broadway to the east and slightly lower than Tanyard Place to the north. A section of green space on the west side of the plot approximately 45m in depth slopes downwards to the Wesley Brook. The development beyond the brook in Maple Close is therefore also at a lower level. Land directly to the south is rear garden land within the ownership of no. 41 Broadway. There is currently no vehicular access into the site other than through no. 43 Broadway.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Applications requested to be referred, by the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

4.0 Community Representations

- 4.1 - Consultee Comments

- 4.1.1 Shifnal Town Council (17-10-14) - At the Full Council meeting of Shifnal Town Council on Thursday 16th October, 2014, Councillors Rejected the above application.

Councillors were of the opinion that building 6 properties in the space provided would result in a high density of buildings and there would be insufficient car parking space, as detailed in the drawings.

Concern was also noted regarding the status of the land proposed for housing and questioned whether the land is in a Conservation Area.

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Shifnal Town Council – Re-consulted 29-01-15 on revised scheme of 5 units, to date no further comments received.

- 4.1.2 SC Affordable Housing (23-10-14) - As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The current affordable housing contribution rate for this area is 15% and as such a proposal for 6 new open market dwelling would be liable to make a contribution equivalent to 6×0.15 of a whole affordable unit ($6 \times 15\%$). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site affordable housing contribution. 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.

SC Affordable Housing (29-04-15) – The contribution noted (£62,880) is correct for revised 5 dwelling proposal.

- 4.1.3 SC Conservation (05-11-14) - The site lies to the rear of a Grade II Listed Building and within the Conservation Area. The proposed dwellings are set back from the rear of the Listed Building with the block nearest the Listed Building being kept to two storey. As the land at this point is lower it is felt that the massing is acceptable in the context of the Listed Building, provided that the screening provided by trees on site remains. However the design of the proposed dwellings is considered to be unacceptable in this context. The proposed elevations, particularly of the taller block are felt to be hindered by a lack of consistency in the placement and proportions of the openings. New dwellings in the Conservation Area and within the setting of Listed Buildings must have a high quality of design and it is felt that the current scheme does not achieve this in its present form.

SC Conservation (19-12-14) - Revised plans have been submitted with revised design details. The revisions have addressed the previous concerns about the scheme in terms of design quality.

Some trees within the site are proposed to be removed with additional planting proposed in other areas to compensate. However there are some issues in terms of the layout proposed and the effect this will have on trees outside of the site. It has been recommended by the County Arboriculturalist that Plot 6 be removed to rectify these issues. From a conservation perspective the retention of trees within and around the site is recommended and will help any development to sit well within the site and minimise the impact on the Conservation Area. Two previous schemes for an apartment block on the site have been refused both giving the loss of trees and the associated effect on the Conservation Area as a reason for refusal. Therefore it is considered that the scheme should be reduced, removing Plot 6, to ensure the protection of boundary trees.

Previous refusal reasons have referred to the impact on Listed Buildings and the character and appearance of the Conservation Area. The current scheme uses an access from Tanyard Place rather than under the Listed Building as previous schemes, this reduces the impact on the Listed Building and Conservation Area by separating the development from the Listed Building and helping to assimilate it with the Tanyard Place development adjacent. The current proposals are also much

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reduced in mass and scale from the previous refused schemes and it is considered the current scheme, if reduced to 5 dwellings will have minimal impact on the setting of the Listed Building. It is considered that the scheme if reduced would be of a scale and form that would not appear overly dominant in the Conservation Area and with the additional planting and retention of boundary trees would help to preserve the character of the Conservation Area.

SC Conservation (12-02-15) - Following previous comments the scheme has now been reduced to 5 no. dwellings, which has minimised any impact on existing trees and therefore reduced the impact of the scheme on the Conservation Area. It is considered the scheme is now acceptable from a conservation perspective. Conditions suggested relating to samples of external materials, joinery details, conservation rooflights, roof materials and details.

- 4.1.4 SC Archaeology - The development site lies within the Medieval urban form (PRN 05359) of Shifnal, as defined in the Central Marches Historic Towns Survey. It also lies within a group of tenement plots (PRN 05012) which formed part of the planned town set out in the 13th to 14th century. The proposed development site can therefore be deemed to have some archaeological potential.

In view of this and in line with National Planning Policy Framework (NPPF), it is recommended that, depending on additional detail for the proposal, a programme of archaeological work be made a condition of any subsequent planning permission for the proposed development. Condition suggested.

- 4.1.5 SC Drainage - The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

As part of the development is within Flood Zone 3, a Flood Risk Assessment (FRA) should be produced where the developer should complete a FRA using Shropshire Councils Strategic Flood Risk Assessment (SFRA) documents for guidance.

As soakaways are not feasible, drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment, should be submitted for approval. Details should also be provide of how the surface water runoff will be managed and to ensure that the finished floor levels are set above any know flood level.

- 4.1.6 Environment Agency – Consulted 11-11-14, to date no response received.

- 4.1.7 SC Public Protection - Having considered the location of the proposed residential development it is noted that to the north there was historically a tannery and the current land use to the east of the site is a depot. As a result there is the potential for contamination to exist on the site and contaminated land conditions are therefore proposed.

- 4.1.8 SC Trees (30-10-14) - No objection to the principle of residential development at this site, but do object to the layout as currently proposed. The applicants intention to retain the majority of the trees is noted, but it is considered that this creates an

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unworkable juxtaposition of retained trees and new buildings. The proposed block plan (SA 16458/02 Rev A, Berrys, Aug 2014) shows the western terrace of three properties to be located immediately under the canopies of retained multi-stemmed trees. There is no arboricultural information submitted with the application, but having visited the site it is confirmed that the trees in question are multi-stemmed Horse Chestnut and Ash. The trees are semi-mature and not yet full grown. Even if it were possible to physically construct the proposed dwellings and retain the tree, they would completely overshadow the houses and gardens, creating an unliveable environment for the future occupants. This is not considered this to be sustainable development. There are also off-site trees adjacent to the southern boundary that could affect or be affected by the proposed development, raising similar issues to the Ash and Horse Chestnut mentioned above.

It is considered that this application should not be determined without the appropriate arboricultural information, which should be used to inform layout and design. A Tree Survey and Arboricultural Impact Assessment should be carried out by a competent arborist, describing the trees, their root protection areas, condition, suitability for retention and the constraints they pose to development. The impact assessment should detail the implications of the proposed development, showing how layout and design responds to the arboricultural constraints, taking account of any trees to be pruned or removed and any new planting in association with the development.

A Tree Protection Plan and Arboricultural Method Statement are also required. The former to show how retained / adjacent trees and hedges are to be protected from damage or harm during implementation of any approved development; the latter to show how works (including demolition, clearance, site levelling and construction) within, or that may affect, the root protection area of retained trees and hedges are to be designed, implemented and monitored so as to avoid damaging or harming those retained trees and hedges and their roots.

In the absence of this information refusal is recommended on the grounds of insufficient evidence to properly assess the impact of the proposed development on protected trees within and adjacent the site.

SC Trees (12-12-14) - The Tree Condition Report Arboricultural Impact Assessment Pre-design Arboricultural Method Statement Tree Protection Plan (Terry Merchant, Forester and Arborist Services Ltd, 18/11/2014) has been reviewed and the following comments provided.

It is noted that the report states that it is a pre-design document and as such the tree details (canopy spread and root protection area [RPA]) have not been overlaid on a site layout plan. However, comparison with the submitted block plan (SA 16458/02 Rev A, Berrys, Aug 2014) reveals that the RPA of several offsite trees extend a considerable distance into the site, across the whole of Plot 6.

Many of these offsite trees (including T1 yew, T2 ash, T3 Leyland Cypress, G1 group of 8 Leyland Cypress, T5 Ash, T6 Douglas Fir and T13 Western Red Cedar) are early-mature and currently only half their potential canopy height and spread. In the opinion of SC Trees, they will have an overbearing presence and cast an

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excessive amount of shade (as witnessed in the shadow length information in the report) on the closest property. Given also that the Arboricultural Impact Assessment for all these offsite trees states that there can be no excavation within the RPA, it is considered that their presence is incompatible with the submitted layout, in respect of Plot 6 in particular.

It is noted that the tree report suggests removal of a number of trees to enable the proposed development (T4 Ash, T14 Ash, T15 Ash, T16 Horse Chestnut and T17 Horse Chestnut). Although the latter four trees are relatively obvious in the vista, I consider that their loss to the proposed development could be adequately compensated by an appropriate planting scheme.

In summary, SC Trees object to the layout as submitted and recommend removing Plot 6 from the scheme, on account of the potential impact of the proposed development upon adjacent offsite trees and also the effect of the trees upon the proposed development, in terms of liveability for future occupants.

SC Trees (03-02-15) - The revised arboricultural information submitted in connection with this application has been reviewed, and satisfies the previously raised concerns. Therefore no objection are now raised to the application on arboricultural grounds, providing suitable tree protection measures are employed during demolition, site clearance and construction operations and subject to appropriate new planting being carried out.

With regard to the latter, the findings and recommendations of the Landscaping Works document (Forester & Arborist Services, 21.01.2015), are agreed with, but note that it provides two options for future planting of the communal waterside garden. For certainty and the avoidance of doubt, it is suggested that the applicant should decide which of the two options they wish to put forward for the site, prior to any LPA approval of the landscaping arrangements. Finally, it is suggested that the agreed planting specification should be supported with a planting plan based on an approved site layout. Such a plan does appear to have been submitted as yet. Conditions are recommended in relation to tree works, protection and a planting plan.

- 4.1.9 SC Ecology – Conditions recommended in relation to the provision of bat boxes and artificial nests, lighting re bats and that work is carried out in accordance with the submitted Ecological Assessment. Informative recommended in relation to nesting wild birds.
- 4.1.10 SC Highways – No comments received to date.
- 4.2 - Public Comments
- 4.2.1 One letter of public representation has been received from a neighbouring property to the south east and south of the site expressing the following concerns:
- o New development should not be built in a Conservation Area.
 - o The loss of existing trees would be detrimental to the character and appearance of the Conservation Area.
 - o The difference in the floor level of the proposed development and our land is over 2m, which would be unsightly and inappropriate.
 - o The difference in height could cause a flood risk to our land and

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- o gardens to the south of the site.
- o The plot encourages wildlife such as birds, butterflies, foxes and hedgehogs.

5.0 THE MAIN ISSUES

- o Principle of development
- o Affordable Housing
- o Design, scale and character
- o Impact on neighbours/residential amenity
- o Impact on the historic environment
- o Drainage/flooding
- o Trees
- o Ecology
- o Access

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy, the National Planning Policy Framework (NPPF) has been published and needs to be given weight in the determination of planning applications.
- 6.1.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.
- 6.1.3 For the purposes of the assessment of this application the development plan presently comprises the adopted Shropshire Core Strategy 2011, certain saved policies of the Bridgnorth Local Plan and a range of Supplementary Planning Documents.
- 6.1.4 Following on from the adoption of the Core Strategy in 2011, the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev,) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. Any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 6.1.5 Shifnal is identified within the Shropshire Council Core Strategy Policy CS3 as one of the Market Towns and other Key Centres in Eastern Shropshire which will maintain and enhance its role in providing a focus for development and for providing facilities and services to its rural hinterland. New housing provision of a scale and design that respects each town's distinctive character is one of the types

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of development potentially acceptable within the development boundary of a CS3 settlement. Levels of housing development in Shifnal are informed by CS3 and Settlement Policy S15 of the emerging SAMDev. A number of specific sites are allocated to accommodate the majority of housing development required within Shifnal over the Plan period. As this proposal is not one of these, it is regarded as a windfall site.

- 6.1.6 Under 'Saved' Policy H3 of the Bridgnorth District Local Plan residential development on appropriate sites within Shifnal's development boundary is also supported, including on unallocated sites and remains in force until the adoption of the Site Allocations and Management of Development (SAMDev) document.
- 6.1.7 In addition to Policy CS3, which sets out the principle in favour of new housing development in settlements including Shifnal, Policy CS6 seeks to ensure sustainable design and development. As such both of these local policies are in line with the presumption in favour of sustainable development expressed throughout the National Planning Policy Framework. Policy CS6 also requires all development to be of a high quality design and to mitigate climate change.
- 6.1.8 As the proposed site is within the development boundary and is identified as being within a CS3 settlement, the development of the site for residential purposes is acceptable in principle as it will constitute sustainable development of housing within an existing Market Town/Key Centre.
- 6.2 Affordable Housing
 - 6.2.1 In order to meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target. As 5 dwelling are now proposed at the site, the contribution is expected to be financial. An affordable housing contribution proforma has been submitted during the course of the application indicating that the correct financial contribution in respect of affordable housing will be secured via the completion of a Section 106 Legal Agreement.
 - 6.2.2 Regarding the need for an affordable housing payment, officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) advising against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the Statement and relevant part of PPG following a successful High Court challenge (as of the 31st July 2015) . The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD.
- 6.3 Design, scale and character
 - 6.3.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate

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in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets.

- 6.3.2 Significant enhancements have been made to the overall design of the proposed dwellings during the course of this application as described in paragraph 1.2 above, in order to improve their visual appearance and to result in a higher quality development. Careful consideration has also been employed to ensure that the scale and positioning of the proposed development is improved from previously refused schemes, the overall mass and scale having been reduced and the access re-located to be gained from Tanyard Place to the north rather than from Broadway to the east resulting in a layout which better suites the pattern of the surrounding built environment

6.4 Impact on neighbours/residential amenity

- 6.4.1 It is felt there is sufficient space around the proposed residential blocks for any adverse impacts from overbearing to be unlikely and whilst the land slopes downwards to the west there is a distance of at least 60m between the proposed development and dwellings in that direction. Distances between the proposed dwellings and those in Tanyard Place are a minimum of 10m, and to the east 30m. Land adjacent to the south is long gardens serving dwellings on Broadway.

- 6.4.2 The proposed dwellings have been orientated with their front elevations facing into a central courtyard area and their rear elevations facing to the east and west where there are sufficient distances of at least 30m to any neighbouring properties. No side windows are proposed to either block. For these reasons the potential for overlooking of adjacent private amenity spaces will be minimal. There would be no conflict with Core Strategy policy CS6 which seeks to safeguard residential amenity.

6.5 Impact on the historic environment

- 6.5.1 There is a requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to have a specific duty to have special regard to the desirability of preserving listed buildings and their settings or any features of special architectural or historic interest which they possess in the carrying out of statutory functions. The same Act requires special regard to be paid to the preservation or enhancement of the character or appearance of conservation areas and their setting by local authorities in the exercise of statutory functions. Unlike previous schemes which have raised issues over the impact of the development on the Listed Buildings to the east and on the character and appearance of the Conservation Area, the mass and scale of this proposal are comparatively reduced, and the access better located to enable the separation between the proposed dwellings and the Listed properties to be clearly defined. In lowering the number of dwellings from 6 to 5, the pressure on the mature trees at the site is reduced to minimise the impact on the Conservation Area. The reduced and visually enhanced scheme therefore is of a scale and form that will not appear overly dominant within the Conservation Area and will preserve the character and appearance of the

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historic environment. . It is considered that the revised proposals would not detract from the setting of listed buildings and would not have an adverse impact upon the character or appearance of the conservation area.

6.6 Drainage/flooding

- 6.6.1 Core Strategy Policy CS18 requires all new development to integrate measures for sustainable water management to reduce flood risk. The development would connect to the mains sewer for the disposal of foul drainage. SC Drainage have raised no objection to the proposal provided suitable surface water drainage can be secured through the agreement of further details, plans and calculations obtained through appropriate conditions.

6.7 Trees

- 6.7.1 Following revisions to the arboricultural information submitted, it is considered that suitable tree protection measures can be employed during demolition, site clearance and construction operations via conditions. The agent has confirmed in an email of 22nd April 2015 that Option 1 within the submitted Landscaping Works document will be employed. Again, it is felt that this landscaping and the associated planting plan can be secured by condition.

6.8 Ecology

- 6.8.1 SC Ecology are satisfied that work can be carried out in accordance with the submitted Ecological Assessment in order to reduce the impact on any European Protected Species that may be present at the site.

6.9 Access

- 6.9.1 The proposal demonstrates how the site would provide sufficient parking within the application site for 10 vehicles and a wide turning space. Access is an extension to the estate road onto Broadway which serves Tanyard Place on which it is not felt that 5 more dwellings will have significant adverse impact. The proposed access, parking and turning arrangements are considered to be in accordance with the Department of Transport Manual for Streets. The level of on-site parking provision would comply with the parking standards of the former Bridgnorth District Council which remain in force in south east Shropshire.

7.0 CONCLUSION

- 7.1 The nature and scale of the proposed development is considered appropriate for a windfall site within Shifnal, a Market Town/Key Centre as set out in Core Strategy Policy CS3. Consideration has been given to all the material planning considerations and concerns of adjacent residents. The development would respect the context of the site and would not be harmful to the residential amenities of nearby dwellings, to the setting of adjacent Listed Buildings or to the surrounding Conservation Area.
- 7.2 The site would provide for a modest development consistent with the objectives of SAMDev, and in accordance with the requirement of the NPPF and Core Strategy Policy CS6 in respect of scale and sustainability. The NPPF supports development in sustainable locations in and around settlements unless other material considerations lead to a different conclusion.

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- 7.3 The proposal is therefore supported and Planning Permission should be granted subject to the completion of a S106 Legal Agreement to secure the provision of off-site affordable housing.

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 three months 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
National Planning Practice Guidance

Core Strategy Policies:
Policy CS1: Strategic Approach
Policy CS3: The Market Towns and Other Key Centres
Policy CS6: Sustainable Design and Development Principles
Policy CS8: Facilities, Services and Infrastructure Provision
Policy CS9: Infrastructure Contributions
Policy CS11: Type and Affordability of Housing
Policy CS17: Environmental Networks
Policy CS18: Sustainable Water Management

Site Allocations & Management Of Development (Samdev) Plan Policies:
MD1: Scale and Distribution of development
MD2: Sustainable Design
MD8: Infrastructure Provision
MD12: Natural Environment
MD13: Historic Environment

SPD Type And Affordability Of Housing

'Saved' Policies in the Bridgnorth Local Plan:
S1: Development Boundaries
H3: Residential Development in Main Settlements

RELEVANT PLANNING HISTORY:

BR/APP/08/0283 - Erection of a block of 11 apartments. Refused 24th July 2008.
BR/APP/07/0892 - Erection of a block of fourteen apartments. Refused 23rd January 2008.
BR/99/0821 – Residential development including siting and means of access after demolition of existing storage units. Refused 18th January 2000.
BR/98/0840 – Residential development (including siting and design of buildings and means of access). Refused 2nd February 1999.

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BR/97/0840 – Residential development (siting, design and access included). Refused
26th January 1998.

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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Amended Design And Access Statement (Rev B) dated January 2015

Ecological Assessment dated October 2014

Amended Tree Condition Report/Arboricultural Impact Assessment/Arboricultural Method Statement/Tree Protection Plan by Forester and Arborist Services Ltd dated 18th November 2014, received on 23rd January 2015

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Kevin Turley

Appendices

APPENDIX 1 - Conditions

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APPENDIX 1

Conditions

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

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

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

3. Details of all the materials to be used externally on the dwellings and hard surfacing hereby approved, shall have been first submitted to and approved by the Local Planning Authority in writing before being used in the development. The development shall be carried out in accordance with the approval details.

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

4. Work shall be carried out strictly in accordance with the Ecological Assessment of 43 Broadway by Turnstone Ecology dated October 2014.

Reason: To ensure the protection of reptiles and water quality

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. As soakaways are not feasible on this site, no development shall take place until drainage calculations to limit the proposed discharge, for a range of 1 in 100 year plus 30% storm durations, to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment should be submitted for approval have been submitted to, and approved in writing by the Local Planning Authority.

Reason: To ensure satisfactory surface water drainage of the site and to avoid flooding. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

6. As the site is shown to be at risk of surface water flooding on the Pluvial Flood Map, details should be provided demonstrating how the surface water runoff will be managed and to indicate that the finished floor levels are set above any known flood level. The details should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

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Reason: To minimise the risk of surface water flooding. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

7. Prior to the commencement of the development, confirmation is required to be submitted to and agreed in writing that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

8. Contaminated land

a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- the parking of vehicles of site operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials used in constructing the development
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - wheel washing facilities
 - measures to control the emission of dust and dirt during construction
 - a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

10. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The site is known to be in an area of archaeological importance therefore this information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

11. No development approved by this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- Means of enclosure
 - Hard surfacing materials
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)

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- Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

12. The development, including demolition, site clearance and construction activities, shall be carried out in strict accordance with the measures specified in the Tree Condition Report Arboricultural Impact Assessment Arboricultural Method Statement Tree Protection Plan (Forester & Arborist Services Ltd, 18/11/2014, amended and registered 23 Jan 2015), the Amended Tree Location & Protection Plan (registered 23 Jan 2015) and the BS 5837: 2012 Ground Protection and Figure 3 Tree Protective Barrier specification and drawing, both registered on the 23 Jan 2015. The tree protection measures should be installed in accordance with the above documents to the written satisfaction of the LPA, prior to commencement of development. Thereafter they shall be maintained in a satisfactory condition throughout the duration of the approved development. The area within the tree protective barrier shall be a construction exclusion zone and the barrier may only be moved or removed, even temporarily, with the prior agreement of the LPA.

Reason: This action is required prior to the commencement of the development as it relates to the protection of trees that contribute to the appearance of the site during implementation of the development, as such the measures need to be confirmed before the development proceeds in order to ensure a sustainable development.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

13. Prior to completion of development, the tree and shrub planting to be undertaken in association with the development shall be agreed to the written satisfaction of the Local Planning Authority. The planting shall be in accordance with the objectives and details provided in Option 1 of the Landscaping Works document (Forester & Arborist Services, 21.01.2015), to be supported by a detailed planting plan based on an approved site layout.

Reason: to ensure a satisfactory form of landscaping to enhance the setting and appearance of the development.

14. The planting shall be implemented in full as per the approved planting plan, prior to the end of the first available planting season (November February inclusive) following occupation of the first dwelling. Any tree or shrub, or replacement tree or shrub, which within the first three years following planting becomes seriously diseased, dies, or is otherwise lost or destroyed, shall be replaced by another of similar specification, to the written satisfaction of the Local Planning Authority.

Reason: to ensure a satisfactory form of landscaping to enhance the setting and appearance of the development.

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15. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the character of the Conservation Area.

16. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the roof works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character of the Conservation Area.

17. Prior to occupation, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the local planning authority. The strategy shall: Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: To minimise disturbance to bats, a European Protected Species.

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

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

19. Prior to the first occupation of the dwellings four artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

Reason: To ensure the provision of nesting opportunities for wild birds

20. The development hereby permitted shall not be brought into use/occupied until the car parking and access shown on the approved Block Plan no. 02 Rev C received on 23rd January 2015 has been provided, laid out and hard surfaced.

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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2, Part 1 shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and/or visual amenities.

22 No windows or other openings shall be formed at first floor level on the north facing elevations of each block of dwellings hereby approved .

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

Informatives

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. If your application has been submitted electronically to the Council you can view the relevant plans online at www.shropshire.gov.uk. Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. Consent is required from the Environment Agency as the development is with 8m of a Main River.
6. Consent is required from the service provider to connect into the foul main sewer.

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7. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive.

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of birds nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

8. In determining the planning application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework & National Planning Practice Guidance

Core Strategy Policies:

Policy CS1: Strategic Approach

Policy CS3: The Market Towns and Other Key Centres

Policy CS6: Sustainable Design and Development Principles

Policy CS8: Facilities, Services and Infrastructure Provision

Policy CS9: Infrastructure Contributions

Policy CS11: Type and Affordability of Housing

Policy CS17: Environmental Networks

Policy CS18: Sustainable Water Management

Site Allocations & Management Of Development (Samdev) Plan Policies:

MD1: Scale and Distribution of development

MD2: Sustainable Design

MD8: Infrastructure Provision

MD12: Natural Environment

MD13: Historic Environment

'Saved' Policies in the Bridgnorth Local Plan:

S1: Development Boundaries

H3: Residential Development in Main Settlements

SPD Type And Affordability Of Housing

9. 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.