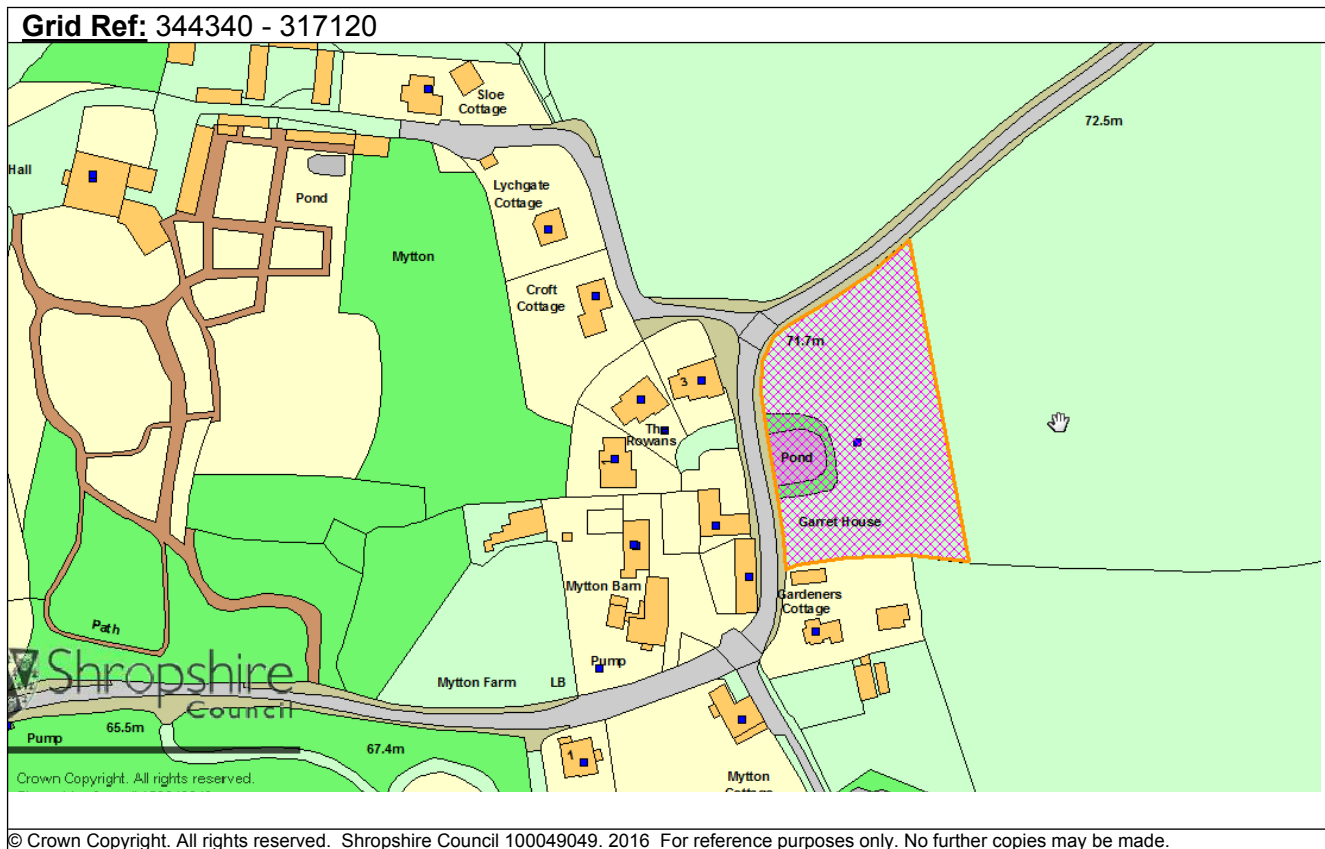


Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

<u>Application Number:</u> 16/01827/REM	<u>Parish:</u>	Bomere Heath
<u>Proposal:</u> Application for approval of reserved matters (siting, landscaping, scale, appearance) pursuant to 13/03841/OUT for the erection of three detached dwellings		
<u>Site Address:</u> Land Opposite The Rowans Mytton Shrewsbury Shropshire		
<u>Applicant:</u> Mr T Pook		
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk



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

- 1.1 This application relates to approval of reserved matters (siting, landscaping, scale, appearance) pursuant to 13/03841/OUT for the erection of three detached dwellings.
- 1.2 The application has been amended since first submitted as the red outline originally extended outside the area approved for development under the outline approval and also showed an oak tree that was to be retained as being removed. The amended site plan now shows the correct area outlined in red and the oak tree retained. Amended drawings of the house types have also been received and although large houses they have been significantly reduced in size compared to the original submission.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the West part of a field accessed by a field access off an unclassified road to the West of the site with houses on the opposite side of the road. The site is bordered to the South by a mature hedge, with a dwelling beyond, there is a hedge along the boundary with the road to the North and the field is open to the East.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations**4.1 - Consultee Comments**

- 4.1.1 **SC Rights of Way:** There are no legally recorded public rights of way at any status which cross or abut the site identified.
- 4.1.2 **SC Ecology:** Recommends that native species, found locally in Shropshire, are used in the landscape scheme.
- 4.1.4 **SC Trees:** The amended site layout satisfactorily addresses previous concerns and withdraws objections to this application. Suggests a condition requiring further tree protection details including a site specific method statement for the installation of the no dig access track.
- 4.1.4 **SC Highways:**

Approval of reserved matters

Appearance – not a highway consideration

Landscaping – not a highway consideration

Layout - no objection subject to the development being constructed in accordance with the approved details and the suggested conditions and informatives

Scale – the proposed scale of the development is considered acceptable from a highway perspective

Discharge of conditions

Condition no.10 – seeks that the details on the means of access, construction and sightlines be submitted as part of the application for reserved matters. The submitted information is incomplete and the proposed access construction within the highway is not in accordance with the Council's specification.

Observations/Comments:

The principle of the proposed development has been previously approved under outline consent 13/03841/OUT and the highway comments are forwarded in respect of the submitted details for the approval of reserved matters and condition no.10 as imposed on the outline consent. The proposed layout of the access, internal private driveway, parking and turning areas as shown on drawing no. 1510-PL-02 are acceptable. The sightlines from the access have not however been demonstrated whilst the charcoal permeable pavers are not acceptable and not in accordance with the Council's specification for a residential access crossing within the highway.

- 4.1.5 **SC Drainage:** No proposed surface and foul water drainage details, plan and calculations as per our Drainage Comments dated 8 October 2013 have been submitted for approval.

4.2 - Public Comments

- 4.2.1 Bomere Heath PC: (Comments to proposal as first submitted). Several councillors expressed their concern that the three houses proposed in this development are too large and imposing and that, given their position in the centre of the hamlet, would dominate the whole area and detract from the natural character of the village. It was decided that, because of these concerns, all councillors should be allowed two or three days to compare this latest "reserved matters" application with the Outline plan as passed in 2013.
- A majority of councillors are now of the opinion that the new proposals are not in conformity with the outline plan. Each of the three houses is significantly bigger than originally proposed. The configuration of the three houses has been changed - they have been straightened out to form one long imposing line. This has been achieved by enlarging the size of the whole plot by making it deeper from front to back, which careful measurement has shown. This also is not in conformity with the original plan. The Parish Council object to these RES measures and respectfully requests that the size of the properties be reduced.

- 4.2.2 Eleven letters of objection summarised as follows:

- ⑦ The access should be positioned further along the road to reduce the number of vehicles accessing the highway on a dangerous bend.

- ☒ The access road is unsuitable for construction and delivery vehicles and an alternative temporary access should be made
- ☒ Construction vehicles and work will create noise and disturbance for existing residents
- ☒ Objects to the removal of one Oak tree
- ☒ The land forms part of the 'Pimhill, Berwick Estate and Severn Valley Area of Special Landscape Character ' and should not be developed.
- ☒ The houses proposed are significantly larger than at the outline stage and are out of scale with the surrounding properties and will alter the character of the hamlet. Loss of privacy
- ☒ Impact on existing foul and surface water systems
- ☒ Object to the fact that the pedestrian access through the site has been removed
- ☒ Would be happy for the site area to be enlarged to enable the houses to be set back further within the field

5.0 THE MAIN ISSUES

The principle of development has been established by the outline consent and the main issues are:

Access

Layout, scale and appearance

Impact on existing residents

Landscaping and trees

Ecology

Drainage

6.0 OFFICER APPRAISAL

6.1 Access

6.1.1 Vehicular and pedestrian access to the site will be via the existing field access. Condition 10 on the outline approval required details of the means of access to be submitted as part of the application for reserved matters. Highways have confirmed that whilst the proposed layout of the access and the internal private driveway, parking and turning areas are acceptable the sightlines from the access have not been demonstrated and the pavers are not in accordance with the Council's specification for a residential access crossing within the highway. A further condition will be imposed requiring the detail of the sight lines and construction of the access to be submitted for approval.

6.1.2 Some residents have commented that a pedestrian access through the site has

been removed. The Public rights of way officer has confirmed that there are no legally recorded public rights of way within or adjacent to the site. The amended plan does show a strip of land to the south outside the residential curtilage of plot 1 and this could provide pedestrian access to the field to the rear if required and agreed with the owner.

6.2 **Layout, scale and appearance**

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.2 Layout - The plan has been amended so that the site area has been reduced and is the same as that approved at the outline stage. The proposal is for three large detached dwellings that will face the internal access drive and the pond to the front of the site. All three houses include a single storey rear extension to provide a family room that will have floor to ceiling windows to the East elevation that will look out over the field to the rear, and patio doors to the South elevation that will open onto the private rear garden. It is considered that the site can satisfactorily accommodate three large dwellings and the layout provides more than satisfactory private rear garden area, parking space and gardens to the front in addition to detached double garages. The plot sizes are also considered to be comparable with the plot sizes of the houses opposite to the West and the adjacent site to the South.

6.2.3 Scale and appearance - Some residents and the Parish expressed concern regarding the scale of the buildings as first submitted and that they would not be in keeping with surrounding properties. The nearest properties are the large detached houses opposite built in the 90s and the large detached property to the South that now has permission for a large two storey side extension. The scale of the proposed houses has been significantly reduced to that as first submitted and they will be set back from the road frontage due to the pond and trees to the front of the site. As referred to above they will be situated within plot sizes comparable to those nearby and are not considered to be out of scale with the surrounding development. The houses are a traditional design with front facing gables and include a number of traditional features and detailing including deep brick plinths, steep pitched roofs, chimneys, projecting gables and bay windows. They are to be constructed of brick with a tiled roof and it is considered that the traditional design and appearance of the dwellings will be in keeping with the scale and appearance of the surrounding properties. The new development will be softened by the existing trees and pond to the front of the site and it is considered that the proposal would have no adverse impact on the character and appearance of the locality.

6.3 **Impact on existing residents**

6.3.1 CS6 also seeks to safeguard residential amenity. The nearest properties include Garret House and 1-3 The Rowans opposite, and Gardeners Cottage to the South.

1-3 The Rowans and Garret House currently enjoy views of the site and countryside beyond. However there is no right to a view and due to the proposed properties being set back behind the pond and existing trees it is not considered that the dwellings would appear obtrusive or overbearing. Although the East facing gables of Garret House and 3 The Rowans are close to the roadside due to the separation distance between the existing properties and the front of the proposed properties it is not considered that the proposal would result in overlooking or a loss of privacy.

- 6.3.2 Similarly the house proposed for plot 1 to the South is separated a good distance from the existing Gardeners Cottage not to appear overbearing or obtrusive, and the existing Oak tree will partially obscure views. There are currently no windows in the side elevation of Gardeners Cottage that will face the site (other than a bathroom window) and the only windows proposed in the side elevation of the approved two storey extension will also be bathroom windows. There are no first floor windows proposed for the South facing gable of the house on plot 1 that will be nearest the boundary and a condition can be imposed to ensure that no additional windows can be inserted. It is therefore considered that the proposal would not result in overlooking and a loss of privacy of Gardeners Cottage.

6.4 **Landscaping and trees**

- 6.4.1 The submitted layout also includes landscaping that includes the retention of existing trees and hedgerow and the planting of 2 new oak trees. A 1 metre buffer strip of rough grassland and scrub is indicated around the edge of the pond and the wider area around the pond to be planted with a meadow grass and wildflower mix. The access drive will be permeable tarmac and the private drives permeable pavements. A 1.1m high post and rail fence and mixed native species hedgerow is proposed to be planted along the Eastern boundary to separate the gardens from the field. It is considered that the proposed landscaping scheme is acceptable given the rural location and that a tree protection condition will ensure that all trees are satisfactorily retained.

6.5 **Ecology**

- 6.5.1 The ecological implications of developing this site were considered in full at the Outline stage and the relevant conditions imposed. The ecological survey and report found a small population of GCN in the pond closest to the development area and a medium population in a nearby pond within 100m. There will therefore be the potential to disturb or damage individual newts as land within 50m of a pond supporting GCN will be disturbed and work will therefore need to be conducted under licence from Natural England. The report sets out the mitigation required and a condition was imposed regarding works to follow a strict method statement and copy of an EPS licence be submitted prior to commencement of work. A bat activity survey was also conducted and found bats foraging by the hedge and large oak tree. This tree has high bat roost potential and is proposed to be retained. The conditions that were imposed at the outline stage do not need re-imposing and have to be adhered to. The only additional comments that the Ecologist has provided is that native species, found locally in Shropshire, are used in the landscape scheme. A landscape implementation and management condition will

be imposed and this will ensure that native species are used. It is considered that the proposed landscaping and development of the site will enhance the bio-diversity of the site compared to its current use as an agricultural field.

6.6 Drainage

6.6.1 Surface water drainage will be provided via soakaways and foul drainage to septic tank. The Council's Drainage Engineer commented at the Outline stage that surface water soakaways should be designed in accordance with BRE Digest 365 and that the septic tank should conform with Building Regulations H2. It was suggested that these details be submitted at the reserved matters stage but as surface water and foul drainage will be fully considered as part of building regulation approval this will ensure that the proposal meets with the relevant part of the regulations highlighted by the drainage team. An informative was imposed on the Outline consent advising what is required.

7.0 CONCLUSION

7.1 The principle of development has already been established by the outline consent. The detailed proposal is considered to be appropriate in scale, density, pattern and design taking into account the local context and would have no adverse impact on the character and appearance of the locality and would also safeguard residential and local amenity. A safe means of access and adequate parking can be provided and the proposal would have no adverse ecological implications or result in the loss of mature trees and the proposed landscaping will enhance the bio-diversity of the site. The proposal is considered to accord with Shropshire Council LDF Policies MD1, MD2, CS4, CS6, MD13 and CS17.

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: NPPF

Core Strategy and Saved Policies: MD1, MD2, CS4, CS6, MD13 and CS17.

RELEVANT PLANNING HISTORY:

12/04340/OUT Outline planning application for the erection of 5 dwellings (all matters reserved)
WDN 29th November 2012

13/02151/OUT Outline planning application for the erection of 3 dwellings (all matters reserved)
(revised scheme) WDN 14th August 2013

13/03841/OUT Outline Application for 3 no. open market dwellings including new access and associated drainage. GRANT 30th April 2015

11. Additional Information

List of Background Papers: File 16/01827/REM
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr John Overall
Appendices 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 BEFORE THE DEVELOPMENT COMMENCES

2. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a method statement providing details of tree protection measures to be implemented during the installation of the no dig drive has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.

d) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

e) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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

3. The details submitted with regard to condition 10 attached to the outline consent are not approved and prior to construction details of the construction and sightlines of the means of access shall be submitted to and agreed in writing by the LPA. Details shall be fully implemented in accordance with the approved details prior to the first occupation of the development.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

4. The internal private driveway, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved block plan drawing no.1510-PL-02 prior to the dwellings being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

5. All hard and soft landscape works shall be carried out in accordance with the approved plans and shall include native species. The works shall be carried out prior to the first 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.

6. Prior to the above ground works commencing 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.

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

7. The first floor and second floor windows in the North facing side elevation shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No additional windows or other openings shall be formed above ground floor level in either the North or South facing side elevations.

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