

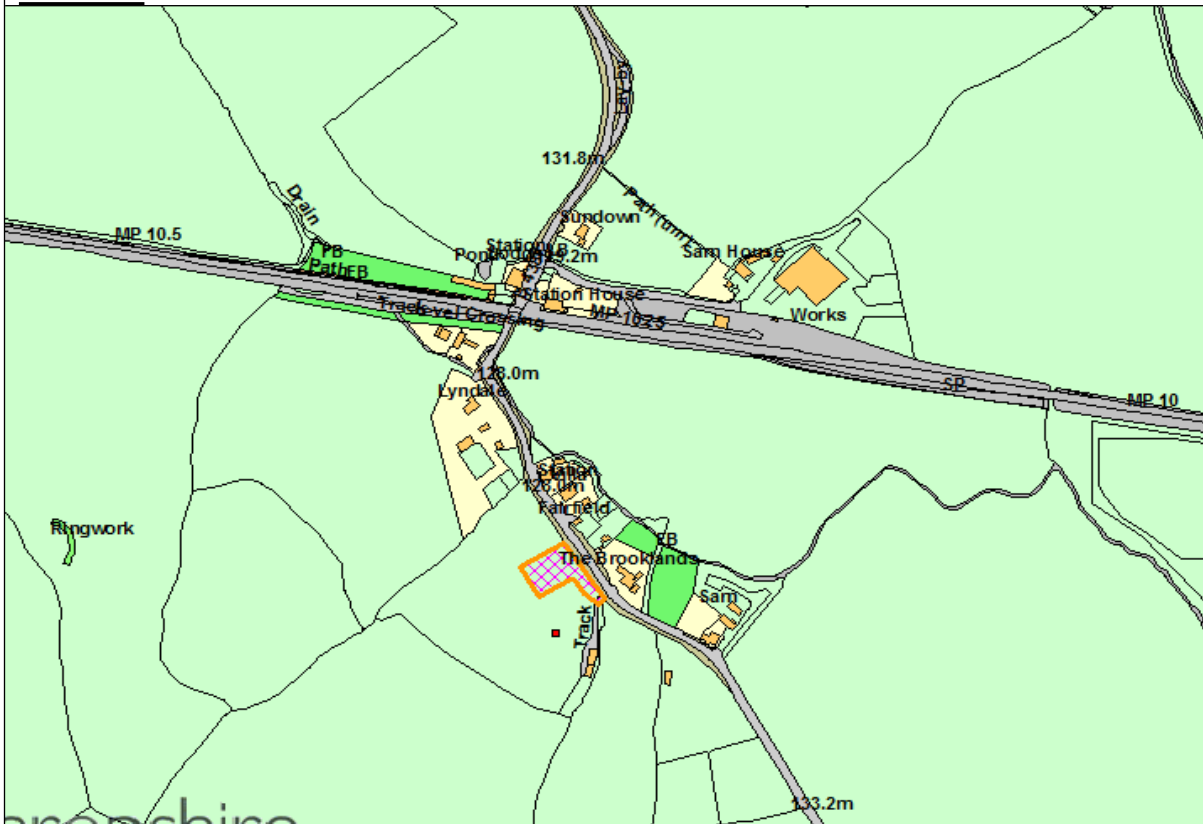
Development Management Report

Responsible Officer: Tim Rogers
Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 16/03879/FUL	Parish:	Westbury
Proposal: Erection of 1no affordable dwelling and detached garage		
Site Address: Proposed Affordable Dwelling Westbury Shrewsbury Shropshire		
Applicant: Mr & Mrs A Owen		
Case Officer: Frank Whitley	email: planningdmc@shropshire.gov.uk	

Grid Ref: 334651 - 310710



Recommendation:- GRANT PLANNING PERMISSION subject to the applicants entering into a S106 agreement to secure the property as affordable and subject to the conditions set out in Appendix 1.

Recommended Reason for Approval

REPORT

1.0 THE PROPOSAL

1.1 The application seeks planning permission for the erection of 1no affordable dwelling and single space detached garage.

1.2 This is a revised application following the withdrawal of 16/00120/FUL due to Highways concerns.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site lies in existing pasture land adjacent to the B4387 which connects the settlements of Westbury and Halfway House. The application would add to an existing cluster of dwellings comprising Sarn, the Brooklands, Fairfield, Somerdale Cottage (on the east side of the road) and Lyndale which is further north on the west side of the road. Collectively these properties form part of the dispersed settlement of Westbury.

2.2 According to Agricultural Land Classification West Midlands region the site is Grade 3 (good to moderate) agricultural land.

3.0 REASON FOR COMMITTEE/DELEGATED 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. At the request of the locally elected member, the Area Planning Manager and Chair of the Central Planning Committee have decided that the application should be decided by elected Members.

4.0 Community Representations

Consultee Comments

4.1 **Highways-** no objection subject to condition

Recommendation

No objection – subject to the development being constructed in accordance with the approved details and the following conditions and informatives.

Observations/Comments:

The current submission is a resubmission of the earlier application with the access relocated further to the north in response to further highway assessment. The submitted highway access details are considered to be acceptable with the new access position increasing the measure of forward visibility along the B4387.

Conditions:

1. The visibility splays shown on the plan drawing no.25-15-05 Rev A shall be provided in accordance with the approved details. All growths and structures in

front of these lines shall be lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the dwelling being occupied.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

2. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved plan drawing no.625-PA-02 B prior to the dwelling 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.

3. The access apron shall be constructed in accordance with the Council's specification currently in force for a residential access and shall be fully implemented prior to the dwelling being occupied.

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

4.2 **Ecology**- no objection subject to condition

Erection of artificial nesting/roosting boxes

Prior to the first occupation of the buildings hereby permitted, a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

The following artificial nesting/roosting boxes shall be provided:

1. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species.

2. A total of 1 woodcrete artificial nesting box suitable for house sparrows.

Reason: To ensure the provision of roosting/nesting opportunities for wildlife in accordance with section 11 of the National Planning Policy Framework.

Lighting plan

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Bats and Lighting in the U.K. guidance.

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

4.3 **SUDS** –no objection informatives only

4.4 **Affordable Housing** – no objection

Comments remain unchanged from 15/04184/FUL and 16/00120/FUL
PROPOSED AFFORDABLE DWELLING 'land at Westbury Shrewsbury Shropshire

Single plot application: Mr Allan Owen and Mrs Emma Owen

I can confirm that Allan Owen has demonstrated strong local connections to the Westbury Parish Council local administrative area. After considering the Owen's family housing needs and personal circumstances, I can confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied.

The Local Housing Need elements of the family's application were established as follows from information presented to me in July 2015.

' Mr Owen intends to construct a 100 sq m (max) affordable single storey dwelling at the above site to occupy as his long-term family home. This dwelling will be subject to a Section 106 Agreement prescribing local occupancy criteria, size and also restricting any potential future sale value.

' Mr and Mrs Owen currently live in rented accommodation in Middletown, this property is not deemed suitable for the long term need of the family as they wish to become home owners and move back to the Westbury area.

' Westbury Parish Council were able to confirm that Mr Owen has strong local connections to the parish.

' Mr Owen has close family and friends that live within the local area. He grew up in the parish and attended the local primary school in Westbury. Mr Owen his wife and children have animals that they keep on land within the parish they often currently travel several times per day to check that they are safe, fed and well.

' Development of the new affordable dwelling will not only provide more suitable accommodation for Mr Owens future needs (and be significantly cheaper to run), but will also be close to his parents and family to enable mutually beneficial help and support.

' Mr Owens doctor has written to support his application confirming his medical needs and the support his parents currently require and will need in the future.

' Mr Owen has been looking to purchase a property within the parish for a while but due to issues regarding affordability and availability he has been unable to secure a suitable home.

' Mr Owen has therefore demonstrated housing need, strong local connections and a need to live in the local area. Moreover, due to issues of affordability and availability he is unable to meet his own housing need within the parish without assistance from this policy.

4.5 **Parish Council**

Stance: Customer made comments neither objecting to or supporting the Planning Application. Comment: The Parish Council met on the 2nd November 2016 the decision was neutral on this application.

It is noted that in relation to the previous planning application 16/00120/FUL (withdrawn) there was no resolution to the question as to whether this site is a named settlement.

4.6 **Public Comments**

8 objections have been received on the following grounds in summary:
Highway safety

No pedestrian footpath
 Road is prone to flooding
 Loss of privacy
 Other options are available to the applicant
 Not within or adjacent to a named settlement

9 representations of support have been received on the following grounds in summary

The applicant is local and is need of housing
 The site lends itself well for development and is close to a group of other residential properties
 The land is not high quality productive farmland
 Critical shortage of housing
 Local families should be encouraged to remain in the community
 Dwelling will be well screened
 Set a precedent for other applications
 Application appears to have better visibility than the last

5.0 THE MAIN ISSUES

Principle of development
 Siting, scale and design of structure
 Residential Amenity
 Flooding
 Visual impact and landscaping
 Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Shropshire Council Core Strategy Planning Policies CS1, CS5 and CS11, along with the National Planning Policy Framework, allow for the building of affordable dwellings on rural 'exception sites' to meet specific local needs.

6.1.2 Policy MD7a (Managing Housing Development in the Countryside) of the Site Allocations and Management of Development (SAMDev) Plan states that in order to protect the long term affordability of single plot exception dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions.

6.1.3 In this case, as summarised above, the Council's Housing Enabling Officer finds that the policy requirements in respect of housing need are satisfied. Planning permission would be subject to prior completion of a Section 106 agreement to ensure that the dwelling remains a discounted sale dwelling which would limit its value in perpetuity.

6.1.4 The Type and Affordability of Housing SPD states at para 5.13 that rural exception sites "must be demonstrably part of, or adjacent to, a recognisable named settlement". However this requirement cannot be read in isolation without referring to guidance at paras 5.15-5.17. In doing so it should be noted that the proposal:

- ☐ is not considered to be sporadic or isolated development
- ☐ does not affect the landscape, local historic, or rural character

- ☐ is not in an elevated, exposed, or prominent position
- ☐ would form part of a group of houses occupied by households from different families
- ☐ is capable of forming a relationship with neighbouring dwellings

6.1.5 Importantly, the SPD acknowledges at 5.16 that a settlement will not always be named on an Ordnance Survey map.

6.1.6 The application site lies very close to a cluster of five existing dwellings, which are considered related to the settlement of Westbury and other dwellings close by..

6.1.7 On balance, the site is considered to accord with the Location requirements of the SPD, paras 5.13-5.18.

6.1.8 It is considered therefore that the plot is suitable in terms of location for a rural exception site and meets the requirements of the relevant sections of CS1, CS5 and CS11.

6.2 **Siting, scale and design of structure**

6.2.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

6.2.2 The position of the dwelling is unchanged from 16/00120/FUL. The access, parking, turning area and garage have been moved to the north side of the dwelling. It is not considered that these revisions introduce other issues in terms of siting, scale or design.

6.2.3 The proposed two bedroom bungalow is modest in scale, its gross internal floor area not exceeding the 100m² limit specified in the SPD Type and Affordability of Housing. 'Permitted development' rights for subsequent extensions will be removed, both to ensure that the property remains of a size which is affordable to local people and in the interests of visual amenity. The plot is large enough to provide sufficient outdoor amenity space for the applicants themselves without exceeding the 0.1ha restriction imposed by the aforementioned SPD.

6.2.4 The detached garage is considered appropriate in scale and design. The dwelling is to be constructed from brick under a slate appearance tiled roof. Window frames and doors are to be constructed from timber. An open sided porch area is proposed to project from the rear of the dwelling to provide quiet amenity space for the occupier. The submitted plan shows 12 Photovoltaic panels are to be fitted to the south west facing roof elevation. Overall the siting, design and use of materials is considered acceptable and in accordance with CS6 (Sustainable Design and Development Principles) and MD2 (Sustainable Design).

6.2.5 The Type and Affordability of Housing SPD states that dwellings on exception sites must also be constructed to a minimum of an equivalent to the 'Code for Sustainable Homes' level 3 for energy and water efficiency. It is therefore necessary to impose a condition ensuring that the dwelling is constructed to an equivalent of this Code.

6.2.6 A package treatment plant and herringbone soakaway to the rear of the dwelling is considered acceptable.

6.3 **Residential Amenity**

6.3.1 Representations have raised issues regarding the privacy of neighbours, in particular The Brooklands and Fairfield. The applicant has supplied a further plan indicating separation distances and a comparison in levels. At their closest, The Brooklands and Fairfield are 35m and 45m from the footprint of the proposal. Neither are directly overlooked. According to plans submitted, finished floor level of the proposal is just over 1m above The Brooklands, and almost identical to Fairfield.

6.3.2 The site is separated from nearby properties by an existing hedge to the front which is to be retained, apart from a section to be removed for the new access.

6.4 **Flooding**

6.4.1 The site lies entirely in Flood Zone 1 (lowest risk of flooding), though land immediately to the east of the existing group of dwellings opposite falls within Zones 2 and 3.

6.4.2 Concerns have been raised by objectors about run off from the field which contains the application site. Photographs have been supplied which appear to show the B4387 flooded. However there is no evidence that the proposal would exacerbate the alleged flooding issue and it is noted that the proposal includes a soakaway and a permeable drive surface. No concerns have been raised by either Shropshire Council Highways or the Flood and Water Management Team. The proposal is considered to accord with CS18 (Sustainable Water Management).

6.5 **Visual impact and landscaping**

6.5.1 CS6 seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, landscape character assessments and ecological strategies where appropriate.

6.5.2 The development is single storey and modest in scale such that the visual impact is limited. Additional screening is to be planted around the perimeter of the application site. Although the revised access position will result in the loss of a short section of hedgerow, it is not considered to cause an unacceptable visual impact.

6.5.3 The proposal is considered to respect the existing scale and character of buildings in the surrounding area and it is judged the dwelling and detached garage would not significantly detract from the rural character of the area.

6.6 **Highways**

6.6.1 16/00120/FUL was withdrawn after objections from Highways. However the revised access position has been designed to overcome the objections. On this occasion, Shropshire Council Highways has raised no objection.

7.0 CONCLUSION

7.1 The proposal is judged to be acceptable in principal since it is for an affordable dwelling to meet an identified local need and the site is sufficiently related to a recognisable named settlement to accord with the locational requirements of the Housing SPD. The dwelling as proposed would have no significant landscape impact, and the design of the proposed garage and new access is satisfactory. Furthermore, there are no undue concerns in respect of residential amenity, drainage, ecology or highways.. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to prior completion of a legal agreement to ensure that the property remains 'affordable' in perpetuity, and to conditions to reinforce other critical aspects. The development is considered to accord with the requirements of the NPPF, CS1, CS5, CS6, CS11, CS17, CS18, MD2 and MD7a and the Type and Affordability of Housing SPD.

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 SAMDev Plan
CS1, CS5, CS6, CS11, CS17, CS18, MD2 and MD7a
Type and Affordability of Housing SPD.

RELEVANT PLANNING HISTORY:

15/04184/FUL Erection of 1No affordable dwelling, detached garage and store and installation of package treatment plant (Amended description) WDN 17th December 2015
16/00120/FUL Erection of 1no affordable dwelling and detached garage WDN 16th May 2016
16/03879/FUL Erection of 1no affordable dwelling and detached garage PCO

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 - Conditions

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

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.

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

3. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved plan drawing no.625-PA-02 B prior to the dwelling 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

4. The access apron shall be constructed in accordance with the Council's specification currently in force for a residential access and shall be fully implemented prior to the dwelling being occupied.

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

5. No above ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

6. Prior to the occupation of the dwelling details of the boundary treatments shall be submitted to and approved by the Local Planning Authority. The works carried out shall be carried out prior to the occupation of the dwelling or in accordance with a timetable agreed with the Local Planning Authority.

Reason: To ensure the boundary treatment is appropriate to the rural area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

7. The visibility splays shown on the plan drawing no.25-15-05 Rev A shall be provided in accordance with the approved details. All growths and structures in front of these lines shall be

lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the dwelling being occupied.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

8. Prior to the first occupation of the buildings hereby permitted, a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details. The following artificial nesting/roosting boxes shall be provided:

1. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species.

2. A total of 1 woodcrete artificial nesting box suitable for house sparrows.

Reason: To ensure the provision of roosting/nesting opportunities for wildlife in accordance with section 11 of the National Planning Policy Framework.

9. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trusts Bats and Lighting in the U.K. guidance.

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

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

10. The dwelling hereby permitted, shall not exceed 100 square metres gross internal floor area, including any future extensions. No further internal habitable space shall be created within the dwelling by internal alterations.

Reason: To ensure that the dwelling is of a size appropriate to the local affordable housing market.

11. The new dwelling hereby permitted shall be constructed to an equivalent to the Code for Sustainable Homes, Level 3 star rating for energy and water efficiency.

Reason: To ensure the dwelling is constructed with a view to reducing its carbon footprint and ensuring environmental sustainability, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy and SPD Type and Affordability of Housing.

12. The detached outbuilding included in the development hereby permitted shall only be used for purposes in connection with and ancillary to the enjoyment of the new dwelling as a single dwelling unit, but shall not be converted into or used as habitable accommodation, or used for commercial or business purposes, without the prior written consent of the local planning authority.

Reason: To ensure that the outbuilding is not used as a separate dwelling and that the property as a whole remains of a size which 'affordable' to local people in housing need, in accordance with Policies CS5 and CS11 of the Shropshire Local Development Framework Adopted Core Strategy.

13. Notwithstanding the provisions of Schedule 2 part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order modifying, revoking or re-enacting that Order), no garage, carport, extension or other building shall be erected within

the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and to maintain the future affordability of the dwelling.

Informatives

1. Informatives:

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway.

No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

construct any means of access over the publicly maintained highway (footway or verge) or

carry out any works within the publicly maintained highway, or

authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or

undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

2. Informative: Ecology Nesting wild birds

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

chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy and egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird

nesting season which runs from March to September inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

If during construction birds gain access to any of the buildings and begin nesting, work must cease

until the young birds have fledged.

Informative: Ecology Storage of materials

The storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or

other suitable containers to prevent their use as refuges by wildlife.

Informative: Ecology Trenches and pipework

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife

becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with

a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

3. A sustainable drainage scheme for the disposal of surface water from the development should be

designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

www.shropshire.gov.uk/drainage-and-flooding/local-flood-risk-management-strategy/.

The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes

and impacts of flooding, should be followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally.

Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

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