

Development Management Report

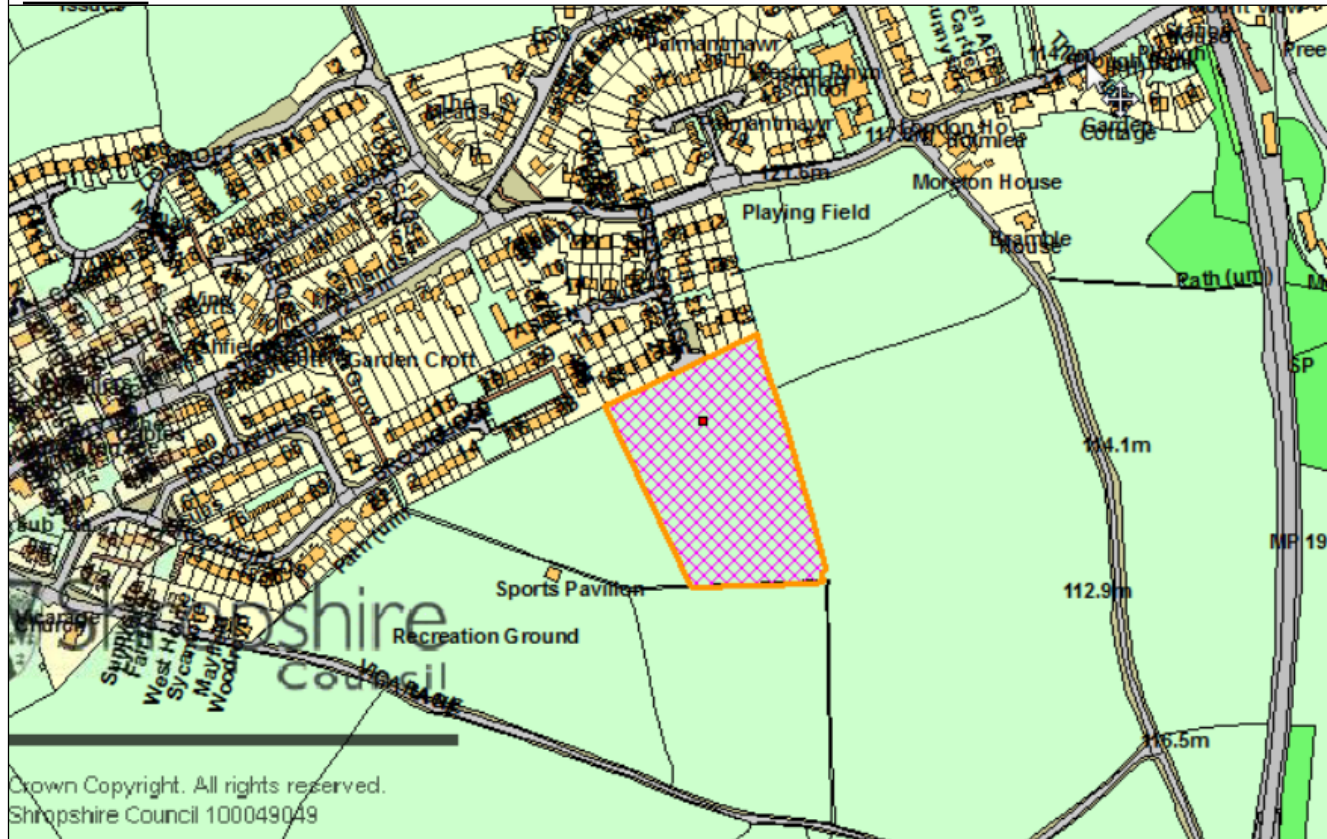
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 16/01735/OUT	Parish: Weston Rhyn
Proposal: Outline application for residential development (All Matters Reserved)	
Site Address: Land South Of Aspen Grange Weston Rhyn Shropshire	
Applicant: Mr M Richardson	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328896 - 335770



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Recommendation:- Grant planning permission subject to the applicants entering into a S106 legal agreement to secure affordable housing and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on land at Aspen Grange, Weston Rhyn. The application has all matters of access, layout, scale, appearance and landscaping reserved for later approval and as such is currently only considering the principle of residential development on the land.
- 1.2 To assist in the consideration of the application the submission is accompanied by a design and access statement, indicative layout and ecology survey.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site area is 1.65 hectares and is currently in agricultural use for grazing. It is enclosed by well established hedges on all boundaries with sporadic trees in the eastern and southern boundaries and an existing watercourse crosses within the southern edge of the site. It is relatively flat with limited changes in ground level.
- 2.2 The land lies to the south of the existing housing on Aspen Grange which is a modern estate of detached and semi detached houses with a turning head at the edge of the application site. The houses immediately to the north of the application site face over the application site with private driveways and gardens between. To the east and south is open countryside. There is another parcel of agricultural land on the east of the application site between the site and the village playing fields which include a football pitch and pavilion and multi use games wall, seating shelter and children's play equipment. This parcel of land was included in the previous application for development but has been removed from the current application.
- 2.3 In the wider area the village is focused around the main road through the village from the school at one end to the church at the opposite end. There are estates off the main road varying in age and house type with a few older properties along the main road. The village is served by a school, shops, public house, takeaway facilities and church. It is within the rural area surrounding and supported by the town of Oswestry.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which can not be overcome by condition or negotiation. Furthermore, both local members, Councillor Macey and Councillor Lloyd have requested that the application be determined by the North Planning Committee.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Weston Rhyn Parish Council** – Weston Rhyn Parish Council wish to object to this application expressing full support behind the objections already submitted by residents.

Namely the Council object on the grounds of the unsuitability of access/egress from the site which will see a large increase in vehicular traffic travelling through the existing housing estate along a narrow road to egress onto Station Road.

The Council also object on the grounds of the proposal for a sewerage treatment plant and channelling of treated water into the nearby stream and the potential problems this raises in terms of health issues and flooding.

- 4.1.2 **Affordable housing** – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The size, type and tenure of the affordable homes will need to be agreed in writing with the Housing Enabling Team and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

- 4.1.3 **Conservation** – Thank you for consulting Conservation on the above application. We will not be commenting in full in this case however:

-The design of the proposed dwellings should reflect local vernacular details in terms of scale, details materials, siting/ layout etc.

-The development should be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, as well as MD2 and MD13 of SAMDev, and with the National Planning Policy Framework (NPPF) 2012.

- 4.1.4 **Archaeology** – The Shropshire Historic Environment Record contains a record for a possible undated enclosure site (HER PRN 03893) within the field immediately to the south of the proposed development site.

The record entry notes that the site has been identified on the basis of a single vertical and comments that it may be a natural feature. However, without further investigation is not possible to entirely rule out the possibility that this site is of archaeological interest and that features and deposits associated with it might be present on the proposed development site. For these reasons, the proposed development site is considered to have moderate archaeological potential.

In view of the above and in line with Paragraph 141 of the NPPF and Local Plan Policy MD13, it is recommended that a programme of archaeological work be made a condition of any planning permission for the proposed development. This should comprise an archaeological field evaluation consisting of an initial geophysical survey, followed by further mitigation as appropriate.

- 4.1.5 **Highways** – No comments received on current application.

Advice on previous application (14/01654/OUT):

No objection. Firstly, the application site, in part, is included as a preferred site within the SAMDev submission. The current land area proposed however is greater than that which is included in the SAMDev submission and therefore it is implicit that the number of dwellings that can be accommodated as part of this application is likely to be double the number than could be accommodated on the proposed housing area in the SAMDev submission. It is noted that the Parish Council made no comment initially on the basis, it is assumed, on its allocation during the SAMDev process and it having Parish Council support. However the Parish Council have now raised an objection which include highway issues.

The highway issues relate to heavy construction traffic, suitability of the Aspen Grange/Station Road junction for additional traffic and increase traffic created onto Station Road together with the failure of Shropshire Council to reclassify Station Road as a 'B' Class road.

With regard to the highway issues raised by the Parish Council, it is considered by the highway authority that Aspen Grange is suitable to accommodate the development land area, supporting a development of the scale indicated on the indicative layout plan showing 50 dwellings. Aspen Grange has a carriageway width of 5.5 metres flanked on either side by 1.8 metre and at its junction with Station Road visibility splays are provided in accordance with and in excess of Manual for Streets guidance. It is considered therefore that there are no fundamental highway grounds to object to the granting of an outline permission.

Issues surrounding construction traffic could, as is normally the case, be controlled within a standard condition. As regards the issue raised by the Parish Council concerning the classification of Station Road, this is not a matter which concerns the determination of this application.

The highway authority therefore raise no objection to the granting of outline consent subject to the further submission of satisfactory access, access road layout, parking and turning area(s) together with a construction management plan to be implemented during the construction phasing of the development.

4.1.6 **Ecology** – No objection. Recommends conditions and informatives.

4.1.7 **Drainage** – The proposed surface water drainage details, plan and calculations should be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

Recommends conditions requiring submission of a flood risk assessment, submission of surface water drainage details including maintenance details, submission of the foul drainage treatment plant.

If the watercourse is occasionally dry, then the discharge of the treated foul effluent should not be allowed. Consent or an exemption certificate is required as appropriate from the Environment Agency for discharging treated foul effluent into the watercourse. Worth contacting the EA regarding this application and make them aware that a public has reported that the watercourse is occasionally dry.

- 4.1.8 **Welsh Water** – We would request that if you are minded to grant Planning Consent for the above development that the conditions and advisory notes provided are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE We refer back to comments made by us for this site at the recent LDP examination stage relating to this allocation, where it was advised that there are isolated incidents of flooding in the public sewerage system downstream of this site which will need to be overcome if development is to proceed and a communication to the public sewer is made. Further assessment of the sewer network by means of a Hydraulic Modelling Assessment (HMA) would be required to consider the impact of this development upon the receiving sewerage network and establish a solution to accommodate the foul flows only from this development site without causing detriment to existing customers or the environment.

The use of the a Grampian condition, that has been suggested by Shropshire Local Planning Authority is supported in principle, however this is subject to the Local Planning Authority acknowledging that the only means of establishing a permanent solution for the disposal of foul drainage (as required by part 1 of the condition) shall be through the undertaking of a HMA and the subsequent implementation of any solution identified by the assessment (as required by part 2)

Shropshire Local Planning Authority would have to be satisfied that this condition is reasonable/practical and would therefore meet the planning condition tests.

For the developer to obtain a quotation for the hydraulic modelling assessment, we will require a fee of £250 + VAT to engage our consultants, this fee is non-refundable. We therefore recommend that the developer engages with us as early as possible to discuss their intentions.

Also recommended conditions requiring details of the drainage scheme and no development within 3m of the sewer crossing the site and advisory notes relating to connection to the sewer and that there may be other sewers and drains not on the records.

SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

- 4.1.9 **Environment Agency** – We would not provide comment on this application (16/01735/OUT). This is based on our current consultation checklist in consideration of the scale and nature of the proposal in this location (non mains drainage less than 80 dwellings).

For non mains drainage proposals we advise the Council/applicant to refer to our local area 'Foul Drainage Assessment Form' (copy attached for information). We would leave it with the applicant to discuss matters with the relevant utility company (Severn Trent Water in this instance) to pursue a connection to the mains foul sewer where available.

In the absence of a mains foul connection the non-mains option may be necessary

and, separate to planning, we would expect a permit to discharge to be submitted to us, under the Environmental Permitting Regulations (2010). This would control the discharge of waste water to the watercourse. We would recommend this Permit application is progressed concurrent with the planning application to ensure the proposed non-mains option is viable without detriment to the water environment.

4.1.10 **Public Protection** – Having considered the location, previous and neighbouring land use I have no objection to this applications proposals and have no conditions to recommend. Conditions in relation to construction times, burning on site etc. should be considered by the case officer and would be supported by public protection.

4.2 **Public Comments**

4.2.1 12 letters of representation have been received raising the following concerns:

- No need for housing on this site
- Should develop brownfield sites first
- Previous application refused
- Access road is narrow and can have cars parked along it
- Road structure would not cope with construction traffic
- Road outside school is congested at school times
- Would be dangerous for children to play on the estate due to additional traffic
- Road network will not cope with construction traffic
- HSE would not pass the route to this site
- The existing brook does not have 12 month flow, has low capacity to dilute treated effluent, the outflow would be greater than the existing water in the watercourse
- Watercourse floods in winter and reduces to a trickle in summer
- Risk to watercourse and public health if treatment plant malfunctioned
- Field is always very wet and has no drainage
- Increase in flood risk from brook and from surface water
- EA maps show existing properties at risk of surface water flooding

5.0 **THE MAIN ISSUES**

- Policy & principle of development
- Is the site sustainable?
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 **OFFICER APPRAISAL**

6.1 **Policy & principle of development**

6.1.1 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 is a material consideration that needs to be given

weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to ‘boost significantly the supply of housing’, with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration.
- 6.1.3 The Council currently have a 5 year housing land supply and therefore consider that the development plan, that being the Core Strategy and SAMDev, should be given full weight. Weston Rhyn is being promoted as part of a Community Cluster with the villages of Rhoswiell, Wern and Chirk Bank with a housing target of 78 dwellings. The current application site is the allocated site within the SAMDev for housing development for the village of Weston Rhyn (with a separate allocation in Rhoswiell on the opposite side of the railway line). The two allocated sites will provide 45 dwellings with the remainder to be made up of infilling, conversions and small groups of houses.
- 6.1.4 Several objectors have noted that the previous application on this site was refused and was also dismissed at appeal and have therefore questioned why the current application has been submitted or is being considered. The previous application was refused on the 14th May 2015 for one reason:
“Having considered the potential benefits to the community, including boosting the Council’s Housing supply and generating CIL funds, the Committee were concerned that the foul drainage infrastructure would be overloaded and that at the time of the decision it was not clear on the information available and in the absence of more detailed studies, that the mitigation schemes proposed by the agent would be sufficient or appropriate to ensure that the scheme would overcome the foul drainage issues and therefore that the proposals were contrary to Core Strategy Policies CS6 and CS8.”
- 6.1.5 This refusal was appealed and was dismissed on the 25th January 2016. However the appeal was only dismissed on the grounds that there was no S106 agreement submitted to secure affordable housing. The Planning Inspector determined that the foul drainage infrastructure issue could be overcome by an appropriately worded condition and as such did not uphold the Council’s reason for refusal.
- 6.1.6 As such there are no grounds to resist a resubmission of the planning application and the agent was advised to ensure that he considered both foul drainage and the need for a S106 agreement. Other matters have also been raised by the objectors which will be considered in detail in the report. The foul drainage proposals of the current application will also be detailed later in the report. However, at this time there is no reason to not determine the current planning application.

6.1.7 It should also be noted that the previous application and appeal proposal was for a larger site than the current application and included the field between the application site and the village play area. The previously larger site was beyond the land allocated in the SAMDev. The current application is for the land allocated within the SAMDev and as such the principle of developing the site for housing has been accepted in allocating the site. The key point here is that the land subject to the current application is an allocated site and therefore the current proposal complies with policy. As such both legislation and national policy advise that the application should be approved unless material considerations indicate otherwise.

6.1.8 The material considerations relevant to this outline application are the matters of its sustainability and its impact on amenity, highways, ecology, trees and drainage. These issues are hereafter considered.

6.2 **Is the site sustainable?**

6.2.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. The initial assessment of potential sites in the community cluster considered 25 sites in total. The larger site, the site dealt with under the previous application and appeal, was assessed under stage 2 by Shropshire Council Policy Officers who scored the site positively for access to bus service, school and recreation facilities but negatively for being grade 3 agricultural land. It was considered to be capable of providing new housing and the conclusion of the assessment was that the overall sustainability of the site is good.

6.2.2 The local objectors have questioned whether the development of the site would add unacceptable pressure on the local services and facilities, including the school, highway network and drainage systems. The impact on the highway and drainage are considered in later sections of this report. The agent notes the presence of the amenities within Weston Rhyn, the school, shops, post office, takeaway food shop and public houses; that the village is on a regular bus route and is close to the employment sites at Gledrid and Moreton Park.

6.2.3 The aim of the Shropshire Core Strategy is to promote development in villages and rural areas with services or where new development can help to improve sustainability. The development of this site will have economic benefits through CIL payments, construction jobs and support for local businesses and services and this needs to be given substantial weight in the determination of the application. The CIL contribution could provide for infrastructure enhancements or could also be used to contribute towards school places if this is considered to be a priority in the local area. As noted above the development of this site will add pressure but also income for local services and facilities and as such any harm resulting from the development needs to be balanced against the benefits.

6.2.4 There are also social benefits of new housing including affordable housing. As an outline application the level of affordable housing to be provided on the site would be dependant on the target rate at the time of the submission of reserved matters and a legal agreement will be required as part of this outline consent to ensure that the affordable housing is provided and retained as such. The recommendation reflects this requirement. If the S106 agreement is not secured the consent will not

be granted. The permission is reliant on the S106 agreement and therefore can ensure that affordable housing is secured.

- 6.2.5 Environmentally it is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. The development includes the provision of open space within the site including a green corridor along the watercourse and retention of the existing landscaping features. The site is currently private land and the proposal will provide public open space in the form of this green corridor along the southern edge of the site. This is an environmental gain which should be taken into consideration in the balance of harm against benefit.
- 6.2.6 Local objectors have raised concern about the loss of the agricultural land. The SAMDev site assessment notes that the land is grade 3 agricultural land but continued to promote the whole of the current application site for development. It is therefore considered that to enable development and growth of the village will result in the loss of some agricultural land. The loss of best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the 32 houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing. The concern of local residents that brownfield land should be developed first has not been quantified with any suggested sites. It is acknowledged that recent Government announcements seek to promote brownfield land but this does not require a sequential approach to development of land and the Council are continually promoting brownfield land for development where it results in sustainable development. The other allocated site within the Community Cluster is a brownfield site, however there is also a current application on that site and as such officers consider it is being promoted as a developable site.
- 6.3 **Layout, scale and design**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy 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. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.3.2 The design and access statement confirms that the plan submitted with the application is for indicative purposes only and is intended to show that the site can be developed for a mix of housing. The indicative plan suggests 32 dwellings. The plan recommends the provision of an area of open space within the southern edge of the site which will be accessible to the public and provided with enhanced landscaping. The plan also recommends that the density of the site relates to the existing housing in the northern part of the application site whilst reducing in density and scale in the southern part of the site. These are commendable principles to set and would help to assimilate the development into the surrounding area and reduce the visual impact of the site from the wider area. However, these matters are not submitted for consideration at this outline stage and would need to be determined at the time of an application for reserved matters.

6.4 **Impact on residential amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.4.2 As with the consideration of layout and scale the impact on the amenities of existing residents can not be fully assessed at this outline stage as the impact will predominately depend on the layout. It is noted that the existing housing on Aspen Grange face over the application site, although this provides a good separation distance it also raises issue of layout. Officers consider that the layout of the site, where it is adjacent to the housing on Aspen Grange facing over the site, should respect these frontages and provide frontages facing the existing housing but would need to ensure that the separation distances protect the existing amenities in terms of loss of light and privacy. This is a matter which will need to be reconsidered at the time of submission of reserved matters.

6.5 **Highways, access, parking and rights of way**

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

6.5.2 Although this is an outline application with all matters reserved the design and access statement and the indicative layout suggests a single point of vehicular access off Aspen Grange. The agent has commented within the design and access statement that the existing estate road is capable of accommodating the additional traffic that will result from the development proposed and that the estate road was designed to a higher standard than was required to serve the existing dwellings. The agent also comments that the junction onto Station Road has sufficient visibility and that the proposed road within the application site will be designed up to adoptable standards with kerbs and footways.

6.5.3 However, local objectors, including the parish council, have raised concern about the width and capacity of Aspen Grange and its junction with Station Road, and concerns about the general increase in traffic in the village, especially outside the school.

6.5.4 The Council Highway Officer has not submitted any comments on this current application. However, the advice from the Highway Officer on the previous application, which was for a larger site, was that an objection on highway matters could not be sustained. The existing road width is sufficient for the anticipated construction and housing traffic and the junction of Aspen Grange and Station Road has acceptable levels of visibility. The scale of the proposed development at that time, which was indicated to be around 50 houses, would not result in a severe impact on capacity of the highway network and the construction traffic impact can be controlled by condition. As the current application is now for a smaller site and fewer houses, approximately 35, it is officers' opinion that a refusal on highway

grounds would not be defensible. Furthermore, highways was not previously a reason for refusal and it would be unreasonable to add it now given the relatively short period of time since the previous refusal.

6.5.5 Objectors have also referred to an application for a new access onto Station Road that has been refused. However, the application referred to was refused on the basis of lack of visibility from the proposed junction. That application is materially different to this current proposal which proposes using an existing junction which has sufficient and appropriate visibility for both the existing traffic and potential increase in traffic.

6.6 **Ecology and trees**

6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Furthermore the development guidelines in the SAMDev note that the development of the application site is subject to appropriate biodiversity surveys. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.6.2 The submitted report considers the existing site conditions, surrounding features and evidence of protected species. Desk studies and field surveys were undertaken and the survey concludes that there is no evidence of any protected species and the proposed development is unlikely to have any impact on any protected species that might be found in the area. The report notes the boundaries to the site being hedge on the southern and northern edges with the south hedge well managed native species and the north hedge being recently replanted following the development of the adjacent houses.

6.6.3 Although local objectors have raised concerns that the site is used by wildlife the Council Ecologist has not raised any objection to the scheme. Their advice on the previous application was that the approval should be subject to conditions to provide artificial nests and details of lighting and this has been carried forward onto this application. It is also noted that the development indicated proposes an area of open space, although objections have been received regarding this, the provision of open space within a development is a positive benefit both for the local community and also for enhancing habitat for wildlife and for providing new trees. Overall it is considered that the development of this site can be undertaken without harm to protected species and with enhancements and environmental gains in accordance with policy CS17.

6.7 **Drainage**

6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Furthermore the development guidelines in the SAMDev note that the development of the site should be subject to appropriate drainage design.

6.7.2 As submitted the surface water is intended to be drained via a sustainable drainage system to the existing watercourse. Within the design and access statement the

agent notes the presence of 2 existing surface water drains which cross the site and which is accepted will need to be taken into account in considering the layout of the site at reserved matters. Foul drainage was originally proposed to be dealt with via a package treatment plant on site and the outflow also discharged to the watercourse.

- 6.7.3 Objectors, including the Parish Council, have raised concerns about the flooding of the land, noting that it is already at risk of flooding, and also about the proposed method of dealing with the foul drainage and capacity issues in the mains drainage system. The objectors have noted that the previous application was refused on the grounds of foul drainage capacity.
- 6.7.4 As noted above, the previous application, which was for this site and also the adjacent field, was refused by the planning committee in May 2015 for the following single reason:
Having considered the potential benefits to the community, including boosting the Council's Housing supply and generating CIL funds, the Committee were concerned that the foul drainage infrastructure would be overloaded and that at the time of the decision it was not clear on the information available and in the absence of more detailed studies, that the mitigation schemes proposed by the agent would be sufficient or appropriate to ensure that the scheme would overcome the foul drainage issues and therefore that the proposals were contrary to Core Strategy Policies CS6 and CS8.
- 6.7.5 The refusal was appealed and the Planning Inspector concluded that the foul drainage of the site could be dealt with by an appropriately worded condition. The appeal was only dismissed as the applicant did not submit a legal agreement with the appeal and as such there was no means of securing affordable housing. The Inspector did not agree with the members on the matter of foul drainage. I have attached the Inspector's decision letter for reference and draw members' attention to paragraphs 6-8.
- 6.7.6 Foul drainage – The application as submitted proposed the installation of a private package treatment plant to deal with the foul drainage from the proposed housing. This was intended to overcome the objections as a package treatment plant would not place any additional foul drainage into the mains drainage system. However, firstly concerns were raised about the ability of the watercourse to accept the outflow from a package treatment plant and secondly, the National Planning Practice Guidance advises that: *“Applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment...when drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies).”*
- 6.7.7 Officers therefore advised the agent that there was not sufficient justification with the application to satisfy the national advice and support a private treatment plant. The agent was asked to reconsider connection to the mains drainage system. However, as an outline application, the applicant, who is the land owner, does not want to pay Welsh Water to start the required work to understand capacity and any

upgrades required as this work will be costly and may also be out of date before a developer is ready to start work on the site. An outline consent is a permission in principle, the applicant would then look to sell the land on to a developer, who would submit an application for approval of reserve matters. Officers agree that it would be unreasonable to require the applicant and Welsh Water to undertake the work required to establish capacity and work required to provide capacity if the development is not ready to commence.

- 6.7.8 It is considered more appropriate to provide a condition that requires the necessary survey work and consideration of options and upgrades to be carried out before any work commences on site. However, national policy also accepts that there may be instances where a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) and that a package treatment plant can be considered and the Environment Agency Foul Drainage Assessment Form – Non Trade Effluent advises that *“The utilisation of non-mains drainage as part of your planning proposal will only be allowed in exceptional circumstances and you must provide evidence that a connection to the sewer is not practicable.”*
- 6.7.9 The agent and applicant have therefore withdrawn the proposal for a package treatment plant and the following condition has been drawn up by officers:
The development hereby approved shall not commence until a detailed scheme for the disposal of foul drainage has been agreed in writing with the local planning authority. For the avoidance of doubt the detailed scheme shall identify a suitable point of connection and any necessary improvements within the public sewerage network as a result of a Hydraulic Modelling Assessment unless it can be demonstrated to the Council’s satisfaction that connection to the public sewerage network is not feasible (in terms of cost and/ or practicality) and in such case a detailed alternative scheme shall include any necessary permits from the Environment Agency for discharge to the watercourse. Thereafter the development shall not be occupied until the approved foul drainage scheme has been completed strictly in accordance with the approved details.
Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.
- 6.7.10 This condition will allow the outline consent to be granted, subject to a legal agreement to secure affordable housing, whilst ensuring that the development adequately addresses the disposal of foul drainage from the site before any development commences in accordance with the advice from the Planning Inspector in the appeal decision. It would also meet the requirements of Welsh Water as detailed in section 4 above, who have advised that a Grampian style condition is supported and would allow the required hydraulic modelling assessment to be carried out.
- 6.7.11 Surface water – A Flood Risk Assessment (FRA) has been undertaken and submitted with the application. This report notes the watercourse on the southern boundary of the site which discharges into Morlas Brook. The site is within flood zone 1, the lowest zone and not liable to any flooding. However the FRA proposes the finished floor levels should be 150mm above the surrounding ground level to protect the new properties. The FRA also reports on the ground conditions for the purposes of understanding the potential surface water drainage for the site. The

ground conditions are not suitable for soakaways and as such the FRA recommends discharging the surface water drainage to the watercourse with attenuation to restrict discharge to greenfield run-off rates. The FRA also recommends the creation of a wetland area in the open space and acknowledges that there is an existing drainage pipe crossing the site which will need to be retained.

6.7.12 The Council Drainage Engineer has confirmed that the FRA is acceptable but has requested further details relating to surface water flows and the finished floor levels but also confirmed that this can be provided as part of the reserved matters application or through conditions. Overall the Drainage Engineer advice is clear that there is a solution available to enable development of the site without increasing flood risk either within the site or to the surrounding area.

6.8 Other matters

6.8.1 The Council Archaeologist has advised that an archaeological field evaluation should be carried out and mitigation may be required. This can be secured by means of a condition as recommended by the Archaeologist.

7.0 CONCLUSION

7.1 The site is located within the recently adopted development boundary for Weston Rhyn and is a site allocated for housing development in the Site Allocations and Management of Development (SAMDev) Plan and it is therefore accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the village and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The size of the site and constraints from the existing development, watercourse and village recreation field limits the developable area, however in principle the site can be developed for housing without adversely affecting the amenities of the existing properties, in context with the surrounding built form and with an appropriate access. Furthermore, subject to submission of detailed designs, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the area.

7.3 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with policies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy and policies MD1, MD2, MD8, MD12, S14.2 and S14.s(xi) of the SAMDev. 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.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

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

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 **FINANCIAL IMPLICATIONS**

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS7 - Communications and Transport
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

SAMDev:
MD1 – Scale and Distribution of Development
MD2 – Sustainable Design
MD8 – Infrastructure Provision
MD12 – Natural Environment
S14.2 – Oswestry Community Hub and Cluster Settlements
S14.2(xi) – Weston Rhyn, Rhosweil, Wern and Chirk Bank

Relevant planning history:

14/01654/OUT Outline application for residential development (All Matters Reserved) REFUSE
14th May 2015
APPEAL - 15/02343/REF Outline application for residential development (All Matters Reserved) DISMISSED 25th January 2016

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr David Lloyd MBE Cllr Robert Macey
Appendices APPENDIX 1 – Conditions APPENDIX 2 – Appeal Decision

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the design and external appearance of the development, access arrangements, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. This permission does not purport to grant consent for the layout shown on the deposited plan submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The levels of the site
- The means of access for disabled people
- The surface water drainage scheme of the site
- The finished floor levels

Reason: To ensure the development is of an appropriate standard.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

7. The development hereby approved shall not commence until a detailed scheme for the disposal of foul drainage has been agreed in writing with the local planning authority. For the avoidance of doubt the detailed scheme shall identify a suitable point of connection and any necessary improvements within the public sewerage network as a result of a Hydraulic Modelling Assessment unless it can be demonstrated to the Council's satisfaction that connection to the public sewerage network is not feasible (in terms of cost and/ or practicality) and in such case a detailed alternative scheme shall include any necessary permits from the Environment Agency for discharge to the watercourse. Thereafter the development shall not be occupied until the approved foul drainage scheme has been completed strictly in accordance with the approved details.

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

8. No development approved by this permission shall commence until the applicant, or their agents 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 Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest.

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

9. Prior to the first occupation of the dwellings details of five woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

10. Prior to the erection of any external lighting which would illuminate trees and hedgerows 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 Trust booklet Bats and Lighting in the UK

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

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

11. The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all

times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

12. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

13. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

14. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

15. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

16. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.