

## Development Management Report

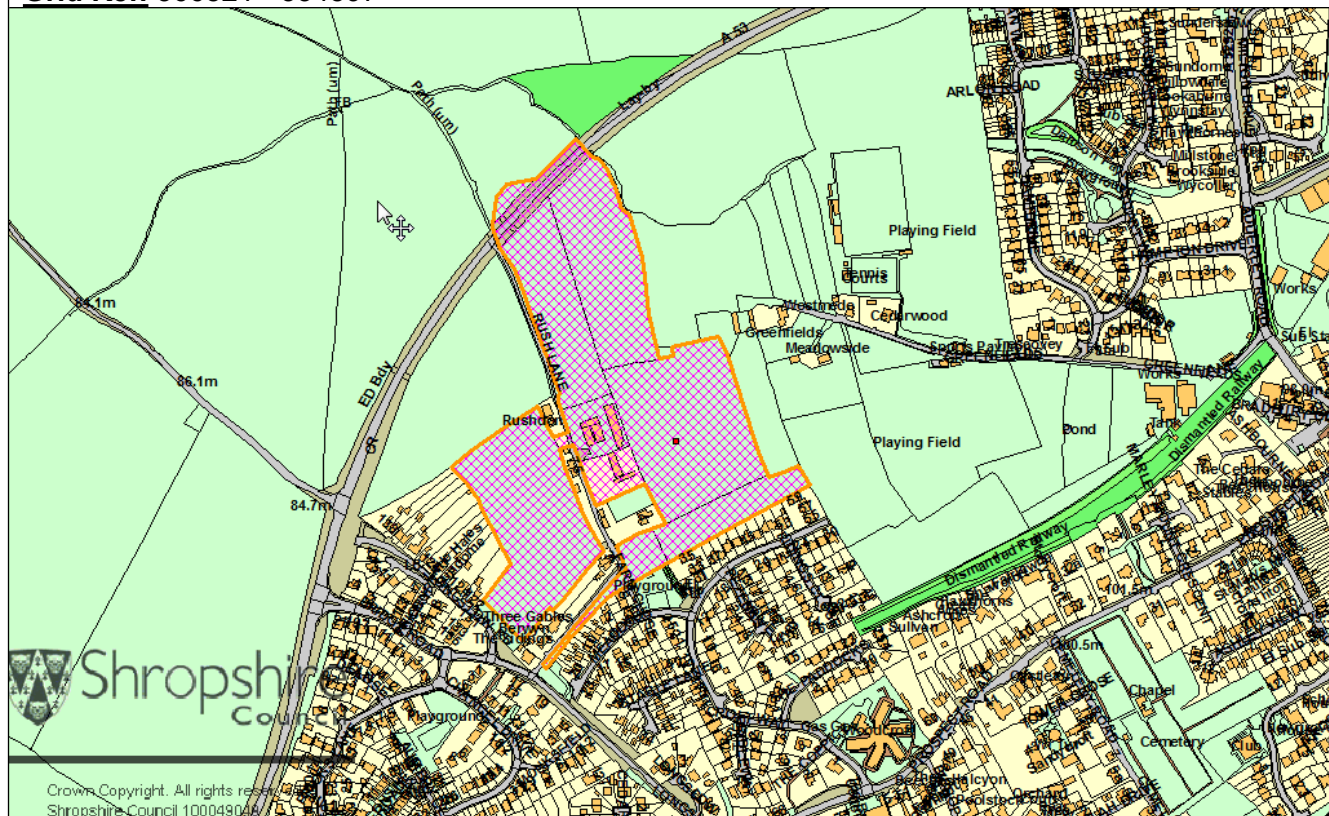
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 16/03082/REM	<b><u>Parish:</u></b> Market Drayton Town
<b><u>Proposal:</u></b> Approval of reserved matters (layout, scale, appearance and landscaping for approval) for residential development of 162 residential units; associated open space and landscaping; discharge of conditions 5 - 7 and 12 pursuant to APP/L3245/A/14/2227146 (allowed on appeal) by the Secretary of State	
<b><u>Site Address:</u></b> Land Adjacent To Rush Lane Market Drayton Shropshire	
<b><u>Applicant:</u></b> David Wilson Homes (Mercia)	
<b><u>Case Officer:</u></b> Karen Townend	<b><u>email:</u></b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 366521 - 334597



**Recommendation: That delegated powers be given to the Area Planning Manager to grant planning permission subject to no further objections from the Council Highway Officer and subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 The current application is for approval of reserved matters of layout, scale appearance and landscaping for the land either side of Rush Lane, Market Drayton. Outline consent was granted (by appeal) in May 2015 subject to conditions and subject to a S106 legal agreement to secure affordable housing.
- 1.2 The application has been submitted with full plans and supporting information to seek to deal with the matters reserved on the outline consent and details a proposal for 162 detached, semi detached and terrace two storey and three storey dwellings. Access to the site was approved at the outline stage, therefore the key matters for consideration now are the layout, scale and appearance and the landscaping of the site. Conditions 5 and 6 of the outline consent requires the submission of details for the provision of vehicular, pedestrian and cycle routes through the site, linking to the eastern and western boundaries to be shown with the reserved matters application. Condition 7 requires the details of an extension to the existing play area on Meadow Close and other open space. Information has been provided with the current application to deal with all of these matters and will be considered in the relevant sections below.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is 7.68 hectares of agricultural land made up of 4 fields currently used for grazing lying south of the A53 with hedgerow and tree boundaries. The land is at a slightly lower level than the A53 and relatively level with only small changes in the level. Rush Lane, a restricted byway, bisects the site and is a narrow lane which is only formally surfaced for part and serves 10 existing properties and one farm off the lane. Existing housing lies to the west and south and fields lie to the east beyond which is the existing Greenfields Lane sports fields and clubs. Sych Brook lies on the north east boundary of the site and is encompassed by an area at risk of flooding (zones 2 and 3) and the bridleway which leads off Greenfields Lane also crosses the site and is currently subject to an application for diversion to re-route the bridleway to allow for the development.
- 2.2 There is existing housing to the south and west and beyond the sport pitches, all south of the A53. The existing housing is a mix of new estate and older properties with all the properties along Rush Lane being older. The nearest properties overlook the site with some along Rush Lane in close proximity to the site. There are also a number of agricultural buildings adjacent to the farm which will be removed as part of the application. The site will be highly visible from the A53 and also from the surrounding housing development.
- 2.3 The site lies on the northern edge of Market Drayton, within the bypass formed by the A53. The town centre is south of the site and approximately 2km away. Market Drayton is identified in both the North Shropshire Local Plan and the Shropshire

Core Strategy as a Market Town and as such a key focus for new development.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The minutes of the Planning Committee Meeting dated 18<sup>th</sup> November 2014 at which the outline planning application reference 14/04701/OUT was considered notes that members resolved to grant the outline planning permission subject to the reserved matters application being considered by the North Planning Committee.

Although this reserved matters application has been submitted against the outline application reference 14/01982/OUT, which was approved by the Planning Inspector at appeal, the Area Planning Manager has advised that, given the members previous resolution, that the current reserved matters application should be considered by the committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

4.1.1 **Town Council** – To support the application on the conditions of the following issues being resolved with Shropshire Council, the developer and residents:

- Emergency vehicular access to be appropriate
- Access to water pipes
- Access to septic tanks
- To look at the siting of the bungalows
- The creation of a play area to be finalised with the Town Council
- The maintenance of hedgerows in the area
- CIL money - confirmation of the appropriate use

The Town Council have also written following a meeting of the Market Drayton Services and Facilities Committee commenting that the Town Councils' existing play area off Croft Way can not be used as the designated open space and play area for the new developments of Rush Lane and Greenfields.

The Council do not consider this play area to be in the best place for this development and future developments in the Greenfields area.

The Council would like to know what is the statutory requirement for open space/ play areas/ recreation areas on new developments, clarification on this issue would be appreciated. As the Council is not convinced every recreation area needs play equipment as an open space may be more beneficial and versatile for peoples well being. Is the use of allotments an option on the open space?

In connection with granting a licence to the developer to have access to and cross Town Council land at Croft Way this is refused.

There has been virtually no consultation with the Town Council about the play area for the new development by either the planners or developers, this is totally unacceptable. The Town Council insists on full consultation on any future developments in particular if there is a wish to use or develop Town Council property or land.

The Town Council have previous local involvement with residents that were not

aware of a management agreement they had entered into about maintaining open space around their homes. We urge better communication with these issues to avoid later problems. The Town Council will not be responsible for any further open space areas in the town.

Further clarification is required with regard to Market Drayton's CIL money. The Town Council is not prepared to equip a play area through its Neighbourhood Fund.

- 4.1.2 **Affordable Housing** – The affordable housing statement shows the correct number, size and tenure of affordable housing dwellings, that will meet some of the identified need in this area at this time. The financial contribution is also correct. If the location/ plot numbers/size or tenure of any of the affordable dwellings change then please re-consult the housing enabling team.
- 4.1.3 **Education** – Shropshire Council Learning and Skills reports that the local primary school currently has no excess capacity. It is therefore essential that the developers of this and any new housing development in this area contribute towards the consequential cost of any additional places/facilities considered necessary at those schools. It is recommended that capacity pressures resulting from this development are addressed by way of financial contributions.
- 4.1.4 **Open Space** – Under Shropshire Councils SAMDev Plan and MD2 policy requirement, adopted 17th December 2015, all development will provide adequate open space, set at a minimum standard of 30sqm per person (equivalent to 3ha per 1,000 population). For residential developments, the number of future occupiers will be based on a standard of one person per bedroom. For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation. This should be provided as a single recreational area, rather than a number of small pockets spread throughout the development site, in order to improve the overall quality and usability of the provision.
- The revised drawing, POS Areas, dated 21/06/16, indicates a slightly different mix of houses and therefore there will be a change to the amount of bedrooms, which would need to be clearly identified so as to enable the minimum calculation for POS provision. The revised drawing shows a total of 17109m<sup>2</sup> open space provided. However, the MD2 policy also states that on large developments such as this, POS should be provided as one usable site. Currently a new area of POS has been identified along Rush Lane away from the main open space provision to the north, which is contrary to the policy requirement. This POS space area should be included as part of the larger POS.
- The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.
- 4.1.5 **Archaeology** – We note Condition 9 of the outline permission ref. 14/01982/OUT. We have no further comments to make with respect to archaeological matters.
- 4.1.6 **Conservation** – The application for the approval of layout, scale, appearance and landscaping has been subject to considerable input from our team in a design and

conservation role, and has reached the point at which we can accept and support the development, which has the potential to enhance the setting of the historic market town at this northern edge.

The detailed materials submitted and viewed are dealt with individually as follows:  
Bricks: Ibstock Ravenhead Calderstone Russett and Throckley Wylam Olde Blend - these are to be applied by house-type within the materials layout plan.

Mortar: Mix to be agreed prior to construction start for each housetype

Render: Off white Monocouche to be applied with a smooth finish

Tiles: As per technical product sheet by email and as shown on layout plan

Rainwater goods, soffits and fascias: As used at the Mounts development, Whitchurch

Windows and doors: Sample not seen.

The latest revisions made to layout and the siting and amount of public open space largely address our earlier comments on the initial scheme design at the meeting held with the agent and applicant, particularly with regard to the creation of an arrival point at its centre. Any further tree planting and creation of local character areas should be encouraged, especially along any publicly visible boundaries. These would serve to enhance the character and visual effect of the scheme as far as possible as it sits prominently in the foreground to the historic town.

The dispersal of materials across the house-types within the site is not something we would be keen to support, as it would be hoped that this could better reflect the scale and relative position of each of the dwellings, creating a better sense of legibility and character. It has been pointed out that this could be achieved relatively simply through the logical and coherent application of materials. It is hoped that this can be addressed within a pre occupation if deemed appropriate by the decision maker.

- 4.1.7 **Public Protection** – Having considered the layout I have no concerns in relation to noise as properties are set back from the main road which borders the site to the north west. In relation to contaminated land a condition has been placed on the appeal decision notice reference APP/L3245/A/14/2227146. The applicant is reminded that this is a pre-commencements condition.

In respect of the impact on existing residential dwellings from the construction of this site I would advise that the applicant provides construction and demolition times of operation of 07:30 - 18:00 Monday to Friday, 08:00 - 13:00 Saturday, no work on Sundays, no work on bank holidays. This information should be submitted as part of a discharge of condition 8 on application APP/L3245/A/14/2227146.

- 4.1.8 **Highways** – There are a number of significant concerns relating to the compliance with the appeal decision (Outline planning consent) and the submitted road layout.

This consultation follows a previous application (reference 14/01982/OUT) submitted in May 2014 which resulted in an Appeal against non-determination. The Planning Inspector's decision to allow the appeal, dated 18 May 2015, considered the submitted application details which included the Highway and Transport implications of the development along with those of the adjacent development sites within the SAMDev allocations. The Appeal decision sets out a number of planning

conditions which comprise the Outline consent, specifically the requirement for pedestrian and cycle routes through the site linking to the eastern and western boundaries (condition 5); vehicular routes from the A53 roundabout to points on the eastern and western boundaries (condition 6) and a Construction Method Statement (condition 8).

The submitted Planning Statement states in paragraph 5.20 on page 14 (paragraphs 5.18 – 5.20 are repeated on pages 13 and 14) that: –“The Distributor Road (including the crossing of Rush Lane) is to be offered for adoption under a Section 38 agreement. All other roads, including shared-surfaces, are to be kept private and managed by the site wide Residents Management Company that will be established to manage the on-site Public Open Space areas...”

The submitted Section 38 Approval Layout (Drawing S38 Rev C) indicates the main spine Road 01 and Road 02 for potential adoption, from the A53 roundabout to two locations on the eastern development site boundary. A potentially adoptable link to the western development site is shown via Road 05 which crosses the Rush Lane restricted by-way. Within the correspondence on file there appear to be claimed discrepancies in terms of the respective site boundary positions such that the connectivity appears to be in doubt. In addition, the legal requirements for the crossing of Rush Lane appear to be under active discussion.

The Section 38 Approval Layout drawing does not, however, include a number of the secondary residential roads, i.e., Roads 03, 04, 06, 07 and the southern section of Road 08.

The following concerns relating to the extent of the proposed road adoption are still considered to be relevant:

1. The Shropshire Council Refuse and Recycling Advice Note for Developers dated September 2015 states that the Refuse Collection Vehicle will only travel along roads which are constructed to adoptable standards. Whilst this advice appears not to require actual Highway adoption, there may be a requirement for all of the roads to be subjected to a technical audit, approval and site supervision during construction to meet this criteria,
2. The refuse collection vehicle route shown on the submitted Refuse Strategy Layout (Drawing No. ME-21-09B) extends to the majority of the proposed site roads regardless of the stated adoption limits,
3. If the “secondary” roads stated are to be vested in a Residents Management Company rather than being offered for adoption as public Highway, the connectivity of the roads and footways to the adjacent residential areas and town centre may not be guaranteed. At present, Roads 03, 06 and 07 are shown to have pedestrian connections to Rush Lane. Road 07 is also indicated as potentially connecting to existing residential areas and roads to the south across the public open space,
4. At present the details of the Residents Management Company appear not to have been provided and the longevity of the arrangements cannot be assumed. In addition, it is considered that the estimated cost of the long-term road maintenance arrangements for new residents should be made available,
5. If the connectivity of the adopted highway network is not secured, this may have implications for extending a bus service into the adjacent site.

It is considered that clarification should be requested in terms of the above issues

to ensure that the road network and connections to both the adjacent development sites and residential areas are available for use by all residents.

#### Proposed Site Layout (Drawing No. ME-21-19C):

The updated drawing has not addressed a number of the issues raised in the previous Highway Advice and these are repeated below along with further layout concerns:

#### Visibility Splays:

Roads leading to Private Driveways (Plots 50-55 and Plots 59-63) - Visibility is currently restricted to approximately 15 metres, mainly by the width of the service margin.

Turning Head/Private Driveway (Plots 107-110) – Visibility is currently restricted by Plots 107 and 109 to a maximum of 15 metres.

Private Driveway (Plots 159-162) – A 2.0m x 43m visibility splay to the north across the POS should be indicated and safeguarded.

Where visibility is restricted it is unlikely that speeds will be low enough with in the road alignment currently proposed for the visibility to be compliant with current design guidance.

The visibility from the junction of Road 03 to the north is restricted to approximately 2.4 metres x 18 metres by Plot 07. The maximum achievable across the plot with the current dwelling position is 25 metres however, this is not considered to be acceptable for a junction with the Primary (spine) Road. A “y-distance” of 43 metres is considered to be the minimum requirement and will require the re-siting of Plot 07 (dwelling and parking) and alterations to the Plot 06 curtilage, preferably with the realignment of the footway along the required visibility splay line.

#### Plot layout issues:

Plot 80 – The second parking space shown conflicts with the service margin and carriageway.

Plots 77, 87, 97, 98 – The layout suggests a car port is to be provided, however, this cannot be confirmed as House Type P332-D5 is not specified within the submitted house type drawings. House Type P332-L5 is submitted but refers to different plots.

#### Services:

A number of roads with development on both sides have reduced (1.0 metre) service margins. It is considered that confirmation should be requested as to the arrangements for public utilities apparatus and street lighting in these locations. In addition, any enclosure to the plot boundaries has the potential to restrict visibility for emerging vehicles where the service margin is below 2 metres.

#### Junction Radii:

A number of the junction and turning head radii on the 4.8m carriageway width roads appear to be below the required 6 metres.

#### General Road Layout:

Page 24 (section 10.01 “Streets for All”) within the submitted untitled/incomplete document makes reference to “people friendly streets and spaces and where the car is not dominant”. The incorporation of at least one footway within all of the non primary roads is not considered to be consistent with the statement in the document

or guidance within Manual for Streets. The reasoning behind block paving the road running east from the Arrival Space (serving Plots 138-148) is not understood and should be clarified in terms of the legibility of the road layout.

A consistent carriageway feature is indicated at the termination of the Arrival Space, some Private Driveways and at changes in carriageway width. This feature appears to be detailed as granite setts within the submitted drawings and is not considered to be suitable for pedestrian use or as crossing points. Appropriate pedestrian bypass routes and crossing points should be consistently applied at these locations. The horizontal alignment for some sections of the non-primary roads are likely to give rise to higher vehicle speeds than the 20mph recommended within Manual for Streets for a residential environment.

The width of Road 08 carriageway to the south of the narrowing to 4.8 metres adjacent to Plot 35 appears to increase to 5.5 metres towards its southern extent, including the private drive.

It is considered that the geometry of the junction of the secondary road ( Road 02 - serving Plots 153 to 157) with the main distributor road should be clarified in terms of the indicated outer-radius, surfacing/construction and the driveway access.

#### Fire Service Access:

Notwithstanding the submitted swept-path analysis, it is noted that the proposed Rush Lane narrowing feature is not compliant with Shropshire Fire & Rescue Service minimum requirements for access. The minimum width between kerbs is stated as 3.7 metres.

#### Refuse Strategy Layout (Drawing No. ME-21-09B):

The above updated drawing has not addressed a number of the issues raised in the previous Highway Advice and these are repeated below:

1. While through connectivity to the adjacent sites is not indicated, the refuse collection vehicle is shown driving into and reversing out of the roads adjacent to Plots 30/31, 129/130 and 153/154. It is considered that these manoeuvres should be reversed in the interim and additional swept-paths provided,
2. No swept-path for the refuse vehicle is indicated for the cul-de-sac/private drives serving Plots 59-63 & 50-55 although the road geometry should enable access to within the recommended distance for collection,
3. There are a number of instances of the refuse vehicle oversailing the footway. These situations should be reviewed and amendments made to the layout to minimise the potential for pedestrians to come into conflict with the refuse collection vehicle or any vehicle of a similar size.

#### Soft Landscape Proposal (Drawing No. 1601-PL1 Rev E):

Subject to the adoption considerations above, there appear to be areas of planting within the service margins, for example the road serving Plots 94-127. Within reduced (1.0 metre) service margins, mature planting and other forms of plot enclosure are likely to restrict visibility for emerging vehicles.

#### Surface Materials Layout (Drawing ME-21-07A):

The above drawing appears to have been updated to Revision B but the drawing reference remains as above. A number of the issues raised in the previous Highway



Advice appear not to have been addressed and are repeated below.

The materials indicated are considered to be indicative at present as the road construction details will need to be the subject of a separate technical approval for potential adoption under Section 38 of the Highways Act 1980 as appropriate. Some initial concerns are, however, noted.

The Arrival Space and block paved road running east, serving Plots 138-148 both appear to have conventional footways alongside the block-paved and verge areas where no suitable kerb upstand is proposed. This situation is likely to give rise to pedestrian safety concerns and encourage parking on the footway. The block paved road is considered to be a hybrid between conventional carriageway/footway construction and a shared-space and is likely to result in uncertainty for road users, particularly pedestrians. The kerb type against the carriageway within the Arrival Space is currently not indicated, however, the kerbing and surface materials will need to accommodate the access crossing of the verge for Plot 138.

Construction phasing:

The Phase 1 development comprises 115 dwellings within the area east of Rush Lane. Phase 2 comprises 47 dwellings to the west of Rush Lane. Consideration should be given as to the safeguards required during the construction of Phase 2 in the event that the Phase 1 primary/spine road is substantially completed and where no alternative construction traffic access is available. The impact of the Phase 2 construction traffic has the potential to cause damage to the completed road construction and delay the road adoption.

- 4.1.9 **Rights of Way** – Further to our previous comments, I have now received further clarity from the agent re. the restricted geometry crossing of Restricted Byway 8/Rush Lane. I understand that bollards will be situated at approx 2.7m apart on each side of the current useable width of RB8, to prevent vehicular traffic turning onto Rush Lane from the proposed estate road, but that the full historic width of 5m will be maintained. In certain circumstances we do authorise limitations within the width of a public right of way, such as bollards or a Kent Carriage Gap, to prevent unlawful use of a route by motor vehicles, and this would appear to be one of those circumstances. I have been assured that the restricted geometry crossing will not impede those persons exercising their lawful public right to use the restricted byway (on foot, horseback, bicycle and non-motorised vehicle i.e. horse and carriage), or indeed those residents of Rush Lane who may use the lane with motor vehicles whilst exercising their private rights of access. I therefore agree that the proposed plan for the crossing of Rush Lane/RB8 is the most pragmatic option.

We are also continuing to progress the application to legally divert Bridleway 9 through the proposed POS. During consultation concerns have been raised about the nature of the proposed crossing points of the estate road and the A53 and what measures will be put in place at those points to ensure the safety of equestrian users crossing the roads. I have requested further information and more detailed plans of those crossing points from the applicant, and believe that it would also be of benefit to make them available as part of the planning application.

Finally, it is noted that there are a number of other paths/pedestrian links proposed throughout the development a second path through the POS leading off the

diverted bridleway, a link to RB8/Rush Lane between Plot 13 and additional POS, another link to RB8/Rush Lane adjacent to Plot 83 and a pedestrian link through POS and onto Rush Lane/RB8 at the south of the application site. At present it is not clear what legal status these routes will have or who will be responsible for their maintenance. Does the developer intend for these additional routes to be 1) adopted footways by Highways, 2) private footways for residents or 3) formally dedicated as public footpaths? If the latter, they should contact this team for more information on how to dedicate a new public right of way, which is a quite straightforward procedure.

- 4.1.10 **Waste Management** – Provided standing advice information regarding waste collection.
- 4.1.11 **Ecology** – Providing the ecological conditions for planning application reference 14/04701/OUT are carried forward, and details to cover these planning conditions will be submitted in a discharge of condition application, I have no additional comments to make on this proposed REM application.
- 4.1.12 **Trees** – SC adopted SAMDev policy MD2 (Sustainable Design) requires new development to provide 30m<sup>2</sup> open space per person (at a standard of one person per bed space). This equates to sufficient space to plant one large, long-lived tree (such as oak, lime or sweet chestnut for example) for every 24 bed spaces. Large trees such as these should be planted on communal space rather than enclosed within private gardens.

I support the revisions shown in plan 1601-PL1 REV F showing the locations of 9 larger growing trees “positioned in space for their development” throughout the proposed development.

I would like to see the species of these larger trees changed to reflect the trees planted in the large POS such as Tilia Greenspire or Quercus fastiagata thus achieving the aim of canopy cover described above in MD2.

The Arboricultural Method Statement and Tree Protection Plan has been submitted and is satisfactory with regard to protection of existing trees on site.

- 4.1.13 **Drainage** – Drainage details, plan and calculations should be submitted for approval prior to the approval of the application.

## 4.2 Public Comments

- 4.2.1 14 letters have been received raising the following concerns. The comments relate to the original submitted plans and the amended plans.

- No masterplan submitted
- Insufficient infrastructure (medical services, schools etc)
- No bungalows on proposed scheme
- No open space on western parcel and confusion over use of open space adjacent to Rush Lane
- Extension of existing play area is too large and will attract undesirable use
- No allotments
- Not acceptable to reduce width of Rush Lane

- Questioning legality of crossing Rush Lane
- Who will maintain Rush Lane?
- No turning head/ circle for Rush Lane, residents currently use a field gate and a replacement provision needs to be made
- Pedestrian use of Rush Lane should not be encouraged as it is not safe (no lighting, poor surface, no lighting)
- Additional signage is required to restrict use of Rush Lane
- No construction traffic should be permitted to use Rush Lane
- Will result in increased traffic on Hampton Drive and Adderley Road once connected through adjacent development site
- Access for emergency vehicles not available
- Overlooking, loss of light, noise, too many 3 storey dwellings and in wrong positions, impact on existing bungalows
- Loss of view and openness
- Impact on wildlife
- Potential impact on existing trees and loss of hedges to provide pedestrian access to Rush Lane
- Need to be able to maintain hedges
- Will impact on existing rights for access to a well, mains water supply, septic tanks and soakaways – new buildings should be more than 5m away
- Increased pressure on drainage and foul waste disposal and risk of increased flooding
- Removal of asbestos

(The full content of objections received are available to view on line).

- 4.2.2 A petition of 31 signatures has also been received. The petition is submitted with a fully detailed objection. The comments raised are included in the objections above.
- 4.2.3 Objection letters have also been received from HOW Planning and Shoosmiths LLP on behalf of the neighbouring land owner/ developer. The objections relate to the need to provide vehicular access up to the boundaries with the land east and west of the application site (on accordance with the SAMDev allocation and conditions of the outline consent). The objections acknowledge that this will be done through the S38 highways agreement but also consider that the plans should show the road up to the boundaries. The objection also includes concerns about the width of some of the estate roads where it adjoins the application site and also the ability for the surface water drainage system proposed to be extended into the adjacent land.
- 4.2.4 Comment has also been received from The Ramblers Association endorsing the comments of Shropshire's Right-of-Way Department concerning the narrowing of Restricted Byway 8. A Restricted Byway should be able to accommodate a horse, or horses, and carriage and a width of 2.7 metres makes it very difficult to pass safely.

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Layout, scale and design
- Impact on residential amenity
- Highways, access and parking

- Impact on trees
- Ecology
- Drainage

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & principle of development**

6.1.1 The granting of the outline planning consent and the allocation of the site in the SAMDev has accepted the principle of the development proposed. The site is located within the bypass of Market Drayton, adjacent to existing built development. The site is part of the wider allocation in the SAMDev and as such the principal of the proposal is wholly compliant with the SAMDev.

6.1.2 Objectors have questioned why there has not been a masterplan submitted and approved as required by the policy allocation and the outline consent granted by the Council. As noted under section 3 above the current application for approval of reserved matters has been submitted following the approval of outline granted by the Planning Inspector. The Inspector altered the conditions from those on the Council's decision notice and deleted the requirement to submit a masterplan. As such there is no requirement for the current application to provide a masterplan. Providing the access is shown up to the boundaries of the site and the open space is suitably located to be extended by the adjacent development then the scheme will allow for the coordinated development of the whole of the SAMDev allocation which was the reason the masterplan was being requested. These matters will be considered in greater detail later in the report.

6.1.3 With regard to affordable housing the current reserved matters application includes 16 affordable dwellings split across both parts of the current application site at a tenure mix of 70% rented and 30% shared ownership. The Council Affordable Housing Officer has confirmed the proposal is acceptable. The submitted affordable housing statement advises that the developer has discussed the development with affordable housing providers but had not yet set an agreed partner.

6.1.4 Policy CS9 of the Shropshire Core Strategy requires all new development to help to deliver sustainable communities by making a contribution to infrastructure. The details of this contribution are provided within the Developer Contributions supplementary planning document which sets out the methods for providing for infrastructure both on site and off site. The development of the site will be liable for Community Infrastructure Levy which will be based on footprint of the development and the current charging schedule. This financial contribution towards infrastructure is a material consideration in favour of the development and will assist towards alleviating infrastructure issues including assisting towards school places as requested by the Learning and Skills Team and the issues raised by the local objectors such as capacity at the doctors surgery.

### **6.2 Layout, scale and design**

6.2.1 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 and ensure sustainable design and construction principles are

incorporated within the new development.

- 6.2.2 Layout, scale and design are all submitted at this stage of the application process. All the details were submitted in full but there have also been amendments during the consideration of the application which have sought to overcome some of the comments and objections from the local residents, local member and Town Council.
- 6.2.3 Layout. From the access roundabout the estate road crosses between an area of public open space which will also provide the diversion route for the existing public right of way, the surface water drainage attenuation pond and foul drainage pumping station for the development. This area of land is the identified flood zone and therefore cannot be developed. However, this open space area also sets the housing back from the A53 which will be both a visual and amenity buffer from the main road. Officers consider that the layout of this part of the site is of a high quality and should be supported as a suitable principle to set for housing along the edge of the A53.
- 6.2.4 Within the site the housing is thereafter set along estate roads and lower order roads with semi-detached, detached and a small number of terrace houses mixed across the site. The highest density is in the southeast corner of the application site, near to the existing housing on Croft Way where the housing is a group of semi detached and terrace houses. Other than that group the remainder of the development is of a similar mix and density across the site and officers consider that the proposed development is also similar in mix and density to the houses on Croft Way and the other modern housing estates in the area surrounding the site. Officers acknowledge that the existing housing on Rush Lane and Longslow Road is older and different in size and layout, however older properties are more ad-hoc in layout and individual in design. The presence of older housing in the area does not mean that the proposal for a modern estate housing is not appropriate. Housebuilders propose housing layouts and designs that they can sell, the house types proposed do pick up on some of the features found in older housing in Market Drayton whilst also being built to modern living standards and with efficient use of land and materials.
- 6.2.5 The housing on the site backs onto Croft Way and the agricultural land to the east and west which is to be developed as part of the wider SAMDev allocation. Where the site adjoins Rush Lane the housing will face over the existing lane but not provide vehicular connection to Rush Lane. There are two groups of houses facing Rush Lane both served by private driveways. Rush Lane is enclosed on this side with existing established hedges and although some of these will be removed to create the access road across Rush Lane, and pedestrian linkages to Rush Lane, the majority will be kept. As such it is officer's opinion that the setting back of the houses immediately adjacent to Rush Lane will not adversely affect the character of Rush Lane. The lane will, in most parts, retain its exiting feel of a narrow, unadopted bridleway with older houses along the west. The new housing will be set back from Rush Lane and will only be partially visible from Rush Lane over the hedges. However, it also has to be accepted that as the housing allocation in the SAMDev the land was going to be developed, although the residents of Rush Lane would prefer the housing either side of their properties to be set back with an ecological buffer in between officers consider that this would not be efficient use of the land. There was no requirement in the allocation to provide a buffer and the

residents of the proposed development site would be liable for the ongoing cost of maintaining any such buffer. Officers consider that providing the layout does not significantly adversely affect the amenities of existing residents and is in keeping with the wider area that it is not unreasonable to develop up to the boundaries of the site as is being proposed.

- 6.2.6 In the south west corner of the site the application site does not immediately join Longslow Road, there is a strip of land in separate ownership. The site is therefore set back from this road. The proposed layout shows four houses, two face towards the new estate road and two face towards Longslow Road. The owner of the strip of land has raised concerns that this would sterilise their land from being built on. However the existing houses on Longslow Road, either side of the strip of land, have habitable room windows facing over the strip of land and as such only the very middle section of the land would be developable. The proposed development would not adversely affect the amenities of the existing houses, as considered later in the report, and will provide development which provides interest and a frontage to Prospect Road. The strip of land is owned by the same land owner as other parts of the wider SAMDev allocation and as such could be put forward as part of the open space for the development of that land rather than needing to be developed.
- 6.2.7 In addition to the open space between the A53 and the proposed houses and the land between Prospect Road and the proposed houses there are three other areas of open space. There are two separate sections proposed adjacent to Rush Lane which will provide informal open space and one area adjacent to the existing play area on Croft Way which will enable the existing play area to be extended, if required. The Town Council objection to extending the existing play area off Meadow Close is unfortunate, however it will be up to the Town Council to determine whether to allow a link from the existing play area to the proposed open space or not as they own and manage the existing play area. The applicant has proposed the open space in this location in accordance with condition 7 imposed by the Planning Inspector on the outline consent which expressly required part of the open space to allow for the existing play area to be extended. Furthermore the applicant has acknowledged that to extend the existing play area will require the approval of the Town Council.
- 6.2.8 Shropshire Council current policy regarding open space and play areas is to provide fewer, larger, spaces rather than pepper potting open space. The proposal at the outline stage to extend the existing play area was to comply with this open space policy. The extension of the existing play area would make a play area with more space and possibly more equipment. However, if they Town Council retain their objection the proposed open space will be provided on the opposite side of the existing fence on the boundary of the site. The Town Council have also questioned whether the open space could be used for allotments, this would be a matter for the Town Council to consider after the planning consideration. The provision of allotments is for the Town Council and could be something they provide on any of the open space if they are willing to take on the management of the space. Alternatively the provision of allotments can be through an allotment management company. However, there is no policy requirement for a developer to provide allotments and no evidence of a significant need for allotments. The Council Open Space Officer has confirmed that the space does not have to be linked to the existing play area but could be used for other forms of open space, even allotments

if this is what is required by the local community and Town Council.

- 6.2.9 The Council Open Space Officer has raised concern that there are several small areas of open space proposed and also that there is a shortfall in open space below the requirement of SAMDev policy MD2. The requirement is for 30sqm per bed space and as such the development of 581 bed spaces would require 17,430sqm. The proposal provides 17,109sqm and as such is short by 321sqm. In response to this issue the agent has commented that the site is intended to be connected to the existing play area and is also well connected to the countryside beyond via existing public rights of way. They have also advised that it would not be possible to provide any more open space within the site and that the provision of 4 bungalows in the amended scheme has taken more land. The requirement is 30sqm per bed, the proposal provides 29.44sqm per bed and as such the case officer considers this is only a small shortfall below the required amount and it would be difficult to defend a refusal on the basis of this level of shortfall below the policy requirement.
- 6.2.10 It is a matter of putting the shortfall of open space into the overall planning balance. The shortfall is a negative matter weighing against the application, however it is not a significant shortfall and there are greater benefits which will result from the development of this site for housing in the overall planning balance. As noted in approving the outline consent and allocating the site this land will boost housing supply in a sustainable location and also provide economic, social and environmental benefits.
- 6.2.11 Furthermore officers consider that the layout as amended should be supported in that it provides good views of the development from the wider area, to insist on more open space would require a redesign of the layout which may adversely affect the design of the layout. As such officers consider that the slight shortfall in open space is, on balance, acceptable. The layout provides a good quality design of housing estate served by appropriate estate roads and parking levels and that it would be difficult to defend a refusal on the grounds of layout and open space shortfall.
- 6.2.12 Scale. As noted above the application is for 162 dwellings. Of the 162 houses there are 15 three storey houses on the parcel to the east of Rush Lane and 8 three storey houses on the parcel to the west of Rush Lane. The amended scheme has reduced the number of three storey houses originally proposed on the site and added 4 bungalows, 2 detached and a pair of semi detached, in the western parcel of the site. Therefore of the 162 houses the majority, 135 houses, are two storey.
- 6.2.13 Officers accept that there are existing single storey dwellings in the immediate area, especially along Rush Lane, however beyond Rush Lane the dominant scale across Market Drayton is two storey housing. Objectors have suggested that the development should provide bungalows next to the existing bungalows however there is no policy requirement for bungalows to be built next to bungalows. The issue is whether the proposed development is appropriate in terms of the character of the site and the wider area and also whether the proposed development adversely affects the amenities of the neighbouring dwellings, whether these are single storey or not. This latter issue is considered later in the report.
- 6.2.14 The three storey properties are not full three storey with the third floor provided by

rooms in the roofs served by dormer windows just below half way on the roof slope. The three storey properties are 9.3m high to ridge whereas the two storey properties are 8.9m high to ridge. Accordingly although the three storey houses will have a third floor they are not significantly taller than the majority of the housing on the proposed site, being only half a metre higher, and will not be significantly taller than the existing modern housing near the site. Concerns have been raised about the scale of the development and also noted that the drainage scheme for the site notes that the ground levels will need to be raised to deal with surface water.

- 6.2.15 It is reasonable to assume that there will need to be some raising of the ground level but it is the extent of the raising which is the key. It is not unusual on housing developments to see the ground raised above the existing land as this is required to deal with the surface water drainage. The agent has provided information on the ground level raising. The information advises that there is a need to raise levels generally in the western element (Phase 2 land) to enable surface water flows generated by the proposed development to outfall to the Sych Brook (adjacent to the north eastern corner of the site) by gravity. The recorded ground conditions present on-site are not conducive to the use of an infiltration based surface water drainage system, such as soakaways, while a connection to an existing publically maintained surface water sewer is not achievable due to the presence of 3<sup>rd</sup> party land.
- 6.2.16 In detail, of the 47 units within the western parcel 24 (51%) will be raised up to 0.50m above existing ground level, 15 will be raised between 0.51m & 1.00m above existing ground level and 8 will be raised between 1.01m and 1.50m above existing ground level. Plots 31-36 will be raised by over 1m but these plots back onto the existing properties on Longslow Road which are over 60m away from the proposed houses and as such the ground raising will not be significant on these existing properties. Plot 34 sees the highest individual raising of existing ground levels (1.45m) but is a single storey bungalow type, therefore further negating the impact. Plots 28 and 66 are also raised over 1m (1.35m and 1.2m respectively). Both of these plots are within the development, surrounded by proposed plots, not adjacent to the edge of the site. As such the increase in ground level of these two plots would not affect any existing dwelling.
- 6.2.17 The plots to be raised between 0.51m and 1m are plots 25, 26, 27, 29, 30, 37, 38, 39, 40, 41, 60, 62, 64, 65, 67. Of these only plot 62 is adjacent to the edge of the site and an existing dwelling, number 5 Rush Lane. Plot 62 is to be raised by 0.55m and therefore not significantly raised above the existing ground level or significantly above what would be considered as standard ground level raising for development. This increase in ground level is not considered by officers to alter the impact on the existing property at 5 Rush Lane given the distance between the proposed house and the existing house and the orientation of the proposed house.
- 6.2.18 Furthermore the agent has advised that the proposal will maintain existing ground levels all the way around the site boundary where it is shared with existing properties in order to retain the existing hedgerows. This is achieved by raising the ground level under the proposed houses rather than across the whole plot. The levels of the ground will drop across the plot back to the original ground level on the site boundary. As such, although the raising of some of the properties by more than 1m is significant ground raising officers consider that none of the ground



raising will result in adverse impacts on existing neighbouring properties or on the character of the site when viewed from public vantage points such as the bypass, Rush Lane and Longslow Road.

- 6.2.19 **Design.** As noted above the house designs pick up on features traditional to Market Drayton whilst also being modern in design and living standards. The designs include features such as stone cills, bay windows, eaves dentiling and brick headers. The designs are standard house types for David Wilson Homes but are considered by officers to be appropriate designs for Market Drayton.
- 6.2.20 Officers have been in negotiation with the agent to ensure that the materials proposed on the site relate well to the surrounding built development and the proposal is for two blended red brick types with occasional rendered houses using a smooth render. On the roofs the materials are slate grey and cottage red tiles and the revised materials schedule groups the materials together in small clusters across the site. This will provide different areas and variety across the site but with the materials along the spine road providing an element of consistency. This has been the result of recommendations from the Council Conservation Officer and is considered to improve the appearance of the proposed scheme whilst not detracting from the overall character of Market Drayton.
- 6.2.21 It is therefore officers opinion that the layout and scale of the houses as amended is appropriate to the context of the site in Market Drayton and that the designs of the dwellings are sympathetic to the existing housing in Market Drayton whilst also acknowledging that they are modern housing rather than attempting to replicate older, traditional housing. Accordingly it is officers opinion that the scheme as amended is acceptable and complies with the adopted policies in the Core Strategy and SAMDev in relation to layout, scale and design.

### 6.3 **Impact on residential amenity**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The development of the site should not result in unacceptable loss of privacy or light to existing dwellings or to the future residents of the site. It is not a matter of protecting views of existing properties or protecting properties from all overlooking or the feeling of overlooking. It is a subjective matter whether an impact is unacceptable or not. However, for ease officers regularly seek to ensure that there is at least 5m undeveloped around existing windows to ensure that the impact on right to light is not unacceptable and seek to ensure that there is around 21m between direct facing windows.
- 6.3.2 Objectors have raised concern about overlooking, loss of light, noise, impact of three storey properties, loss of view and the impact on their water supplies, foul drainage systems and ability to maintain their hedges.
- 6.3.3 The matters of existing residents access to water and foul drainage are civil matters between the residents and David Wilson Homes as the developer of the site. They are not matters which the Council can get involved in. The plan and information submitted by the residents shows that there are water pipes crossing the application site, a connection to mains water will need to be provided by the developer and the agent has suggested that they will be able to connect the

existing houses to the system provided to the new houses. With regard to foul drainage none of the existing residents have their systems actually within the site. The issue is the ability of the collection vehicle to empty existing systems. For some houses this is currently done by driving the collection vehicle into the field, however this is done with the agreement of the land owner and this agreement could be retracted at any time. It is currently done for ease of access rather than as a necessity, neither the Council nor the developer are required by any policy or legislation to provide this into the future and it will be for the collecting company and house owners to establish an alternative means of emptying the tanks. As for hedge cutting it will become the responsibility of the owner of the land either side of the hedge to maintain the hedge. Residents on Rush Lane will maintain their side and the new residents of the housing estate will maintain their side.

- 6.3.4 The matters which are considered as material planning issues are overlooking, loss of light and noise. The loss of a view is not a material planning consideration, residential properties are not entitled to a view. Providing a development is not oppressive or out of context with the surrounding area and providing it does not impact on an important public view the loss of a private view is not a matter which can be considered. As noted above the scale and layout of the scheme is considered by officers to be acceptable and would not be oppressive or out of context with the area. The development of this site will not alter any important public view and as such is acceptable in this regard. In relation to noise, except during construction, the noise will be similar to any other residential area and would not result in statutory noise nuisance. Condition 8 on the outline consent requires the applicant to propose hours of construction and deliveries and it will be for officers to consider whether the applicant's proposals are reasonable to protect the amenities of the neighbouring residents in terms of construction noise.
- 6.3.5 As noted previously the site is adjacent to existing housing to the south and east and is subdivided by Rush Lane which has existing housing situated along both sides. It is these existing houses that should be considered when assessing the impact on the amenities of existing properties. The houses on Longslow Road, except for number 122, are over 50 metres from the nearest house on the application site and therefore will not be adversely affected. 122 Longslow Road is adjacent to the strip of land in separate ownership, this house has windows in the rear facing towards the application site and also in the side facing over the strip of land. The nearest proposed dwelling is plot 43 which will be set with its front elevation level with the back of the existing house, there are no habitable room windows proposed in the side elevation of plot 43, and as such it is considered that the position of this house will not result in unacceptable loss of amenity to 122 Longslow Road. The Sidings is similarly related to plot 45 and as such will also not be adversely affected.
- 6.3.6 35 and 53 Croft Way are single storey houses positioned side on to the proposed housing estate. Plot 106 is approximately 15 metres from the side elevation of 35 Croft Way and plot 117 is just over 5m from 53 Croft Way. However, none of the proposed dwellings have windows in the side elevation facing towards this existing dwelling. The distance is less than 21 meters but as there are no windows in the elevations facing these existing dwellings it is reasonable to accept lesser distances. The lack of windows will ensure that there isn't any overlooking and the distance will ensure that loss of light is not unacceptable.

- 6.3.7 The main impact is on the existing houses on Rush Lane. Number 4 Rush Lane is the only house on the eastern side of the road and is enclosed on three sides by the development. Plot 105 faces towards the rear section of number 4 but is over 26 metres apart, plots 80 to 82 are on the opposite side of number 4 and well over 40 metres apart. Plots 104 and 88 are behind number 4 but to be built at a right angle to the existing dwelling and over 20 metres away. This is just under the 21m preferred distance but the angles will reduce the potential for overlooking and the distance will ensure no loss of light.
- 6.3.8 Rushdon is a detached bungalow and is the furthest property along Rush Lane, this dwelling will be the only property on the opposite side of the proposed vehicular crossing point over Rush Lane, the impact of which is considered under the next section. In terms of impact on privacy and light to Rushdon the scheme proposes a three storey property to the rear (plot 24) with the proposed house sited adjacent to the crossing point and no windows in the rear elevation facing towards Rushdon. As such the proposed dwelling is not directly behind the existing house and is off-set with the garage to the proposed house being behind Rushdon. As such, although the proposed dwelling on plot 24 will be close to the curtilage of Rushdon it will not cause overlooking or loss of light that could be considered as unacceptably harmful. On the opposite side of Rush Lane the scheme proposes a group of 4 detached houses served off a private drive, one of these, plot 23, is directly opposite Rushdon with the others being off set either side of plot 23. The four houses are all two storey with windows in the front elevations facing towards the existing house. The separation distance is approximately 19m with the private drive, Rush Lane and existing hedge in between which is proposed to be retained at 2m high.
- 6.3.9 Numbers 7 and 5 Rush Lane are the next properties when heading back towards Longslow Road. These are two storey dwellings which sit directly on the edge of Rush Lane. Within the application site the scheme proposes a group of five houses off a private drive. Only plots 70 and 85 sit directly opposite these two properties and these are shown as being approximately 16m away from the existing dwellings. As with plot 23 and Rushdon this distance is less than 21m and this is noted by officers. The case officer has raised this with the agent who has commented that the proposed housing has been moved further away than the original submission and that the proposal includes retaining the existing hedge and planting a new hedge.
- 6.3.10 The distance may therefore result in some level of overlooking. However, officers suggest that the level of overlooking could not be argued to be severe. The properties are facing front elevation to front elevation with landscaping and roads in between. The existing housing is already overlooked to an extent by being located on Rush Lane and therefore privacy is already affected by users of the byway.
- 6.3.11 The issue is therefore a balance of planning considerations. The distance between existing and proposed housing is less than what is considered to be good practice, however there is no set distance in Shropshire Council policy or any Shropshire Council published guidance. The distance is not a set standard against which a reduced distance could be refused. On the opposite side of the balance is the layout and design of the proposed scheme. Officers consider that it would not be

practical to pull the proposed houses further from the existing housing and the only alternative would be to redesign the scheme to have the houses closest to Rushdon, 5 and 7 Rush Lane backing onto or side on to the Rush Lane. It is officer's opinion that the design of the site, in terms of the layout of houses off private drives, facing towards Rush Lane and providing a separation gap between Rush Lane and the proposed houses is beneficial and should be given positive weight. The design of the site should be balanced against the harm of overlooking and it is officer's opinion that the scheme as amended provides a good design solution with as much distance between the proposed houses and existing houses as is achievable.

- 6.3.12 1 and 3 Rush Lane are two storey semi-detached houses set where Rush Lane turns a corner. The houses are small but with long domestic gardens at the rear. 3 Rush Lane has windows in the side elevation facing towards the site and a balcony on the rear of house. Plots 52 and 53 are the closest proposed dwellings to 3 Rush Lane. Both of these plots are positioned with blank gable ends facing towards 3 Rush Lane and its garden. There are windows in the front elevation of plot 52 but these are considered by officers to be at an oblique angle which face into the development site. There may be some overlooking from these windows and also from the windows in the rear of plot 52 over the garden of 3 Rush Lane. However, as noted already these gardens are very long and there will be a large proportion of the garden which is not overlooked by any of the dwellings. As such officers consider that the existing dwellings will retain sufficient private amenity space which is not overlooked and as such the loss of amenity resulting from the proposed dwellings overlooking the ends of the gardens could not be considered unacceptable.
- 6.3.13 Three Gables and Berywn are both single storey dwellings at the end of Rush Lane close to where it meets Longslow Road. Plot 47 is the closest to Three Gables and is positioned gable end on to the existing house and just over 20m apart. As such officers consider that although Three Gables is a bungalow and the proposed dwelling is a two storey house the separation distance and layout will ensure that the amenities of the existing property are protected. Plot 45 is adjacent to Berwyn and designed with a blank gable facing towards the existing dwelling and with over 16m separation. As with Three Gables officers consider that the separation distance will mean that the proposed development does not result in unacceptable loss of amenity.
- 6.3.14 The residents of Rush Lane have also noted houses on the application site beyond those noted above. Officers have assessed the impact from the proposed properties which are closest and therefore most likely to have an adverse impact. In most instances the separation distance and layout will ensure that the loss of amenity is not unacceptable and would not be justifiable reason for refusal. Houses on the proposed site which are further away than the ones identified above would have even less of an impact.
- 6.3.15 Officers do accept that there is the potential for loss of amenity to existing houses, as noted in most cases the impact would not be of an extent which would warrant refusal and it is considered that the impact on Rushdon, 5 and 7 Rush Lane is as limited as the applicant can make it without adversely affecting the layout and design. As such it is officer's opinion that, on balance, the impact on amenity is not

unacceptable and should also be weighed in the balance against the layout and design.

#### 6.4 **Highways, access, parking and rights of way**

6.4.1 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 can be reduced.

6.4.2 The main vehicular access to the site was approved as part of the outline planning application. The access is served by a new roundabout off the A53. Separate highway consent has also been granted for the detail of the roundabout and its construction has been commenced. The roundabout provides a single access into the site which will also, in the future, serve the land either side of the current application site, the remainder of the SAMDev allocation, as required by the policy guidance and also the conditions on the outline consent. The access road is a 6.1m wide estate road which for the first 84m is tree lined with the footpaths running across grassed open space rather than along the road. The footpaths will lead to the existing rights of way rather than along the road to the roundabout. The point and means of access was previously approved, the current application deals with the internal layout of the housing estate, the crossing of Rush Lane and the accesses to the land beyond the application site.

6.4.3 Within the site the 6.1m wide road continues through the site to the eastern boundary and will therefore be able to provide a route for a bus service, which is to be part funded by the developers of this site and the adjacent site as a requirement of the S106 agreement on the outline consent. This provides a spine road through the site. Off this spine road are lower order roads. There are two 5.5m wide roads which also connect to the east and west of the application site and three 4.8m wide roads and private drives leading off these roads.

6.4.4 Objections have been received on behalf of the developers of the adjacent land. These objections raise concern that the roads are not shown as being built up to the boundaries of the site and as such the developer will retain a potential ransom strip between this site and the adjacent land. The objectors claim this would be contrary to the requirements of the outline consent and the allocation in the SAMDev. The agent has responded to these concerns, which were also raised by the Council Highway Officer, and advised that the three points where the proposed estate roads will connect to the adjacent land will be developed as close to the site boundary as possible. The agent has commented that it would not be possible to just stop the road unfinished at the site boundary as the timing onward development of the adjacent site is not yet known and the road will need to be finished to allow the houses to be occupied. The agent has confirmed that the roads will be adopted by the Council and that the adoption will be completely to the boundary of the site. The agent has also confirmed that the developer has sufficient control over the land not within their ownership to comply with the condition. The latest set of plans submitted by the applicant also show the roads built up to the boundary and as such is considered to comply with the requirements of both the condition on the

outline consent and also the SAMDev allocation. It is not a matter for planning to prevent ransom strips from being held and the cost of the ransom is also outside of the remit of planning and will need to be a matter for negotiation between the developers. The condition on the outline consent did not require the road to be adopted up to the boundary of the site just to show that it can connect to the boundary of the site to enable the future development of the remainder of the SAMDev land. As already noted the latest plan is considered to comply with this requirement. The roads are shown to be adopted up to the boundary of the application site, notwithstanding who owns the land.

- 6.4.5 The Council Highway Officer has also raised some technical issues with the layout of the development as submitted and confirmed that the amended plans have not resolved the concerns raised. These matters were raised with the applicant and further revised plan were received and a written response to the Highway Officer's comments was also provided. The amendments sought are technical issues and do not alter the issues raised by local residents and the Town Council and as such officers consider that the amendments sought would not require a wider consultation.
- 6.4.6 The latest information received off the agent confirms that all of the roads will be built to adoptable standard, the spine road and roads connecting to the adjacent development land will be put forward for adoption by the Council, the other roads will be built to adoptable standard but not adopted. The amended plans show the service strips widened to 2m where this is required for visibility, the visibility from roads and driveways improved, the radii of junctions set to 6m minimum and the arrival square junction finished in tarmac rather than block paving all as requested by the Highway Officer. The additional information has been sent to the Council Highway Officer for further comment and it is hoped that a response will be available before the committee meeting.
- 6.4.7 The other key local issue relating to highways is the crossing of the proposed estate road over Rush Lane. This is a highly contentious issue locally. Objectors have raised concerns whether the applicant has a legal right to create a highway crossing over Rush Lane and this is a matter which the applicant will have to satisfy themselves that they have a right to do. The proposal is to provide an estate road which will be adopted by the Council. The adopted highway will cross Rush Lane and therefore change part of the existing Bridleway, however, either side of the highway will remain bridleway exactly as it is at present. The applicant considers that the proposal to provide an adoptable highway crossing Rush Lane is a legal means of achieving the development proposed.
- 6.4.8 As with ransom strips it is not for the planning application, officers or members to determine whether there is a legal right to cross Rush Lane or whether the applicant's proposal would legally achieve this. The matter to be considered is whether the design and details of the crossing of Rush Lane is appropriate and acceptable. Objections have been raised about reducing the width of the bridleway, the potential of traffic including construction traffic using the bridleway, the increase in pedestrians using Rush Lane and that there is no turning head/ circle for Rush Lane. The proposed detail is intended to prevent vehicles from being able to turn from the new housing estate into Rush Lane and therefore reducing the risk of traffic which does not have a right to use Rush Lane from using it.

- 6.4.9 The Council Rights of Way Officer has confirmed that the proposed design of the crossing of Rush Lane with the new estate road is the most pragmatic option to enable access across Rush Lane. The bollards will be situated at approximately 2.7m apart on each side of the current useable width of Rush Lane. This will prevent vehicular traffic turning onto Rush Lane from the proposed estate road, but will not alter the full historic width of 5m of Rush Lane and therefore will not prevent the existing residents of Rush Lane using the lane with a vehicle or the general public using the lane on foot, bicycle or horse (including with cart). The proposed design will allow the continuation of the existing rights whilst also enabling the development of the SAMDev housing allocation. The clarification of the technical means of crossing Rush Lane has proven that the width of the bridleway is not to be reduced and can continue to be used as it currently is but whilst also discouraging use by traffic from the housing estate.
- 6.4.10 As a bridleway the general public have the right to use Rush Lane on foot, bicycle or horse. It does not permit the general public to use Rush Lane with a vehicle but equally the Council can not restrict or extinguish the right of the general public to use Rush Lane lawfully. The development of the land either side of Rush Lane may increase pedestrian use of the bridleway; however this was always a risk in allocating the site for housing. The Town Council's refusal of linking the open space on the application site to the existing open space will reduce the options for pedestrians, however, the owner of the land off Longslow Road may in the future provide a pedestrian link across his parcel of land as part of the development of the remainder of the SAMDev land. Pedestrian connectivity is available using Rush Lane, other access points would be beneficial but are not essential to make the development acceptable.
- 6.4.11 The applicant has also confirmed that there is no intention to use Rush Lane for construction traffic. This is a matter which would need to be monitored and any misuse reported to the Council and the developer. The developer will inform construction traffic of the location of the new roundabout and this should reduce the risk of vehicles attempting to use Rush Lane. In addition it is noted that a sign has been placed at the end of Rush Lane advising of no access to construction traffic.
- 6.4.12 Within the development each of the proposed dwellings is shown with sufficient space to park two vehicles, either within a garage and on a drive or just on a drive. Subject to the amendments sought by the Council Highway Officer, this would allow for sufficient off-road parking for the whole of the development though some on-street parking is likely it is not considered that this development will be dominated by on-street parking. Each property will have sufficient space for waste storage and the case officer has checked the distance of the private drives to ensure that the development complies with the Council standards. Two of the private drives are over 25m long (the maximum distance a resident should be required to move their bin) but with adding the 15m the waste collection staff will move the bin all of the properties should be capable of being serviced by waste collection facilities.
- 6.4.13 It is therefore considered that, subject to the amendments sought by the Council Highway Officer, that the layout of the development can be made acceptable in highway terms and although residents and the Parish Council have raised concerns about the level of traffic this was a matter which was dealt with during the

consideration of the outline planning application and it was confirmed that the development of this site would not result in severe traffic movements. The internal highway layout, crossing of Rush Lane and parking provision are considered to be appropriate and sufficient to ensure that the development does not result in significant adverse highway conditions to the development or the wider area and as such the scheme as revised is considered to comply with adopted policy.

## 6.5 Ecology and trees

6.5.1 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. The potential for impact on protected species was considered in detail during the determination of the outline planning application and conditions were imposed accordingly to enable improvements to ecology.

6.5.2 The Council Ecologist has confirmed that providing the ecological conditions for planning application reference 14/04701/OUT are carried forward, and details to cover these planning conditions will be submitted in a discharge of condition application they have no objection. The details required by the condition will need to be submitted for approval and will ensure that the development of the site will not adversely affect ecology or habitats.

6.5.3 The Council Tree Officer had requested additional native species tree planting noting that there is a good mix of native semi mature trees proposed in the public open space but that the housing estate lacked new tree planting of any size. The amended plans have added more planting in gaps around the housing, mainly to the front of properties to enable the trees to provide public visual enhancements to the development.

6.5.4 The Council Tree Officer has since confirmed that the locations of 9 larger growing trees “positioned in space for their development” throughout the proposed development is supported but they would prefer the species of these larger trees changed to reflect the trees planted in the large POS such as Tilia Greenspire or Quercus fastiagata thus achieving the aim of canopy cover described above in MD2. It is considered that this could be dealt with by condition rather than requiring further amendments to the scheme. Subject to this change, the layout as amended is considered to provide appropriate landscaping which is achievable and maintainable in the long term and as such the landscaping of the site is considered to comply with the requirements of the outline consent and SAMDev policy MD2 and Core Strategy policy CS6.

## 6.6 Drainage

6.6.1 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. The outline consent approved the principle of foul drainage to the existing mains system and surface water drainage to soakaways and attenuation ponds. The outline consent includes a condition requiring the details to be submitted to the Council for approval. The Council Drainage Engineer has recommended that the details should be submitted before the current application is approved. However, the condition on the outline consent requires the details to be submitted prior to



commencement of the development. As such the current reserved matters application can be determined without the details of the drainage as these details can be submitted under a separate application for discharge of condition.

## **7.0 CONCLUSION**

7.1 It is considered that the proposed layout, scale, appearance and landscaping of the site are acceptable and would not have an unacceptable adverse impact on the character and appearance of the locality or the amenities of neighbouring properties. A safe means of access and adequate parking and turning space will be provided and subject to conditions the proposal would have no adverse highway or ecological implications. It is therefore considered that the proposal accords with Core Strategy Policy CS6.

7.2 In arriving at this decision the Council has used its best endeavours to work with the applicants 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 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 and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

### Relevant planning history:

14/01982/OUT Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping NONDET 13th January 2015

14/04701/OUT Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping (resubmission) GRANT 18th February 2015

### Appeal

15/02185/NONDET Outline application (access for approval) for mixed residential development (up to 162 dwellings), associated open space and landscaping ALLOW 18th May 2015

## 11. **Additional Information**

List of Background Papers

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Roger Hughes

Cllr David Minnery

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.

2. Prior to the occupation of any dwelling hereby approved details of all walls, fences and hedges shall be approved in writing by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

3. Notwithstanding the details submitted, prior to the planting of any trees within the application site, details of the tree species, size, age and planting position shall be submitted to the Council for approval in writing. The tree planting shall thereafter be carried out in accordance within the planting season following commencement of the relevant plot.

Reason: To ensure appropriate landscaping is provided across the site.

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