

## Development Management Report

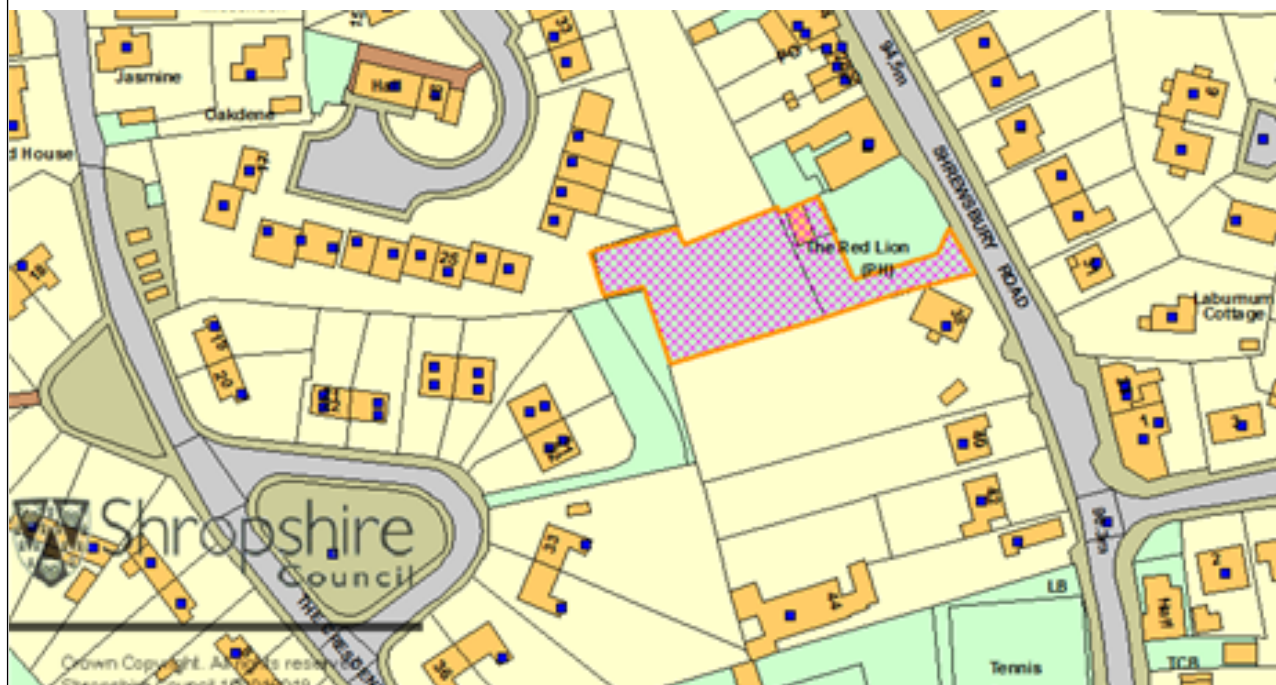
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 17/01120/FUL	<b><u>Parish:</u></b>	Bomere Heath
<b><u>Proposal:</u></b> Erection of 5no dwellings, associated parking and landscaping		
<b><u>Site Address:</u></b> The Red Lion Inn 32 Shrewsbury Road Bomere Heath Shrewsbury SY4 3PD		
<b><u>Applicant:</u></b> Mr Stephen Nuttall		
<b><u>Case Officer:</u></b> Jane Raymond		<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 347444 - 319577



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application relates to the erection of five dwellings (a terrace of three and two semi-detached) and associated parking and landscaping.
- 1.2 It is a re-submission following approval in 2014 for three detached houses (13/02072/FUL) which is an extant permission.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site for the houses is a small grassed 'paddock' area, which has previously been used as part of the pub garden. The site is surrounded on the North, West and South by residential gardens and the pub car park and Shrewsbury Road lies to the East. There are mature trees on land to the North and West. The proposed vehicular access is via a new access to the pub car park and there is currently a path to the rear running along the Southern boundary and is used by the public as a convenient route between 'The Crescent' and 'Shrewsbury Road'.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

### 4.0 Community Representations

#### 4.1 - Consultee Comments

##### 4.1.1 SC Highways:

Recommendation: No Objection – subject to the development being constructed in accordance with the approved details, and the recommended conditions and informatives.

Observations/Comments: This application is an amended scheme to the previously approved planning permission 13/02072/FUL for erection of three detached dwellings, which itself was an amended scheme to previously approved permission 11/00320/FUL for the erection of two detached houses. The amendments to the layout change the dwellings to 5 two bedroom dwellings. The amendments are all internal to the site and the access arrangements remain the same as those previously approved. Each dwelling will have two parking spaces with three of those spaces located within the car park of the public house and these should be clearly marked. The turning space at the end of the drive for house 1 appears tight, adequate turning space is required so that vehicles will exit in a forward gear. I do not raise any highway objections in principle to permission being granted for this application and recommends conditions to be attached to any permission granted:

- 4.1.2 **SC Drainage:** The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted.
- 4.1.3 **SC Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.
- 4.1.4 **SC Ecology:** Provides informatives regarding landscaping and wildlife including bats and birds
- 4.1.5 **SC Trees:** In terms of the impact and implications on trees and the arboreal environment, the proposed development is essentially an amendment to an existing approved application ref: 13/02072/FUL. The application will not result in any additional impact to retained trees or bring about a situation where trees impact on future residential amenity of the dwellings. No objection is raised to the application, however the tree protection details, including the 'no dig drive, method statement need to be updated and agreed prior to the commencement of any development. Recommends a tree protection condition.

## 4.2 Public Comments

- 4.2.1 Bomere Parish Council: Voted unanimously to object to this proposal. Councillors felt that there was not enough space on the site to fit 5 houses , even though they covered a footprint similar to the 3 houses previously accepted by planning.
- ☐ The recommended number of houses per hectare would be breached and the whole site would be too compressed.
  - ☐ Pedestrian flow along the right of way leading to The Crescent would be endangered with up to 6 cars reversing out of houses on to the narrow service road.
  - ☐ The houses have no garages and linear parking as at nos1 and 2 is most congesting and dangerous to children walking to school along the right of way.
  - ☐ The loss of parking spaces due to the creation of the new car access and the allocation of three places to the new houses means that the already congested car park especially at school times will be almost impossible to use safely.
  - ☐ The reduction of this carpark is a reduction in a village amenity.
  - ☐ Councillors felt that 3 houses on this site represent a reasonable number whilst accepting that 5 houses may be easier to sell than 5

#### 4.2.2 One letter of support from Joules brewery in support of the application:

- ☐ The development will support the pub for a number of reasons.
- ☐ The area will be visually improved and 5 more modest starter homes is better suited to the location than 3 more expensive detached houses.
- ☐ There is no right of access from 'The Crescent' to 'Shrewsbury Road' and the proposal will secure the use of the currently unkempt footpath by the public and improve security and safety and improve access to the pub in addition to the village amenities.
- ☐ The pub is happy for the car park to continue to be used by the public who are visiting the shop or taking and collecting children from school and it is not fully utilised by pub customers.
- ☐ The redesign and remarking of the carpark to be paid for by the developer will improve its usability for all and the provision of 3 parking spaces for the proposed houses would have negligible impact on the overall use of the car park.

#### 4.2.3 Three letters from nearby residents summarised as follows:

- ☐ The proposal will result in the loss of valuable green space previously enjoyed by residents.
- ☐ The area was previously either a beer garden for the pub or the garden for the pub landlord.
- ☐ The development does not respect local context and street patterns and in particular the scale and proportions of surrounding buildings and would significantly alter the fabric of the area.
- ☐ The proposal is an over development of the site with very little space for landscaping and fitting five dwellings in will be out of scale and out of character with the surrounding development.
- ☐ It would impact on wildlife habitats, trees and neighbouring residential gardens.
- ☐ The trees along the boundary with Chapel Close overhang the gardens and branches fall into the garden.
- ☐ Concerned about the proximity of the new dwellings to the new replacement bungalows in Chapel Close that might result in overlooking.
- ☐ Concerned that the construction activities and removal of trees might impact on a 150 year old garden wall at 38 Shrewsbury Road.
- ☐ Noise, disturbance and loss of privacy as a result of five families and the

new road adjacent to the boundary with 38 Shrewsbury Road.

- ② Highway safety implications due to increased traffic.
- ② The proposed access road will run through the footpath that provides access for school children and will be a danger to pedestrians.
- ② The proposal would impact on the footpath to the Crescent and Chapel Close that connects with Shrewsbury Road.
- ② There is no footpath indicated on the roadway to the houses.
- ② The lands slopes towards the pub car park and the proposed tarmac road could result in flooding. The buildings and hard surfacing will exacerbate existing drainage problems on neighbouring sites and in the vicinity.

## 5.0 THE MAIN ISSUES

Principle of development  
Layout, design, scale and appearance  
Impact on neighbours  
Access and parking  
Impact on trees

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 The site is located within the village of Bomere Heath which is identified as a 'Community Hub' within SAMDev and under settlement policy S16.2(iii) where development by infilling, groups of houses and conversions of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. Some residents have questioned the acceptability of the loss of the beer garden to accommodate residential development. However the site has not been in use as such for several years and residential development of the site has already been established by an extant permission for three houses in July 2014 (13/02072/FUL) and a previous permission in 2011 (11/00320/FUL ) for two 4 bedroom detached houses. Residential development of the site is therefore acceptable in principle.

### 6.2 Layout, design, scale and appearance

- 6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity.
- 6.2.2 The proposal is for a terrace of three houses and two semi-detached houses and will be a simple traditional design with cottage style windows and a pitched roof

canopy over each of the front doors. The PC and a couple of residents have expressed concern that five is an over development of the site and will result in a cramped form of development not in keeping with the surrounding properties.

- 6.2.3 The footprint of the proposed development as now proposed is actually less than the footprint of the development previously approved and each proposed house will be provided with more than satisfactory private rear garden. An area of garden will also be retained to the rear of the pub. The plots sizes are similar in size to the development to the rear in Chapel Close that has recently been re-built. The buildings will not appear prominent in the street as they will be set back behind the existing pub. It is considered that the location, scale, design and appearance of the proposed dwellings are acceptable and would have no adverse impact on the character and appearance of the locality.
- 6.2.4 It is also considered that five lower cost two bedroom starter homes will better meet the housing need compared to three larger more expensive properties and will be a more appropriate design of property for this location.

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

- 6.3.1 The dwellings will be situated to the rear of the pub with the front of the dwellings facing an existing footpath and proposed new driveway as in the previously approved schemes. Given the orientation of the dwellings and the distance between the windows in the rear and front elevations and those of the neighbouring properties it is considered that there will be no overlooking issues as a result of the development. The proposed development would also not appear obtrusive or result in overshadowing of neighbouring properties. A nearby resident has expressed concern about the provision of a driveway and footpath along the side garden boundary. However vehicle movements associated with the development would not be significantly different to those currently experienced by the use of the car park adjacent to the site and the use of the footpath that runs along the front of the site that will continue to be used by pedestrians. It is therefore considered that the proposed development would have no significant adverse impact on residential amenity.

### 6.4 **Access and parking**

- 6.4.1 The proposed access and parking arrangements remain much the same as previously approved and includes closing off the existing pub car park entrance and creating a new access to the car park that will also provide a driveway to the proposed dwellings and continue to serve as a footpath for use by the public. Two parking spaces will be provided for each of the dwellings including three spaces that will be on the pub car park leaving 21 spaces for pub customers.
- 6.4.2 The PC have raised concern that the proposal will impact on the safety of pedestrians using the footpath, that the linear parking in the driveways is also dangerous and that the loss of parking spaces on the pub car park is unacceptable as it is already congested and will be unsafe to use at school times and result in the loss of a village amenity.

- 6.4.3 The footpath currently in use by the public as a convenient short cut between Shrewsbury Road and 'The Crescent' is not a public right of way. This proposal will ensure that the footpath is improved and made safe and secure for future use by the public. The linear parking on the driveway referred to by the PC (one behind the other) is a conventional way of parking and the same as previously approved with one space in front of a garage space. Any vehicles using the pub access and the driveway to the houses will be driving at very slow speeds and the safety of pedestrians will be no different to the current situation where they have to walk across the pub car park.
- 6.4.4 Although the number of spaces available on the pub car park will be reduced by 3 this is not a significant reduction and 21 spaces will remain for customers which is more than sufficient for a pub located centrally within the village. The PC refer to the car park being congested and that the reduction in parking will result in the loss of a village amenity. However the car park is only congested due to parking by the public during school drop off and pick up times and this use is at the discretion of the owner of the pub, and the pub car park is private and not a public amenity as described by the PC. Whilst the owner of the carpark is willing to continue to allow the public to use the car park when not actually visiting the pub the loss of 3 spaces impacting on the availability of public parking is not a material consideration relevant to the determination of this application.
- 6.4.5 Highways have no objection to the proposal which will provide a safe means of access to both the pub car and the proposed dwellings to the rear. Adequate parking will be provided for the occupiers of the new houses and the customers of the pub and the continued use of the car park by the general public is at the discretion of the pub owner. The proposal will also improve and formalise the foot path linking Shrewsbury Road and The Crescent. The proposal is therefore considered to be acceptable in terms of highway and pedestrian safety.

## 6.5 **Impact on trees**

- 6.5.1 The proposed development as an amendment to the extant permission will not result in any additional impact to retained trees or bring about a situation where trees impact on future residential amenity of the dwellings. The tree officer has no objection to the application provided the tree protection details, including the 'no dig drive, method statement are updated and agreed prior to the commencement of any development. A condition will ensure that full tree protection details and the method for the no dig driveway are submitted for approval.

## 7.0 **CONCLUSION**

- 7.1 Residential development of the site is acceptable in principle under SAMDev policy MD1 and S16.2(iii) and has already been established by the previous permissions. The scale, design and layout is considered acceptable and would have no adverse impact on the character and appearance of the locality and would not cause detrimental harm to the living conditions of neighbouring residential properties. Tree protection conditions will ensure that trees to be protected are retained and it is considered that the proposal will enhance the overall visual amenity of the locality. A safe means of access and adequate parking will be provided for both the

new houses and customers of the public house and the proposal will formalise the footpath to the rear of the site and secure its use by the public in the future. The proposal is therefore considered to be in accordance with Shropshire LDF Core Strategy Policies CS6 and CS17 and SAMDev policies MD1 and S16.2(iii).

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the



public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy Policies: CS6 and CS17

SAMDev policies: MD1 and S16.2(iii):

### RELEVANT PLANNING HISTORY:

11/00320/FUL Erection of two 4-bedroom detached dwellings with formation of new vehicular access GRANT 4th July 2011

13/02072/FUL Erection of 2 No four bed and 1 No three bed dwellings, including associated car parking and amenity space GRANT 30th July 2014

Erection of 5no dwellings, associated parking and landscaping PDE

## 11. Additional Information

List of Background Papers: File 17/01120/FUL
Local Member: Cllr Lezley Picton
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

**STANDARD CONDITION(S)**

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

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

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

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

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

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

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

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

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

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

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

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

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

4. Prior to above ground works details of a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. Prior to above ground works and notwithstanding the details shown on the approved drawings, full engineering details of the proposed vehicular access into the site from Shrewsbury Road shall be submitted to and approved in writing by the Local Planning Authority; the vehicle access shall be fully constructed and implemented in accordance with the approved details prior to the dwellings being first occupied.

Reason: In the interest of highway safety.

6. Prior to above ground works details for the parking and turning of vehicles shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. The existing vehicular access shall be permanently stopped up within one calendar month of the new access being first brought into use.

Reason: In the interest of highway safety.

8. Within two calendar months of the new access being formed, the dropped kerbs across the original access shall be replaced with full height kerbing consistent in level with the adjacent kerbing and the footway reinstated accordingly.

Reason: To reinstate the footway to the required level and specification in the interests of highway safety

9. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval detail.

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

10. No above ground works shall be commenced until full details of both hard and soft landscape works (to include improvements to the footpath to 'The Crescent' and all boundary treatments) have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

11. Prior to first occupation of the buildings the following bat and bird boxes shall be erected:

- A minimum of 1 external bat box or integrated bat brick suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).

The boxes shall be sited in accordance with the latest guidance and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section