

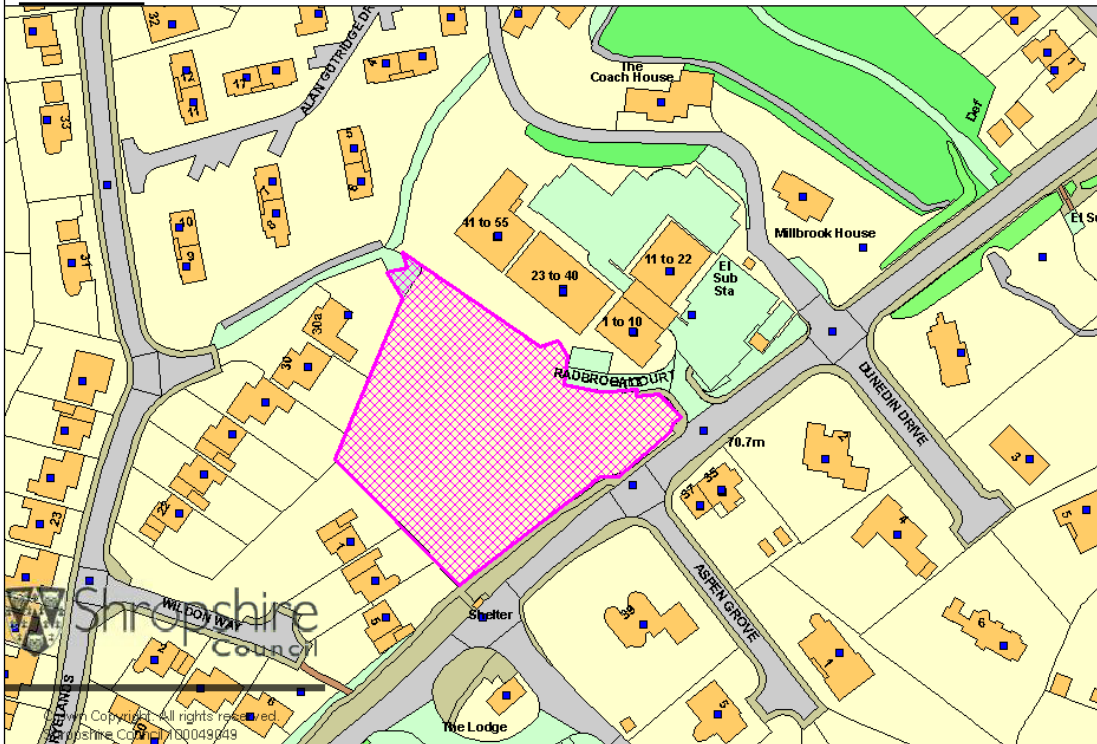
Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 16/04883/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of ten (1 block of 4 and 2 blocks of 3) dwellings; formation of estate road and parking areas (modification to approved scheme SA/06/0333/F) (Amended Description).		
Site Address: Radbrook Hall Court Radbrook Road Shrewsbury Shropshire		
Applicant: EFB Property Investments (IoM) Ltd		
Case Officer: Vincent Maher		email: vincent.maher@shropshire.gov.uk

Grid Ref: 347428 - 311961



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

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal has been significantly amended since initial submission (originally being for 12 houses) and is now a full planning application for the erection of 10 x four bedroom, three storey town houses in three terraced blocks arranged either side of the centrally located access road. The amended layout plan shows two blocks on the south side of the driveway and one on the northern side.
- 1.2 The development would provide two parking spaces per dwelling accessed directly off the access road. A turning head will be situated west of the northern block.
- 1.3 The proposed construction materials include light brick plinths with off-white coloured render elevations under a natural grey slate roof. The front and rear elevations will feature pitched and flat roofed dormer windows constructed of dark grey coloured weather boarding. The front dormers will be part of a full height projecting design element intended to add visual interest and relief to the facades.
- 1.4 The site would also be comprehensively landscaped, including retention of existing trees around the site edges.
- 1.5 The original application drawings were accompanied by a Design and Access Statement; a Phase 1 Habitat Survey; a Tree Survey; a Parking Allocation plan. The applicant has submitted additional documentation in the form of a second ecological report (July 2017) and a section plan showing the relationship between trees and the proposed houses and the extent of the tree root protection zone (August 2017 – refer drawing 1080D 3003 revision A).
- 1.6 Subsequent to this, the applicant has submitted additional drawings to clarify aspects of the development. Drawing 1080D 3003 revision D clarifies both the tree root protection zone and clarifies which trees would be removed and drawing 1108D P0002 Rev B superimposes the footprints of the approved houses under an earlier grant of permission.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site comprises an irregular shaped parcel of land immediately to the west of the apartment development on Radbrook Hall Court. The overall site formed part of the grounds of a former hotel which was demolished and redeveloped approximately 10 years ago for 55 flats in three storey blocks (planning permission SA/06/0333/F refers). The application site was included in this development and the approved layout plan shows a development of five detached dwellings on the site which have not been built.
- 2.2 The site is an overgrown parcel of land with a heavily landscaped frontage to Radbrook Road. It is accessed directly off Radbrook Hall Court via an arm of the service road serving that development. Site levels are relatively even within the centre with a substantial bund/embankment along the northern edge; but the land falls quickly away to the north. The site is overgrown with mature trees along the

southern and western boundaries. There is a group of high quality, mature trees within the north western area of the site.

- 2.3 Besides the three storey flats to the east, the land to the west and north has been developed for two storey houses. Due to the relief of the area, the dwellings to the north and north west are set at lower levels than the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal is being reported to the Central Planning Committee because the recommendation is at odds with the comments from Shrewsbury Town Council and the Area Planning Manager in consultation with the Chair/Vice Chair of Committee agrees that those comments are material and warrant consideration by the Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Shropshire Council Drainage – No objection.

Drainage, plans and calculations should be conditioned if planning permission granted.

4.1.2 Shropshire Council Affordable Housing – Comments.

As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

The applicant should submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

4.1.3 Shropshire Council Highways – No objection.

Proposed increase in scale of residential units and resultant additional traffic generation unlikely to have significant effect on existing development junction onto Radbrook Road. As long as development has sufficient car parking capacity and suitable facilities to enable refuse collection, it is acceptable from a highways and transport perspective.

Has recommended conditions and informatives.

4.1.4 Shropshire Council Tree Officer: No objection.

Initial concerns with the scheme have been addressed.

Revised layout and reduced scale provides better separation between the retained

trees and the proposed dwellings and the internal site road. Would be satisfied with this layout if it can be demonstrated that the site road and any retaining structures required to deal with the differences in land levels can be constructed in a way that allow the retained trees to be protected in accordance with BS 5837: 2012.

A subsequent section drawing has been provided which addresses this last point.

4.1.5 Shropshire Council Parks: Comment

Development needs to provide open space consistent with SAMDev Policy MD2 figure of 30 sqm per person. Assume 1 person per bedroom.

4.1.5 Shropshire Council Ecology: No objection

Initial concerns overcome by revised layout and additional ecology assessment.

Has recommended conditions and informatives.

Offers the following comments based on the additional ecology assessment submitted:

- The trees for removal have low bat roosting potential and the other trees have negligible bat roosting potential. The site is unlikely to form an important foraging area for bats either.
- The current site and future development is still likely to be suitable for breeding birds.
- The likelihood of passing otters on the site is low and there are no signs of badgers either.
- There is a low likelihood of reptiles on the site.
- The gardens are considered suitable for hedgehogs.
- The revised design is welcome as it retains a larger amount of natural habitat around the edge of the site. The extent of “free space area” should be a light sensitive zone protected during and post construction.

4.1.6 SC Learning and Skills Team – Comment:

Local primary school has no excess capacity. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary at those schools. It is recommended that any resulting capacity pressures from this development are addressed by way of a CIL tariff.

4.1.7 Shrewsbury Town Council – Objection

Members objected to the design of these buildings which are not in keeping with neighbouring properties due to their scale and massing.

Shrewsbury Town Council has considered the amended plans for this development and feels that whilst the layout of the site has been improved, the poor design of the elevations for the houses is not in keeping with the neighbouring properties. Members also feel that there is a need to protect the number of trees on the site and request this application be considered by the Central Planning Committee.

4.1.8 **West Mercia Constabulary – Comments.**

Development should aim to achieve Secured By Design award status.

4.2 **Public Comments**

4.2.1 33 letters of objections from local residents have been received in relation to the original submissions and to the amendments.

The objections can be categorised around the following five matters:

Comments on the implementation of the 2006 planning permission

- The original planning approval was passed in 2006. This was for Radbrook Court and 5 detached dwellings. Radbrook Court was completed in 2011 and work to the 5 detached properties should have started immediately (see correspondence between yourselves (10/01713/ENF) and the developer.
- No work has taken place on site since June 2011 which may be a breach of the original planning application.
- Original application has now expired and therefore this is not an amendment to an existing application but should be treated as a new application. The original application for 5 houses has no relevance to this new application of 12 houses.
- How can this be a variation to the previous planning permission when the proposal increases the number of dwellings from 5 to 12? Section 73 applications to modify conditions should be appropriate only in circumstances where the description of development does not change materially.
- Government guidance suggests that section 73 applications can be used to seek a minor material amendment defining such an amendment as 'likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved'. This situation does not appear to apply in respect of this application.
- Shropshire Council have rejected a number of applications to alter the condition related to building 5 detached houses because it was felt that type of property was more in keeping with the neighbourhood.

Design/ character and appearance

- This development is ugly, overbearing, out of scale and out of character with other existing developments in the vicinity (excluding Radbrook Hall Court).
- This proposed design is inappropriate in its context, and fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- It does not respect local context and street pattern or, in particular, the scale and proportions of surrounding buildings, and would be entirely out of the character of the area, to the detriment of the local environment.
- It certainly would not "protect or enhance the local environment, including wildlife habitats, trees and woodland parks and gardens."
- The new plan shows a block of either two or four properties now immediately facing (their rear windows) my property whereas the existing application had

one property with a side on elevation which was to have no windows overlooking my property.

- The design of these houses does not have any synergy with any of the other neighbouring buildings and would certainly not "enhance the level of architecture in the area" it will only dominate existing developments.
- Radbrook Hall Court is the only development in the vicinity to exceed two storeys and is not characteristic of the local area. Three storey development is out of character.
- The need for three storeys is a result of the small footprint of each dwelling proposed. This small footprint is a direct result of the applicant seeking to cram as many properties as possible onto the site.
- The site is also raised above Radbrook Road which will exacerbate the height, scale and mass of the dwellings.

Trees/ ecology/ green issues

- The site contains a number of protected trees (the applicant appears to be unaware). The applicant should be required to clearly identify the protected trees on a plan and identify those which it wishes to remove, including clear justification for this. Reducing number of dwellings would enable resiting of the blocks away from rear of properties on Wildon Way and avoid having to remove a substantial number of trees which run along the southern boundary of the site.
- The site plan shows visitor parking very close to existing trees and the Council should satisfy itself that the works necessary to construct the spaces do not affect the tree roots with particular consideration to be given to changes in levels and ground compaction.
- The effect of three storeys should not be underestimated, particularly when viewed from properties on Ryelands which are set at a substantially lower level to the site and a cross section through the site to Ryelands should be provided.
- Confirmation that the tree group behind 1 Wildon Way is to be retained would be welcomed as well as boundary screening and treatment.
- I can confirm that bats are nightly visitors to our garden in the summer months flying along linear features. That they emerge at early dusk suggests that they are roosting very locally (common pip).
- Para 3.3.1 of the submitted Ecological Report suggests all trees to be retained and this is not correct - climbing inspections should be undertaken to assess whether the trees contain roosts and it is not appropriate to rely on EPS licencing post consent without firstly understanding the extent to which bat roost may be affected.
- Strict conditions should be placed on any development of the site to ensure that the trees and mature vegetation are retained and well maintained as specified in the Pre-development Arboricultural Report. This will ensure that the future street scene along Radbrook Road is largely unaffected.
- This site was never used for any vehicle parking or access at all it was the hotel gardens, bowling green and a play area for children. Therefore it should be reclassified as a Greenfield site.

Impact on neighbours

- The site plans are not accurate in their representation of our own property (on Wildon Way), a principal rear room of which is significantly closer to the boundary (and therefore to the proposed end elevation of the housing) than is shown. This should be amended accordingly to provide a true picture of the degree of impact on private residential amenities.
- The distance between the rear of properties on Wildon Way and the gable end of the closest block should also be provided. A quick review of guidance provided by local planning authorities across England suggests that distances to blank three storey gables from principal room windows of up to 20m is appropriate.
- The proposals are an overdevelopment of the site and will have an adverse impact on the character of the neighbourhood and residential amenity of its neighbours. The number of houses should be reduced and the height lowered to two storeys.
- Some of the neighbouring houses in both Ryelands and Wildon Way will be forced to have imposing buildings taking away their views of trees and fauna.
- The effect of three storeys should not be underestimated, particularly when viewed from properties on Ryelands which are set at a substantially lower level to the site and a cross section through the site to Ryelands should be provided.
- We are in a ground floor apartment that faces the development site, and at a lower level than the site. The three storey buildings will lead to loss of light, overshadowing and privacy.
- My apartment is likely to be overshadowed by the gable end of the first house which will block sunlight and sunshine to my windows.
- The proposal is for the 12, 3-storey townhouses to be built in 3 blocks. This will cause a very considerable brick mass which will be much more dominant for neighbouring properties than separate houses with view gaps between individual dwellings.
- Plot 8 & the vast majority of plots 7 & 12 fall outside the footprint of the granted plans & are closer to neighbouring properties.
- The land falls away from this site on the boundaries with some of the neighbouring houses: this makes height considerations very important.

Other matters

- There will be a significant increase in traffic, pollution and noise compared with the original application.
- From a practical point of view, wouldn't it be difficult to build so close to the boundary without impinging on Radbrook Hall Court? I assume they would need to keep within the boundary of the new development site.
- Would the drainage be able to cope with a deluge from a storm, in order not to cause flooding by run-off from the developed site to Radbrook Hall Court.
- The access road to the site is single track; this will not only cause a lot of congestion during the build, it will be an ongoing problem once the houses are built and occupied. Trucks, cars, delivery vehicles and so will be stopping to let traffic pass right below my windows. My apartment is on the first floor. I am concerned about the noise and pollution that the traffic will cause.
- Concerned that my apartment will look out onto a bin store. This is likely to affect the resale value.

- Why is a bin store required for a development of family houses?
- Concerns about the likely quality of construction and finish.
- The amendments do not overcome the objections already submitted.

5.0 THE MAIN ISSUES

- Principle of development
- Assessment of sustainability
- Design, scale and character and residential amenity
- Highways
- Drainage
- Other material considerations raised by consultee comments

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 This application (as presented to the Committee) is now for full planning permission to erect 10 three storey dwellings. The site has an extant planning permission for five detached dwelling houses that dates from 2006, which formed part of the larger redevelopment of the former hotel on the site and which led to the development of flats to the north east.

6.1.2 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." Since the grant of planning permission, the development plan for Shropshire has evolved and the introduction of updated Government advice on planning must be taken into account too.

6.1.3 The National Planning Policy Framework (NPPF) promotes sustainable development, directing Councils to boost significantly the supply of housing while reaffirming the importance of good quality design. New development should respond to local character and history and reflect the identity of local surroundings and materials. It states that new housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF supports the delivery of a wide range of high quality homes and advises councils that should normally approve planning applications for new development in sustainable locations that accord with the development plan unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or where specific policies in the NPPF indicate development should be restricted.

6.1.4 In assessing the principle of the development, regard needs to be given to the

following policies. Core Strategy (CS) Policies CS1; CS2; CS6; CS7; CS9; CS17; and CS18 and SAMDev Policies MD1; MD2; MD3; MD8; and S16.

6.1.5 The site lies within the defined development boundary for Shrewsbury, where sustainable development will be supported in principle, according to SAMDev Policy MD1. CS Policy CS1 establishes Shrewsbury as the main focus for development during the lifetime of the development plan. SAMDev Policy S16 reaffirms this and states that new housing development will be delivered through a combination of existing brownfield sites and a range of new greenfield sites, both sites allocated for development and windfall opportunities. The site has an extent planning permission for five dwellings which formed part of the previous hotel curtilage that occupied the site of the apartment development to the north east. As such, the principle of new housing on the site is acceptable. The issues surrounding the increase in numbers of dwellings on the site relative to the earlier grant of planning permission are considered later in this report.

6.2 **Assessment of sustainability**

6.2.1 CS Policy CS1 sets the overall development strategy for the county and aims to deliver the majority of new development within a hierarchy of settlements with the urban centres of Shrewsbury, the Market Towns and Key Centres being the main focus for development.

6.2.2 SAMDev Policy S16 sets out the Settlement Strategy for Shrewsbury. As the key centre, it is expected to accommodate a further 6500 new homes or thereabouts from both site allocations and windfall sites over the lifetime of the current Development Plan (2006 – 2026). Policy MD1 supports sustainable development within the key centres in principle.

6.2.3 CS Policy CS6 requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. CS Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. CS Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.2.4 The application site is located within the settlement boundary for Shrewsbury, which is the main focus for new development within the county over the lifetime of the development plan. Radbrook Road is on a bus route into the town centre and the site is close a range of local services including the Radbrook Green shopping centre. Thus, the site can be considered to be in a sustainable location without the need for future residents to be reliant on the private motor car.

6.2.5 However, 'sustainable development' is not just solely about accessibility and proximity to essential services. The NPPF states that it is 'about positive growth – and decisions makers are obliged to assess the performance of applications against economic, social and environmental matters. The following analysis briefly addresses Government advice in this respect of these three matters.

6.2.6 Economic Considerations

The construction of new housing will provide short term employment during the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers are likely to access and use local services and facilities helping them to remain viable. The proposal will be liable for a CIL payment (to which the extant permission for five houses is not) which will provide additional financial contributions towards infrastructure. Finally, the new housing will also attract New Homes Bonus and additional Council Tax that can be reinvested by the Council within the community. These factors on their own provide limited support for the proposals.

6.2.7 Social Considerations

The amended proposal will provide a net increase of five family dwelling houses (compared to the approved development of five units) which will make a modest contribution towards the supply of housing in Shropshire and broaden the mix of housing options in the immediate vicinity.

6.2.8 The previous planning permission for the erection of 55 residential flats and five detached dwellings on this and the adjoining site included 21 affordable flats. The five dwellings were all open market. These five dwellings have not been constructed yet but could be without the need for Council approval. The Housing Officer has requested a contribution towards meeting the affordable housing requirements within Shrewsbury. However, this development constitutes a new form of development and will supersede the previously approved development. As the amended number of houses falls below the current affordable housing contributions threshold of more than 10 units and Government guidance set out in the National Planning Practice Guidance (the NPPG), it is not subject to those contributions.

6.2.9 The provision of open market housing supporting existing facilities will be of benefit to both existing and future resident in the community and will help meet the needs of present and future generations. However, it is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. The Council expects new developments to contribute towards improving social infrastructure in part funded by CIL contributions. The development will be expected to contribute towards these facilities. It is concluded that the social benefits of this scheme weigh considerably in its favour.

6.2.10 Environmental Considerations

The site is an overgrown parcel of land to the west of a recently built flatted development. The tree survey submitted with the application indicates the site has 44 on and off site trees, mostly deciduous. It contains numerous trees around the edges (particularly to the north, south and west). The Council's Tree Officer had objected to the original proposals which showed extensive tree removal including three high quality specimens and another high quality tree to be substantially pruned. The revised application reduces this to 10 trees. They are all graded U

(poor condition), C (low quality) or B (moderate quality).

- 6.2.11 The applicant has materially revised the scheme since it was first lodged by reducing the yield and moving back the westernmost terrace (now renumbered Plots 7 to 9) as well as removing a communal parking area and bin stores, thus protecting the root zone of a cluster of high and moderate quality trees in the north western corner of the site (yews, oak, beech). No high quality (grade A) trees would be affected by the proposal.
- 6.2.12 The trees fronting Radbrook Road would be largely retained and a landscaping condition is proposed to provide additional tree coverage to strengthen this green buffer on a route into town and around the edges of the site for future generations to enjoy. Conditions requiring tree protection zones during construction and the restriction of permitted development rights for the new houses will further reduce the risk of trees being threatened during building works and by future development once the houses are occupied such as extensions or sheds.
- 6.2.13 From an ecological perspective, the site sits within a semi-urban setting, is not an internationally or nationally designated site and there are no local wildlife sites within 1km of the site. The Council's ecologist is satisfied with how the revised scheme makes the most of the site's limited ecological value.
- 6.2.14 Promoting more intensive development on a sustainable site also accords with the Government advice which directs councils to boost significantly the supply of housing on sustainable sites while theoretically taking pressure off open countryside.
- 6.2.15 Based on the foregoing analysis and the advice offered in paragraph 8 of the NPPF, it is concluded that the proposal will not result in environmental harm and that, as such, the proposals can be considered to constitute sustainable development as defined by the Government.
- 6.3 **Design, scale, character and residential amenity**
- 6.3.1 CS Policy CS6 requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. SAMDev Policy MD2 is also concerned with ensuring the design of new development respects and contributes to the character and appearance of the local built and natural environment.
- 6.3.2 Section 7 'Requiring Good Design' of the NPPF states that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. It also indicates that councils should not refuse planning permission for buildings which promote high levels of sustainability because of concerns about incompatibility with the existing townscape, if those concerns have been mitigated by good design.
- 6.3.3 The originally submitted scheme showed a development of 12 houses of a typical modern and inoffensive if unadventurous suburban style and appearance incorporating pitched roofs and bay windows and extensive areas of parking and bin

stores. This has been reduced to ten units with greater degrees of separation from retained trees and the existing dwellings to the north and west in particular. The amended development retains a sense of cohesion due to the shared design features and common materials.

- 6.3.4 The immediately adjoining flatted development at Radbrook Hall Court is of greater mass and its materials are different to those proposed in the new development. The residential developments to the west and north are also different, in that they are detached two storey properties on more generous plots so that the density is lower. The development to the south of Radbrook Road is at a lower density still, but is physically separated from the site by Radbrook Road. There is, therefore, a mix of housing styles, heights and densities in the local area that affords an opportunity for further variation.
- 6.3.5 There has been some local criticism directed at the proposals in respect of its height, design and density even in relation to the reduced scheme. Whilst acknowledging the views expressed, the site does not lie within a designated area and sits within a predominantly residential location that exhibits a wide range of housing types and styles. There is no overwhelming style within the area which leaves scope for a different style of built form that will contribute to the diversity of development locally. In this context, a development of this form and scale would sit appropriately in its context subject to conditions confirming final details of design (materials and landscaping). The level of open space proposed (1478 sqm) exceeds the minimum requirements set out in SAMDev Policy MD2 (1200 sqm).
- 6.3.6 The amended plans refine the design and layout of the development to safeguard the living conditions of the residents of adjacent properties. These show the separation distances between the existing flats at Radbrook Hall Court at 13m, only two metres closer than the 2006 approved scheme. The distances between the houses at Plots 8 to 10 and the main building line of the houses to the north is around 21m. There would be no side flank windows on Plots 1 and 7 and so there would not be any direct overlooking. The angled relationship of the proposed dwellings with the existing helps mitigate any direct impact in terms of overlooking or a sense of overbearing effect. Additional landscaping along the site boundaries can also be secured and this combination is considered to be an acceptable solution to a potential difficulty.
- 6.3.7 The original proposal would have been dominated by hard surfaces, devoted to extensive car parking areas to the front of each dwelling. The application form states there would have been 34 car parking spaces provided. The effect of this would have been to create an over-engineered and harshly urban appearance which is likely to further affect the ecological interests of the site. The amended plans have shown this area to be greatly reduced with a shorter and less intrusive access drive and lower car parking provision to reflect the reduced scale of development. This is considered to be an improvement.
- 6.3.8 Despite the density of the adjacent flats, the character of the surrounding area is predominantly green and loose knit. The reduced scale and reorientation of the proposed development, as amended, would no longer appear incongruous in relation to the nature of the area and has helped resolve the above issues. It is

considered that the amended density and form of development proposed is acceptable on balance and complies with CS Policy CS6 and SAMDev Policy MD2.

6.4 Highways

- 6.4.1 CS Policy CS6 indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.
- 6.4.2 The site is considered to be in a sustainable location. The Highway Authority has no objections with regard to traffic generation.
- 6.4.3 Each of the proposed dwellings makes provision for off-street car parking for at least two cars per dwelling with additional visitor spaces. This is considered to be acceptable for 4 bedroom dwellings. There is, therefore, no objection to the proposals on highway safety grounds.
- 6.4.4 The highway authority officer's suggested conditions and informatives have been incorporated into the recommendation in this report.

6.5 Drainage

- 6.5.1 CS Policy CS18 indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.5.2 The site is not in an area indicated as being at high risk of flooding on the Environment Agency FRA maps. The application states that all surface water will be disposed of via a sustainable drainage system, utilising the underground storm water attenuation tank that sits to the north of the flats. Subject to the capacity being large enough to cater for the additional development, the Drainage Engineer has no objections. Foul drainage will be taken to the existing mains services. This is considered to be appropriate.
- 6.5.3 A sustainable urban drainage scheme is considered to be beneficial in this location consistent with CS Policy CS18 and could be secured via an appropriate planning condition. It is considered that the site is capable of being satisfactorily drained and there are no objections on drainage or flood risk grounds.

6.6 Other material considerations

- 6.6.1 Officers have given careful consideration to all other matters raised in the community consultation but find nothing to alter their recommendation especially given the fall-back position of the extant planning permission that applies to the site.
- 6.6.2 Protection of views and perceived impacts on property values are not legitimate planning considerations. There is no merit in re-designating the site as "greenfield" given that it forms the gardens of a former hotel, a brownfield site, and, further, that the site benefits from planning permission for housing that could be completed. The Council's ecology and tree advisers have considered the proposals and advise that

it is now acceptable. Other matters in the representations can be addressed via planning conditions particularly one which restricts permitted development both for extensions and outbuildings.

7.0 CONCLUSION

7.1 This proposal is an infill housing development that seeks to supersede a development which has planning permission. It is more intense relative to the approved scheme but this is not a reason in itself to withhold permission. A considered review of its layout shows that it is acceptable having regard to its surrounding context and its interfaces with adjoining land subject to appropriate planning conditions being imposed. Indeed, the proposal delivers important sustainability benefits through the more effective use of land within the town of Shrewsbury. It is therefore recommended that planning permission be granted.

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 three months 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

National Planning Policy Framework

National Planning Policy Guidance

Core Strategy

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS9 – Infrastructure Contributions

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Sites Allocations and Development Management Plan

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD8 - Infrastructure Provision

Settlement: S16 - Shrewsbury

RELEVANT PLANNING HISTORY:

10/01444/VAR Variation of condition number 9 attached to planning permission reference 06/0333/F dated 21st July 2006 to allow a further 12 weeks for the completion of hard surfaces
GRANT 15th July 2010

PREAPP/15/00199 Proposed development of no. 12 townhouses accessed via a private drive and sited within existing mature trees. PREAMD 29th July 2015
16/03220/FUL Erection of 3 blocks of 4, 3 storey terraced dwellings APPRET
16/04883/FUL Erection of ten (1 block of 4 and 2 blocks of 3) dwellings; formation of estate road and parking areas (modification to approved scheme SA/06/0333/F) (Amended Description). PDE

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) SA/06/0333/F
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member Cllr Keith Roberts
Appendices APPENDIX 1 - Conditions

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out strictly in accordance with the approved plans and drawings
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
Reason: To ensure that the external appearance of the development is satisfactory.
4. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') 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
5. No ground clearance, demolition, or construction work shall commence until a scheme has been submitted to and approved in writing by the local planning authority to safeguard trees to be retained on site as part of the development. The approved scheme shall be implemented in full prior to the commencement of any demolition, construction or ground clearance and thereafter retained on site for the duration of the construction works.
Reason: To safeguard existing trees and/or hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area, the information is required before development commences to ensure the protection of trees is in place before ground clearance, demolition or construction.
6. No development shall take place until a scheme of foul drainage, and surface water drainage consistent with Sustainable Urban Drainage System principles has been

submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

7. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species, and to minimise light spillage beyond the site.

9. Prior to first occupation / use of the building, the makes, models and locations of bat boxes and bird boxes shall be submitted to and approved in writing by the Local Planning Authority.

A minimum of 2 external woodcrete bat boxes or integrated bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site. The boxes shall be sited at an appropriate height above the ground with a clear flight path where unaffected by artificial lighting. The boxes shall thereafter retained.

A minimum of 2 artificial nests of either integrated brick design or external box design, suitable for swift (swift bricks or boxes), or sparrow (32mm hole, terrace design) shall be erected on the site. The boxes shall be sited at least 2m from the ground on a suitable tree or structure at a northerly or shaded east/west aspect (under eaves of a building if possible) with a clear flight path. The boxes shall thereafter be retained.

Reason: To ensure the provision of roosting opportunities for bats and wild birds.

10. Prior to first occupation / use of the building, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the Bat Reasonable Avoidance Measures (as set out in the Addendum Ecology Assessment prepared by BL Ecology Ltd 13th July 2017 report).

Reason: To demonstrate compliance with the Bat Reasonable Avoidance Measures.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Classes A and B shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities of neighbouring properties.

Informatives

National Planning Policy Framework (NPPF)

The Council has worked proactively with the developer and sought to explore a solution to the application consistent with advice in paragraphs 186 and 187 of the NPPF.

Highways

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Disabled needs

The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

Protection of visibility splays on private land

The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent or previous consents are safeguarded in any sale of the application site or part(s) thereof.

Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

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

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

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

Ecology

Badgers

Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

Bats

It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

During all works on mature trees there is a very small risk of encountering bats which can occasionally be found roosting in unexpected locations. Contractors should be aware of the small residual risk of encountering bats and should be vigilant when working on mature trees, particularly where cracks and crevices or thick ivy covering are present. Any cracks and crevices should be visually inspected prior to the commencement of works on the tree and if any cracks or crevices cannot easily be seen to be empty of bats then an experienced, licensed bat ecologist should be called to make a visual inspection using an endoscope and to provide advice on tree felling.

Works on trees with high bat roosting potential (aged or veteran trees with complex crevices and areas of dead wood) should not be undertaken without having first sought a bat survey by an experienced, licensed ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). Felling and tree surgery work should only be undertaken in line with guidance from a licensed ecologist and under a European Protected Species Mitigation Licence where necessary.

If a bat should be discovered on site then development works must halt and a licensed ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

Wild birds

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

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

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from mid-March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation [and buildings] for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Hedgehogs

The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. To avoid harming hedgehogs during the works, site clearance (including removal of piles of deadwood and other potential hibernation sites) should be undertaken between April and October. Materials should not be stacked in the working area before then unless they are raised up on pallets, or similar.

If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and advice sought from an ecologist or the British Hedgehog Preservation Society (01584 890 801).

Semi-natural habitats

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.