



Committee and date

South Planning Committee

24 October 2017

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 16/03855/OUT	Parish: Lydham
Proposal: Outline application for the erection of 5No dwellings (to include access)	
Site Address: Proposed Residential Development North Of Coronation Cottages Lydham Shropshire	
Applicant: D, AJM, & PT JONES	
Case Officer: Tim Rogers	email: planningdmnw@shropshire.gov.uk

Grid Ref: 333676 - 291402



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Contact: Tim Rogers (01743) 258773

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

Recommended Reason for refusal

1. The application site occupies a countryside location, where open market housing provision is not supported in principle by adopted development plan policies. The development is not considered to represent sustainable development in accordance with the three dimensions of sustainable development as referred to in the National Planning Policy Framework (Economic, social and environmental). As such the proposal is considered to be contrary to Shropshire Core Strategy policies CS1, CS4, CS5, CS6, CS9, CS11, CS17 and CS18; Site Allocation and Management of Development (SAMDev), and the overall aims and objectives of the National Planning Policy Framework. Furthermore, notwithstanding the justification submitted with the application, there are not considered to be any material considerations that should be given sufficient weight to justify approval of the development as an exception to the adopted policies referred to.

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline planning permission for up to five dwellings with all matters reserved other than access, the detail of which has been provided. The application is identical to a previous application for the site which was refused for the following reason:-

‘The application site occupies in policy terms, a countryside location, where open market housing provision is not supported in principle by existing and emerging development plan policies. The development is not considered to represent sustainable development in accordance with the three dimensions of sustainable development as referred to in the National Planning Policy Framework. (Economic, social and environmental). It is further considered that the benefits of developing the site for housing are outweighed by the the unsustainable, sporadic location. As such the proposal is considered contrary to Shropshire Core Strategy policies CS1, CS4, CS5, CS6, CS9, CS11, CS17 and CS18; emerging Site Allocation and Management of Development (SAMDev), Policy S1 of the South Shropshire District Local Plan and the overall aims and objectives of the National Planning Policy Framework.’

1.2 The agent for the application has submitted some additional information to try and overcome the previous reason for refusal and to try and justify why the application should be approved as an exception to adopted policy. This is set out in more detail in the officer appraisal section of the report below (6.1)

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located into the north of Lydham, approximately 1 mile North

of Bishops Castle east of the A488. The site is a roughly rectangular shape which lies to the west of a lane running north off the eastern side the A488. A mature hedge defines the boundary between the lane and the application site. The proposal would require removal of a section of hedgerow to form the access with new hedge being planted behind the required visibility splays.

2.2 There are existing dwellings to the south of site (Coronation Cottages) and a bungalow situated to the south-west of the application site. There are open fields to the north save for one detached property ‘Lane House’ which fronts on to the lane..

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

The application contains a number of justifications by the applicants which are out of the ordinary and which the Chair and Vice Chair of Committee, in consultation with the Area Planning Manager consider warrant determination by the South Planning Committee.

4.0 Community Representations

4.1 **Consultee Comments**

4.1.1 **SC Highways**

Recommendation

No Objection – subject to the development being carried out in accordance with the approved details and the following conditions and informatives.

Observations/Comments:

The outline application has included access as a reserved matter to be determined under the outline consent. The development is proposing a new access onto a rural section of Class III road and whilst the proposal will result in additional traffic movements mainly between the site and the A488 to the west it is considered that the increase is unlikely to have a material effect on the prevailing highway conditions to justify an objection to the scheme.

The proposed visibility splays are considered to be satisfactory for the prevailing highway conditions; however, the northern splay has not been included in the red line of the application site and should be amended accordingly. It is noted that the additional land is within the applicant’s control/ownership.

Whilst the scale of the development is a reserved matter for later approval, the application has been submitted as proposing a development of 5 dwellings served by means of a private drive. The private drive junction should be a minimum width of 5 metres for the first 8 metres. In connection with the subsequent reserved matters/full application parking provision of 2 spaces for each of the proposed dwellings should be demonstrated.

Conditions:

Visibility Splays

The visibility splays shown on the block plan drawing no.877/14/02 June 2014, shall be provided in accordance with the approved details. All growths and structures in front of these lines shall be lowered to and thereafter maintained at carriageway level and shall be fully implemented prior to the dwellings being occupied.

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

New Access

No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

Parking and Turning

No development shall take place until details for the parking and turning of vehicles have been submitted to and approved by the Local Planning. 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.

4.1.2 **SC Drainage**

The proposed drainage details, plan and calculations should be conditioned and submitted for approval at the reserved matters stage if outline planning permission is granted.

1. Sustainable drainage systems are designed to control surface water run off close to where it falls and mimic natural drainage as closely as possible. They provide opportunities to:

'reduce the causes and impacts of flooding;

'remove pollutants from urban run-off at source;

'combine water management with green space with benefits for amenity, recreation and wildlife.

The proposed surface water drainage system for the site should be detailed. This should illustrate how the development will comply with Shropshire Council's Surface Water Management: Interim Guidance for Developers and the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone/ site area (any Flood Risk Assessment required should comply with this) and how SUDs will be incorporated

into the scheme. As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Surface water soakaways (Designed in accordance with BRE Digest 365)
- ' Swales
- ' Infiltration basins
- ' Attenuation ponds
- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new access, driveway, parking/paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

Details of the use of SuDS should be indicated on the drainage plan.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slope towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access/ driveway runs onto the highway.

3. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare	Change allowance % of impermeable area
Less than 25	10
30	8
35	6
45	4
More than 50	2
Flats & apartments	0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. 'Curtilage' means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

Reason: To ensure that the proposed surface water drainage systems for the site are designed for any future extensions of impermeable surfaces.

4. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

If main foul sewer is not available for connection, full details, plan and sizing of the proposed package sewage treatment plant including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 4' should be used to determine the number of persons for the proposed development and the sizing of the package sewage treatment plant and drainage fields should be designed to cater for the correct number of persons.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

4.1.3 **Historic England**

The outline application for 5No dwellings is within the setting of two Scheduled Ancient Monuments. These are 'Motte and Bailey Castle 100m west of Holy Trinity Church' (National Heritage List for England UID: 1013486) and 'Motte and Bailey Castle with associated remains of a medieval village and ridge and furrow cultivation, 200m west of St Peter's Church' (National Heritage List for England UID: 1019647).

The layout, design and materials of the development should seek to minimise any impact on the significance of the monument through development within its setting and how this has been achieved should be outlined within the Heritage Statement which should accompany the detailed application.

Due to the proximity to the nationally significant archaeology, other non-designated archaeology may be present within the development area and thus the advice of the Local authority's archaeological adviser should be sought and implemented in full.

Recommendation

We would urge you to address the above issues, and recommend that the

application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

4.1.4 **SC Archaeology**

RECOMMENDATION:

In relation to Historic England's comments we would recommend standard condition CC1 (Details of External Materials) be attached to any permission for the detailed application.

Background to Recommendation:

The proposed development site lies c.200m west of the Scheduled Monument of More Castle - motte and bailey castle with associated remains of a medieval village and ridge and furrow cultivation, 200m west of St Peter's Church, (National Ref. 1019647), and also the Scheduled Monument of Lydham Castle - motte and bailey castle 100m west of Holy Trinity Church, (National Ref. 1013486) and may affect the setting of these Scheduled Monuments, more particularly the former.

4.1.5 **SC Affordable Housing**

Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's 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, national policy prevails and no affordable housing contribution would be required in this instance. This is on the proviso that the 5 dwellings do not exceed 1000 sq. metres in area; being the threshold for an affordable housing contribution.

4.2 **Public Comments**

4.2.1 Representations have been received from a total of 20 individuals or households. Twelve of the submissions are in objection to the proposal and eight in support.

4.2.3 The points made in support of the application may be summarised as follows:-

- ☐ There is a lack of available housing within the village.
- ☐ The proposed dwellings will help retain a balance between the number of affordable and open market properties.
- ☐ The additional residents will help to provide support for local business' and services
- ☐ There are not many modern properties available in the local area.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Impact on residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The Councils adopted Development Plan comprises the Core Strategy and SAMDev policies and designations. Since the adoption of the Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material planning consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Lydham is not a location designated for development under current adopted policies within Shropshire Councils Core Strategy or SAMDev policies. As such the site is classed as falling within open countryside where isolated or sporadic development is not acceptable without special justification. Policy CS5 sets out the types of development which may be permitted within countryside locations, one such development is affordable housing where it meets local need and accords with CS11 or CS12. It is therefore clear that without any other material consideration which would lead to a different conclusion then the application should be refused.

6.1.3 The applicants have submitted information in support of the application that they consider should be given weight in the decision taking and which in their opinion should support approval of the application as a justifiable exception to adopted planning policies. Primarily this surrounds the fact the they intended their original application for this site which was previously refused, to be considered in conjunction with other applications relating to the provision of affordable on a nearby site and in particular the use of their land to accommodate a new treatment plant for the existing and recently approved additional affordable units, which could not be provided otherwise. The applicants always anticipated that the proposals would be considered as a package and were disappointed when this was not the case. This resubmission is intended to highlight the relationship between the developments.

6.1.4 The agent for the application has also pointed out that the village does not have a parish council but has a parish meeting instead has a parish meeting which may

not have engaged fully with the development plan making process. In their view the village is clearly sustainable as a location for new development having a range of facilities and services in its own right as well as being readily accessible to Bishops Castle.

6.1.5 In addition to the main issues raised above the agent for the application has made a number of other points in support of the application:-

- ☐ The site is located immediately adjacent to the village along a lane that already has some development.
- ☐ There have been no objections from statutory consultees.
- ☐ There has been considerable support from local people.
- ☐ There are no empty properties in the village as other than those being refurbished.
- ☐ As the final design of the proposed dwellings is not yet known it is premature to say that they will not be affordable to local people.
- ☐ Even if larger properties were built it would enable local people to upsize as required.
- ☐ The proportion of affordable dwellings in the village is significantly higher than most settlements and the proposal would help to balance this.

6.1.6 On the basis of the above the applicants consider that although the application is not clearly in accordance with the Councils adopted development plan policies it is in line with the principles of sustainable development set out in the NPPF and request that the proposal be considered accordingly and approved.

6.1.7 Details of the previous permissions referred to by the applicant will be provided at the Committee meeting. Planning permission for four new affordable dwellings at Coronation Cottages (ref14/01745/FUL) was approved on the 1st September 2014. The original outline application for up to five dwellings on the current application site (ref 15/01727/OUT) was received on the 28th April 2015 and refused on the 26th August 2015. A planning application by South Shropshire Housing Association to provide a new treatment plant and construction of layby, including repositioning of field entrance (ref 15/03072/FUL) on the current applicants land was received on the 19th August 2015 and was approved on the 20th November 2015.. The officer report for the applicants previous outline application does not make reference to the other applications being linked in any way and the previously approved treatment plant was not included in that application site.

6.1.8 Whilst it is acknowledged that the applicants did provide land to facilitate the installation of a new sewage treatment plant to serve existing and proposed affordable dwellings on a nearby development, officers consider that this is not something that should be given significant weight in the current decision. The permission for the four affordable dwellings was granted well before the current applicant's original submission (albeit that it was subject to a condition requiring foul drainage details to be agreed) and neither was it clear from the treatment plant submission that it was linked in any way to the potential development of the current

application site.

6.1.9 Colleagues in the planning policy team have confirmed that there did not appear to any submission from Lydham Parish Meeting in respect of the consultation processes for the Core Strategy and more importantly SAMDev. The fact that no submissions were made led to the settlement being excluded from allocation for any development within the settlement strategy. To the knowledge of officers this has never been queried since and the fact that no submission was made should not be taken as meaning that some development was expected. In fact the way that the SAMDev allocation was done was entirely the opposite whereby settlements were expected to positively seek development when they considered it to be appropriate or acceptable. Officers again consider that this fact cannot be given significant weight in the planning balance.

6.1.10 With regard to the other points raised in support of the application by the agent as referenced in paragraph 6.1.5 of this report, officers would make the following comments:-

- ② It is acknowledged that the site is adjacent to the current built form of the village but for policy purposes the whole settlement is in open countryside.
- ② The fact that there have been no consultee objections does not overcome the concern regarding principle.
- ② There have been submissions from local people both in support of and against the proposed development so the overall view is mixed.
- ② It is acknowledged that the final design and size of the dwellings is not known at this stage and whatever their size there is likely to be demand for them in this location.
- ② The village does proportionately have more affordable dwellings than most other settlements but this is simply a result of how it has evolved and should not be used as justification for new open market dwellings as social rebalancing.

6.2 Siting, scale and design of structure

6.2.1 As the proposal is in outline only no details of design, layout house types etc have been provided at this stage.

6.3 Visual impact and landscaping

6.3.1 As the application seeks outline permission with all matters other than access reserved, the design, siting and scale of the proposal have not been submitted and therefore this cannot be assessed at this time. Whilst the scheme would have the potential to have an adverse impact on the surrounding landscape and open countryside, clearly the design, siting and scale of the structure would determine whether this is the case and at this stage it is not considered that this could be a reason for refusal of the scheme in itself. It should be noted that the access would require removal and reinstatement of some hedgerow as part of the new access

6.4 Impact on residential amenity

6.4.1 A number of objections have been made with regards to the impact of the proposals on neighbouring properties. Whilst this is acknowledged that this cannot be fully assessed at this time given that the proposal seeks outline permission with most matters reserved, given the size of the site it is considered that dwellings could be designed and positioned to minimise the impact on the neighbouring properties in terms of outlook, sunlight, privacy and overbearing considerations.

7.0 CONCLUSION

7.1 Development of this site would be contrary to the Councils adopted development plan policies. Proposals that are not in accordance with up to date development plan policies should be refused unless there are material considerations that would lead the decision taker to a different conclusion. In this case, whilst there may be some sympathy for the applicants and their expectations in relation to nearby development, and whilst they might consider that there are other considerations that should be given some weight in the decision, officers believe that the weight to be given to these factors is not substantial and not sufficient to outweigh the fundamental conflict with adopted policies.

7.2 Accordingly, given the above it is recommended that the application be refused for the reason set out at the head of this report.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

RELEVANT PLANNING HISTORY:

15/01727/OUT Outline application for the erection of up to 5 detached dwellings (to include access) REFUSE 26th August 2015

16/03855/OUT Outline application for the erection of 5No dwellings (to include access) PDE

16/03855/OUT Outline application for the erection of 5No dwellings (to include access) PDE

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OCH8Y5TDGL100>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr R. Macey
Local Member - Cllr Jonny Keeley
Appendices

