

Development Management Report

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Summary of Application

Application Number: 17/02954/REM

Parish:

Baschurch

Proposal: Approval of reserved matters (layout, scale, appearance and landscaping) pursuant to 14/01123/OUT for the erection of 34 dwellings and public open space (amended description)

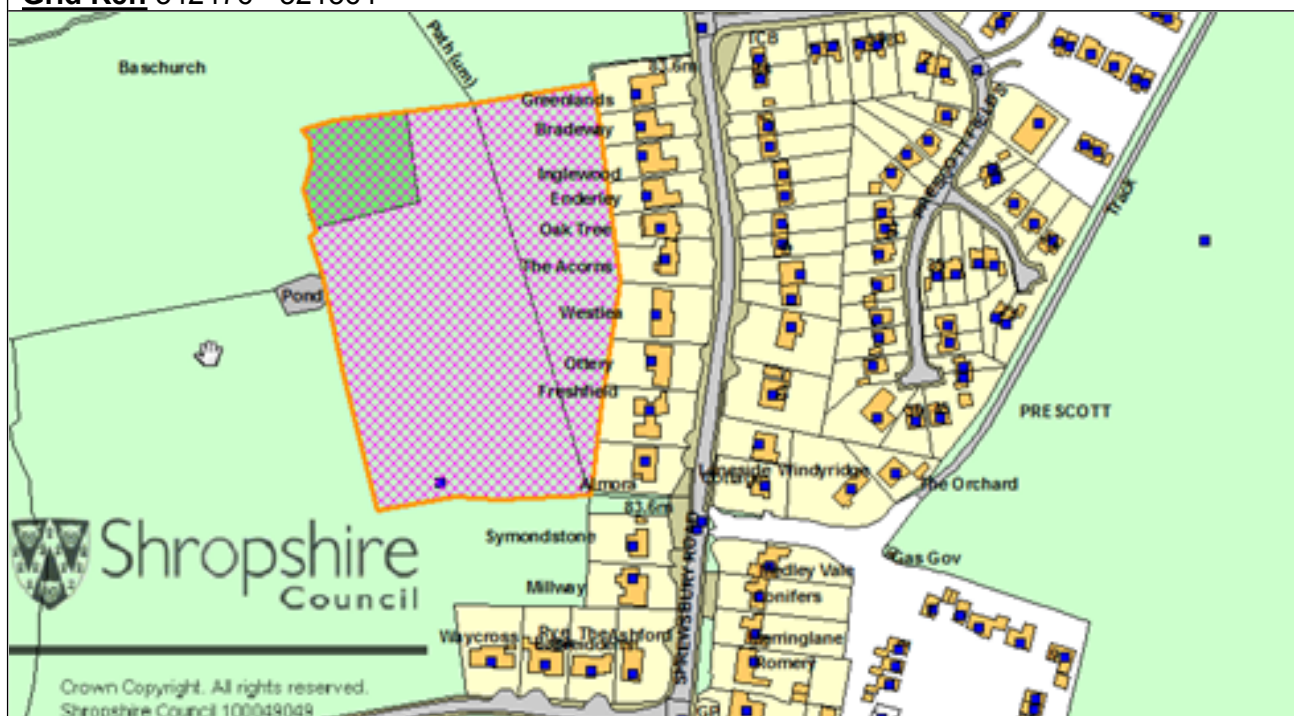
Site Address: North Of Milford Road Baschurch Shropshire

Applicant: Mrs Emma MacDonald

Case Officer: Jane Raymond

email: planningdmc@shropshire.gov.uk

Grid Ref: 342476 - 321364



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This application is for the approval of reserved matters (layout, scale, appearance and landscaping) pursuant to 14/01123/OUT for the erection of 34 dwellings and the provision of public open space. The scheme when first submitted was for 36 and was then amended to 37 but this final amendment is for 34 dwellings including 5 three bedroom affordable homes.
- 1.2 The proposal includes a mix of housing types and sizes including 3 three bedroom bungalows, 6 three bedroom terraced, 4 three bedroom semi-detached and 2 three bedroom, 17 four bedroom and 2 five bedroom detached two storey houses.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is part of an agricultural field on the West side of the village of Baschurch. The site is situated behind a row of houses and bungalows that face Shrewsbury Road which runs through the centre of the village. There is an existing access to the site off Shrewsbury Road that will serve the development and there is a footpath which runs across the site known as 'The Coffin Path'.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At the North planning committee when the outline application was approved members requested that the application for Reserved Matters be brought back to the planning committee for determination.

4.0 Community Representations**4.1 - Consultee Comments**

- 4.1.1 **SC Drainage:** Has confirmed that the proposed surface water drainage strategy and FRA is acceptable but that Highways should provide comments on the highway gully spacing which seems close.
- 4.1.2 **SC Highways:** No Objection ' subject to the development being carried out in accordance with the approved details and the suggested informative notes.

Observations/Comments:

No details have been provided for the area of the development identified for the Doctor's Surgery and car parking which is to take access from Milford Road and the residential layout is, therefore, currently being considered in isolation. It is considered that the layout of the Doctor's Surgery and car parking needs to be carefully designed to ensure that the residential access road does not provide a more convenient parking solution than the proposed formal car park.

It is noted that conditions 6 and 8 of 14/01123/OUT require full engineering details of the means of access and full details of the design and construction of any new roads and footways as part of the first application for reserved matters. This has resulted in a number of technical/engineering and design drawings being submitted as part of this reserved matters application.

In order to satisfy the adoption requirements of the Highway Authority, the submitted details need to be technically approved to enable the completion of an adoption agreement under Section 38 of the Highways Act 1980. At present this process has not been completed and the drawings, which would be the subject of the discharge of the above (and any other relevant) conditions, cannot be confirmed as approved.

It is considered that upon completion of the technical approval process that the application for the discharge of the relevant conditions should be resubmitted on the basis of the technically approved drawings. This will enable the planning conditions to be partially discharged, with the full discharge of conditions being confirmed upon completion of the relevant construction works under the terms of the Section 38 agreement.

It should be noted that the latest Proposed Site Layout (Drawing No. 2168/03 Revision D) does not appear to be capable of being produced to the scale indicated for detailed assessment. The revised Section 38 Legal Plan (Drawing No. ENG-151 Revision P6) has, therefore, been used to assess the layout which is now considered to be acceptable.

- 4.1.3 **SC Rights of Way:** No objection subject to an informative advising the developer of the criteria that they should adhere to.

Observations/Comments:

In accordance with DEFRA's Rights of Way Circular 1/09 the Council try to avoid the use of estate roads wherever possible for the alignment of Public Rights of Way and preference is normally given to the use of made up routes through landscaped or open space areas away from vehicular traffic.

However, in this instance Officers are aware of the restrictions placed on the developers for this site and also that the Parish Council wish for the footpath to run on its current Definitive line.

- 4.1.4 **SC Parks and Recreation:** (comments on the original scheme for 36 homes)

Based on the current design guidance the development will deliver 128 bedrooms and therefore should provide a minimum 3840m² of usable public open space as part of the site design. The design will actually provide 4538 m² which we acknowledge as being suitable for the area.

For developments of 20 dwellings and more, the open space needs to comprise a functional area for play and recreation. This should be provided as a single recreational area, rather than a number of small pockets spread throughout the development site, in order to improve the overall quality and usability of the

provision.

4.1.5 **SC Trees:** (comments on the original scheme for 36 homes)

I would raise concerns about the proximity of some of the plots to existing trees. In particular in respect of plots 24 & 25 and tree T23 and the area of woodland in the north west corner of the site. (Tree numbers taken from the AIA not the site/landscape plan). The juxtaposition between trees and dwellings and associated amenity space is an important consideration because:

- (i) of the potential damage that a tree may cause to buildings, particularly on clay soils, unless precautions are taken in the design of foundations, and
- (ii) incoming occupiers of properties will want trees to be in harmony with their surroundings without casting excessive shade or otherwise unreasonably interfering with their prospects of reasonably enjoying their property leading inevitably to requests for consents to fell.

Advice given in BS 5837 which notes:

'A realistic assessment of the probable impact of any proposed development on the trees and vice versa should take into account the characteristics and condition of the trees, with due allowance for space for their future growth and maintenance requirements.'

and advises that the following factors are given consideration:

Shading
Privacy and Screening
Direct Damage
Future Pressure for Removal
Seasonal Nuisance

The crown of T23, a category A oak tree extends across a significant portion of the garden area of plot 24 and extends to the north elevation of the detached garage. As a result the rear garden will be shaded and impacted by the overhanging crown and this will have a negative impact on residential amenity.

The dwelling on plot 25 is adjacent to an area of woodland. This woodland has significant value in terms of its contribution to the local landscape, character and amenity of the area as well as providing an important habitat resource. The proximity to the woodland of plot 25 will result in significant shade, seasonal nuisance and encroachment and will impact on the residential amenity of the property.

The above relationship between the dwellings on these plots and the trees and woodland, could lead to a situation where there will be requests to fell or inappropriately prune trees.

The structure of the landscaping plan is well thought out with an acceptable provision of large species trees situated in sustainable locations on public open space, complementing the existing retained trees.

Providing the site layout is amended to address the proximity concerns I would

have no further objection to this scheme, subject to a tree protection condition being attached to any grant of planning permission.

- 4.1.6 **SC Ecology:** No comments to make on this reserved matters application and looks forward to receiving information in relation to the discharge of conditions application.
- 4.1.7 **SC Regulatory Services:** No objection in principal
- 4.1.8 **SC Affordable Housing:** The application shows the correct number of on site affordable dwellings.
- 4.1.9 **SC Learning and Skills:** Shropshire Council Learning and Skills reports that the local primary school is currently close to capacity and this development may cause some capacity pressures. It is therefore essential that the developers of this and any other new housing in the area contribute towards the consequential cost of any additional places/facilities considered necessary at the school. It is recommended that any resulting capacity pressures from this development are addressed by use of the CIL tariff.
- 4.2 **- Public Comments**
- 4.2.1 **Baschurch PC:** The Parish Council have not yet commented on the latest revised plan for 34 received 13 November but on the proposal for 37 homes provided the following comments:

03.10.2017: Baschurch Parish Council continues to support the development of this site in principle and adds further comments following consultation.

Scale of development:

Baschurch Parish Council notes the applicant's comments that SAM Dev was not intended to be a maximum. The number of dwellings has now increased to 37 and, as advised by the officer, this is likely to be seen as acceptable and in accordance with the adopted plan. Baschurch Parish Council would still have preferred the number of dwellings be kept at 30, so we do not alter our stance on this point.

However, it is noted that the application now includes three bungalows. This is welcomed, but a larger number of bungalows would have been more appealing. Should the applicant revisit this decision and increase the number of bungalows, it would gain the support of Baschurch Parish Council and our view is that these properties would be extremely marketable.

The applicant states that the additional dwelling is to balance the number of bed spaces with the original application. Our figures indicate that the bed spaces have actually increased to 133 (the bungalows have been stated as two bedrooms, whereas the Elevations and Floor Plans for the Minsterley dwellings clearly shows three bedrooms). It should be noted that this error also affects the calculation for public open space. Whilst this still accords with guidelines, it should be noted that any further revisions to the plans could alter that.

It is also noted that the revised layout provides for a greater distance between existing and new dwellings and that is supported by Baschurch Parish Council.

The Coffin Path:

It is noted that the revised application leaves the Coffin Path in the position stated on rights of way maps and we are grateful for this.

Baschurch Parish Council still asks for the following point to be considered -

When considering the likely traffic generated from the proposed new medical practice, it would be helpful if the junction with Shrewsbury Road and Dyers Lane be changed to a raised mini roundabout. This would remove the priority for traffic using Shrewsbury Road and would assist with slowing the traffic generally along this route. With the two developments either side of Shrewsbury Road having access points almost facing each other, a mini roundabout would assist with access and egress from all directions.

The PC provided the following comments in relation to the initial submission for 36:

08.08.2017: Baschurch Parish Council supports development of this site in principle, but objects to the reserved matters application as currently submitted.

The main reasons for objection are:

The application is for 36 dwellings, which is 20% more than agreed at reserved matters stage and is contrary to SAMDev, which is the current agreed and adopted plan. There is no material justification for a 20% increase in the number of dwellings agreed.

It was clearly stipulated in the SAMDev plan that the Coffin Path is a historically significant footpath within the Parish and it was made very clear that any diversion was completely unacceptable. The position of Baschurch Parish Council remains unchanged and we cannot support the significant diversion proposed.

In comments submitted by Baschurch Parish Council at reserved matters stage, it was requested that consideration be given to building bungalows to the rear of existing dwellings on Shrewsbury Road. This request has not been incorporated in the current design. The developer should note that bungalows achieve a premium price within the Parish due to the shortage of supply of this type of dwelling and we again request that consideration be given to incorporating this type of dwelling in the development.

Should officers be minded to approve this application, Baschurch Parish Council would like the following points noted and considered:

The provision of affordable dwellings lies in one corner of the development. It is preferable that the dwellings be split across the site (it is acknowledged that they are semi-detached or terraced, so two sites of two and three dwellings would be acceptable).

When considering the likely traffic generated from the proposed new medical practice, it would be helpful if the junction with Shrewsbury Road and Dyas Lane be changed to a raised mini roundabout. This would remove the priority for traffic using Shrewsbury Road and would assist with slowing the traffic generally along this route. With the two developments either side of Shrewsbury Road having access points almost facing each other, a mini roundabout would assist with access and egress from all directions.

Baschurch Parish Council is actively pursuing options for the new medical practice with interested parties and other agencies. Consideration must be given to transferring ownership of the land allocated for the medical practice to public ownership to allow for wider funding streams to be accessed.

4.2.2 Two letters of objection received to the final amended layout for 34 (received on 13 November 2017) summarised as follows:

- ☐ Unfair that the applicant has time and resource to produce lots of plans and in great detail when the public only have 2 weeks.
- ☐ National and Local policy are supposed to foster community engagement and neither the landowner, applicant or their consultants have consulted the local residents.
- ☐ Density is still far too great for this rural area and not in accordance with the original 30.
- ☐ Noise and disturbance due to increased activity behind existing houses (during construction and when occupied)
- ☐ Bungalows were promised behind the homes facing Shrewsbury Road and it is unfair that some homes have got bungalows but some have got houses and garages.
- ☐ The proposed landscape strip is garden and it should be a separate landscape strip in addition to gardens
- ☐ The houses should all be pushed further into the field, or the open space should be relocated to the houses behind Shrewsbury Road.
- ☐ Requests working hours of 9am - 4pm and not at all at weekends and bank holidays.
- ☐ Requests that the same restrictions are placed on this development as were placed on others in the area including control of dust during dry weather, road cleaning when wet/clearing the site and during construction, noise reduction methods including machinery and plant, and restrictions on delivery hours to 7.30am and no earlier
- ☐ Concerned that fire engines and emergency vehicles should have access to all existing and proposed dwellings and that this proposal might not have satisfactorily considered accessibility for the access and parking of such

vehicles.

- ☐ The selling point of this proposal to Baschurch PC to include it within SAMDev as an allocated site was the provision of land for a medical centre which has a 10 year restriction on its provision.
- ☐ This proposal is only for the residential part of the outline proposal and suggests that the developer should have bought that land and offer it to the PC at cost as the PC are seeking a way to take that part of the land into public ownership.
- ☐ Considers that a mini-roundabout should be provided on Shrewsbury Road to serve this and other development.
- ☐ The proposal will put pressure on existing infrastructure (drainage, water supply, schools and medical centre) and this needs to be considered.
- ☐ The proposal could include more two bedroom bungalows allowing older residents to down size and freeing up houses for the younger generations.

4.2.3 Six letters of objections were received to the proposal as first submitted for 36 homes and initially amended to 37. One letter also represents the occupiers of three other properties. The comments were as summarised above but with the following additional comments and concerns:

- ☐ The SAMDev policy, application, supporting statement, indicative layout and report at the outline stage all refer to 30 dwellings. 6 additional dwellings in an increase by 20%.
- ☐ There is no justification for an increase in the number of dwellings at this reserved matters stage.
- ☐ To approve a reserved matters application for dwellings in excess of the number reported to committee at the outline stage would be unlawful and open to judicial review.
- ☐ The layout does not respect that this is open countryside, rather it seeks to cram in as many dwellings as possible so as to maximise developer profit.
- ☐ The D and A statement at the outline stage stated the following '*the open market housing will be a mix of 3 and 4 bed detached two storey houses and bungalows. Bungalows are shown for plots 11 – 13, 21 and 22 all with hipped roofs to minimise impact on the occupiers of the existing Shrewsbury Road dwellings*'. There are now no bungalows included and with no justification provided.
- ☐ Bungalows were indicated on the indicative illustrative plan and to not include bungalows now would be unlawful and open to judicial review.
- ☐ A landscape strip should be provided and more of the field should be used to effect a proper separation. The development should be pushed further down

the field and toward the River Perry.

- ❑ Residential amenity is not being respected but comprehensively ruined.
- ❑ 36 dwellings are going to result in increased noise and disturbance to existing occupiers.
- ❑ Overlooking of existing bungalows from proposed first floor windows.
- ❑ Loss of an open outlook and fresh air and enjoyment of the view of the countryside, wildlife and the dark sky and stars at night from the rear of properties in Shrewsbury Road.
- ❑ Loss of afternoon sunlight in existing rear gardens
- ❑ Noise during construction and particularly if houses have pile foundations.
- ❑ The submitted information indicates piling but there is no justification for this and why it is necessary
- ❑ Increased traffic on Shrewsbury Road and impact the safety of road users.
- ❑ Impact on education provision and a shortage of primary school places.
- ❑ That provision is made for access to the mains drain that runs along the hedge behind the properties in Shrewsbury Road.
- ❑ In determining the outline application, considerable weight was attached to the potential delivery of a health centre on land owned by the applicant but this is unlikely to be delivered due to financial constraints and was a 'red herring'.
- ❑ The land earmarked for the medical centre should be protected for this future purpose alone by restrictive covenant
- ❑ Objects to the public footpath being diverted and that it should follow the direct and shortest route that the original 'coffin path' followed.
- ❑ It would be preferable if the 'Coffin path' was not pavement but a green route through the site. It should not be a narrow enclosed corridor but open to surveillance.

4.2.4 Ramblers association: (Comments on application as first submitted). The proposed new route for the 'coffin path' does not follow the original historic route and the direct line of footpath 43 should be preserved as a 'green' route across the site.

5.0 THE MAIN ISSUES

5.1 Planning permission was originally approved for this site in 1961 (Ref: 60/1691) but the only part of that permission that was implemented are the homes that face Shrewsbury and Milford Road and the access to the field behind where the

additional homes were to be built and which is the site now the subject of this reserved matters application.

- 5.2 The principle of residential development of the site was established at the outline stage when outline planning permission (14/01123/OUT) was granted for '*mixed residential development and medical centre to include access*'. This outline planning permission did not stipulate the number or type of dwellings in the description of the development or approve a layout plan, and no conditions were imposed to restrict the number of dwellings or the scale and design of the buildings. A condition was imposed to make this clear and stated the following:

4. This permission does not purport to grant consent for the layout or the number of dwellings shown on the deposited plan Number SA1277/02 submitted with this application.

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

All details other than access to the site were therefore reserved for later approval.

- 5.3 The main issues to consider at this outline stage are therefore as follows:

- ❑ Number of dwellings
- ❑ Layout including landscaping, trees, open space and public right of way
- ❑ Scale, design and appearance
- ❑ Impact on existing residents
- ❑ Access and parking
- ❑ Drainage
- ❑ Developer contributions

6.0 OFFICER APPRAISAL

6.1 Number of dwellings

- 6.1.1 The site is an allocated site within Baschurch which is a community hub under policy MD1 and MD4. Policy S16.2 (Community Hub and Cluster Settlements) states the following regarding allocated sites:

The development of the allocated sites identified on the Policies Map should be in accordance with Policies CS6, CS9 and CS11, Policies MD2, MD3, MD4 and MD8, and the development guidelines and approximate site provision figures set out in this schedule.

- 6.1.2 The approximate site provision figure for this allocated site is 30 and the development guideline for this allocated site within policy S16.2 (i) states the following:

Development subject to satisfactory access, layout and design and the provision of land adjoining Milford Road for a new Medical Centre and associated parking, protection of the integrity of the coffin path crossing the site, and high quality landscape design to minimise the visual impact of the development on the

surrounding area and existing adjoining residential properties.

6.1.3 At the outline stage the officers report stated the following:

The number (and density) of dwellings is therefore not part of the proposal and would not be fixed by approval of this application. The number of dwellings and the layout could change completely and will be considered fully (along with scale and appearance) at the Reserved Matters stage as will the impact on existing residents and residential amenity. However it is considered that a development of an appropriate scale and design could be achieved that would not significantly and adversely affect the character and appearance of the locality and without any significant adverse impact on residential amenity.

6.1.4 Concern has been raised by some residents that the outline application and the housing allocation indicated 30 dwellings and that anymore would be unacceptable and should be refused. However as detailed above the Outline permission does not limit the amount of houses that can be applied for and the site provision figures on the allocated sites are only approximate and they are not a maximum figure.

6.1.5 The site provision figure of 30 can be exceeded provided regard is given to policy CS6 and MD2 when assessing whether the density, scale and layout is appropriate. Both national and local policy (including CS6) requires proposals to make the most effective use of land and optimise the potential of the site whilst ensuring that proposals are appropriate in density, scale, design and appearance. Whether the proposal accords with CS6 and MD2 and the development guidelines for this allocated site will be considered in the paragraphs below.

6.2 Layout, landscaping, open space and public right of way

6.2.1 The proposal as now amended indicates 34 homes (to provide 123 beds) and the amount of open space provision of over 4000 square metres exceeds the requirements of the policy guidance. The open space is situated to the North and West of the site and is proposed as semi-natural informal open space. If any play provision is required this would be funded by CIL at the Parish Councils request.

6.2.2 A landscape plan has been submitted that indicates areas of wildflower meadow, wildflower wetland areas and woodland planting. The tree and landscape officer has commented that the structure of the landscaping plan is well thought out with an acceptable provision of large species trees situated in sustainable locations on public open space, complementing the existing retained trees. The proposed open space serves a combined function of ecological enhancement and an area for public recreation and enjoyment.

6.2.3 The tree officer initially raised concern regarding the proximity of some of the plots to existing trees but commented that providing the site layout is amended to address the proximity concerns, would have no further objection to this scheme, subject to a tree protection condition. The layout has been revised so that the dwellings to the North West now face the trees and are positioned further away from the trees and separated by a road, and the rear gardens will not be shaded by these existing trees. A tree protection condition is recommended.

- 6.2.4 It has been suggested that the open space should be provided between the rear of the existing houses and the proposed houses and that the separation distance between the proposed and existing houses should be increased by extending the built development further into the field. However the development cannot not extend beyond the boundary of the site allocation and red line boundary of the outline permission as further development into this field would not be acceptable and contrary to policy. It is also considered that the open space provision on the edge of the development is acceptable in this location as it softens the edge of the development and marks the transition from the built development to open countryside.
- 6.2.5 It has also been suggested that a landscape buffer of 10 metres should be provided between the rear of the existing and proposed houses and that this landscape buffer should be in addition to the proposed rear gardens, and that the site allocation and outline permission makes provision for this. However no landscape buffer is secured by the outline permission and the site allocation only refers to *'high quality landscape design to minimise the visual impact of the development on the surrounding area and existing adjoining residential properties'*
- 6.2.6 It is considered that the landscape proposals are acceptable and that the separation distance of between 20 and 30 metres between the rear of the existing and proposed properties is a more than satisfactory distance and far greater than that found within urban residential proposals.
- 6.2.7 The proposal initially indicated a diversion to the public footpath referred to as the 'coffin path' so that part of it was adjacent to the proposed open space. However due to strong objection to it being diverted it was considered more important to retain the direct route (albeit on pavements within the development site) rather than divert it around the edge of the field or open space. The Public Rights of way officer has no objection to this.

6.3 **Scale, design and appearance**

- 6.3.1 The proposal when first submitted included predominantly 4 bedroom detached two storey houses and no bungalows. The row of detached houses proposed to be situated behind the existing row of bungalows and houses along Shrewsbury Road were situated so closely together that it was considered that they would appear like a terrace and effectively a continuous wall of development to the rear of these existing properties. It was also considered that they would appear urban in nature so tightly spaced along the Southern side of the proposed access road.
- 6.3.2 The applicant was advised that this was unacceptable and that the proposal should be amended to include a reduction in the number of units, the introduction of some bungalows and also a mix of house types to include some with integral garages and some with single storey garages to the side. The latest amended plan has reduced the number of dwellings from 37 to 34 which has enabled an increase in the spacing between the houses.
- 6.3.3 There has also been a change to the size and mix of house types and the proposal now includes 3 three bedroom bungalows and a mix of three and four bedroom terraced, semi-detached and detached houses. The change in the number and mix

of house types has introduced a variety in roof heights which creates wider spacing between the houses and therefore reduces the overall bulk of the built development and lessens the visual impact.

6.3.4 There are a variety of housing types, scale and plot sizes within Baschurch and within the vicinity of the site. The properties immediately adjacent to the site are a mix of bungalows and houses of different architectural style. Although the rear of the new homes will be seen from the rear of these existing homes the proposed development will not be visible from Shrewsbury Road itself or Milford Road to the South as the site is screened by the existing houses.

6.3.5 The proposed houses are of a traditional design incorporating a variety of architectural features including front facing gables, decorative brick work, chimneys, arched brick window heads, reconstituted stone sills and bay windows. This traditional design coupled with the now mix of house size and types and the variety of plot sizes is commensurate with the variety in the scale of properties and plots sizes in the locality. It is considered that the proposed scale, layout and appearance are acceptable and that the development is appropriate in scale, density, pattern and design, taking into account the local context and character, and therefore the proposal is considered to accord with CS6 and MD2.

6.4 **Impact on existing residents**

6.4.1 CS6 also requires proposals to safeguard residential amenity. Whilst it is accepted that the proposal will affect the outlook from properties that currently enjoy a view of tranquil countryside there is no right to a view. It is considered that the buildings will not appear unacceptably overbearing or obtrusive at a distance of over 20 metres apart and that they will be positioned a sufficient distance away not to result in overlooking or a loss of privacy. Whilst the new dwellings will introduce some noise and activity of families enjoying their rear gardens this is not considered to be unacceptable in a residential area and the noise from additional vehicular movement will not be significant compared to the existing vehicular traffic on Shrewsbury Road.

6.4.2 The main impact on residential amenity is likely to be during the construction phase due to on site activity and deliveries to the site, but this phase is inevitable with any development and is short lived. The submitted information initially indicated that the proposal would include piled foundations and some residents were concerned about this. The agent has confirmed that the amended Construction Method Statement clarifies that no piling will take place and that all foundations will be traditional strip footings. A condition is recommended to ensure that the submitted construction management plan is adhered to in addition to a condition to restrict hours of working.

6.5 **Access and parking**

6.5.1 The application provides details of the residential layout with access from the B5067 (Shrewsbury Road) following the Outline approval 14/01123/OUT and the

subsequent detailed access clarification application 15/03593/FUL. Conditions 6 and 8 were imposed requiring engineering details of the design and construction of the means of access and the new roads and footways. Whilst Highways have confirmed that the details submitted are acceptable they are not formally approved until the submitted details are technically approved to enable the completion of an adoption agreement under Section 38 of the Highways Act 1980.

- 6.5.2 Highways have confirmed that the submitted plans to indicate access to the site and the layout of the new roads are acceptable and this includes the submitted plan which illustrates that large refuse vehicles and emergency vehicles will be able to manoeuvre within the site. The PC and some residents have requested that a mini-roundabout be provided. However the access to the site was approved as part of the outline application (and subsequent detailed full planning permission for the access) and Highways have confirmed that the access is acceptable. The developer cannot be requested to provide road improvements such as a mini-roundabout if this is not considered necessary to make the proposal acceptable
- 6.5.3 The submitted layout includes two parking spaces for each property in addition to a garage that will be provided for the majority of the houses. It is considered that the proposal provides satisfactory parking provision, that the road layout is acceptable, a safe means of access will be provided and that the proposal will not result in congestion on the existing highway. The separate access to the proposed medical centre to be provided off Milford Road will be considered when the reserved matters application for that part of the site is submitted.

6.6 **Drainage**

- 6.6.1 Condition 5 and 9 imposed on the outline consent required a Flood Risk assessment and drainage details to be submitted with the Reserved matters application. Drainage have confirmed that the FRA and proposed surface water drainage strategy is acceptable but that the surface water drainage for the new roads including finished road levels and gully spacing should be assessed by highways. These details will be assessed and technically approved under a Section 38 agreement.
- 6.6.2 One resident has raised concern regarding the mains drain that runs along the hedge line at the rear of the properties on Shrewsbury Road and that access will still be required to maintain it. The agent has confirmed that STW's sewer is marked on the submitted engineering drawings and that the proposed development will not impact on the existing sewer and STW's access to it.

6.7 **Developer contributions**

- 6.7.1 The proposal includes affordable housing at the current prevailing rate of 15% which provides 5 affordable homes on site and the balance as a financial contribution, and this is secured by the S106 at the outline stage.
- 6.7.2 The S106 also made provision for the land outlined on the indicative plan for a medical centre to be made available at nil cost to any person able to demonstrate their ability to provide funding for a doctors surgery on the medical centre land within the Development plan period. There is currently 9 years remaining but the

S106 does not require the surgery to be built before the end of the plan period but that the land owner will have to release the land at nil cost if it is demonstrated that funding is available. There is therefore no requirement for additional developer contributions from the applicant for this reserved matters application.

- 6.7.3 Any funding required for Education will be provided for by CIL and the contribution for this site will be approximately £160,000.

7.0 CONCLUSION

- 7.1 The development of this site for housing is acceptable in principle as it is an allocated site within SAMDev and this is established by the outline permission. Although the numbers are higher than the approximate housing provision indicated in the allocation it is considered that the proposal makes effective and efficient use of land, as required by local and national policy, and that the layout, scale, design and appearance of the development is acceptable and would not adversely impact on the character and appearance of the locality or significantly impact on residential amenity.
- 7.2 The proposal would not adversely impact highway safety, includes more than adequate open space provision and the route of the 'coffin path' will be maintained. CIL funds can be used to provide any equipped play area and contributions to education and land for a medical practice and 5 affordable houses is secured by the existing S106. The proposal is therefore considered to accord with SAMDev policies MD4 and S16.2 (i) and Core Strategy policies CS6, CS11 and CS17 and the NPPF.
- 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, CS11 and CS17 and the NPPF.

SAMDev policies: MD4 and S16.2 (i

RELEVANT PLANNING HISTORY:

14/01123/OUT Outline application (access for approval) for mixed residential development and medical centre to include access GRANT 22nd December 2014

15/03593/FUL Formation of access to serve approved outline application 14/01123/OUT GRANT 6th November 2015

11. Additional Information

List of Background Papers: File 17/02954/REM
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Cabinet Member (Portfolio Holder): Cllr R. Macey

Local Member: Cllr Nick Bardsley

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

2. 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.

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 all tree protection measures specified in the submitted Arboricultural Report by Future Arbor dated January 2017 and indicated on the Tree Protection Plans ref:CH/B2/003 B have been fully implemented on site.

c) All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site.

d) 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.

e) A responsible person will be appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved landscaping plans prior to occupation of the final dwelling. 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 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.

4. On completion of the approved landscaping and provision of public open space (and prior to occupation of the final dwelling) a public open space and landscaping management plan shall be submitted to and approved in writing by the LPA. The plan shall include full details of the future maintenance, management and monitoring of all public open space and landscaped areas (other than privately owned, domestic gardens) including a 5 year project register, annual work plan and the means by which the plan will be rolled forward annually and details of who shall take responsibility for implementation of the plan. The future maintenance, management and monitoring of the public open space shall be implemented in accordance with the approved details in perpetuity or in accordance with an alternative management plan to be submitted to and approved in writing by the LPA.

Reason: To ensure the adequate future management and maintenance of the public open space and landscaped areas.

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

5. The submitted and approved Construction Method Statement (CMS) shall be strictly adhered to throughout the construction phase of the development. This includes construction and deliveries restricted to take place only between the hours of 07.30 to 18.00 on weekdays and 08.00 to 13.00 on Saturdays.

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