

## Development Management Report

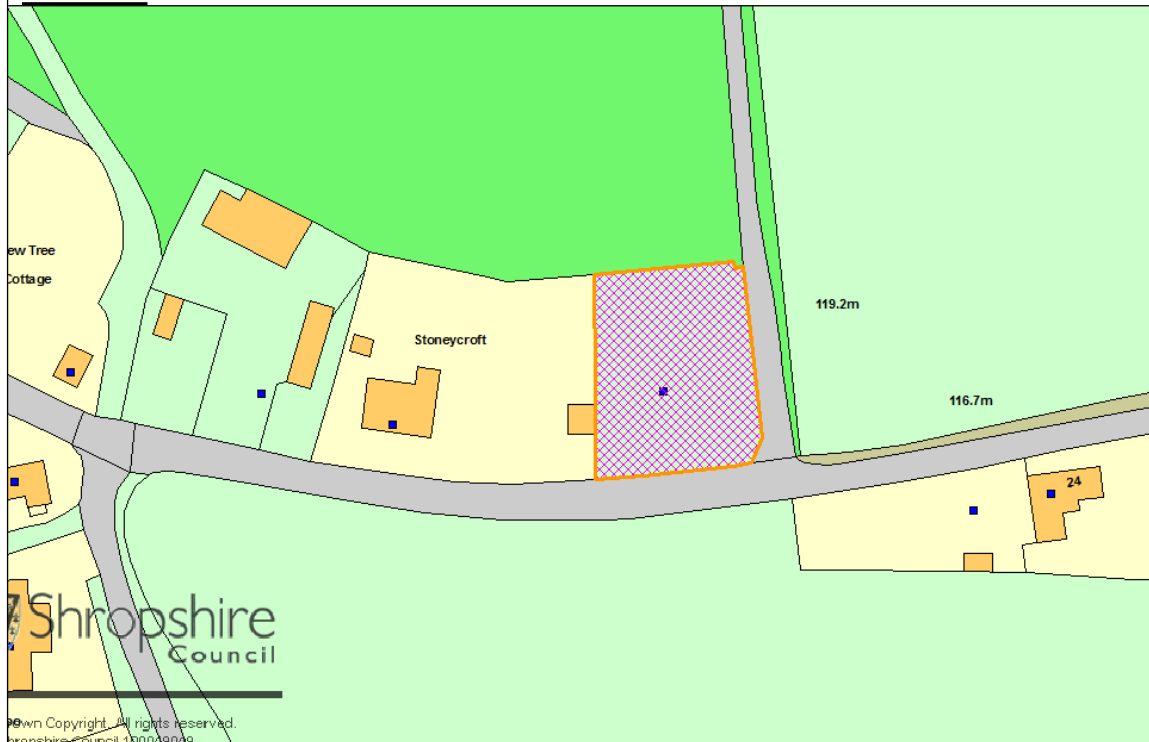
Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 17/04319/REM	<b>Parish:</b>	Little Ness
<b>Proposal:</b> Approval of reserved matters (access) pursuant to permission 15/00560/OUT for the erection of one dwelling		
<b>Site Address:</b> Development East Of Stoneycroft Valeswood Little Ness Shrewsbury Shropshire		
<b>Applicant:</b> Mr & Mrs Robinson		
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 339406 - 320335



© Crown Copyright. All rights reserved. Shropshire Council 100049049

© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2016 For reference purposes only. No further copies may be made.

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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks the approval of reserved matters for the access to serve a dwelling on the site east of Stoneycroft, Valeswood, Little Ness, Shrewsbury.
- 1.2 Outline planning permission was granted on the 17<sup>th</sup> June 2016 for a dwelling on the site with all matters reserved. This application is only considering the access to the site. All other matters remain reserved and additional applications will be required to deal with the matters of scale, appearance and landscaping.
- 1.3 Initially when submitted the proposed access was located approximately 9 metres up the adjacent bridleway from Valeswood Lane. Following the receipt of comments and responses from contributors and consultees the access has been relocated to the corner of the field where the existing access is located. This is similar to the indicative block plan provided with the outline application. The report and recommendation are made on the basis of the amended plan.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is situated within the Community Cluster of Valeswood, approximately 2km north east of the Community Hub of Nescliffe.
- 2.2 The site is located on the edge of the cluster of the dwellings in the part of the village, and is well contained by matures hedgerow and trees and is currently used to farm Christmas trees. To the west of the site lies Stoneycroft a recently constructed two storey dwelling and to the east there is an access track which is also a bridleway. There is an agricultural access gate leading into the site at the junction of the track with the public highway that passes to the south. To the North of the site there is a large expanse of woodland.
- 2.3 There are other dwellings within close proximity of the site in an easterly direction where the main part of the cluster can be found. In addition there are other dwellings located on the south side of Valeswood Lane in an easterly direction.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has objected to the proposal and as this is contrary to the recommendation of Officers, the matter has been referred to the Local Member. It was requested that as the response raised material planning considerations in relation to the access that the application should be referred to the Planning Committee for determination.

### 4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

#### 4.1 Consultee Comments

##### 4.1.1 Parish Council:

Response received 09.11.17

The parish council requests that the access is onto the road not the bridleway. This would also enable more passing places.

Response received 03.10.17

The Parish Council objects to this proposal as the access goes along part of the bridleway over which there is no vehicular right of access. The Parish Council is aware of the concerns raised by the Bridleway Association and shares these concerns.

4.1.2 **Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance

4.1.3 **Highways:** No objection - subject to the development being constructed in accordance with the approved details, and the following conditions and informatives.

Shropshire Councils Outdoor Recreation Team should also be consulted as the access opens directly onto a definitive right of way with the status of bridleway.

Observations/Comments: 02/11/2017

Planning Application 15/00560/OUT for development of a single dwelling on the site was approved on 17th June 2016 with all matters reserved. The current application seeks reserved matters approval for the access with approval for all other matters to be made under a separate application.

The proposed access has now been amended to utilise the existing access at the bottom of the public right of way close to the public highway. The approval of Shropshire Councils Outdoor Recreation Team should be sought.

4.1.4 **Outdoor Recreation:** No objection – it is confirmed that Outdoor Recreation have no objection to the revised access position at the bottom of the bridleway track on to the Cliffe from Valeswood, as per the amended drawing PO2A dated 23 Oct 17.

4.1.5 **Nesscliffe Hills & District Bridleway Association:** Objection - the Amended Block Plan drawing PO2 A is noted.

The new plan shows that it is planned to remove 2m of the hedge adjoining the bridleway, and for the current access in to the field on the corner with the road, to be extended up the bridleway. There is no legal prescriptive right to extend the vehicular access up the bridleway.

Any removal of a section of hedge should be on the road side of the entrance, not up the bridleway. That could give better access to the road, and better visibility down the road when turning out of the proposed property.

4.1.6 **Ecology:** A landscaping scheme needs to be submitted in support of this REM (under condition 5).

4.1.7 **SUDS:** Drainage Condition 4 should not be discharged. No drainage details have been provided as detailed in our comments for 15/00560/OUT.

4.2 **Public Comments**

4.2.1 One letter of representation has been received. The areas of concern relate to:

- Right of access over the right of way
- Unauthorised parking on the right of way restricts authorised access
- Access should be off Valeswood Lane

## **5.0 THE MAIN ISSUES**

- Principle of Development
- Highways and Impact on Right of Way
- Impact on Residential Amenity

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & 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. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that 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 The principle of a dwelling on the site together with the issue of affordable housing was dealt with and approved as part of the outline planning permission granted on 17<sup>th</sup> June 2016 reference 15/00560/OUT. This application only seeks approval for the access arrangements to the site. The issues regarding landscaping and drainage matters will be dealt with in subsequent applications for the remaining reserved matters ie, appearance, layout, scale and landscaping.

### **6.2 Highways and Impact on Right of Way**

6.2.1 Concerns have been raised by the Parish Council, the Nesscliffe Hills and District Bridleway Association and a local resident regarding the means of access to the site. In particular the issues relate to highway safety and the right of access across the right of way.

6.2.2 The access is proposed to be in the south eastern corner of the field where there is an existing vehicular access. This will lead to the junction of the Bridleway with Valeswood Lane. As part of the process a 2 metre section of hedgerow will be required to be removed to enable appropriate access.

6.2.3 The amended plan has been assessed by the Council's Highways Development Control Officer who has raised no objection to the proposed access arrangements. Conditions have been recommended for inclusion on any approval of reserved matters to ensure that appropriate visibility splays are maintained together with the parking and turning spaces. This will ensure a safe access is provided and that vehicles will be able to enter and leave the site in a forward gear. In addition the very short distance between the driveway and the junction with Valeswood Lane will restrict any vehicles from gaining any significant speed and as such would not present a problem to other users of the Bridleway.

- 6.2.4 With regard to the right to cross the right of way, the applicant and agent have been made aware of this situation. The Case Officer has been told that they have been in discussion with the Council's Outdoor Recreation Team and this matter is being dealt with. In addition the comments from the Outdoor Recreation Officer indicate that they are in agreement to the latest proposal.
- 6.2.5 With regard to the suggestion of the Parish Council regarding an access onto Valeswood, Officers must consider the proposal as submitted by the applicant. As the amended scheme has met with the criteria required by the Highways Development Control Officer there was no need to request a further amendment. Any such amendment would be subject to further consultations with the Highways Development Control Officers as to its suitability.
- 6.2.6 It is noted that the applicant currently does not have a right of access over the bridleway. However if the reserved matters were to be approved this would not absolve the applicant from requiring a legal right of access and therefore the consent could not lawfully be implemented until the situation is resolved through legal process.
- 6.2.7 While the comments received have been considered by Officers, it is noted that no objection has been raised to the proposal by Highways or Outdoor Recreation Teams. On this basis it would be difficult to justify a refusal of the application on these grounds. Furthermore on this basis the proposal would be compliant with the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.3 **Impact on Residential Amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 There are no residential properties within close proximity of the proposed access and therefore it would not result in any loss of privacy or light.
- 6.3.3 Some concerns have been raised regarding vehicles being parked on the bridleway and causing an obstruction. While the inconvenience of this is appreciated, the issue cannot be resolved through the planning system. The matter should be raised with the Outdoor Recreation Team who have other legislation available to them to potentially deal with the matter.
- 6.3.4 Overall it is the opinion of officers that the proposed access will not impact on residential amenities of the area.
- 6.4 **Other Matters**
- 6.4.1 A request has been made that the hedgerow along the bridleway should not be removed and that it should be removed from the Valeswood Lane side. This would not achieve the level of visibility required from the access to the site to maintain safety levels. Landscaping will be the subject of a further reserved matters application and it would be possible at this point to encourage planting elsewhere on the premises to compensate for the small loss of hedgerow to the bridleway.

## **7.0 CONCLUSION**

7.1 The comments of local residents, Parish Council and the Nesscliffe Hills and District Bridleway Association have been taken into consideration by Officers. However, it is the opinion of officers that the proposal is acceptable and will not cause detriment to highway safety. As such the proposal would be considered to be in accordance with the NPPF and policy CS6 of the Shropshire Core Strategy.

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9.0 FINANCIAL IMPLICATIONS

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework  
CS6 - Sustainable Design and Development Principles

### RELEVANT PLANNING HISTORY:

PREAPP/10/01498 Overhead service lineS REC  
15/00560/OUT Outline application for the erection of one dwelling (all matters reserved)  
GRANT 17th June 2016  
17/04319/REM Approval of reserved matters (access) pursuant to permission 15/00560/OUT for the erection of one dwelling 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)
--

Cabinet Member (Portfolio Holder) Cllr R. Macey
--

Local Member  Cllr Ed Potter
------------------------------------

Appendices APPENDIX 1 - Conditions
---------------------------------------

## **APPENDIX 1**

### **Conditions**

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

1. A visibility splay across the highway frontage of the property in a westerly direction, measured from a point 2.4 metres back into the track extending to the western boundary of the property shall be provided prior to the first occupation of any dwelling or building on the site and such splay shall thereafter be maintained at all times free from any obstruction exceeding 800mm above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

2. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking 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.