

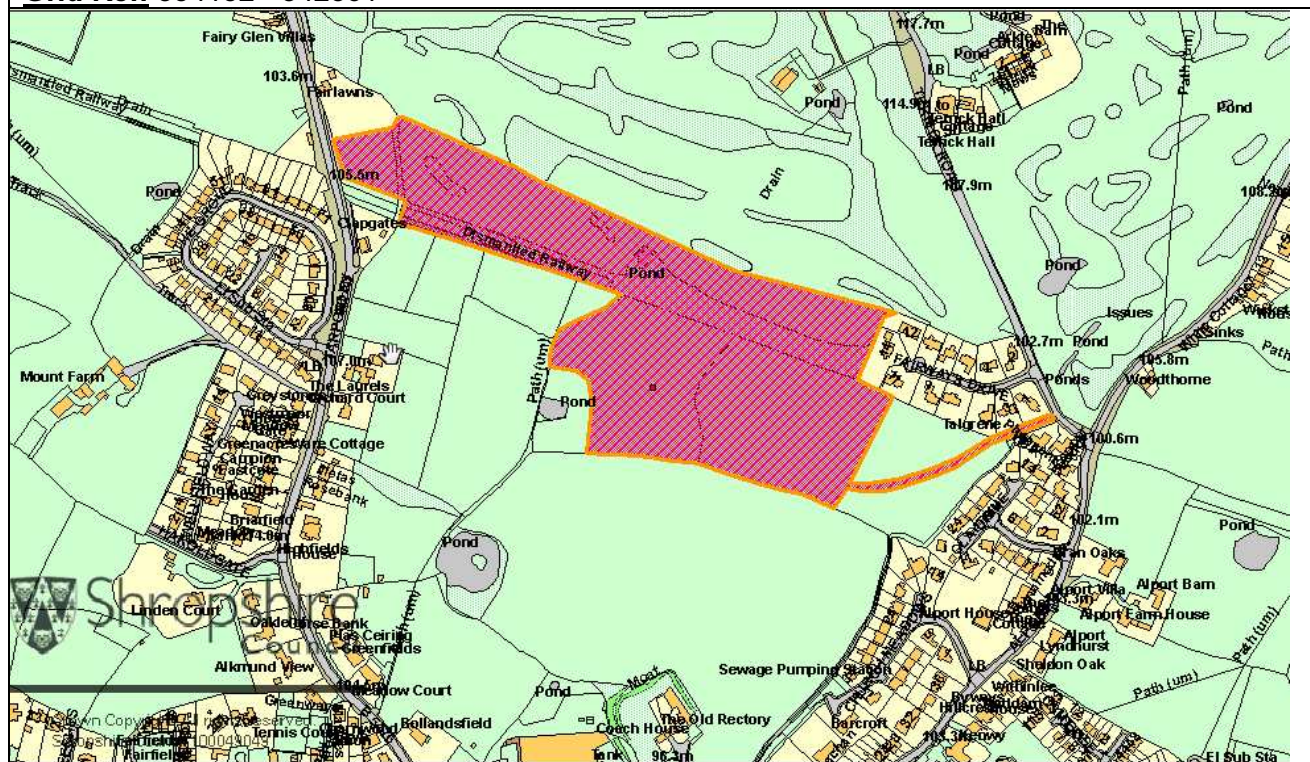
## Development Management Report

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> 13/03413/OUT	<b>Parish:</b> Whitchurch Urban
<b>Proposal:</b> Outline permission (access for approval) for residential development (up to 86 dwellings) to include vehicular access (off Tarporley Road)	
<b>Site Address:</b> Land South Of Hill Valley Golf Club Tarporley Road Whitchurch Shropshire	
<b>Applicant:</b> Macdonald Hotel Hill Valley Spa Hotel And Golf	
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>
<b>Grid Ref:</b> 354152 - 342361	



**Recommendation:- Refuse****REPORT****1.0 THE PROPOSAL**

- 1.1 The application is for outline planning permission with only the access submitted for approval at this stage. The matters of layout, scale, appearance and landscaping are all reserved for later approval. The application form describes the proposal as residential development and suggests 86 dwellings but does not detail the sizes or tenures. An indicative layout plan has been submitted which shows a development of 86 houses made up of 76 large 5 bed detached houses in varying sized gardens and a group of 10 identical, small 2 bed semi detached houses in one small area of the site.
- 1.2 To support the proposal the application has been submitted with the following documents: planning statement, design and access statement, sustainability checklist, transport assessment, tree report, landscape and visual impact assessment and flood risk assessment.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site lies on the southern edge of Hill Valley Golf Course which is associated with the Macdonald Hill Valley Hotel. It lies between Fairways Drive, which is off the Terrick Road, and Tarporley Road. The indicative layout shows the vehicular access off Tarporley Road with a footpath link to the existing footpath connecting to Terrick Road. It is currently in use as part of the adjacent golf course and is also partly agricultural field.
- 2.2 The site is within countryside for planning purposes as it lies outside the development boundary for Whitchurch. It is detached from Whitchurch with agricultural land between the site and the market town.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The comments from Whitchurch Town Council, although in objection, are not for the same reasons the application is recommended for refusal by officers. As such, following discussion with the Chair the comments of the Town Council are considered to be material planning reasons to warrant the application being considered by the North Planning Committee.

**4.0 COMMUNITY REPRESENTATIONS****4.1 Consultee Comments**

- 4.1.1 **Whitchurch Town Council: Cllrs voted against this application as it not on the SamDev and is on a green field site and has a problem with flooding.**

Following submission of additional information advised that: Despite the amendments, Whitchurch Town Council's original position remains the same with this application. The Council objects on the grounds that this application is not within the SAMDev boundaries for development.

**4.1.2 Policy:**

*National Planning Policy Framework (NPPF)*

The NPPF was published by the government in 2012 and brought together all the

various planning policy statements into a single document. Whilst not part of the development plan, the NPPF is a significant material consideration and appropriate 'weight' needs to be given to it in decision making. A central objective of the NPPF is to boost significantly the supply of housing, and as such it states housing applications should be considered in the context of the presumption in favour of sustainable development.

#### *Adopted Core Strategy 2011*

The Core Strategy was adopted in February 2011 and provides the strategic policy context for planning decisions in Shropshire. The following policies are considered of particular relevance to the assessment of this outline proposal: CS3 The Market Towns and Other Key Centres; CS4 Community Hubs and Community Clusters; CS5 Countryside and Greenbelt; CS6 Sustainable Design and Development Principles; CS7 Communications and Transport; CS9 Infrastructure Contributions; and CS10 Managed Release of Housing Land.

#### *Emerging Site Allocations and Management of Development Plan (SAMDev)*

The site has been assessed as a potential housing site as part of the emerging SAMDev Plan (reference WHIT028) and is included in the Council's Strategic Housing Land Availability Assessment (SHLAA) 2009. The site has not been selected as a preferred allocation in the emerging SAMDev principally on the grounds that it is not well related to Whitchurch, and it was considered other more sustainable sites adjacent to the existing development boundary could meet the town's housing needs up to 2026. The SAMDev Plan for Whitchurch has now been through three periods of public consultation in 2010 (Issues and Options), 2012 (Preferred Options) and 2013 (Revised Preferred Options). The 'Final Plan' version of the SAMDev will be published in March 2014 and subject to a further 6 week consultation, after which the Plan will be subject to independent examination.

#### *Housing supply and presumption in favour of sustainable development*

The NPPF paragraph 49 states that where a LPA cannot demonstrate a five year supply of deliverable housing sites relevant Local Plan policies for the supply of housing should not be considered up-to-date. The position regarding housing supply is clearly fluid with the latest information published in September 2013. This latest assessment includes those emerging 'preferred' SAMDev sites assessed by the Council as meeting the criteria set out in paragraph 47 of the NPPF for being deliverable within the next five years. On the basis of this latest assessment, it is considered Shropshire has a supply of 4.95 years which includes the 20% buffer. It is therefore appropriate to consider that relevant local plan policies regarding the supply of housing land are not up-to-date and should be given limited weight in decision making and less weight than the NPPF's 'presumption in favour of sustainable development'.

#### *Principle of Residential Development*

It is considered appropriate to have regard to the following Local Plan policies in assessing this application, but in light of the Council's five year supply position that limited 'weight' given to those parts of the policy which relate to the supply of housing:

- *Policy CS3: The Market Towns and Other Key Centres* states that balanced

housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the town's development boundaries and on sites allocated for development. Specifically for Whitchurch the policy states the town will have substantial development, recognising its accessible location the highway a rail network, maintaining and enhancing its vibrant town centre and balancing business and housing development.

- *Policy CS5: Countryside and Greenbelt* provides a positive approach to maintaining the vitality and character of the countryside by supporting the principle of various kinds of development including small scale employment, dwellings for agricultural workers and affordable dwellings. However, the policy resists the principle of additional open market residential development in the countryside.
- *Core Strategy Policy CS6: Sustainable Design and Development Principles* states that all development should protect, restore, conserve and enhance natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.
- *Policy CS10: Managed Release of Housing Land* confirms the need to maintain a five year supply of housing land, and that priority will be given for the re-use and development of brownfield sites on suitable sites in sustainable locations.
- *Core Strategy Policy CS17: Environmental Networks* states that all development should contribute to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage asset.

It is considered that this policy framework, added to the fact this site is not being considered as a 'preferred housing option in the emerging SAMDev Plan, does not establish the principle of open market residential development in this location. However, given it has been established that limited 'weight' should be given to the parts of this policy framework that relate to housing supply, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'. As such it is necessary to assess the site's performance against Local Plan policies (other than those for housing supply) and against the NPPF as a whole in providing a view on the site's contribution to sustainable development.

#### *Presumption in Favour of Sustainable Development*

The site's SAMDev technical assessment in 2012 considered the site to have poor sustainability principally due to its lack of access to services and impact on landscape sensitivity. Since this assessment, the development of the Sainsbury's store on London Road has provided an additional facility within walking distance. It is also acknowledged the scheme has also reduced in scale which was recommended in the technical assessment.

Given the context of the site it is considered the following policies have particular relevance:

- *Core Strategy Policy CS6: Sustainable Design and Development Principles*
- *Core Strategy Policy CS17: Environmental Networks*

It is considered the following are key material issues for the assessment of sustainable development for this proposal:

- The site's relationship with the main urban area of Whitchurch, and surrounding residential development;
- The impact of the development on visual amenity and landscape sensitivity

The majority of the proposed site was previously classified as an 'open area' in the North Shropshire Local Plan. This designation has been superseded by the adoption of the Core Strategy and in particular policy CS17. This policy removes the specificity of the 'open area' designation however the characteristics of the site which contributed to this site's openness continue to apply and are covered by policy CS17. In addition CS6 requires proposals to reflect the local pattern of development taking into account local character and context.

The site is located to the extreme northern edge of the recognised built area of Whitchurch. Housing on Tarporley Road to the west and Alport Road to the east are characterised by cul-de-sac style developments (Clayton Drive, Church Meadows, The Grove). The proposed site would form a linear development across these two roads and would sit between the golf course to the north and a large area of agricultural land to the south. Therefore there is concern that the proposal neither reflects the pattern of local development, nor protects or enhances the openness of the immediate surrounding area. The development would not be contiguous with the surrounding built form and, whilst mitigation measures have been proposed, is likely to adversely impact on landscape sensitivity.

Paragraph 14 of the NPPF states that within the context of the 'presumption in favour', development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. Given the proposal is an outline application a more detailed assessment on the sustainability of the site's layout and design is difficult. However, using the indicative layout it is possible to identify some clear and quantifiable concerns. The site's pattern and narrow width are considered contrary to local character and design, whilst the proposal is considered likely to result in a loss of openness and result in visual harm. As such, it is considered there are relevant concerns which place into question the sustainability of the site and which would merit refusal under the NPPF's 'presumption in favour of sustainable development'.

- 4.1.3 **Affordable Housing:** If the site is deemed suitable for development then affordable housing provision is required.
- 4.1.4 **Public Protection: No objection** subject to the inclusion of the recommended conditions on any planning permission that may be granted.
- 4.1.5 **Highways:** From a technical standpoint, the highway authority have **no objection** in principle to the development of the site and are satisfied that a suitable junction onto Tarporley Road can be provided that meets the appropriate highway layout standards and criteria. The Transport Assessment (TA) submitted as part of the application acknowledges that the proposed point of access is located within the 60 mph speed limit area and therefore there would be a need to extend the 30 mph speed limit north of the development junction. The highway authority have no objection to the principle of such changes but there is likely to be a need to incorporate additional traffic calming features and/or the introduction of a 40 mph

speed limit buffer. This requirement would normally sit within a Section 106 Obligation with a sum contained in the agreement.

An assessment of the traffic impact of the development has been carried out which demonstrates that the development will not have an adverse impact upon the local highway network. However this application proposal has come forward in advance of the SamDev being adopted and is not one of the preferred sites currently identified in Whitchurch. As in other towns within Shropshire the highway authority are assessing the cumulative traffic/transportation impact and infrastructure needs in Whitchurch as a result of the housing sites coming forward in the plan period. This proposal and scale of development would meet such a requirement and therefore the highway authority would wish to engage in discussions and Section 106 negotiation if this site were to be considered to be otherwise acceptable to the planning authority.

The development seeks to promote accessibility with the provision of a footway along the eastern side of Tarporley Road extending within the highway limits to tie into the existing footway to the south of the site. In addition, a footpath is proposed from the eastern end of the site linking to Terrick Road. This however would need to be provided as a combined pedestrian/cycling facility which could be considered as part of a full or reserved matters application. These are welcome features of the scheme proposals.

In terms of public transport provision the site is poorly served with a limited 2 hourly service. The TA suggests that given the sites location in relation to the town centre the reliance on public transport is likely to be for longer journeys rather than accessing the local retail centre. This is a somewhat surprising statement and the highway authority would take a very much different view in terms of seeking to promote and encourage public transport linkage between the site and town centre. The highway authority however accept that there are logistical difficulties in routing the town centre service to the site. This in itself would not warrant a highway/transport reason for refusal but it does nevertheless question the sustainable credentials of this site compared to other sites being brought forward within the SamDev process.

The highway authority therefore have no fundamental objection to housing development of the site subject to the imposition of standard access conditions and to further discussions with the applicant regarding Section 106 financial contributions as set out above.

- 4.1.6 **Rights of Way:** From the responses in part 6 of the application form and the lack of any reference in the design and access statement, site plans or other submitted documents it appears that the applicants have failed to identify, and take into account, public footpath 52 which crosses the middle of the proposed development site, passing through some of the proposed properties and gardens. Would strongly advise them to contact the Outdoor Recreation Team to discuss the options at their earliest opportunity.
- 4.1.7 **Ramblers: Object** as the right of way no. 52 has not been taken into consideration.

4.1.8 **Ecology:** On receipt of additional information advised that, subject to completion of a European Protected Species 3 test matrix, the development could be achieved with mitigation measures, a European Protected Species (EPS) Mitigation Licence and subject to conditions and informatives.

4.1.9 **Shropshire Wildlife Trust:** The site includes part of the line of the old Whitchurch-Chester railway line. This is an essential part of the green ecological network around Whitchurch. The proposal would weaken and in parts sever this.

Further comments received indicate that they consider the development will have a negative ecological impact with little being done to mitigate or compensate for this. It would appear that further survey information is required in order to ensure that planning guidance is met. The site falls within the Meres and Mosses Nature Improvement Area and therefore requires “opportunities to enhance and reconnect nature” and not to fragment ecological networks.

4.1.10 **Tree and Woodland Amenity Protection: No objection** to the proposal subject to further more detailed information being provided for the approval of reserved matters.

4.1.11 **Drainage: No objection** is raised to the development. However the recommended conditions and informatives should be included on any planning permission granted to ensure that the development is appropriately drained.

Drainage Engineer made further comments: Local evidence of the site has highlighted that the surrounding ground is at a high risk of surface water flooding. The applicant should review paragraph 4.4.2 of the FRA detailing how the surface water will be managed and to ensure that the finished floor level is set above any known flood level. Reason to minimise the risk of surface water flooding.

## 4.2 **Public Comments**

4.2.1 18 letters of objection have been received. The areas of concern relate to:

- Inadequate public notifications have been carried out for this application
- The public presentation by the applicants has been arranged for 21 November 2013 which is after the date that the application was submitted
- Whitchurch Housing Sites Assessment by Shropshire Council should be taken into consideration
- Although the density has been lowered the houses are larger apart from a few token affordable dwellings
- There is no justification for the increase in dwellings from 75 to 86 to meet the affordable housing target of 13%. Therefore it is motivated by financial reward
- The size of the dwellings is aimed at people from outside of Whitchurch who will commute to work. No 3 or 4 bedroom houses and no bungalows have been included in the proposal
- Site is not allocated in adopted policy for housing development. Nor is it being promoted within SAMDev. Currently the site is identified as Open Area in the North Shropshire Local Plan
- The proposal would constitute unacceptable urban sprawl
- The land is in the ownership of more than one person
- Loss of Grade 3 agricultural land and green fields

- The site is for leisure use and not the site for housing development
- By removing land from the Golf Club it detracts from a leisure activity
- A golf course is another way of obtaining further planning consents for development which may not otherwise be obtainable
- The photographs in the Landscape and Visual Impact Part Two are misleading
- Assessments of the site are incomplete as no assessment or photographs have been taken from the public right of way or from properties in Clayton Drive or Tarporley Road. As such this does not give a balanced evaluation of the area
- The proposed site is on higher ground than surrounding areas. As such the impact will be significant on nearby properties with uninterrupted views of the new dwellings
- By building on the higher ground, the overall appearance with existing buildings will be an “amphitheatre” around the lower ground
- Proposed screening will not obscure the development for a considerable number of years
- The proposed access with the highway is a safety issue particularly with the 60 mph speed limit
- Why has the proposed access been excluded from the outline application
- A Public Right of Way crosses the site and will be blocked by the development
- The creation of a footpath link to Terrick Road would increase the potential for crime in the area
- Impact on wildlife in the area
- An objection was lodged by Shropshire Wildlife Trust to Shropshire Council outlining the importance of the site in regard to Policy CS17
- Existing hedgerows on and around the site are in excess of 60 years old and provide habitats for wildlife
- Great Crested Newts have been photographed on the northern edge of the site
- Existing watercourses carry substantial amounts of water and as such the fields end up being under water for many months
- A Drainage Engineer has detailed that the meadow has less than 12 inches fall and therefore flood water could not be piped into Stags Brook as this was constantly full of water
- Part of the site is in Flood Zone 2. Run off from the development would add to the wet area to the north eastern area and make the footpath and open space unusable
- Who will be responsible for the future maintenance of the open space?
- Schools and areas of employment are not within walking distance

#### 4.2.2 3 letters of support have been received.

- The access off a quiet Tarporley Road is perfect
- Easy footpath access to Sainsbury's
- Provision of a cycleway
- The provision of planting, ponds and the provision for wildlife have been well considered. However the footpath should be reinstated
- The site will be unobtrusive and mostly not seen from the surrounding area
- It will be a positive impact on Whitchurch
- Increased housing in Whitchurch will demonstrate more support for facilities required for the town (ie hospital)



- Whitchurch cannot resist the pressure for new homes

## **5.0 THE MAIN ISSUES**

- Policy & principle of development
- Affordable housing
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage
- Other local infrastructure matters

## **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 Council's 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 NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply. It is only if the Council cannot demonstrate a 5 year housing land supply that the housing supply policies (but not the others) should be considered not to be up-to-date, with consequently greater weight to the NPPF presumption in favour of sustainable development.
- 6.1.3 In September the calculation was a supply of 4.95 years, however this included counting some of the emerging SAMDev sites and questions have been raised as to whether this is appropriate and also the likely number of houses to be delivered in the five years. Given this position officers advise that it would be difficult to defend a refusal for a site which is sustainable and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The principle issue with the application site is whether it is a sustainable location or not. The site is on the outside edge of the existing built up parts of Whitchurch with agricultural land lying between the site and the properties to the south.

- 6.1.4 Furthermore the site is outside the development boundary previously set within the North Shropshire Local Plan and also has not been carried forward as a preferred option site within the emerging Site Allocations and Management of Development (SAMDev) document as it was considered to be not well related to Whitchurch and that there were other sites which adjacent to the town which could meet the housing need for the area. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, given it has been established that limited weight should be given to this policy framework in light of the current housing supply position, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.5 Policy CS6, amongst a range of considerations, 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. 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. And 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.
- 6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits. The NPPF also clearly place a focus on prioritising suitable brownfield sites at paragraph 111 which states that decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield). Although it is acknowledged that part of the site is currently used as part of the golf course this is not considered to be an overriding reason to approve the development. This use is on-going and does not currently detract from the visual amenities of the area. In the case of this application the redevelopment of land currently in use is not given weight in the decision.
- 6.1.7 It is also accepted by the Council that the site is close to the facilities and services within Whitchurch, which, as one of the five market towns within the north of Shropshire, should provide a focus for housing and commercial developments. In principle a site on the edge of Whitchurch, or well related to the existing built form could be supported as a departure from the adopted policies in line with the presumption in favour of sustainable development in the NPPF. However concerns are raised regarding the proposed application site and its relationship with the existing settlement. The Council Policy Officer has advised that the SAMDev technical assessment for the site considered that it had poor sustainability due to its lack of access to services and impact on landscape sensitivity. Although the site has reduced in scale and the new supermarket on London Road has increased accessibility concerns remain about the landscape impact.

## 6.2 **Affordable Housing**

6.2.1 If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme. If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before a reserved matters application is submitted.

### 6.3 **Layout, scale and design**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy 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. Policy CS17 seeks to identify, protect, enhance and expand Shropshire's environmental assets, aiming to prevent development which adversely affects visual values or which does not contribute to local distinctiveness. Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character. The planning balance which needs to be considered is balancing the benefit of the provision of new housing in close proximity to the sustainable market town against any harm. Paragraph 14 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

6.3.2 The applicant's planning statement comments that, in their opinion, the site is influenced by the urban edge of Whitchurch with the presence of a number of highway corridors and ribbon development to the east and west and the well managed golf course to the north. It is the applicant's opinion that the site is urban fringe rather than rural and they have placed greater weight on the provision of new housing than the change to the character of the area.

6.3.3 Local concerns have been raised regarding the Landscape and Visual Impact Assessment being misleading; that there is no assessment from the right of way or properties in Clayton Drive; that by building on the higher ground, the overall appearance with existing buildings will be an "amphitheatre" around the lower ground and that the proposed screening will not obscure the development for a considerable number of years.

6.3.4 Both views are noted, the application site is attached to existing residential development on the edge of Whitchurch, however, it seeks to join a small cul-de-sac of large detached houses with the main road on the opposite side of what is currently a large open area in use for recreation and agricultural uses. The majority of the application site will be bounded on two sides by the remaining agricultural and recreation uses. The proposed development would form a linear

development across the site which is not considered to reflect the pattern of local development and does not protect or enhance the openness of the area. It is not neatly an extension of the urban area of Whitchurch and would leave a large area of agricultural land between the site and the edge of the built development of Whitchurch. It is acknowledged that the recently development of Sainsbury's off London Road has extended the built edge northwards towards the site, however there would remain a large area of agricultural land which the local residents have noted is at a lower level.

6.3.5 Officers have also noted the views of the Planning Inspector in considering the site for allocation within the North Shropshire Local Plan 2000-2011 in which the inspector commented that the site would be linear in character and set on rising ground, prominent in views out of the town from existing properties and from public vantage points, including the footpath which crosses the site. It was noted at that time that the golf course was of a rural rather than urban character and that the development would result in a prominent and intrusive form of development in what currently forms an attractive open swathe of land.

6.3.6 The current application site may be only part of that which was put forward for allocation in the NSLP, however the current proposal would result in a similar end result to the views expressed by the inspector above and it is considered that the prominent and intrusive impact of the development of the application site would result in a significant and demonstrable harm which would outweigh the benefit of new housing. Furthermore it is considered that this harm would make the development environmentally unsustainable in that it does not protect or enhance the built environment and therefore fails to meet the three dimensions of sustainable development.

#### 6.4 **Impact on residential amenity**

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. At this outline planning stage the final layout of the site has not been submitted for approval, however the indicative layout plan shows that there would not be any overlooking or loss of light to existing residential properties due to the distance between existing properties and the proposed new properties and the proposed new landscaping.

6.4.2 Concerns have been raised locally regarding the impact on existing properties due to the levels of the site which would result in uninterrupted views of the new the dwellings. However the impact on a private view is not a planning matter. Wider landscape impacts have been considered above, whether existing residents will be able to see the new properties, or not, is not a reason to refuse the application. Concern has also been raised about the proposed footpath link increasing the potential for crime in the area. This is a risk, however providing the adjacent properties are secure the new footpath should not increase crime, the existing properties which will back onto the footpath currently back onto on agricultural access and open field and it is therefore considered that the risk will not increase.

#### 6.5 **Highways, access, parking and rights of way**

6.5.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes

sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should 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 be reduced.

- 6.5.2 A new T junction vehicular access is proposed off Tarporley Road with the new estate road having a carriageway width of 5.5m and 2m wide footways on either side. In addition a new footway is proposed on the Tarporley Road frontage of the site and the applicant also suggests extending the 30mph to include the access to the site as it currently 160m south of the access point. A transport assessment has been undertaken in order to demonstrate the impact of the access and the vehicle movements associated with the scale of the development proposed.
- 6.5.3 The Council Highway Officer has been consulted on the application and provided the detailed response at 4.1.5 of this report. It is noted that the Town Council have not objected on the grounds of highway safety, some local concerns have been raised about the safety of the access yet letters of support have noted that Tarporley Road is quiet with low levels of traffic. In accordance with the Highway Officer's comments it is considered likely that an appropriate access could be achieved, the speed limit could be moved to reduce vehicle speeds, and the visibility from the site frontage is good. However, this is not considered to be of any wider benefit than providing an access to serve the proposed development and as such does not tip the planning balance or set aside the other concerns raised within the report.
- 6.5.4 The proposed footway along Tarporley Road will not connect to any existing footway as the existing footway stops short of the edge of the site and the property to the south of the site on Tarporley Road. Furthermore, from this adjacent property for some distance, beyond the current 30mph restriction, the footway is restricted in width and interrupted by existing lighting columns. Although the provision of a section of footway is promoted the proposal does not provide a substantial benefit to either the development or the wider community.
- 6.6 **Ecology and trees**
- 6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. Therefore the application has been considered by the Council's Ecologist and Tree Officer.
- 6.6.2 The application was submitted with an ecology survey which the Council Ecologist initially advised was insufficient with regard to great crested newt mitigation and the impact on badgers, water voles and bats.
- 6.6.3 The Ecological Assessment reports that great crested newts are present in ponds to both the north and south of the site and juvenile newts found on the site itself, close to the southern boundary. No core terrestrial habitat will be lost to the development, but approximately 0.2ha will be temporarily disturbed during landscape planting around the site boundary. Approximately 5.3ha of intermediate habitat and 0.5ha of distant terrestrial habitat will be permanently lost

to the development. This loss of intermediate and distant terrestrial habitat is classified as a low impact according to the Great Crested Newt Mitigation Guidelines (2001). There will also be some loss of potential hibernation and sheltering habitat as a result of the proposed development through the loss of the internal hedgerow that runs through the centre of the site.

- 6.6.4 In terms of impact, this will be through site clearance and construction works and loss of foraging opportunities and hibernation areas. There is also a danger of fragmenting meta-populations. The great crested newts will need to be cleared from the work areas, under licence, and the protection and creation of new suitable newt habitat to compensate for the loss of existing habitat due to the development. These works would have to be done under a European Protected Species Licence as GCN are European Protected Species and the evidence submitted shows that this species will be affected. As such the development needs to meet the three tests of the matrix. The first test is that the development needs to be in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. The second test is whether there is a satisfactory alternative. The third test is that the development needs to be not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status.
- 6.6.5 In principle, if there were reasons of overriding public interest and no satisfactory alternative the Council Ecologist has confirmed that mitigation would be possible and would meet the third test. The amphibian mitigation strategy confirms the details of the mitigation proposals which ensures no net loss of habitat in terms of quantity and quality, maintains habitat links and secures long term management of the site for GCN's. The advice provided with the matrix is that test one can be passed where there is clear and imminent danger to members of the public which is not the case with the application site. The Council have also previously accepted that the need for new housing is of social importance and an overriding public interest and in this case the application proposes new housing and therefore could be considered to meet this test. However, the Council do not consider that the site is appropriate for development for other reasons than the ecological impact and as such do not consider that significant weight should be given to the need for housing on this site when considered against the harm to the European Protected Species. The site therefore fails test two of the matrix as there are alternatives to the development of housing on this site. The land could remain as it is, ie do nothing, which is a reasonable alternative in the consideration of the tests, or it could be used in association with the adjacent golf club but this would need to also be tested against the legislation for protected species.
- 6.6.6 With regard to other protected species a badger sett is present on the site (the location is confidential). The report recommends a 30 metre buffer to the sett to ensure no disturbance. If this is not possible, then a licence from Natural England will be required. It appears from the Masterplan 02.01 RevD that built development may be within this limit but that a minor re-plan could avoid the 30m buffer to the badger sett.
- 6.6.7 No buildings are present on the site which could offer bat roost potential. Bat activity surveys found that soprano pipistrelle was the most frequent visitor to the

site, with activity focused along the internal hedge line that contains trees with bat roosting potential and the hedge line around the southwest edge of the site adjacent to Pond 1. The other hedgerows, ditches and strips of plantation also provide good foraging and commuting habitat for bats.

- 6.6.8 A number of trees are identified as having potential as bat roosts. On Masterplan 02.01 Rev D all these trees are shown for retention. If any of these trees require removal or pruning for the proposed development, an aerial inspection of the tree or bat emergence surveys will be required to confirm presence/absence of a roost. If bat roosts are found to be present, consideration must be given to providing alternative bat roost habitat within the new development and a licence will be required for any works to these trees. It is recommended that the length of hedgerow to be removed for access roads should be minimised and limited to approximately 10m. Lighting should be controlled to avoid impacts on bats and a suitable condition will be suggested once further mitigation details are received.
- 6.6.9 Although no evidence of water vole was found within the site, the habitats may periodically be used by the species and have potential to be colonised prior to development. Water voles are protected under the Wildlife and Countryside Act 1981 (as amended). It is recommended that the site design retains a 10m buffer from all of the ditches and watercourses. If this is not possible, and development proposals encroach within 10m of any of these features, it will be necessary to carry out a pre-construction survey to confirm the status of water voles within the site at that time.
- 6.6.10 With regard to trees the applicant's design and access statement comments that the hawthorn hedge on the boundary of the site is degraded and gappy in places and that tree cover is limited to field boundary trees and the formal mown grounds and planting of the golf course. The Council Tree Officer has advised that they have no significant objection on arboricultural grounds to this proposal. A reserved matters application must have an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) included to safeguarding the retained trees. A scheme should also be submitted which includes the planting of trees and shrubs and hedges as part of a comprehensive landscape scheme to mitigate those removed, and to integrate the development into the wider landscape using a mixture of native and ornamental species.
- 6.7 **Drainage**
- 6.7.1 Due to the size of the application site a flood risk assessment has been undertaken and submitted with the application. This report concludes that the majority of the site is within flood zone 1, at lowest risk of flooding and appropriate for housing development. However, the proposed pedestrian access from site to the Terrick Road crosses flood zone 2 for Stags Brook tributary. The applicants flood risk assessment has acknowledged that there has been historic records of nearby properties being affected the land owner advises that the application site is not affected.
- 6.7.2 The Council Drainage Engineer has advised that the use of soakaways should be investigated in the first instance for surface water disposal. If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval, however the Drainage

Engineer has confirmed that these details could be submitted for approval as part of a discharge of conditions application and the details do not need to be submitted prior to an outline consent being granted.

- 6.7.3 Concerns have been raised by the Town Council and by local residents, including photographic evidence of flooding of surrounding land. However, the above requirement for restricting the rate of run off of surface water would require the development to not increase the water running off the site post development above that which currently leaves the site. Any development of the site would have to deal with the surface water which falls on the site and therefore would not be permitted to increase flood risk elsewhere. The Council Drainage Engineer has reviewed the local evidence and advises that, at the time of submission of reserved matters, the applicant should review paragraph 4.4.2 of the FRA detailing how the surface water will be managed and to ensure that the finished floor level is set above any known flood level.
- 6.7.4 As such it is acknowledged that there is local concern about flood risk from developing the site, however it is considered that the site could be developed with an appropriate drainage scheme to ensure that there is no greater risk of flooding either within the site or in the wider area and as such would comply with policy CS18 and the NPPF with regard to this matter.
- 6.8 **Other local infrastructure matters**
- 6.8.1 In considering a sites sustainability the Council can take into account local infrastructure as part of the planning balance. Whether a site has good local infrastructure is not the only reason why it can be considered to be sustainable but it does form part of the reason. The NPPF advises that international and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly. Two of the three dimensions of sustainable development within the NPPF comment on the need to include provision of and access to infrastructure.
- 6.8.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £40 per square metre of new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL by the applicant ensures that this matter will be dealt with after the consent.
- 6.8.3 With regard to this specific application site, it is acknowledged that it is attached to existing housing and it is accessed off one of the main roads into the town. As such it is considered likely to utilise the services and facilities within the town. The



proposed 86 dwellings on this site have not been taken into account in the consideration of the housing growth proposed for the town in the SAMDev. Whitchurch is proposed to have approximately 1,200 new homes but as the site has not been promoted through the SAMDev the proposed 86 dwellings on this site would be in addition to this allocation.

- 6.8.4 It is also acknowledged that there are issues within Whitchurch regarding electricity capacity and school places. The issue of electricity would be a matter for the developer to resolve with the supplier and is also a matter which is high on the priority list for CIL monies. The issue of school places is planned to be resolved through the allocation of the land off Tilstock Road to the south of the town. Overall it is considered that the proposed addition of 86 dwellings on the application site, taking into account the significance of Whitchurch as a market town and as a priority for new development, would not result in a level of pressure on local infrastructure which would justify refusing the application.
- 6.8.5 Having considered the location of the development it has been noted that the development is close to a landfill site and follows the line of a dismantled railway line. It is therefore recommended that a contaminated land condition should be placed upon this development should this application be granted to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.
- 6.8.6 The Council Public Protection Officer has also requested that a proportion of dwellings are provided with electric vehicle charging facility at the time of construction. This encourages sustainable transport uptake by future occupants which will help to reduce air pollution wherever those vehicles may travel. Electric vehicle charging points typically require a 16 amp power supply and are relatively inexpensive to put into a garage or onto a driveway when a dwelling is built however can be a considerable cost if trying to retro fit a building in future.

## **7.0 CONCLUSION**

- 7.1 It is considered that the development of the application site for housing would result in harm to the character of the area due to the narrow width of the site and the detachment from the existing built up edge of the town. The development will not protect, restore, conserve or enhance the natural and built environment; it is not considered to be appropriate in that it does not reflect the pattern of development in the area and does not form a contiguous development or contribute to local distinctiveness and landscape. As such it is considered to be contrary to policies CS6 and CS17 of the Shropshire Core Strategy and it is considered by the Council that the harm significantly and demonstrably outweighs the benefits of developing the site contrary to the requirements of the NPPF.
- 7.2 Furthermore the development has the potential to impact on Great Crested Newts and, although mitigation measures are achievable, the development is not in the interests of public health and public safety and there are no other imperative reasons of overriding public interest, including the social and economic benefits of house building. As such the Council consider that there is a satisfactory alternative and that the development fails the three tests of the European

Protected Species 3 test matrix.

## **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.

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.

## 10.0 BACKGROUND

### 10.1 Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS3 - The Market Towns and Other Key Centres  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS7 - Communications and Transport  
CS8 - Facilities, Services and Infrastructure Provision  
CS9 - Infrastructure Contributions  
CS11 - Type and Affordability of housing  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

### 10.2 Relevant planning history

No history related to the specific application site

## 11.0 ADDITIONAL INFORMATION

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 M. Price
Local Member Cllr Thomas Biggins Cllr Peggy Mullock
Appendices None