

Development Management Report

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Summary of Application

Application Number: 14/00536/OUT	Parish:	Oswestry Rural
Proposal: Outline application for the erection of twelve dwellings (to include access)		
Site Address: Land North Of Whitridge Way Trefonen Shropshire		
Applicant: R F Trustee Company Ltd		
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 325903 - 326950



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Recommendation:- Grant planning permission subject to the conditions set out in Appendix 1, the applicant entering into a S106 to secure affordable housing contributions and subject to resolving Ecology matters.

REPORT

1.0 THE PROPOSAL

- 1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant has indicated that the site would be suitable for accommodating the erection of 12 dwellings.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site covers an area of 0.54 hectares and is approximately half of an existing agricultural field. The field is located to the north of a modern housing estate containing Carneddau Close, Whitridge Way, Onan Gardens and Chapel View. The estate is made up of various cul-de-sacs with the main one terminating at the southern boundary of the site are the rear boundaries of the three properties fronting onto Chapel Lane. To the west there is a track which is also the route of the Offa's Dyke National Trail. Offa's Dyke itself, which is a scheduled ancient monument is to the north and runs adjacent to Chapel Lane. In August 2014 the extent of scheduling was increased so that this particular scheduled section now extends from the northern most section of the field to the northern boundary of Church View, bringing it to within 15 metres of the edge of the application site.
- 2.2 The application site climbs away from the rear boundaries of the Chapel Lane properties up towards the Offa's Dyke. The boundaries of the site consist of native hedgerows along the southern boundary with the neighbouring housing estate, panel fence along the eastern boundary, and mainly post and wire fencing along the western boundary.
- 2.3 The entire application site falls outside of Trefonen's development boundary as defined in the Oswestry Local Plan.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Area Manager in consultation with the committee chairman and the Local Member considers that the application raises significant material planning issues and that should be considered by committee

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 Parish Council-

28/8/14- The Parish Council do not support this application. The results of a survey that went out to all households in the Parish showed that the majority of respondents in Trefonen with Treflach ward do not want building on greenfield sites. They want conversion of existing buildings, affordable single plots or infill of one or two houses. The Parish Council also stated that they did not want to be in a hub or cluster.

26/3/14-

Planning Applications 14/00536/OUT and 14/00426/OUT

Oswestry Rural Parish Council does not support either of these applications. The two applications should be considered in tandem as they potentially will have a major impact on Trefonen village. ORPC held a public meeting on 1st March 2014 with nearly 200 people attending. Trefonen is a small rural village but the response from the community against these applications for 34 houses has been extraordinary and the planners should take into consideration the total of 191 objections and 3 with no objections, lodged with ORPC and numerous other respondents who registered their objections directly with Shropshire Councils planning portal. With the emerging SAMDev and ORPC Parish Plan Survey at an advanced stage of production would it not be sensible to delay any planning decisions where the local community are so against them until the SAMDev and Parish Plan are completed. Both of these will help identify areas for development which the local community would support.

Highlighted are some of the concerns raised by local people.

Local affordable housing, to allow young people to remain in the village Paragraph 7 a social role in supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 14 sustainable development.

Paragraph 54 plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Negative impact on open aspect of the village Paragraph 7 an environmental role contributing to protecting and enhancing our natural environment. Development and style of houses not in keeping with the already established rural character. Paragraph 86 the character of the village needs to be protected.

There is no demand for this type of housing in the village. Currently there are 24 houses for sale in the Trefonen area, last year 9 were sold. There are P 82, 3 or 4 bed roomed houses within a 3 mile radius of Trefonen. Paragraph 14 there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision-taking.

High unemployment in the Oswestry area and no jobs in Trefonen. People will need to travel away to work and the village will become a dormitory with very few of the residents contributing to the local community.

Paragraph 37 people should be encouraged to minimise journey lengths for Employment There will be a pinch point at the proposed new roundabout where 4 roads will meet and the cars generated by the proposals will exceed 68. Heavy construction traffic will be a hazard and as there is no mains gas delivery of bottled gas, oil, refuse collection and deliveries from internet purchases will all add to this congestion. A narrow country lane will be the access, there are already problems with parking at the Church for funerals and farms further up Chapel Lane report problems with access for farm machinery and milk tankers etc. Paragraph 32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

The opportunities for sustainable transport modes have been taken up

Safe and suitable access to the site can be achieved for all people; and Improvements can be undertaken within the transport network that cost effectively limit the impacts of the development Offas Dyke a very important tourist attraction will be compromised Paragraph 109. The planning system should contribute to and enhance the natural and local environment by:

Protecting and enhancing valued landscapes. Paragraph 130 where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account. Paragraph 133 Where a proposed development will lead to substantial harm to or total loss of significance, local planning authorities should refuse consent.

There is no shop or post office, necessitating a 3 mile drive to Oswestry for shopping. This will increase the potential for added pollution. Paragraph 28 promote the retention and developments of local services and community facilities in villages, such as local shops.

The developments go against the Village Design Statement. Paragraph 47 local planning authorities should set out their own approach to housing density to reflect local circumstances.

There is a very poor bus service with 1 bus into Oswestry at 10.26am returning at 1.35pm to Trefonen. Paragraphs 29 , 30, 31, 32, 34 Plans and decision should ensure developments that generate significant travel will be minimised and the use of sustainable transport modes can be maximised.

Childrens safety is a risk. There has already been an accident on the zebra crossing where a child at the primary school sustained fractured zygoma. The increase in traffic on the main road will increase the potential for road safety incidents.

Trefonen is already overdeveloped.

There is a flooding risk especially with 14/00426/OUT. This field is flooded now and results in the flooding progressing to the main road. Paragraph 100 Inappropriate development in areas at risk from flooding should be avoided. Both sites are on Greenfield. There will be loss of countryside and loss of agricultural land. Paragraph 77 The Local Green Space designations will not be appropriate for most green areas or open spaces. 80 Green Belt serves five purposes:
To check the unrestricted sprawl of large built up areas;
To prevent neighbouring towns merging into one another;
To assist in safeguarding the countryside from encroachment; to preserve the setting and character of historic sites;
To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The Primary School Governors are worried about the increased pressure on the School. Over 1/3 of pre-school and school children are out of the catchment area which will leave a large shortfall for the actual village. Paragraph 72 The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities

- 4.1.2 **Highways**- No objection subject to conditions. The adjoining residential road and its junctions with Chapel Lane and Trefonen Road were designed and laid out in such a manner that would cater for further residential development. The layout of the Whitridge Way is in line with desired standards and is considered therefore to have the capacity to also accommodate the vehicular movements likely to be generated by the proposed extension to Whitridge Way.
- 4.1.3 **Drainage** – No objection, drainage details, plan and calculations should be conditioned and submitted for approval at the reserved matters stage if outline planning permission is to be granted.
- 4.1.4 **English Heritage**-
2/9/14- do not consider that the revised scheduling gives reason to change our advice overall regarding the amended development proposal.
We note that the applicant's amended proposals exclude the eastern part of the development area pending an archaeological evaluation. We understand that proposal remains unchanged, as does our response to it dated 14th August 2014.
- 14/8/14- no objection to the approach of conditioning any planning permission to ensure that a decision on whether development takes place within the shaded area (plots 1-4) is informed by an archaeological field evaluation as a reserved matter. Development should only be allowed in the shaded area if the field evaluation demonstrates that there would be no adverse impact upon archaeology relating to Offa's Dyke.
- 4.1.5 **Ecology** – no comments received at time of writing report.
- 6.1.6 **Coal Authority**- The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the Risk Assessment to be submitted of for the Coal Authority to be consulted.
- 4.1.7 **Archaeology** – No objection subject to plots 1-4 being subject to an archaeological evaluation and geophysical survey to demonstrate that there would be no adverse impact on any underground remains of Offa's Dyke or its setting.
- 4.1.8 **Affordable Housing** – any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
- 4.1.9 **Rights of Way**- no objection. Bridleway 150 Oswestry Rural runs along the western boundary of the development site and does not appear to be affected by the proposal.
- 4.2 **- Public Comments**

A large number of representations have been received. However, an exact

figure cannot be given as it has become apparent some objection letters have been written and signed in the name of individuals unaware of the planning application. Notwithstanding this all of the comments received are summarised below. Objections received relate to the following:

Objections

- The proposal contradicts SAMDev
- Number of dwellings will overwhelm the village
- Increase in traffic which will cause congestion
- Inadequate access / highway safety
- Whitridge way unsuitable for construction traffic
- Impact on Offa's Dyke footpath a national amenity
- Over development for the site which will affect the character of the village
- Impact on the historic value of Offas Dyke
- Estate road not in accordance with Council specification
- Impact upon the setting of Offas Dyke
- Drainage / flooding concerns / surface water
- No guarantee of the deliverability of the scheme
- Children wouldn't be able to play near their homes
- Visual impact on the village – result in urban sprawl
- Light pollution
- Loss of water pressure
- No employment opportunities in the village
- Scheme will set a precedent
- Scheme doesn't consider the topography of the site
- Scheme has no consideration to character of the village
- Children wont be able to use end of cul-de-sac to play
- Smaller 2/3 bedroom dwelling are required not large properties
- No need for housing in the village, properties are up for sale and have been for some time
- Impact upon 'stone hedges'
- Loss of green space within the village
- Loss of view of the centre of the village from Offas Dyke Path
- Lack of public amenities (infrastructure) to support such a development
- Proposed parking not in the best location
- Poor bus service currently in place (3 buses a day) to local amenities
- No sustainable gain from the proposed
- Unsustainable expansion to the village
- Deter tourists from visiting the village
- Over looking of existing properties resulting in loss of privacy
- proposals do not contribute, support, protect or enhance the economic, social or environmental aspects of Trefonen village community
- Lack of affordable housing
- Scheme does not comply with the NPPF
- The heritage asset is irreplaceable
- Land is needed for agricultural purposes
- NPPF states that Planning should ... conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for

their contribution to the quality of life of this and future generations’.

- Contradicts village design statement
- No gas supply all properties are heated by oil – new development will increase carbon emissions
- Impact upon undisturbed section of the Dyke (remains of the ditch) are on the edge of the development site. Impact upon 19th century industrial features which are heritage assets
- Impact upon protected species
- Increased traffic on the approach road to Oswestry

Support

- New homes should be affordable allowing young families to live in the village
- School only has 51% of pupils from its catchment
- Only 3 houses for sale in village for under £200,000
- Extra houses help secure future of the school

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Impact on Neighbours
Highway Safety
Impact on Ecology
Impact on Archaeology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. 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 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’ therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development

Plan, including those relating to housing supply.

- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development 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 NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 It is acknowledged that the site is outside the Trefonen development boundary previously set within the Oswestry Borough Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, these policies are at risk of being considered "time expired" due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 6.1.6 Trefonen has not been put forward as either a hub or a cluster and as such the Parish wishes to be considered as countryside for the purposes of SAMDev. In such locations there would typically be a presumption against new residential development. It is acknowledged that local residents feel that proposal is contrary to their SAMDev allocation as open countryside. However at this time SAMDev still only holds limited weight until its formal adoption. Officers are sympathetic with the local community who want to be considered as open countryside. As such the application must still be considered in light of the presumption in favour of sustainable development as required by the NPPF.
- 6.1.7 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. 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. Policy CS17 requires that development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values of these assets.

- 6.1.8 Members will recall that Trefonen has also recent been subject to another planning application for approximately 22 dwelling, which like this application also attracted a large amount of objection. (application no. 14/00426/OUT). This application was refused planning permission on the 5th September for the following reason:

It was acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply to which significant weight was given. However it was considered that this was outweighed by the harm identified. Furthermore weight was given to the fact that the proposed development was not plan led being contrary to both current saved policies of the Oswestry Local Plan and emerging policies in the Site Allocations and Management of Development DPD albeit that limited weight was given to those policies in view of the age of the saved policies and the fact that the emerging policies are subject to unresolved objections and have not yet been subject to examination in public. It was considered that the development of this site would have an adverse impact on the intrinsic rural character and beauty of the village, take up a visually valuable green space, be development on valuable agricultural land and not contribute towards conserving and enhancing the natural environment contrary to policies CS5 and CS6 of the Shropshire Core Strategy and the NPPF. It was not considered that this development in the settlement was sustainable due to the limited number of services available to future residents in Trefonen and the consequent need to travel to access services but with limited public transport, and opportunities for non-car based travel to do so. The harm resulting from the development would therefore significantly outweigh the benefits of the proposed development and would fail the environmental role of sustainable development contrary to the National Planning Policy Framework.

- 6.1.9 At the time of writing this report no appeal against the decision had been submitted, although the applicant has until March 2015 in which to do so.

6.2 Is the site sustainable?

- 6.2.1 Whether a site is sustainable is not judged purely on the distance from services, facilities or employment. The Council's adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters. The effect of this is that the Core Strategy encourages rural communities to be more sustainable by allowing development that helps to rebalance rural communities. This can be achieved by providing facilities, economic development or housing for local needs that is of a scale that is appropriate to the settlement. Whilst it is recognised that the Parish Council have not wanted Trefonen to be either a hub or a cluster it is still a rural community and therefore the principles of the Core Strategy which encourages sustainable development away from the main market towns should apply. Trefonen does have a quantity of services that are typical of a medium sized village which includes a public house, primary school,

church, village hall, sports pitch and play ground and until fairly recently it did have a village shop. The village also benefits from a bus service to Oswestry.

6.2.2 As with the previous planning application on another site nearby which is referred to above representations have been received commenting that Trefonen is an unsustainable location because it has very limited services and this was referred to in the reason for refusal detailed above. The distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance alongside issues of impact on highway safety, ecology, archaeology and development of agricultural land. Despite the previous refusal on the nearby site it remains Officer's opinion that Trefonen does have a range of accessible service and facilities which help contribute towards the overall sustainability of the settlement. .

6.2.3 The strands of sustainability referred to in paragraph 7 of the NPPF are economic, social and environmental, further consideration of how the proposed development impacts upon these elements is set out below.

6.3 **Economic Consideration**

6.3.1 In economic terms the proposed development will provide employment during the constructions process and support suppliers, Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although it is acknowledged that these benefits would be achieved by any new housing development and in any location. The most important economic benefit would be the spending power of new residents who would have the potential to support local services such as the pub and possibly increase the likelihood of the village shop reopening (although the precise reasons for its original closure are not known). The site is also well connected to Oswestry, the centre of which is 2.6 miles away and there is a bus service, although it recognised that it is an infrequent service with three buses a day. As the site is close to Oswestry and there is a public transport link it is likely that residents will also help to support the services that Oswestry has to offer as well as those in Trefonen itself.

6.3.2 Concerns have been raised that there are no job opportunities available in Trefonen and that residents would need to travel out of the village to work. It is however a relatively short distance to Oswestry by a good quality and well used road, where there are employment opportunities and through SAMDev further employment opportunities are likely to be available in the future with significant land allocated for employment to the east of the town. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

6.3.3 Objectors have commented on the economic benefits that tourism brings to the village because of its position on the Offa's Dyke National Trail. A number of objectors feel that the development of housing so close to Offa's Dyke would discourage visitors to the area. Offa's Dykes in various positions along its route passes close to built development including the existing Whitridge Way estate. There is no evidence to show that previous developments have impacted upon visitors to the area as a consequence of new housing development. Whilst there is a risk that some visitors may not come to Trefonen, it is considered that this is an

extremely low risk which can only be attributed a small amount of weight in the overall planning balance. It must also be noted that neither English Heritage or the Council's Rights of Way Officer have any objection in terms of the impact on the Dyke.

6.3.4 The site is classified as Grade 3 agricultural land so of good/ moderate quality, the land does contribute economically to the farming industry. Whilst the loss of the land will result in a slight economic loss with regards to agricultural it would only be a small area and would not be a significant harm.

6.4 **Social Considerations**

6.4.1 Socially the scheme will provide both affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. More people living in the village would also provide support for local services such as the school and sports/ social clubs. Currently, the school is only around 75-80% full, as of January 2014 there were 77 children of primary school age living in the Trefonen catchment with a capacity of 157 at the school. The school had 120 pupils on roll for the last academic year which was heavily supplemented by out-of-catchment children. The proposed development would also provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. 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 ensures that this matter will be dealt with after the consent. The CIL contribution would provide for infrastructure enhancements. The proposed development is unlikely to have a significant impact on the need for extra school places as the site is moderately small and therefore limiting the number of dwellings that could be built.

6.4.2 It is recognised that increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. The application is for only 12 dwellings and it is Officer's opinion that this would form a natural continuation of an existing housing estate which currently ends abruptly at its boundary with the application site. The size of the proposed development would not overwhelm the rest of the village and is of an appropriate scale where over time it can be absorbed into the context of the existing housing estate without feeling disconnected or isolated from the rest of the community or the built fabric of the rest of the village.

6.4.3 The layout of Trefonen is varied with a wide mix of dwelling types and sizes. The adjacent modern housing estate contains a mix of dwelling types ranging from small detached bungalows to large 4 bedroom properties. Overall Trefonen contains a high proportion of large dwellings which are often un-affordable to many who grow up and wish to stay within the village. Whilst this is only an outline application the applicant has revised the types of dwellings that have shown on their indicative layout. This is in recognition of the community's wish for smaller dwellings. The applicant has stated that the number of 2 and 3 bedroom properties has been increased from 4 to 8. Two bungalows are also proposed. Members should be aware that the types of dwellings referred to in the application are only

indicative and the exact mix of dwelling types and sizes will be subject to a subsequent reserved matters application.

6.4.4 Overall it is considered that the proposed addition of 12 dwellings would not result in such a large amount of pressure being placed on local infrastructure to justify refusing the application. The site is within walking distance of a bus stop, school, and community facilities and there is quick access to Oswestry by either bus or car, although it is recognised that the bus service may be limited with 3 buses to and from Oswestry per day; they are however at suitable times for someone working standard 9-5 office hours. Oswestry has a good range of services and facilities, shopping and employment opportunities and land being allocated for further employment uses and the development provides new housing, including affordable housing and a financial contribution towards infrastructure.

6.5 **Environmental Considerations**

6.5.1 Environmentally it is recognised that the scheme would result in the partial loss of an agricultural field which is clearly valued by the community for a number of different reasons. Firstly, it provides an open space on the edge of the village; although there are no public rights of way crossing the site, it provides a greenfield back drop to Offa's Dykes when viewed from Chapel Lane and it provides an attractive setting for the Offa's Dyke Trail which runs the length of the field before heading either into the village or further into the countryside.

6.5.2 The application has attracted large amounts of objection from people both locally and from further afield, it has also attracted objection from various non-statutory heritage and archaeological organisations because of the impact it is felt that the development would have on the setting of Offa's Dykes and the impact upon archaeological remains. Both Local Planning Policy in policy CS17 and the NPPF recognise the value of heritage assets. Para 126 of the NPPF it states that, "In doing so, they [The LPA] should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance", and should take into account the following:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- the desirability of new development making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

6.5.3 The existence of Offa's Dyke within close proximity of the site should be awarded significant weight in the consideration of the application given its status as a nationally imported heritage asset.

6.5.4 The proposed development is on a parcel of Grade 3 agricultural land that sits outside of the built environment of Trefonen. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF which aims to conserve and enhance the natural

environment and encouraging the effective use of land by reusing land that has been previously developed. To meet Shropshire's current and future housing needs it will necessitate the development of agricultural land. The key issue is only to develop agricultural land that is not of significant landscape, ecological or historic importance. In this instance it is acknowledged that the land is grade 3 agricultural land so of good/ moderate quality. The historic importance of the site is also an important factor given its proximity to Offa's Dyke is further considered later in this report.

6.5.5 However the site sits adjacent to and officers consider would be a continuation of the existing housing estate as it would sit between the dwellings that front on to Chapel Lane and the small number of dwellings fronting the track to the west. It is Officer's opinion that that the proposed development would represent a logical expansion to the village which would relate well to the existing built fabric of the settlement. The setting of this application site differs from the other recent application in Trefonen which was refused planning permission. In that instance Members of the Committee felt that the proposed development would have an adverse impact on the rural character and beauty of the village. The refused application was on a site that was separated from existing built development by the road and would not be seen within the context of other similar built development. It would have also changed the view of the village from the main road. In this current application the site tightly abuts and would be an extension of an existing modern housing estate rather than as an isolated or detached housing scheme.

6.6 **Siting, scale and design of structure**

6.6.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. The applicant has provided an indicative plan showing that the Whitridge Way estate road would be continued into the site where there would be a turning head, adjacent to which the applicant would be willing to provide a series of public parking spaces, a footpath link to Offa's Dyke Trail and an interpretation panel to explain the history and archaeology of the Dyke. It has not been demonstrated that there is a particular need for these items however they are of some small community benefits which can be awarded some weight in the overall planning consideration.

6.6.2 It is acknowledged that the appearance of this part of Trefonen would change, the nature of Trefonen is a hill side village with clear views towards dwellings from long vantage points. The larger field which contains the application site is visible from the main Trefonen to Oswestry Road although a clear view of the application site is partially interrupted by the existing dwellings fronting Chapel Lane. Whilst the additional proposed dwellings would be visible it is Officer opinion that the development would still have the appearance of a logical infill site that sits in amongst other built development. Whilst there would be a loss of a relatively small area of agricultural land it would not be to such an extent where it becomes visually harmful to the rest of the village. The proposal would be seen within the context of the adjacent housing estate which climbs the hill in a similar fashion. It is considered that by ensuring an appropriate form of development the village would continue to be characterised by its semi-rural character and its surrounding greenfields.

6.6.3 The submitted plans are only indicative at this stage and the layout of the

development would still be subject to full consideration at the reserved matters stage. What the indicative plans do show it that the site is large enough so that it can be developed with a density that is appropriate for the context of the site and comparable to neighbouring development and there is an opportunity to provide a layout and landscaping that allows a transition between the urban village and its rural surroundings. An appropriate design could provide a 'softer' and more natural transition than the current straight rear boundaries of the dwellings on Carneddau Close.

6.7 **Visual impact and landscaping**

6.7.1 The site rises in height away from Chapel Lane up towards the track that is part of the Offa's Dyke trail. Views across the site are clearly possible from the trail as there is only a post and wire fence separating them. The views of the site from Chapel Lane are more obscured firstly because four adjacent dwellings fronting Chapel Lane and then by the mature road side hedgerow which extends up to the north-western corner of the field which significantly obscures views of the applications site. Following the development of the site the views of the top of the houses are more likely to be visible depending upon their height. The view of the application site is more visible from the section of Chapel Lane at the north western corner of the field where it joins the Offa's Dyke Trail, this is where there is a more elevated position and the hedgerows are thinner; especially during the winter months. Although from this position the proposed site is around 200 metres away and the development would have the back drop of the existing Whitridge Way estate and the rest of the village.

6.7.2 Following the changes to size of the area covered by the scheduling of this section of the Dyke it now covers a strip of land all the way along the edge of eastern edge of the field and up to the side boundary of the dwelling fronting Chapel Lane, it however does not extend as far as the application site. A large number of objections have commented on the reduction in the view towards the Dyke because of the additional housing. The proposed housing will restrict the view towards the Dyke, as it would for a short stretch obscure a view diagonally across the field towards the Dyke when travelling along the Offa's Dyke trail. However, this would only be for a short distance given the small size of the development and any views of the Dyke are from a significant distance of approximately 135 metres. Once past the proposed dwelling the view would open up and the Dyke would again be seen from a similar distance.

6.7.3 A longer view of the site is from the Trefonen to Oswestry road where the application site can be seen as a green strip of land running behind the dwellings fronting Chapel Lane which includes Offa's Dyke. The field then gives way to the hillside dwellings up to the horizon. Only a small portion of this 'green strip' would be lost as a result of the proposed development and it would only be the portion that sits behind the existing Chapel Lane properties. Whilst it is likely that the ridgelines of the proposed dwellings would sit above the Chapel Lane dwellings due to the incline of the site this is considered by Officers that this is unlikely to be significantly different in its appearance to the existing situation of the dwellings on Carneddau Close.

6.7.4 It is considered by Officers that the proposed development would sit comfortably against the built form of Trefonen and would result in a logical expansion of the

adjacent housing estate by not creating a new standalone housing development. The proposed dwellings would be viewed against a back drop of other residential development and is far enough away from Offa's Dyke to ensure that it would not detrimentally harm the Dykes visual prominence in the landscape.

6.7.5 As this application is only seeking an outline permission the layout, scale and form of the development would be subject to reserved matters approval. However, it is considered that subject to an appropriate design and layout there is an opportunity to create an attractive development that would sit comfortably within the context of the site and that integrates with the existing fabric and character of the settlement without detrimentally harming the surrounding landscape.

6.8 **Impact on Neighbours**

6.8.1 The introduction of an extension to a housing estate will inevitably increase the number of vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The only way that vehicles would access the development would be by Whitridge Way. Since the Whitridge Way was constructed residents have enjoyed the benefit of it being a cul-de-sac at its northernmost point. To open up the end of Whitridge Way to the proposed development would result in existing residents experiencing additional vehicle and pedestrian movements past their properties which could ordinarily lead to increased disturbance. The existing dwellings on Whitridge Way are positioned close to and lower than the level of the passing pavement. Members of the public already have the right to pass these properties where residents they may already experience some privacy issues because of the small distance between the pavement and their windows, although this is currently likely to be infrequent because the road is currently blocked off. The opening up of the road and the addition of 12 extra dwellings would result in more pedestrians passing existing properties, however it is considered by Officers that this would not be to such a level of intensity where it detrimentally impacts upon the neighbour's privacy.

6.8.2 The residents on Chapel Lane currently have an outlook across an open agricultural field which would be partially lost by the development of housing adjacent to their rear boundary. The site is elevated above and continues to rise away from the rear gardens of the Chapel Lane properties and those on Carnneddau Close, whilst their outlook would change it is considered that the site could be developed without resulting in the proposed dwellings being harmfully dominant or overbearing on neighbours and that adequate separation between properties could be achieved to preserve the neighbours' privacy. This will be fully considered at the reserved matters stage where the distance and relationship between existing and proposed dwellings would be fully considered.

6.8.3 At this outline stage it is considered by Officers that it is possible to develop the site without there being any detrimental harm to the amenities of neighbouring occupiers in terms of privacy and loss of light.

6.9 **Highway Safety**

6.9.1 The means of access to the site is not one of the reserved matters and therefore needs to be fully considered as part of the outline planning application. The access would simply be to continue Whitridge Way into the proposed development which would extend the length of the cul-de-sac and provide an appropriate turning area.

- 6.9.2 The Council's Highways Officer has confirmed that the adjoining residential road and its junctions with Chapel Lane and Trefonen Road were designed and laid out in such a manner that would cater for further residential development. The layout of Whitridge Way is in line with desired standards and is considered therefore to have the capacity to also accommodate the vehicular movements likely to be generated by the proposed development of 12 dwellings.
- 6.9.3 The new section of the estate road would need to continue with the same design and layout as the existing road with footway provision on both sides and a standard turning head should be provided at the end of the cul-de-sac. The exact details of the proposed estate road and the position of the public car parking spaces will be fully considered as part of any subsequent reserved matters application.
- 6.9.4 Representations received have commented on the number of cars being parked on the highway and how on occasions the lower part of the estate road are used by people attending the church, where the combination of parked cars and increased traffic movement could have a detrimental impact upon the safety of highway users pedestrians and children playing in the street. Members are advised that the highway network's primary role is to allow the passage of traffic. In the event that on street parking impacts upon the safe passage of vehicles parking enforcement measures could be introduced.
- 6.9.5 Objections have been received about how the proposed development in conjunction with other proposed schemes could have an impact upon traffic flows and the wider highway network. The proposed development will inevitably result in more vehicle movements to and from Trefonen and towards Oswestry. It is acknowledged that on some of the approach roads there are constraints such as narrow sections of road and one way priority traffic junctions. However, the planning process is required to balance all of the material planning considerations against current planning policies. In this instance the limited harm that may be caused to the highway network as a result of extra traffic from the proposed development is not considered sufficient to outweigh the wider benefits of the scheme.
- 6.10 **Affordable Housing**
- 6.10.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. Based on the number of dwellings shown on the indicative layout (12 dwellings) and the current target rate for the area this would equate to one on site affordable dwellings and a small financial contribution. However, the exact amount will depend upon the target rate at the time the reserved matters application is submitted. The affordable housing contribution would be secured by a S106 in accordance with the Shropshire Viability Index as set out in the adopted SPD.
- 6.11 **Ecology**
- 6.11.1 In support of the application the applicant has provided a Phase 1 habitat survey. The report has identified that there may be an impact on great crested newts because there were two ponds within 250 metres of the site. One of the ponds has a history of use as a breeding pond for Great Crested Newts. As such there is the

prediction of an offence being 'likely' as a result of the development. As such it will be necessary to apply for a licence from Natural England in order for the development to commence. The licence application is also likely to require appropriate mitigation. The Council's Ecologist assessed the proposal and required additional information to be provided with regards to Great Crested Newts, this information has been provided and is currently being considered by the Council's Ecology Team.

6.13 Impact Public Right of Way

6.13.1 The Offa's Dyke Trail which is a public right of way and runs just outside of the site along its western boundary. The proposed development would not have any on walkers wanting to use the path, although it is recognised that the proposed development would change the character of a short stretch of the path as it would pass built rather than agricultural land. The applicant has proposed that a new footpath connection would be provided from the small car parking area to allow easy access onto the Offa's Dyke Trail, improving its connectivity. This is considered to be of some benefit to the local community although the overall weight awarded to it in the consideration of the application is limited. The Council's Rights of Way Officer has not raised any objection to the proposal.

6.14 Drainage

6.14.1 To accompany the application the applicant has provided a drainage assessment. The assessment suggests that all surface water would be dealt with by a sustainable drainage system and soakaways with foul drainage being to the existing mains system.

6.14.2 The Council's Drainage Officer has not raised any objection to the proposal and is satisfied that the drainage details including any relevant plans and calculations can be dealt with by an appropriate planning condition.

6.15 Impact on Archaeology

6.15.1 As referred to above the issue of the site's proximity to Offa's Dyke has been the subject of much discussion concerning both the setting of the Dyke and the impact on archaeological remains. Since the submission of the planning application English Heritage received an application to consider scheduling an additional section of Offa's Dyke immediately north of Church View. Most of the best-preserved section of Offa's Dyke were already scheduled but previously the scheduled section of the Dyke adjacent to Chapel Lane stopped approximately 50m short of the boundary with Church View. On 5 September 2014 English Heritage determined the application and amended the Scheduled area to include the previously non-designated section immediately north of Church View.



Now Schedule Section of Offas Dyke

- 6.15.2 The section of Offa's Dyke immediately north of Church View is aligned north-west to south-east and is approximately 135m in length. At its northern end the bank has been cut slightly along its east side by a hollow way created by the road (Chapel Lane) which runs from Fron to Trefonen, before it turns sharply west and cuts through the Dyke. Although the bank has been spread by ploughing it is visible here as an earthwork bank with traces of the ditch on the west side which, although largely infilled over time, remain visible. The central part of this section was formerly occupied by a public house known as the Royal Oak which is depicted on the Tithe Map of 1838 but had been demolished by 1901. Although the construction of this building has resulted in the loss of the bank here, the parallel section of ditch is considered to survive below the ground surface. Beyond this, to the south, the profile of the bank has been much reduced by cultivation, but is visible as a wide, spread earthwork and the ditch, although infilled, will survive as a buried feature. To the south the bank has been substantially removed by the construction of the dwelling known as Church View and the other properties to its south, along the west side of Church Lane. The amendment that English Heritage made to scheduled area means that it now includes the section of the Dyke adjacent to Church View, therefore bringing the designated area closer to the application site.
- 6.15.3 To the south of the newly scheduled section of Dyke the bank has been substantially damaged, and largely destroyed, by the construction of several houses and their gardens, namely Church View, Meadowlea and Offa Cottage, alongside Chapel Lane. Objectors contend that the associated section of ditch to the west may survive as a buried feature which extends into the adjacent field (application site). English Heritage considered that the loss of the associated bank means that this section of Offa's Dyke cannot be considered to survive well when compared with other better-preserved sections of the Dyke where not only the ditch survives but also evidence of the bank. English Heritage therefore concludes that

the section of Offa's Dyke beneath and adjacent to Church View and the neighbouring properties, and possibly into the application site, does not therefore survive sufficiently well to be considered of national importance and did not merit scheduling.

- 6.15.4 As part of the application and prior to the amendment to the Schedule entry the Council's Archaeologist and English Heritage requested, in accordance with paragraph 128 of the NPPF, that a heritage assessment should be submitted to provide an assessment of the significance of any archaeological remains and an assessment upon the setting of Offa's Dyke. The report has since been submitted and it states that further archaeological survey should be undertaken to further establish the character and significance of the heritage assets within the proposed development site. Para 135 of the NPPF requires that non-designated heritage assets of archaeological interest should be taken into account when determining planning applications, and that a balanced judgement is required with regard to the scale of any harm or loss and the significance of the heritage assets affected. The applicant has agreed to carry out the additional survey work. However they have said that the costs of the work are prohibitive at this stage of the planning process. The applicant has been advised that the most important part of the site is to the east (plots 1 to 4) where it has been suggested that remains of the ditch to Offa's Dyke may survive below ground. As such it is considered appropriate to impose a planning condition which will exclude the development of plots 1-4 from development until it is demonstrated to the satisfaction of the Local Planning Authority, by the submission of an archaeological evaluation, demonstrating that there would be no adverse impact on any underground remains of Offa's Dyke or its setting. As expressed by English Heritage, if any remains of the ditch of Offa's Dyke extend into the development site they are not considered to survive sufficiently well to be considered of national importance. Therefore it is considered reasonable and proportionate to not require this additional survey work prior to the granting of outline planning permission and instead to deal with this by way of a planning condition that requires submission of a field evaluation with any application for reserved matters. This is considered to comply with Para 128 of the NPPF which requires the level of detail of the heritage assessment to be "proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance".
- 6.15.5 Whilst the application site falls outside the area designated as a Scheduled Ancient Monument, Para 132 – 134 of the NPPF require that consideration is given to any loss of significance as a result of development within its setting. Comments were provided by both English Heritage and the Council's Archaeologist prior to the amendments to the Schedule Entry for the Dyke. Both have since been re-consulted and have stated that the amendment to the schedule does not change their original comments.
- 6.15.6 Objectors have challenged the Heritage Assessment that has been submitted by the applicant with the opinion that it does not meet the professional Standards and Guidance of the Institute for Archaeologists, this opinion has not been accepted by the Council's Archaeologist. To support the argument of the objectors they have also submitted their own Heritage Statement which was produced on behalf of the Trefonen Rural Protection Group. The Council's Archaeologist and English Heritage have both had regard to Archaeological Assessments by the applicant and

the objectors in formulating their comments. English Heritage and the Council's Archaeologist are satisfied that the proposed development would not have an adverse impact on the setting of the Scheduled area of Offa's Dykes and both consider that the revised scheduling does not give reason to change their advice overall regarding the proposal. Further, it is considered that, following English Heritage's revision of the designated area of the Scheduled Monument, a further request to update the applicant's Heritage Assessment could be considered unreasonable, and would incur a risk of an appeal against non-determination of the application.

- 6.15.7 It is considered that the applicant has adequately demonstrated the significance of the heritage asset the contribution made by its setting and the impact of the proposed development. Whilst the proposed scheme is close to Offa's Dyke, by the imposition of appropriate planning conditions it is considered in relation to paragraph 132 of the NPPF that it would not result in substantial harm to the heritage assets which would justify a refusal of planning permission. With regard to paragraph 134 of the NPPF the limited harm that may be caused by the loss of long view towards a small section of the Dyke is considered to be outweighed by provision of housing in a sustainable village location which overall would have limited impact upon the character and appearance of the area. The proposal is therefore considered to comply with section 12 of the NPPF and policy CS17 of the Core Strategy in this respect.

7.1 CONCLUSION

- 7.1.1 The site is located outside of the current Trefonen development boundary and is therefore classed as a departure from the development plan. Significant weight must be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development.
- 7.1.2 It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development adjacent to the village. The detailed, appearance, landscaping, and scale designs would be considered at the reserved matters stage along with further archaeological assessment for plots 1-4. It is considered that the proposed development would not have a detrimental impact upon the setting of the scheduled ancient monument.
- 7.1.3 Whilst Trefonen does not have a large number of services and facilities it is a sizeable settlement and has a number of facilities which help meet the day to day needs of residents such as the school, church, village hall and a public house. The existing infrastructure is sufficient to support the proposed development and the proposal will provide affordable housing and will be liable for the required CIL payment. It is considered that Trefonen is a sustainable location for new dwellings with good access to all essential services such as the school which is currently occupied significantly below full capacity. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'. It is therefore recommended that members approve the application in line with guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure the provision of affordable housing

in accordance with the Councils adopted policy.

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 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 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 1970.

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:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS4- Community Hubs and Clusters
CS6- Sustainable Design and Development Principles
CS9- Infrastructure Contributions
CS11- Type and Affordability of Housing
CS17- Environmental Networks.

RELEVANT PLANNING HISTORY:

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 M. Price
Local Member Cllr Joyce Barrow
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 month from the date of this permission

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. The area of land hatched in black (plots 1-4) on the Revised Conceptual Layout Plan July 2014 (received 30th July 2014) shall only be developed if an archaeological evaluation and geophysical survey satisfactorily demonstrates to the local planning authority that there would be no adverse impact on any underground remains of Offa's Dyke, or on its setting. The report shall be submitted as part of the first reserved matters.

Reason: To protect the archaeological interest of this part of the development site.

6. No development approved by this permission shall commence until the applicant, or their agent or successors in title, have secured the implementation of a phased programme of archaeological work that makes provision for an initial field evaluation, comprising a geophysical survey and trial trenching, followed by further mitigation as appropriate. Each phase of work should be in accordance with a written scheme of investigation (WSI). These written schemes shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site holds archaeological interest

7. Details of the design and construction of any new roads, footways, accesses, and standard turning head together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

8. The continuation/junction of the new estate road with the adjoining highway shall be constructed in accordance with the Local Planning Authority's specification for the time being in force for residential and industrial estate roads.

Reason: To ensure the formation of a satisfactory estate road junction to serve as a means of access to the development.

9. A minimum of 2 car parking spaces shall be provided for each unit of living accommodation in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide for the parking, loading and unloading of vehicles off the highway in the interests of highway safety.

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