

## Development Management Report

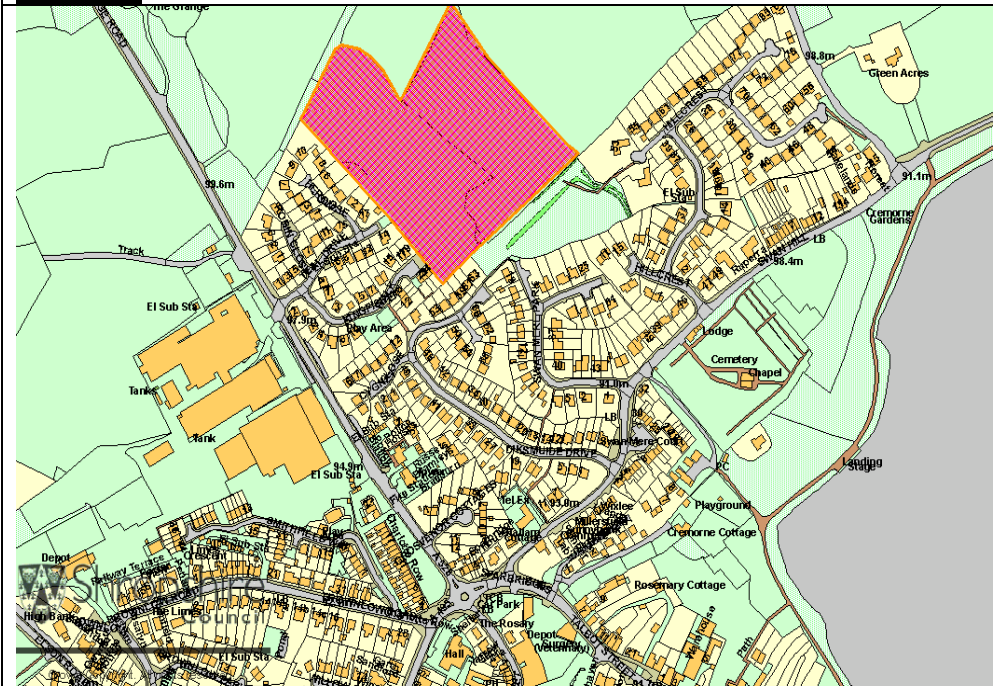
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/03370/FUL	<b>Parish:</b> Ellesmere Urban
<b>Proposal:</b> Erection of 68 dwellings to include on-site open space provision	
<b>Site Address:</b> Proposed Residential Development Land East Of Teal Drive Ellesmere Shropshire	
<b>Applicant:</b> David Wilson Homes (Mercia)	
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

**Grid Ref:** 339950 - 335375



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**Recommendation:-** That delegated powers be granted to the Planning Manager to grant planning permission subject to resolution of the ecology issues ; subject to the

**conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 The application seeks full planning permission for the erection of 68 dwellings on a 3.37 hectare site on the northern side of Ellesmere. The application site would form an extension to the existing modern housing estate which consists of Teal Drive and a series of three other cul-de-sacs. The application also includes the provision of an area of public open space.
- 1.2 The access into the site would be from the end of the existing spine road to the estate, Teal Drive, this would then continue through the application site with a number a cul-de-sacs leading from it. At the heart of the site there would an area of public open space which would also include a pond, this would act as a drainage balancing pond.
- 1.3 The scheme would provide a mix of dwelling types. The 61 open market dwellings would be a mix of 3, 4 and 5 bed dwellings and the 7 affordable dwellings would be a mix of 1, 2 and 3 bed properties.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is a 3.37 hectare area comprising of two adjoining fields used for agricultural purposes. The modern housing development which includes Teal Drive, Kingfisher Walk, Heron Close and Robin Close abuts the south western boundary. This existing estate has 51 dwellings which are mainly large detached properties although there are a small number of smaller semi-detached and terraced properties. The south eastern boundary is defined by the trees lining the route of the former railway line, beyond there is another modern housing estate. A public footpath runs from the eastern most corner of the application site and this is accessed from a path off Hill Crest. The remainder of the boundaries are defined by mature hedgerows with intermittent tress that have formed the pattern and layout of the agricultural fields. The edge of the site is approximately 480 metres (as the crow flies) from the centre of Ellesmere. The site is considered to be semi rural in its appearance being located with the urbanised edge of Ellesmere on one side and open fields to the other.
- 2.2 In terms of current development plan policies the site sits within an area defined as open countryside. In terms of emerging policy the site is not included as a draft allocation in the Site Allocations and Management of Development (SAMDev) Plan which has now been submitted to the Planning Inspectorate. The application site was considered as part of the SAMDev process and site was numbered ELL004. The site was a potential option for new residential development along with two other sites which collectively could have provided around 222 dwellings in the SAMDev Revised Preferred (July 2013). However, all three sites were removed from the submitted SAMdev plan in favour of site ELL003 which is to the southern side of Ellesmere. The SAMDev Sustainability Appraisal Report (February 2014)

states that the site (ELL004), “is now seen to have flooding issues” and that, “Houses adjacent to this site were recently flooded and concerns were raised by residents which consequently led to the site being dropped”.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The application has been requested by the Local Member to be considered by the committee and the Parish Council has submitted views contrary to officers based on material planning reasons, the Principle Planning Officer and the Committee Chair and Vice-Chair agree that the application should be determined by the relevant Planning Committee

4.0 - Consultee Comments

4.1.1 **Ellesmere Town Council**- Ellesmere Town Council would like to object to this planning application for the following reasons.

1. Flood Risk – This area has a history of flooding which residents have been victim to on regular occasions.
2. Traffic Generation that will be created from the additional 70 dwellings as well as the highways safety at the access of Teal Drive for motorists exiting onto what is already a very busy and fast road that being Grange Road.
3. Members are concerned on the environmental impact that this development will have on the area immediately surrounding the proposed development.
4. Community Apprehension – Due to the historical local evidence of flooding in this area that the local residents have fallen victim to on numerous occasions, they are extremely concerned that increased risk that this development will have on their dwellings.

4.1.2 **Highways- No objection** subject to conditions

4.1.3 **Affordable Housing**- The affordable housing contribution proforma accompanying the application indicates the correct level of on site affordable housing provision and the proposed mix meets some of the current need in Ellesmere, therefore satisfies the provisions of the SPD Type and Affordability of Housing

4.1.4 **Drainage**- Drainage details, plan and calculations could be conditioned and submitted for approval. The Drainage strategy on the FRA is acceptable in principle.

4.1.5 **Natural England**- Awaiting comments

4.1.6 **Learning and Skills**- report that this development is forecast to cause medium and longer-term capacity problems at the local primary school. It is therefore essential that the developers of this and any new housing in the town contribute towards the consequential cost of any additional places/facilities considered necessary at the school.

4.1.7 **Ecology- No objection** subject to Natural England being consulted and the addition of appropriate conditions and informative.

4.1.8 **Trees**- No objection to the revised plans

4.1.9 **Rights of Way**- Public Footpath 3 runs within the south eastern boundary of the site identified as acknowledged in the Design and Access statement. The footpath will be directly affected by the application. The footpath will require a legal diversion by the applicants under the terms of the Town and Country Planning Act 1990.

4.2 - Public Comments

Letters of objection received commenting on the following issues:

Ruin the rural aspect of the town

Already enough new build in the town

Lack of capacity at the school

Lack of capacity at the doctors

Highway Safety

3-storey building too large

Increased traffic

No extra employment generated by development

Increased risk of flooding

Scheme would jeopardise the Wharf development

Site does not comply with SAMDev

Safety of balancing pool

Impact on internet speed

Children would be able to play safely

Highways conflict with Fullwood Ltd

surface water

Recent history of flooding from the surface water drainage off the application site.

Site is a precursor to further development

Health risks from sub-station

Impact upon Ellesmere for tourists

Scheme would not enhance the town

Ecological impact on the Mere

Ecological impact on protected species

## 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

Flooding

Impact on neighbours

Public Right of Way

Ecology

## 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 development boundary previously set within the North Shropshire Local Plan under H5 which currently is a saved policy. 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 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.

## **6.2 Is the site Sustainable?**

6.2.1 The site is located on the outer edge of one of the larger settlements in North Shropshire. Policy CS3 of the Core Strategy states that Market Towns will provide “Balanced housing and employment development, of an appropriate scale and design that respects the towns’ distinctive character”. By its very nature a market town such as Ellesmere has a range of services, facilities, transport links and employment opportunities which are not only used by residents in Ellesmere but also to its rural hinterland.

6.2.2 When assessing the sustainability of a site its 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, social impact and development and the loss of agricultural land.

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 these benefits would be achieved by any new housing development and in any location. An increase in the number of people living within the town would provide an increased amount of spending power who would help to support and maintain the wide range of services that the town has to offer. As an important settlement it is well connected by public transport with bus services to Oswestry, Wem and Shrewsbury.

6.3.2 The application site is grade 3 agricultural land which is of ‘good to moderate’ quality. As such it is not the best or most versatile agricultural land. The National Planning Policy guides local authorities to consider the economic and other benefits of agricultural land and, where significant development is necessary, to use lower quality land in preference to higher quality land. Although the development of this site will result in the loss of an area of good to moderate quality land it is considered by officers that the economic benefits of the proposed development outweigh the economic benefits of retaining the land in agricultural use. The need for retaining agricultural land for food production does not outweigh the presumption in favour of sustainable development. Overall, although the loss of agricultural land is a harm resulting from the development this harm is not

considered to outweigh the benefits.

#### **6.4 Social Consideration**

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. The development would provide 7 affordable dwellings consisting of 1, 2 and 3 bed properties. This provision is fractionally in excess of the planning policy requirement of 10% which would result in 6 dwellings plus a financial payment, however this 'over provision' should not be awarded any weight in the planning consideration as it is not required to make the scheme acceptable in policy terms. The scheme would 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 as required.

6.4.2 It is recognised that increasing the number of residences in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. One example that has been cited by residents is the local medical surgery which is said by residents to be at capacity with a long wait to have an appointment with a doctor. The provision of a replacement GP surgery in the town is listed as a 'Priority' in the Place Plan where it is advised that the Primary Care Trust has the replacement of the existing surgery as its list of premises for development but no additional PCT funding has been identified for new premises. Options for use of developer contributions should be explored in consultation with the PCT. Land has already been earmarked for a new building as part of the previously approved Wharf development.

It is also acknowledged that Ellesmere has recently been the subject of a number of other planning applications for large residential schemes, this includes the site at the Hawthorns for around 130 dwellings (14/00822/OUT) and was considered by members in August 2014 where there was a resolution to grant permission, this application is currently awaiting the completion of the S106 agreement. The site at the Old Station Yard for around 56 dwellings (14/01744/OUT) where there was a resolution to approve under delegated powers and is also awaiting the completion of the S106. The most recent application is for the SAMDev allocation mixed use site adjacent to the canal (14/04047/OUT) which is currently under consultation and could provide around 225 dwellings.

6.4.3 Concerns have also been expressed about the number of school placements available in the town. The Learning and Skills section of the Council have confirmed that there is pressure on the primary school places and a new classroom will be provided this summer and that there will be a need to provide a 3 new classrooms over the plan period. Additional classroom accommodation would be funded by payment received through the community infrastructure levy.

6.4.4 It is acknowledged that the proposed development is a significant number of dwellings however Ellesmere is a significant settlement and one that is expected to

accommodate a significant number of dwellings over the plan period, along with the other Shropshire Market Towns. It is considered by Officers that whilst the proposed development is large, more than doubling the number of dwellings on the estate, it is not considered to be so excessively large to overwhelm Ellesmere or significantly impact upon the existing local community.

- 6.4.5 The site would have good access for pedestrians or cyclists into the town centre or to the Mere for recreational purposes. However as part of the Sustainability Appraisal carried out as part of the SAMDev process the site did score negatively for access to a primary school and young peoples recreational facility. The primary school is approximately a 0.9 km walk away as there is no direct route because of the location of existing industrial premises.
- 6.4.6 The site benefits from bus service no. 53 which passes the end of Teal Drive towards Oswestry. The town centre then also offers routes to Shrewsbury. The site is well located to benefit from these public transport services.
- 6.4.7 Overall it is considered that the proposed addition of 70 dwellings on the site would not result in a level of pressure on local infrastructure which would justify refusing the application, where necessary identified improvements could be carried out by CIL which is generated by new development. The site is within walking distance of the town centre where there is a significant range of services, facilities, shopping and employment opportunities as well as primary and senior schools. The scheme would also provide new housing, including affordable housing.
- 6.4.8 Unlike many other recent planning applications for residential development this is a full application rather than just seeking outline consent. As such fully worked up drawings have been produced indicating that the developer is wanting to develop the site rather than simply getting consent and waiting. The applicant is also happy to have just 12 months in which to commence development. As such there is a very strong likelihood of the development being delivered and would begin to provide the associated benefits within a relatively short period of time.

## **6.5 Environmental Considerations**

- 6.5.1 Accompanying the application the applicant has provided an independent Landscape Visual Impact Assessment (LVIA). The report states that the sensitivity of the settlement's existing edge is considered to be 'medium' because of the enclosed nature of the site created by existing vegetation and the topography and that with the mitigation of new planting and the retention of major trees the magnitude of the effect on the settlement edge is considered to be 'medium'.
- 6.5.2 The application site itself contains a number of mature and semi- mature Oak trees which have grown to become good specimens. The submitted LVIA considers that the site is of generally pleasant character but with no unique or distinctive features which cannot be found elsewhere in the area. The adjacent housing and power lines are considered to detract from the rural nature of the site's character. The mature Oak trees, line of Poplars and ground flora provide an attractive setting but are reproduced elsewhere. As such the LVIA sensitivity of the application site is considered to be 'medium'.
- 6.5.3 The development will inevitably change the nature of the site's character where



grassland and herbaceous layer will be replaced with housing and associated infrastructure. The applicant has detailed that the mature trees will be retained and the hedgerow kept intact where possible. However, due to the significant change in landscape character, the magnitude of the effect is considered to be 'high'.

- 6.5.4 Whilst the development may be visually intrusive with an adverse impact on landscape character, the site has no designations and many features of the site can be found elsewhere in the locality. The development also represents an extension of the existing built form. The significance is therefore considered to be 'moderate' by the submitted LVIA.

It is considered by Officers that whilst there would be some environmental impacts as a consequence of developing the site these are relatively minor and do not affect a site that is of any natural or historic designation. The main change will be to the character and appearance of the site and this is considered later in this report.

- 6.6.1 As this is a full application it includes full details of the layout, house types and landscaping. The original submission proposed 70 dwellings on the site and this has now been reduced slightly down to 68 properties. The majority of the development are 2 storey dwellings but a small number are 2 and a half storey with rooms provided in the roof space. The scheme proposes a mix of dwelling types and sizes comprising of the following, 18 x 3-bed, 34 x 4-bed and 9 x 5-bed (all open market) and the affordable units would consist of 2 x 1-bed, 2 x 2-bed and 3 x 3-bed dwellings. Overall there are 17 different house types, some of these variations are very subtly but overall it is considered by Officers that the mix of dwelling types provides variety across the development and a street scheme that has interest and character.
- 6.6.2 The proposed layout of the site consists of a series of cul-de-sacs. The layout to some extent has been dictated by the desire to retain a hedgerow which runs across the site and also the mature trees positioned centrally. A large portion of the site is occupied by the informal area of public open space which contains the drainage balancing pond.
- 6.6.3 The larger dwellings have been positioned to the north of the main route where the site borders the adjacent fields, this also reflects the scale of the existing dwellings on Heron Drive. The smaller properties are located to the southern and eastern parts of the site which again reflect the scale of existing development on this side of the site. The public open space has dwellings on 3 of the 4 sides, this provides natural surveillance across the space reducing the risk of the space being misused.
- 6.6.4 Part of the site has been laid out so that properties have an outward facing front elevation across the open countryside. This allows for a softer transition between urban and rural landscapes and avoids the common problem of 1.8m tall fences of various styles defining the edge of the settlement which can often appear harsh when viewed from surrounding countryside. The design proposed provides an opportunity for landscaping buffers and more sympathetic boundary treatments. The northern edge of the site will be clearly visible from the public right of way which leads from the eastern corner of the site.

6.6.5 The varied mix of dwelling types includes features that the applicant has identified as being part of the local vernacular such as appropriate window proportions and eaves and window details, porch details, bay windows and the intermittent use of projecting gables which provides greater articulation to front elevations and the overall street scene.

6.6.6 It is officer's opinion that that the density of the development and the design and scale of the proposed dwellings are appropriate and relate to the character and form of neighbouring development and Ellesmere as a whole. It is considered by Officers that the layout of the site reflects its edge or settlement, semi-rural location and would not have a detrimental impact in the character and appearance of the area and would represent a logical extension to the town.

## **6.7 Visual impact and landscaping**

6.7.1 The two main views of the site will be from the public right of way from the corner of the site and from Teal Drive itself. The main estate road which runs in an north east - south west direction sits at approximately the same level as the existing estate road. Further to the north east and beyond the application site the land continues to climb up towards a hedgerow and large mature trees on the skyline. As such when viewed from Teal Drive the proposed dwelling will not sit significantly elevated above the sky line and would have the backdrop of the trees.

6.7.2 In a south east to north west direction the site climbs by around 5 metres, the finished floor levels of the neighbouring dwellings on Heron Close also climb a similar amount. However the proposed dwellings to the rear of the properties on Heron Close would sit higher than those existing properties.

6.7.3 The application is fairly self-contained as a consequence of being adjacent to other built development and because of the topography of the land and the surround tree and hedge planting. This restricts the number of views that are possible into the site from public spaces. Where possible the applicant has retained the hedge and tree planting which contribute to the character of the area and will, in time, contribute to the appearance of the proposed development by softening it and helping it integrate into the landscape.

6.7.4 Whilst the proposed dwellings would be visible from a limited number of public spaces it is considered that the proposed design and layout of the scheme would allow it to sit comfortably with both other built development and the surrounding countryside.

## **6.8 Impact on Neighbours**

6.8.1 The introduction of an extension to a housing estate will inevitably increase the number vehicle movements and introduce activity on to a site that is currently used for agricultural purposes. The application site would more than double the number of vehicle movements along Teal Drive. Neighbours have commented on how quiet the estate is and this allows children to be able to play in the street. The primary function of the estate road is to facilitate the movement of vehicles safely. Whilst it may be less desirable for children to play in the street as they have done previously the proposed development includes a large area of public open space to add to the equipped play area that already exists on the estate. It is considered by Officers that the number of likely vehicle movements and the likely speed of those vehicles

would not generate a level of disturbance that would be detrimental to the living conditions of neighbouring occupiers or the occupiers of dwellings located along Teal Drive.

6.8.2 Existing properties on Heron Drive currently have views across the open fields from their rear facing windows. The development of the site will as a consequence remove this view. Under planning law no individual has a right to a view and as such little weight can be awarded to this loss in considering the application.

6.8.3 Since the original submission the applicant has made amendments to the scheme following concerns raised by neighbours about the distance between the existing dwellings on Heron Close and the rear elevations of proposed properties. The amended plans show that there would be a minimum distance of 21 metres between facing windows. There is a change in levels between the existing and proposed properties but taking this into account it is considered that revised distance of separation is appropriate and would avoid any detrimental loss of privacy to the occupiers on Heron Close.

## **6.9 Highway Safety**

6.9.1 The proposed development site forms an extension of Teal Drive which serves as a main access road into the existing development off the Grange Road junction. Teal Drive currently serves as access to some 51 dwellings with 3 cul-de-sacs accessing onto Teal Drive itself.

6.9.2 At the junction of Teal Drive and Grange Road visibility standards are met in both directions and now exceed the standards set out in Manual for Streets. The junction layout is satisfactory and Teal Drive itself provides 1.8 metre wide footways either side of a carriageway width of 5.5 metres. The Teal Drive development was therefore based upon the Council's Specification for Residential/Industrial Estate Roads at the time which indicated that a maximum of 200 dwellings could be served from the current road infrastructure. The Council's Highways Development Control Section therefore have no objection to the site.

6.9.3 The Highways Officer did raise some comments about the internal arrangement of the development which were not considered sufficient to warrant an objection to the scheme. However the applicant has considered these comments and make some minor changes to the layout in response.

## **6.10 Ecology**

6.10.1 In support of the application the applicant has provided a protected species survey and an arboricultural impact assessment.

The application site is within a relatively short distance of Colemere Ramsar site which is 3.3km away, as such there is the potential for the development in conjunction with other new residential developments in Ellesmere to increase visitor numbers. If this is the case then it is necessary to mitigate against this by providing adequate public open space within the proposed development. The proposed development includes a sizeable area of public open space and is considered to comply with the Council's open space standards and bearing in mind the site is on the north side of Ellesmere, where there is pedestrian access to The Mere and countryside. As such is considered reasonable to assume that the likely increase in

visitors at Colemere from this development is unlikely to be significant.

The site currently includes a number of native hedgerows. To allow the proposed development to function correctly some gaps will need to be created to facilitate roads etc. The Council's Ecologist is of the opinion that the provision of the open space and the creation of the drainage balancing pond and new tree planting will offset the harm caused by the loss of some sections of hedgerows.

- 6.10.4 There are a number of mature Oak trees on the site with the potential to provide a bat roosting habitat although the survey carried out did not pick up on any evidence of any roosts.
- 6.10.5 There are three ponds within 500m of the site. Only pond 1 was surveyed by the applicant's appointed Ecologist. No access was available to pond 2 and pond 3 was some distance away with intervening development between it and the site. No great crested newts were found and there are no historic records of newts in the immediate area. Based on Natural England's rapid risk assessment if the unsurveyed pond (pond 2) is suitable as a breeding pond it is likely that an offence would be caused. It is therefore considered appropriate to require a method statement for the development to reduce the risk of an offence occurring and also reduce the possibility of harm to any reptiles on the site.
- 6.10.6 The applicant has provided an Arboricultural Impact Assessment to demonstrate the impact of the development on existing trees. The Council's Tree Officer has no objection to the principle of developing the site or those trees which are to be removed. The Tree Officer has raised some concerns about the proximity of the retained trees to the proposed dwellings on the north west boundary. These trees may cause shading, seasonal nuisance and be over bearing on future occupiers, possibly leading to pressure for their removal at some point in the future. In response to the concerns of the Tree Officer the applicants have moved the dwellings further away from the trees, the Tree Officer has confirmed that the scheme is acceptable in terms of the impact on trees.

## **6.11 Affordable Housing**

- 6.11.1 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. The current target rate for the Ellesmere area is 10% which for a development of 68 dwellings would require 6 dwellings and a financial contribution to be paid. In this instance the developer has rounded this up to 7 whole dwellings on site rather than make an additional payment.
- 6.11.2 The affordable dwellings will consist of 2x 1-bed, 2 x 2-bed and 3 x 3-bed properties. The Council's Affordable Housing Officer is satisfied that this is an appropriate mix to meet some of the housing need in the town. A S106 will secure the affordable housing.
- 6.12 Drainage and Flooding
- 6.12.1 A significant number of representations received from residents and the Town Council make reference to recent flooding that occurred in Diksmuide Drive which adjoins the south eastern boundary of the site. The flooding was to the cul-de-sac damaging a number of vehicles. Neither the application site nor the areas

previously flooded fall within flood zones 2 and 3. These are the zones at risk of fluvial (river) flooding. Instead the land is within flood zone 1 where there is deemed to be a low probability of fluvial flooding. The previous flooding was caused by surface water run-off from the application site collecting in the cul-de-sac. As such the application site is considered to be at risk from Pluvial flooding.

- 6.12.2 In accordance with the requirements of the NPPF the applicant has submitted a flood risk assessment (FRA). Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. The recent flooding of a nearby cul-de-sac is acknowledged however this is not a reason on its own to resist development of other nearby sites. The submitted FRA acknowledges the previous flooding problems and comments on the causes and how this will impact upon the proposed development.
- 6.12.3 To protect the site from pluvial flooding mitigation is proposed, this includes ensuring that floor levels are above the 1 in 100 year plus climate change, the removal of a culveted section of ditch and the provision of a surface water attenuation pond. The attenuation pond will allow peak flow rates to be reduced and enable flows to be limited to greenfield run-off rate during a storm event. The attenuation pond will also form a feature of the proposed area of public open space and by landscaping and appropriate planting will provide ecological benefits. The use of such a features will allow sedimentation to take place which will also contributes to a water quality improvement.
- 6.12.4 The implementation of a surface water drainage system for the site which is suitable for conveying flows up to and including the 1 in 100 year + 30% for climate change event will also protect third party land owners as surface water will be intercepted and not be allowed to run-off at an uncontrolled rate which what currently occurs and has caused the rece3nt flooding.
- 6.12.5 The submitted FRA has been considered by the Council's Drainage Engineer who is satisfied that it is acceptable in principle and raises no object subject to appropriate planning conditions.
- 6.12.6 The applicant proposes that foul water would be discharged to the existing sewer which runs to the west of the site on Kingfisher Walk and Diksmuide Drive. The applicant has provided evidence from Seven Trent Water that there is existing capacity in the system to accommodate the flows from the 68 dwellings proposed. Due to the levels of the site is will be necessary for there to be a pumping station to be provided in the southern corner of the site. In accordance with Building Regulations and Sewers for Adoption the pumping station will be located at a minimum 15m from any habitable rooms. The applicant anticipates that the foul and surface water systems will be adopted by Severn Trent Water.
- 6.13 **Impact on Public Right of Way**
- 6.13.1 There is currently a public right of way which leads from the east and across the southern area of the site (footpath 3) which will need to be diverted to allow a better layout of the site. The diversion will only be minor change before it then continues its original route beyond the north western boundary of the site and out across open fields. The Council's Rights of way Officer has not raised any objections to the

scheme but advises that the applicants will need to make a formal application for the paths diversion. The applicant has confirmed that a request for the paths diversion has been submitted to the Council's Rights of Way team and is currently out for informal consultation.

## **7.0 CONCLUSION**

- 7.1 The site is located outside of the current Ellesmere 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 is a presumption in favour of sustainable development.
- 7.2 The proposed scheme will create a significant expansion to the existing housing estate on the northern side of Ellesmere. The location of the development is not considered to be out of keeping with the form and layout of the adjacent existing housing development. The development of the site would follow the form of the immediately adjacent housing development whilst maintaining the character and appearance of the settlement and not impacting upon the character and appearance of Ellesmere. The proposed scheme would link in with the existing housing estate road provide a natural link and a logical extension to the estate and to Ellesmere.
- 7.3 It is considered that the application site is appropriately located where visually it would have limited visual impact because of the topography of the land and the existing mature tree and hedge planting. There would be the loss of an open field but it has been demonstrated that the mature trees and hedges could be retained within the development.
- 7.4 The proposal will be of significant benefit in terms of boosting the local housing supply including the provision of affordable housing in what is a sustainable location where there is good access to services in a sizeable market town. Accordingly, it is considered on balance that the benefits of the scheme is not demonstrably outweighed by the harm caused and that the proposal complies with policies CS6 and CS11 of the Core Strategy and the requirements of the National Planning Policy Framework.

## **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:  
NPPF

Core Strategy and Saved Policies:  
CS3- Market Towns and other Key Centres

CS5- Countryside and Greenbelt  
CS8- Facilities, Services and Infrastructure Provision  
CS9- Infrastructure Contributions  
CS11- Type and Affordability of Housing  
CS17- Environmental Networks  
CS18- Sustainable Water Management

## 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)
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Cabinet Member (Portfolio Holder)
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Cllr M. Price
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Local Member
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Cllr Ann Hartley
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Appendices
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APPENDIX 1 - Conditions
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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of 12 months from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plans received on the 10th October 2014 and 25th November 2014, 1st December 2014. .

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

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme of foul drainage, and surface water drainage including relevant plans, calculations and maintenance strategy has been submitted to, and approved in writing 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.

4. Before the commencement of development a scheme of landscaping and these works shall be submitted to the Council and approved. The submitted scheme shall include:
  - a) Means of enclosure, including all security and other fencing
  - b) Hard surfacing materials
  - c) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
  - d) Planting plans, including wildlife habitat and features (e.g. hibernacula)
  - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
  - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate native species used to be of local provenance (Shropshire or surrounding counties)
  - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
  - h) Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design

5. Prior to development commencing a method statement that sets out the Risk Avoidance Measures to ensure the protection of Great Crested Newts shall be submitted to and approved

in writing by the Local Planning Authority. The works shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure the protection of great crested newts, a European Protected Species

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- \* the parking of vehicles of site operatives and visitors
- \* loading and unloading of plant and materials
- \* storage of plant and materials used in constructing the development
- \* the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- \* wheel washing facilities
- \* measures to control the emission of dust and dirt during construction
- \* a scheme for recycling/disposing of waste resulting from demolition and construction works

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

7. No development shall take place until details of the design and construction of any new roads, internal visibility splays, footways, accesses have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site

8. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement has been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with

this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

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

9. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and ponds other than small, privately owned, domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure the long term management of the public open spaces

10. The external materials of the proposed development shall be carried out in accordance the materials schedule, drawing no. P04 received 1st December 2014.

Reason: To ensure that the external appearance of the development is satisfactory.

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

11. No windows or other openings other than those shown on the approved plans shall be formed in the southwest elevations of plots 32, 13, 12 and 1 without the prior consent of the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties.

12. Prior to the erection of any external lighting over 150W on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

13. The gradient of the access(s) from the highway carriageway shall not exceed 1 in 24 for a distance of 1.8 metres and thereafter the gradient of the drive shall not exceed 1 in 10.

Reason: To provide a safe access to the development in the interests of highway safety.

14. Construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area.

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