

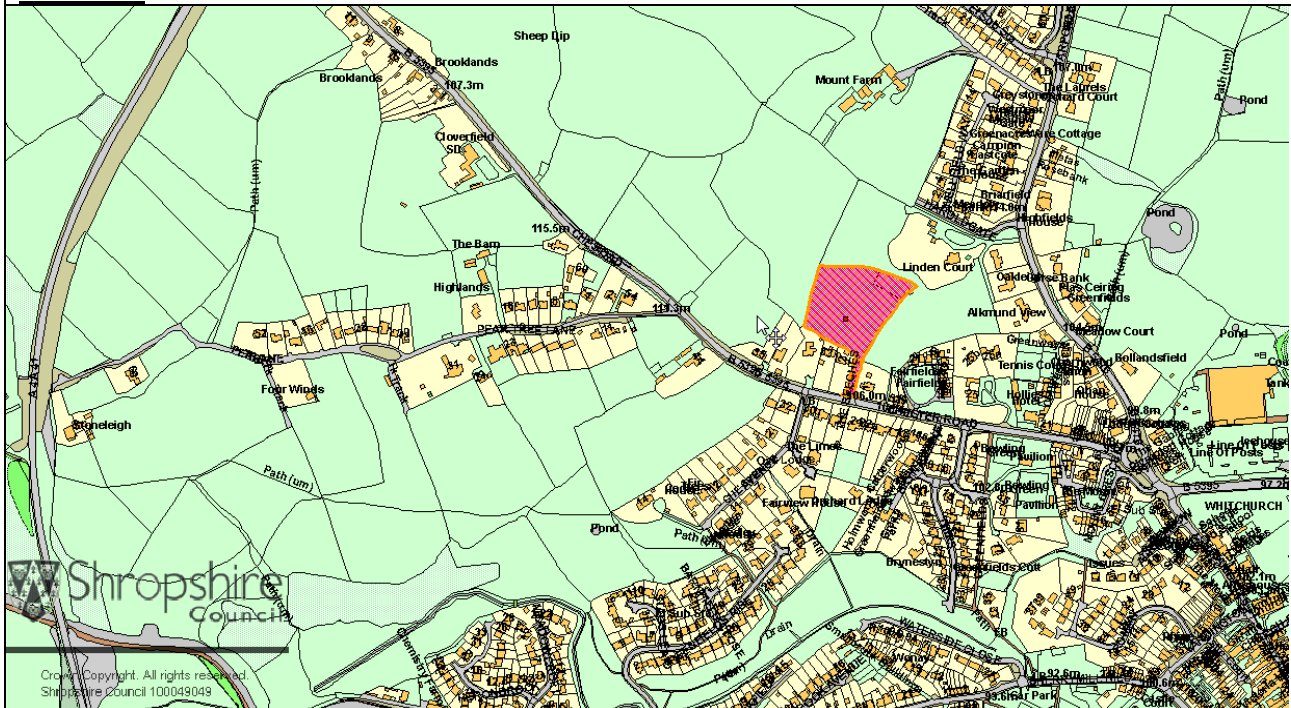
Development Management Report

Responsible Officer: Tim Rogers
Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/02830/OUT	Parish:	Whitchurch Urban
Proposal: Outline application for the erection of 15 dwellings to include access		
Site Address: Land Adj No. 33 Chester Road Whitchurch Shropshire SY13 1NB		
Applicant: Shingler Homes Ltd		
Case Officer: Jane Preece		email: planningdmne@shropshire.gov.uk

Grid Ref: 353558 - 342072



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

Recommendation:- Approve, subject the imposition of conditions set out in Appendix 1 and the prior completion of a Section 106 agreement to secure the affordable housing contribution.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for residential development on 1.07 hectares of agricultural located off Chester Road, Whitchurch. Access is included for approval at this outline stage. It is proposed that the site would utilise an existing access connecting the land to Chester Road. Otherwise all other matters relating to scale, appearance, landscaping and layout are reserved for later approval.
- 1.2 To assist the consideration of the application an indicative site layout plan has been provided, showing an indicative layout for 15 dwellings. The indicative dwelling layout plan is for information and illustrative purposes only.
- 1.3 For foul drainage disposal the development would proposed to connect to the existing mains sewer. The surface water from the development would be disposed of to a sustainable drainage system and soakaways.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to a parcel of agricultural land located on the northern side of the B5395 Chester Road and on the edge Whitchurch. The land lies directly behind frontage development on Chester Road, with an access point positioned between numbers 1 and 2 The Beeches.
- 2.2 The site occupies higher ground than the frontage development on Chester Road and the relief of the land generally rises away from the existing development in a north easterly direction. A survey plan (Drwg No. 01) showing existing site contours and levels related to O.S. Datum has been submitted with the application to which Members may wish to refer to familiarise themselves with the topography of the site. As a general comment the level of the land rises steadily from 108m to 115m ridge in a north easterly direction across the site to the tree line. The ridge height of the neighbouring development is shown to be in the region of 115 m.
- 2.3 The land currently appears to be unmanaged for agricultural purposes and is overgrown. The site contains several mature trees and is surrounded by a mix of hedgerows. In recognition of these characteristics of the site, the application is supported by an Environmental Survey and a Tree Report.
- 2.4 In terms of current development plan policies the site sits within an area defined as open countryside. In terms of the emerging Site Allocations and Management of Development (SAMDev) Plan the site remains outside the established development boundary for Whitchurch.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Objection from Town Council and request from Local Member.

The Town Council object as the site 'is not in the SAMDev and infrastructure is questionable.'

The Local Member has requested that the application is considered by the Planning Committee as (i) Whitchurch Town Council have and objected and (ii) there is a lot of local interest in the application.

Despite their original view that the application could be dealt with under delegated powers the Chair and Vice Chair in consultation with the Principle Planning Officer have since reviewed the above and have now agreed that the application should be presented to Committee for determination.

4.0 **Community Representations**

4.1 **Consultee Comments**

SC Archaeology (Historic Environment) – No objection. The site is deemed to have moderate archaeological potential. Recommend imposing a condition to secure the implementation of a programme of archaeological work.

SC Planning Policy – Comments are quoted in full within Section 6.1 below.

SC Trees – No objection. Having read the submitted tree report and constraints plan, accept that development of the site can accommodate the mature boundary trees. No objection to the removal of the fruit trees. Trees A and B may be made the subject of a precautionary TPO. The final layout should take into account shade paths and conditions on tree protection can be imposed at reserved matters stage.

Natural England – No objections.

SC Ecologist – No objection. Recommend conditions and informatives. The HRA matrix must be included in the Planning Officers report for the application and must be discussed and minuted at any committee at which the planning application is presented.

SC Conservation (Historic Environment) – No comments received.

SC Highways DC – No objection. Recommend condition requiring full design layout and engineering details of the means of access to the site from Chester Road and internal road layout for prior approval.

SC Drainage – No objection. The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

Dwy Cymru Welsh Water – Comments awaited at time of writing report (Welsh Water have until 2nd December 2014 to comment).

SC Learning & Skills – No comments received.

SC Affordable Houses – No objection. Any consent would need to be subject to

a Section 106 Agreement requiring an affordable housing contribution in accordance with policy CS11 and the requirements of the SPD Type and Affordability of Housing.

(All consultee comments are available to view in full on line)

4.2 Public Comments

Whitchurch Town Council – OBJECTS. After proposal, by Councillor Sinnott seconded by Cllr Rigley **PLN/3/1314 RESOLVED** that this would be objected upon as it is not in the SAMDEV and infrastructure is questionable.

Local representations – Ten representations of objection have been received. The main objections relate to:

- Site is outside the development boundary and in an area of open countryside
- Should use available sites within the development boundary
- Site was excluded from previous Local Plan, upheld by the Inspector, and has not been included in the SAMDev
- Shropshire County Council can demonstrate 5.5 years of deliverable housing sites.
- Flooding (associated with increase surface water). Historically the area has suffered a flooding problem already. Topography and heavy, impervious soil add to drainage problems
- Capacity of mains sewer. Already suffer with blocked drains/back-up
- Access and safety. The existing access road is inadequate and visibility at the junction is restricted
- Increase in traffic
- Number of properties recently applied for along Chester Road now totals 89 – all the extra cars will not make it safe to cross the road
- Indiscriminate parking
- Infrequent bus service on Chester Rd, with no designated bus stop
- Loss of privacy and overlooking due to elevation of site
- Unsocial use of open space and impact on amenity/management of the open space
- Impact on wildlife
- Loss of view
- Incline of site/topography
- Increase in noise and disturbance from development
- Impact on trees
- Effect on existing schools, doctors and other facilities – can they support the overall increase in demand locally
- Understand any development on the land would be single storey only
- Density is out of keeping
- Potential from vibration if pile driving needed on this wet site
- Overdevelopment/unsustainable. 75 houses have already been approved along Chester Road. Further development will damage the environment and visual amenity.
- Should rejected for the same reasons as 14/00426/FUL, Chapel Lane,

Trefonen, Oswestry and the application to build 86 houses on Land South of Hill Valley Golf Club (13/03413/OUT)

(The full content of public objections can be viewed on line)

5.0 THE MAIN ISSUES

- Policy and principle of development
- Affordable housing
- Highways
- Drainage
- Impact on environment
- Impact on residential amenity
- Infrastructure

6.0 OFFICER APPRAISAL

6.1 Policy and principle of development

6.1.1 The Council's Principle Policy Officer has provided detailed comments on the policy and principle of development as follows:

6.1.2 'Background and Policy Context: The application proposes the development of 15 dwellings on land off Chester Road to the north-east of Whitchurch on land adjacent to, but outside the town's current development boundary.

6.1.3 *Housing Land Supply* - At August 2014, using data up to date to 31 March 2014, it is considered the Council can demonstrate a 5.5 years supply of deliverable housing sites. The full 5 year supply statement can be viewed here <http://shropshire.gov.uk/media/1053369/Five-Year-Housing-Statement-August-2014.pdf>.

6.1.4 It is considered therefore that the Council's housing supply planning policies are not out of date under paragraph 49 of the NPPF, and appropriate weight should be given to them in decision making. It continues to be recognised that the NPPF's presumption in favour of sustainable development and aim of boosting significantly the supply of housing continue to be material considerations in assessing planning applications.

6.1.5 *The Local Plan* - It is considered the following adopted planning policies are relevant for consideration:

- Core Strategy Policy CS3: The Market Towns and Other Key Centres
- Core Strategy Policy CS5: Countryside and Greenbelt
- Core Strategy Policy CS6: Sustainable Design and Development Principles
- North Shropshire Local Plan 'Saved' Policy H5: Infillings, Groups of Houses and Conversions in Market Towns and main Service Villages

6.1.6 In accordance with NPPF Paragraph 216, the weight that can be attached to policies in emerging plans depends on the stage of preparation, the extent of unresolved objections, and degree of consistency with the NPPF. Whilst the

SAMDev is at an advanced stage having been submitted to the Secretary of State, and has been subject to very substantial public consultation, it has not been subject to examination. With this in mind it is considered appropriate to give consideration to the following emerging SAMDev policies:

- SAMDev Policy MD3: Managing Housing Development
- SAMDev Policy S18: Whitchurch Town Development Strategy

(NB: Since the above comments were made by the Councils' Principle Policy Officer the SAMdev has been subjected to examination – a copy of the Inspectors interim views is available at <http://shropshire.gov.uk/media/1283086/Inspectors-Interim-Note-1-Strategy.pdf>)

- 6.1.7 Policy Considerations: The application site is not being proposed as a residential allocation in Policy S18 of the emerging SAMDev. The site sits adjacent to, but outside the current adopted development boundary for Whitchurch. The development boundary is currently established in the North Shropshire Local Plan (NSLP) 2005. It is considered that despite the time limitation on the NSLP (2000-2011), the development boundary for Whitchurch continues to reflect the natural settlement form and should be given weight in decision making. There are no proposed changes to the development boundary along Chester Road in the emerging SAMDev Plan. It is therefore considered the site sits in a countryside location and Core Strategy Policy CS5 should be given consideration.
- 6.1.8 Given it has been established the Council's housing supply policies are considered up-to-date, and that this site is not proposed in the submitted SAMDev, it is considered the [Development] Plan does not establish the principal for development on this site. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is therefore necessary to consider whether other material considerations, such as the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply, in this instance warrant a departure from the Local Plan.
- 6.1.9 Presumption in Favour of Sustainable Development Considerations: Core Strategy CS3 identifies Whitchurch as a main market town and indicates the town will have substantial development, recognising its accessible location on the highway and rail network, maintaining and enhancing its vibrant town centre and balancing business and housing development. Submitted SAMDev policy S18 provides greater detail to the strategy for Whitchurch and promotes a housing guideline of around 1,200 dwellings in the plan period (2006-2026) and allocates a number of sites for development.
- 6.1.10 As the proposal is an outline application with all matters except access reserved, it is only possible to assess the site's 'in principle' sustainability at this stage. The application site, alongside the land adjacent to the east, was subject to a technical site assessment through the SAMDev process. This assessment covered many of the issues relevant for considering the site's general sustainability, albeit in the context of selecting suitable site allocations. The two principal concerns raised over this site at this stage were the 'backland' nature of the site, and the suitability of the proposed access off Chester Road via the Beeches. The concern over access was in relation to the larger development site encompassing a total of 2.2ha.

- 6.1.11 It is noted that the Inspector's Report into the North Shropshire Local Plan raised concern about potential landscape impacts from the development of land off Chester Road and Tarporley Road. However, this was on the basis of a much larger comprehensive development of 300+ dwellings rather than the much smaller scheme currently being considered. It is not therefore considered that landscape and visual impact is a significant sustainability consideration in this instance.
- 6.1.12 Whilst the application site is not identified within the SAMDev Plan, it is considered the scale of the proposal would not adversely impact on the delivery of the plan's preferred development sites, or on the viability of the town's overall housing guideline. It is noted there are a number of recently approved and pending applications along Chester Road, all on sites outside the development boundary and not being considered through the SAMDev Plan. Submitted SAMDev Policy MD3 indicates that cumulative impacts of development can be a relevant policy consideration, however, in the context of the limited weight that can be attached to this policy ahead of the Inspector's report into the examination, it is not considered cumulative impact should be given significant weight in this instance.
- 6.1.13 The site sits on the edge of the existing development boundary and is approximately 1 mile from Whitchurch High Street and 0.5 miles from Sainsbury's on London Road. Whilst this is further than the 480 meters promoted through the SAMDev assessments as a comfortable walking distance to facilities and services, it is considered the site's location is well related to the urban edge of the town.
- 6.1.14 In relation to Core Strategy policy CS6, the issue of the site's location on 'backland' is of relevance in assessing the site's contribution to design, pattern and local context and character. The NPPF also makes it clear that good design is a fundamental part of sustainable development. It is noted the northern side of Chester Road is characterised by interspersed housing and hedgerows as opposed to the southern side which has more prominent linear housing with open frontages. Housing development off the nearby Fairfields is set back from the road, and whilst it is not 'backland' development it does have a similar character.
- 6.1.15 In summary, the Council can currently demonstrate a five year supply of deliverable housing sites and therefore Local Plan policies should not be considered out-to-date in relation to NPPF paragraph 49. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the Local Plan. Notwithstanding it is still considered appropriate to give appropriate consideration to the NPPF's presumption in favour of sustainable development and its aim of boosting significantly housing supply. Whilst it is noted the application is in outline with all issues except access reserved, in assessing the site's general sustainability it is considered appropriate to take into account the site's relatively small scale, its location on the edge of the town development boundary, its proximity to services and facilities, and the site's potential contribution to local character, design and pattern. In addition to these issues, it will be important for the decision to take account of other consultee comments, notably over the suitability of access and on-site infrastructure issues, including drainage.'

6.2 **Affordable housing**

6.2.1 Policy CS11 of the Shropshire Core Strategy requires all housing developments to contribute to affordable housing in accordance with the Supplementary Planning Document (SPD) on Type and Affordability of Housing. Therefore, if this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11. The level of contribution would need to accord with the requirements of the Housing SPD and at the prevailing housing target rate at the time of reserved matters application. If the Reserved Matters were to be submitted while the target rate is set at 10%, there would be a requirement for one of the 15 houses to become affordable on site and an off-site contribution of 0.5 agreed by a section 106 agreement. This requirement is acknowledged and catered for in the current submission.

6.3 Highways

6.3.1 Paragraph 32 of the NPPF promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic 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.

6.3.2 The site is located on the northern side of Chester Road, a Class II road, B5395. Chester Road forms one of the northerly routes from the Whitchurch Bypass into the town centre to the south. The site is located within the local speed limit of 30 mph, on the outskirts of the residential area of the town and has pedestrian footways leading into the town. The town is served by a train station and bus services locally. Therefore, despite local objections to the contrary and as assessed for other recent residential applications on Chester Road, it is considered that the site has reasonable access to road networks, footways and public transport links.

6.3.3 Specific concerns have been raised by local residents regarding the access provision and highway safety issues. The Council's Highway Officer has been consulted on the application and has raised no concerns over the capacity of Chester Road to accommodate the traffic generated from the development or the level of visibility available from the access road junction onto Chester Road. Nonetheless, in terms of specification, construction and junction radius layout the Highway Officer has commented that the access road, in its present state, is not suitable to be considered for adoption. Therefore improvements are required to meet with required standards and these improvements can be secured by imposing a pre-commencement planning condition requiring the submission of full design layout and engineering details of both the means of access to the site and the internal road layout for prior approval.

6.3.4 Overall, therefore there is no grounds for objection to the application on transport links, highway and access grounds. Car parking will be addressed at the reserved matters stage in relation to layout.

6.4 Drainage

6.4.1 The NPPF requires consideration to be given to the potential flood risk of development. Core Strategy Policy CS18: Sustainable Water Management states that development will integrate measures for sustainable water management to

reduce flood risk and avoid an adverse impact on water quality.

6.4.2 The information submitted with the application advises that the foul drainage will be connected to the mains system and surface water drainage will be disposed of using soakaways and sustainable drainage techniques.

6.4.3 Foul water disposal: Foul mains drainage is available in Whitchurch and for foul drainage disposal the development would be expected to connect to the existing mains sewer. It will be the applicants/developers responsibility to pursue consent from the service provider to connect into the foul main sewer. Whilst objectors have questioned the capacity of the sewer and mentioned blockage problems this issue is a matter for the service provider and is not a reason to refuse planning permission.

6.4.4 Surface water disposal: Objections have been raised by local residents regarding existing drainage problems in the area and the potential of development to exacerbate the situation and lead to flooding. The Councils' Flood and Water Management Team has been consulted on the application. The Councils' Drainage Engineer has consequently provided comments on the original submission and further in the light of the local objections lodged and the additional drainage information provided by the agent in response to those concerns. In summary, it is the professional opinion of the Councils' Drainage Engineer, that the drainage issues can be controlled through appropriately worded conditions for prior approval. This includes the submission of a flood risk assessment (FRA), together with full drainage details, plans and calculations for a sustainable drainage scheme that would comply with required standards of the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and the Shropshire Council's Interim Guidance for Developers. In brief, the surface water management measures would need to demonstrate that the drainage arrangements were adequate to deal with the surface water which falls on the site and therefore would not be permitted to increase flood risk elsewhere.

6.4.5 As such it is acknowledged that whilst there is local concern about increased surface water problems from developing the site, it is considered that the site could be developed with an appropriate drainage scheme, secured by conditional requirements, to ensure that there is no greater risk of flooding either within the site or in the wider area and as such would comply with policy CS18 and the NPPF with regard to this matter.

6.5 **Impact on environment**

6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density and pattern taking into account the local context and character.

6.5.2 Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character. The planning balance which

needs to be considered is balancing the benefit of the provision of new housing on the outskirts of the sustainable market town against any harm. Paragraph 14 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

6.5.3 The NPPF and policy CS17 of the Shropshire Core Strategy also require consideration to be given to the impact of the proposed development on the natural, built and historic environment and seek to ensure that development does not affect the visual, ecological or heritage values of these assets.

6.5.4 Site context and character – Objectors are concerned that the proposal will be out of keeping with the density of development in this area and visually harm the character of the area. It is acknowledged that the development of the land will change the character and appearance of the site itself and the outlook over the land from nearby properties. However, the issue is whether that change will be so harmful as warrant refusal.

6.5.5 In respect of landscape there are no recognised local or national landscape designations that influence the site and, as discussed out in policy section above, this unkempt agricultural field development in isolation for 15 dwellings is not seen as having a high landscape impact within the wider environs. The site sits on the edge of the settlement, being positioned behind existing development off Chester Road to the south/south east and Tarporley Road to the east/north east and where residential development generally adjoins agricultural land. Furthermore, the site is contained by existing boundary hedges and mature trees, which are largely to be retained. Allowing for this context and setting, it is not considered the development of the site for residential purposes, where the presence of existing trees are safeguarded by condition and landscaping and layout are reserved for later approval, will constitute an unacceptable or unduly harmful visual intrusion into the rural hinterland.

6.5.6 Density and pattern of development: Notwithstanding this context and setting, reference has been made to the fact that the development will constitute back land development in a negative sense and will be out of keeping with the density with the detached properties which front onto Chester Road and sit within substantial plots. However, it has to be acknowledged that not all development in the vicinity of the site is direct frontage development or of the same spatial pattern. A specific example of higher density development which sits back from the road exists to the south east of this site, ie the development known as Fairfields, as referred to by the Councils Policy Officer. Taking into account the wider characteristics of the locality it is therefore considered that the site could potentially be developed with 15 houses without resulting in a significant and demonstrable harm to the character and appearance of the area in terms of density and pattern of development which would justify resistance of the outline application. This assessment is made on the full understanding that the site layout that has been submitted with this outline application is for illustrative purposes only and is not submitted for approval at this outline stage. That illustrative plan depicts 2 x 4 bed semis, 7 x 3 bed semis and 6 x 4 bed detached houses and the general arrangement of these house types does give cause for concern about the inter-relationship of the new dwellings within the site.

- 6.5.7 Ecology: The application is supported by Environmental Survey and Natural England and the Councils' Natural Environment Team consulted on the application and supporting documents. Detailed comments have consequently been provided by the Councils' Planning Ecologist. The Councils' Planning Ecologist is satisfied that, subject to the imposition of conditions and informatives relating to great crested newts, bats and nesting wild birds, the site can be developed without adversely impacting on statutorily protected species and habitats. Furthermore, new planting will be introduced to the site as part of the landscaping proposals that will, subject to the agreement over specific details and plant species etc, offer opportunities for biodiversity enhancements.
- 6.5.8 Accordingly, the development is considered capable of complying with the NPPF and Core Strategy Policies CS6 and CS17 in relation to ecology and biodiversity.
- 6.5.9 Due to the presence of internationally designated sites forming part of the Midland Meres and Mosses Ramsar Sites and SAC's the Council has carried out a Habitats Regulation Assessment (HRA) for this planning application. The completed HRA is attached as Appendix A to this report and must be discussed and minuted at any committee at which the planning application is presented. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site. Natural England have been formally consulted on this planning application, together with the HRA, and have raised no objection on the basis of the information provided and concur with the view that no significant effects are likely to occur.
- 6.5.10 Trees: In recognition of the presence of trees on the site and at the request of the Councils' Tree Officer the application is supported by a Tree Report. Having assessed the submitted tree report and constraints plan the Tree Officer accepts that the development of the site can accommodate the mature boundary trees and that, therefore, the site is capable of being developed without adversely impacting on trees in compliance with policy. No conditions are recommended at this outline stage, as the Tree Officer considers that the future of the important trees on the site will be better safeguarded by imposing a precautionary Tree Preservation Order and further that conditions on tree protection can be imposed at reserved matters stage.
- 6.5.11 Topography: As previously stated the site slopes. Although it is recognised that some earthworks will be therefore be required to facilitate the development, it will be expected that the final layout of the site will work with the existing landscape contours and site constraints where possible and will be graded naturally in sympathy with the character of the site and so as to not adversely impact on land form or the natural features of the site, including trees and boundary hedgerows. In the event that outline planning permission is granted, it will therefore be important that a condition is imposed requiring the submission of full details of site levels both before and after development for further consideration as a part of any follow on scheme.
- 6.5.12 Archaeology: The site has been identified as having moderate archaeological potential by the Councils' Archaeologist due to the potential of below ground remains of a post-medieval brick kiln and other structures to be present. This does not prevent the granting of outline consent as, in line with paragraph 141 of the

NPPF, the Councils' Archaeologist is satisfied that the archaeological potential can be adequately addressed by imposing a pre-commencement condition requiring a programme of archaeological work, to comprise a watching brief during the ground works for proposed development, be made a condition of any planning permission.

6.6 **Impact on residential amenity**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.6.2 Concerns have been raised locally regarding the impact on views, potential loss of privacy/overlooking and noise and disturbance.

6.6.3 Impact on views: The impact on a private view is not a planning matter and the landscape impacts have already been considered above. Whether existing residents will be able to see the new properties or not is not a reason to refuse the application.

6.6.4 Loss of privacy/overlooking/loss of light: At this outline planning stage the scale and layout of the site has not been submitted for approval, although an indicative layout for a development of two storey dwellings has been provided. On plan, the submitted layout shows that the nearest new dwellings would sit to the north of the existing dwellings on Chester Road and over 21 metres away. Having regard to this orientation, coupled with the separation distance and the presence of boundary treatments this is normally sufficient to demonstrate that no adverse impact will occur in terms of overlooking or loss of light to warrant refusal. However, regard should also be paid to the elevated nature of the site in this instance. On balance, as the scale, layout and design of the new dwellings are reserved for later approval it remains to be considered that the site can be developed without adversely impacting on neighbours as the Local Planning Authority retains control over these matters for later approval. Therefore, in order to ensure that the site will be developed without causing any unacceptable form of overlooking or overshadowing due to elevation then, as discussed previously in relation to topography, it will be important to impose a condition requiring the submission of full details of the existing and proposed site levels, both before and after development in relation to site and the surrounding development, together with information on finished floor levels for due consideration.

6.6.5 Aside from the impact on existing neighbours, the final layout will also need to take into account the inter-relationship of the new dwellings within the site and safeguard against potential overlooking and overshadowing issues. The indicative layout does give rise to some concerns in this respect. Furthermore, On a point of layout detail the Tree Officer expresses some concern about the shading of plot 1 from a large mature oak and, in recognition that the layout is only indicative at this stage, suggests that before a final layout is submitted the shade paths of the trees are plotted by the applicants arboriculturist and the layout adjusted if shading of the house or garden is excessive.

6.6.6 Noise and disturbance: It is not envisaged that the use of the site for residential purposes in general residential use or any associated traffic movements emerging

therefrom would cause any substantive noise and disturbance issues that would warrant refusal. As regards potential noise and disturbance generated by the development process then this would be controlled by other legislation, although planning conditions can be imposed restricting working hours in order to help safeguard residential amenity.

6.6.7 Open Space: Objectors have raise a concern over the maintenance and potential anti social use of the indicative open space. In all instances the developer will be required to satisfy the Council that appropriate arrangements have been made whereby the open space will be maintained in perpetuity. The maintenance of the open space, together with landscaping of any areas not contained within private gardens can be controlled by imposing a landscape management and maintenance condition. As regards the use of open space for anti social behaviour then the final layout of the scheme should be so designed as to ensure that the space benefits from natural surveillance to deter such behaviour and respects the amenities of any existing adjoining development through the use of appropriate boundary treatments.

6.7 **Infrastructure**

6.7.1 In considering a sites sustainability the Council can take into account local infrastructure as part of the planning balance. Whether a site has good local infrastructure is not the only reason why it can be considered to be sustainable but it does form part of the reason. The NPPF advises that international and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly. Two of the three dimensions of sustainable development within the NPPF comment on the need to include provision of and access to infrastructure.

6.7.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL by the applicant ensures that this matter will be dealt with after the consent.

6.7.3 With regard to this specific application site, it is acknowledged that due to its location the future residents of the proposed development are likely to utilise the services and facilities within the town. The proposed dwellings on this site have not been taken into account in the consideration of the housing growth proposed for the town in the SAMDev. Whitchurch is proposed to have approximately 1,200 new homes but as the site has not been promoted through the SAMDev the proposed dwellings on this site would be in addition to this allocation.

6.7.4 It is also acknowledged that there are issues within Whitchurch regarding certain facilities, services and infra structure, including electricity capacity and school places. The issue of electricity would be a matter for the developer to resolve with the supplier and is also a matter which is high on the priority list for CIL monies. The issue of school places is planned to be resolved through the allocation of the land off Tilstock Road to the south of the town. Overall it is considered that the proposed addition of 15 dwellings on the application site, taking into account the significance of Whitchurch as a market town and as a priority for new development, would not result in a level of pressure on local infrastructure which would justify refusing the application.

7.0 **CONCLUSION**

7.1 The site is located outside the current Whitchurch development boundary and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMdev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply. With this in mind it is accepted that the site is in a sustainable location, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context it is considered that the the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application in this instance such as to warrant a departure from the development plan.

7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with the requirements of the NPPF.

7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements and will not be harmful to the natural and historic environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.

7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of scale, appearance, landscaping and layout, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.

- 7.5 Overall, it is considered that the outline proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy.
- 7.6 Therefore, approval is recommended subject to the conditions of approval listed in the appendix below and the prior completion of a Section 106 agreement to secure the affordable housing contributions.
- 7.7 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 **Risk Management**

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a

number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **Financial Implications**

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

10. **Background**

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

10/04446/OUT Outline application for the erection of two dwellings following demolition of existing dwelling (All Matters Reserved) GRANT 15th December 2010

11. **Additional Information**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
--

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Thomas Biggins

Cllr Peggy Mullock

Appendices

APPENDIX 1 - Conditions

APPENDIX A - HRA

Appendix A

Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

Application name and reference number:

14/02830/OUT

Date of completion for the HRA screening matrix:

4th September 2014

HRA screening matrix completed by:

Alison Slade
 Planning Ecologist
 Shropshire Council
 01743 252578
Alison.Slade@Shropshire.gov.uk

Table 1: Details of project or plan

Name of plan or project	Outline application for the erection of 15 dwellings to include access - Land Adj No. 33 Chester Road, Whitchurch
Name and description of Natura 2000 sites	<p>Brown Moss SAC and Ramsar site, part of the Midland Meres and Mosses Phase 1.</p> <p>Brown Moss (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. It is designated as a SAC on account of the presence of an Annex II species on the Habitats Directive, namely floating water-plantain <i>Luronium natans</i>.</p> <p>Ramsar criteria:</p> <p>Criterion 1a. A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</p> <p>Criterion 2a. Supports a number of rare species of plants associated with wetlands.</p> <p>Criterion 2a. Contains an assemblage of invertebrates.</p> <ul style="list-style-type: none"> • Oss Mere Site of Special Scientific Importance (SSSI), which is also covered by the Midland Mere and Mosses Phase 2 Ramsar designation., This consists of several lowland open water and peatland sites which support a number of rare and nationally scarce species of plants associated with wetlands • Quoisley Meres SSSI and Midland Meres and Mosses Phase 2

	<p>Ramsar site is designated to represent a type of mere with nutrient rich open water and well developed fringing habitats</p> <ul style="list-style-type: none"> Fenn's Whixall, Bettisfield, Wem and Cadney Mosses SAC and Ramsar site, part of the Midland Meres and Mosses Phase 2. SAC primary reason for selection is for Active raised bog. Other SAC qualifying feature is degraded raised bogs still capable of natural regeneration.
Description of the plan or project	Outline application for residential development (up to 130 dwellings) to include access
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	14/01264/FUL Residential development of 100 dwellings; formation of vehicular access and estate roads; creation of public open space, wildflower area and balancing pond; associated landscaping; demolition of all existing agricultural buildings - Mount Farm Tarporley Road Whitchurch, Shropshire

Statement

The application site is outside of the surface water catchment for any Ramsar site. No impact is considered to be likely on the closest European Sites, Oss Mere and Quoisley Mere SSSI and Ramsar sites, which are 3 km away and closed to general public access. Brown Moss Ramsar site is 3.4km distance from the application site. Fenn's Whixall, Bettisfield, Wem and Cadney Mosses is 6km away.

In their consultation response on the nearby 100 dwelling Mount Farm development Natural England have provided the following advice dated 22nd May 2014:

"In advising your authority on the requirements relating to HRA, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- the proposal is not necessary for the management of the European sites in proximity; and*
- that the proposal is unlikely to have a significant effect on any European site in proximity, and can therefore be screened out from any requirement for further assessment.*

This application is in close proximity to Oss Mere SSSI and Brown Moss SSSI. Given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the sites have been notified. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application."

The Council considers the on-site provision of usable informal open space to be sufficient so as not to result in a significant increase in recreational visit to Brown Moss or Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses.

The Significance test

The proposed works in application 14/02830/OUT will not have a likely significant effect on the Midland Meres and Mires Phases 1 and 2 Ramsar sites and Brown Moss SAC due to no pathways for an effect. An Appropriate Assessment is not required.

The Integrity test

The proposed works in application 14/02830/OUT will not have an impact on the integrity of the Midland Meres and Mires Phases 1 and 2 Ramsar site or the Brown Moss SAC due to no pathways for an effect. An Appropriate Assessment is not required.

Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
(b) is not directly connected with or necessary to the management of that site,
must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Details of the scale, appearance, landscaping and layout (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 the Town and Country Planning (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 twelve months 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.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The means of enclosure of the site

The levels of the site (both before and after development and in relation to the surrounding development)

The means of access for disabled people

The finished floor levels

Reason: To ensure the development is of an appropriate standard.

5. This permission does not purport to grant consent for the layout shown on any of the deposited plans submitted with application.

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

6. Work shall be carried out strictly in accordance with the Phase 1 Environmental Survey by Greenscape Environmental dated September 2014.

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

7. Construction works shall not take place outside 07:30 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

8. No development approved by this permission shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works and the archaeological works shall be carried out as approved.

Reason: The site is known to hold archaeological interest.

9. Prior to the commencement of development full design layout and engineering details shall be submitted of the means of access to the site from Chester Road and internal road layout; the development hereby permitted not be first occupied until the means of access and junction onto Chester Road has been constructed fully in accordance with the approved details.

Reason: In the interests of highway safety.

10. No development shall commence until full details, plans and calculations of the proposed surface water drainage proposals and network have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall illustrate how the development will comply with the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area; Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. The approved scheme shall be completed before the development is occupied.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to minimise the risk of surface water flooding and flood risk elsewhere as a result of the development.

11. No development shall commence until a Flood Risk Assessment (FRA) has been submitted to and approved in writing by the Local Planning Authority. The FRA should include, as a minimum:
- ' Assessment of the Fluvial flooding (from watercourses)
 - ' Surface water flooding (from overland flows originating from both inside and outside the development site)
 - ' Groundwater flooding
 - ' Flooding from artificial drainage systems (from a public sewerage system, for example)
 - ' Flooding due to infrastructure failure (from a blocked culvert, for example)

Reason: To ensure that all potential flood risk to the development has been addressed.

12. No development shall take place until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, has been submitted to and approved by the local planning authority. The landscape management plan shall be carried out as approved.

Reason: To secure the provision, establishment and long term management and maintenance of all landscape areas.

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

13. All foul drainage shall be directed to the mains foul sewerage system prior to the occupation of any dwellings.

Reason: To ensure the proper drainage of the site and to minimise the risk of pollution.

14. Prior to the erection of any external lighting 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.

15. Prior to the first occupation of the dwellings two bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected as specified in section 6.1.1. of the Phase 1 Environmental Survey by Greenscape Environmental dated July 2014. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species.

16. Prior to the first occupation of the dwellings four artificial nests suitable for small birds such as robin, wren, tit species, sparrow and swallow shall be erected on the site and thereafter retained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds.