

Development Management Report

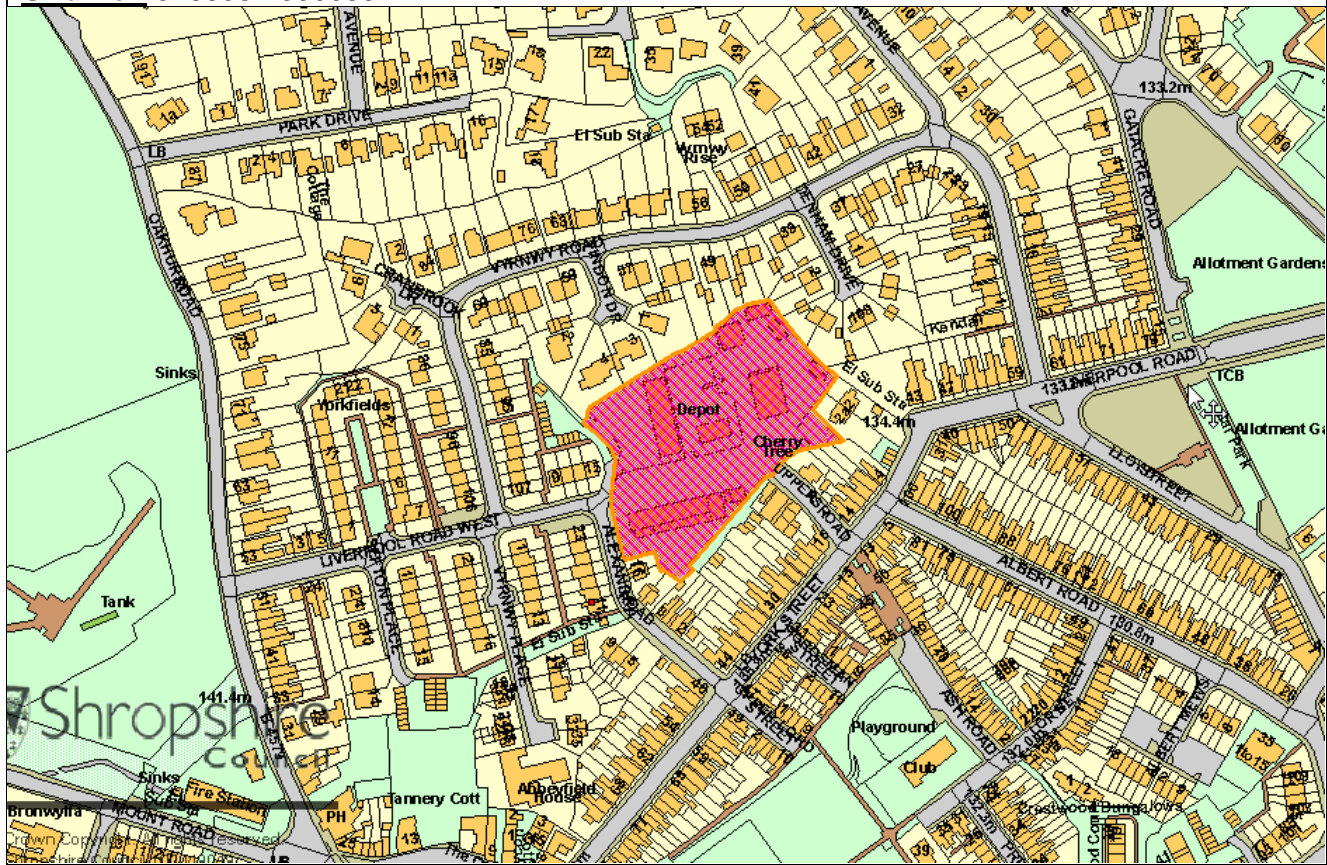
Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/05473/FUL	Parish: Oswestry Town
Proposal: Erection of 55 extra care apartments with associated support accommodation and 8 bungalows and associated works	
Site Address: Alexandra Road Oswestry Shropshire SY11 1LU	
Applicant: Wrekin Housing Trust	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328838 - 330080



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 The application seeks full planning permission for the erection of a block of 1 and 2 bed apartments and 8 bungalows for use as Extra Care accommodation. Extra Care accommodation is specific accommodation for residents over the age of 55 provided on a rented bases and also provides tailor made care packages available to residents based on an individuals needs and also provides 24 hour emergency care and support. It is not a care home in that residents do not need to have a care requirement; however care is available at a range of levels to residents to add to their accommodation.
- 1.2 The application has been submitted with full plans, a design and access statement, statement of community involvement, transport statement, travel plan and ecology surveys.
- 1.3 As submitted the scheme proposed 55 apartments made up of 37 two bed units and 18 one bed units with the 8 bungalows proving a mix of 6 two bed and 2 one bed. Within the apartment building the development is also intended to provide a publically accessible café, residents dining area, hobby/ meeting room, lounge, staff accommodation, laundry, scooter charging and storage facilities, lifts and plant rooms. Two bin storage areas are also shown to be provided externally within the parking areas. 28 parking spaces are proposed and the development will also include areas of private garden space and landscaping.
- 1.4 During consideration of the application the scheme has been reduced by 2 apartments. The changes to the scale and appearance of the building will be considered later in the report.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is the former Council highway depot with offices, workshops, storage, areas of hard standing and parking. The depot ceased use in 2014 and has been empty since. It lies within an area of residential dwellings which are a mix of two storey and single storey detached, semi detached and terrace houses. The site has a number of changes in levels both natural and man made for the previous use of the site. The housing to the north and west is at a higher level with the housing to the east and south being at the lower level of the site.
- 2.2 Four pipes cross the site and constrain the available development area of the site. Three of these pipes carry water from lake Vyrnwy to Liverpool. The other is a local sewer pipe. There is also an option for the operator of the Lake Vyrnwy pipes to install a fourth on this route if required.
- 2.3 The site lies within the development boundary for Oswestry the site is close to the town centre and local services and facilities. Oswestry has a good range of services and facilities available within the town, retail, medical, leisure and employment. There is public transport in the form of bus services but the nearest train station is at Gobowen.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The land is currently owned by Shropshire Council. Wrekin Housing Trust have an option to purchase it subject to the granting of planning permission. However, as it is currently still in the ownership of the Council and the development does not propose development which is a statutory function of the Council the scheme of delegation requires the decision to be made by committee.

Furthermore Oswestry Town Council has expressed a view which is contrary to officers opinion and which raises material planning considerations which the Area Planning Manager, Principal Planning Officer and the Chair of the committee agree should be considered by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Oswestry Town Council - Object.** The Council, and indeed local residents, support in general terms that some development should be permitted on this site but within in a less intrusive development. With regard to this application, the Council wish to recommend to Shropshire Council in the strongest terms that it refuses this application:

- The proposed four storey scale of development is out of keeping with the traditional two storey residential nature of the area and its local setting. The Council would wish to quote paragraphs 4.81 and 4.86 from the Shropshire Local Development Framework: Adopted Core Strategy Section CS6 Sustainable Design & Development Principles which the application contravenes.
- The four storey elevation will visually intrude and affect local properties and amenities and the peaceful enjoyment of residential properties that border the site boundary and beyond that include Liverpool Road West, Alexandra Road, Vyrnwy Road, Findon Drive, Denham Drive, York Street, Thornhurst Avenue, Vyrnwy Place and Sefton Place.
- The inclusion of flats in the design increases the density of population to an unacceptable level i.e. from 35 to 63 units.
- The highway access to the site is via an established residential area with narrow carriageway and on-street parking on both sides of the road. Further exacerbation will present additional risk to both pedestrians and motorists.
- Due to the over intensification of development, the Council challenges as to whether there is sufficient amenity space to serve the development.
- Access for emergency vehicles and delivery vehicles is unacceptable through an already congested network of narrow streets.
- Concern is voiced at the volume of traffic requiring access to the site in terms of visitors, deliveries, utilities and residents.
- The site offers a potential risk of flooding with two high pressure water mains carrying water from Lake Vyrnwy to Liverpool.

- Inadequate consultation has been carried out on this application with many local residents being unaware of its existence or potential impact. The consultation period that included Christmas and New Year did not assist transparency.

- The Council request that the application be formally refused by Shropshire Council and that consideration of it should be via the Northern Area Planning Committee and not under any Officer delegated powers.

4.1.2 **Affordable Housing** - The type and mix of accommodation has been agreed with the registered provider and we welcome the provision of Extra care facilities in this area as the need is high. The properties will also need to be advertised through Shropshire's Homepoint system as well as Choices letting scheme.

4.1.3 **Archaeology** - We have **no comments** to make on this application with respect to archaeological matters.

4.1.4 **Highways** - The highway authority have **no objection**, in principle, to the proposed development but question the rationale behind the 'one way' traffic system through the site. Whilst noting that this system has come about through public consultation, the highway authority would prefer to see both access points retained to access and egress the site. Clearly if problems then occurred following the site being development this matter could be dealt with rather than pre-empt an issue that may not come about and given also that the roads within the development would remain private.

In addition to the above, no cycle parking is provided within the site complex although the supporting information suggests that staff etc would be able to cycle to the site as a travel mode. Secure cycle parking therefore should be provided.

4.1.5 **Ecology - No objection.** Recommends conditions and informatives.

Turnstone (2014) carried out three bat emergence surveys on the southern most building in May and June 2014. The trees were assessed in the Phase 1 survey and found low bat roosting potential. Foraging behaviour by common and soprano pipistrelle bats was recorded on the south and western site boundaries, however no bats were found to emerge.

4.1.6 **Drainage - No objection.** The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

4.1.7 **Public Protection** - The planning portal now includes background papers (Geoenvironmental Assessment) (2/3/15) but the document is incomplete.

Accordingly, before this application is determined, Public Protection need to see a full copy of this assessment and any documents that it refers to in order to decide what conditions in respect of land contamination need to go onto any approval granted. I will review this application again on receipt of a full copy of the report.

4.1.8 **Police Architectural Liaison Officer** - Does not objection but recommends Secured by Design to design out crime and or the fear of crime and to promote community safety.

4.2 Public Comments

4.2.1 11 letters of representation have been received raising the following concerns:

- 4 storey flats will tower above the surrounding 2 storey houses
- Scale will be out of keeping with the existing residential development
- Will result in overlooking from windows and balconies
- Will result in loss of light and increased noise
- Loss of light to gardens and greenhouses
- Loss of garden to easement zone
- Reduction in ground level will require retaining walls for existing gardens prior to pile driven foundation work commences
- Potential for smells and vermin from waste storage close to neighbouring properties
- Will affect amenity during demolition and construction
- Insufficient parking and amenity space proposed
- Increase in traffic and impact on existing residents on-street parking
- Loss of property value and view

4.2.2 2 letters of support has been received on the following grounds:

- Supported accommodation is needed in Oswestry and the rest of Shropshire
- Excellent design
- On-way traffic route is appropriate

4.2.3 Following submission of amended plans a further 5 letters of representation were received, 4 objecting and 1 supporting. The objectors have commented that the amended plans do not overcome the neighbour's objections to the 4 storey building or the location of the bin stores. Objectors consider the development will tower over existing property, is contrary to CS6 in not being in keeping with the local environment and that the proposal is financially driven.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be

approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 The application site is within the development boundary for Oswestry as shown in both the saved Oswestry Local Plan and also within the forthcoming SAMDev plan. Furthermore, the site has an existing use and as such is considered to be brownfield, or previously developed land. Therefore there is a strong presumption in favour of redevelopment of the site and residential development is considered to be appropriate within the development boundary. The key issues with the proposed development are the density of the development, the scale and massing of the building proposed to contain the apartments, the resultant impact on neighbouring amenity and the impact of traffic. These matters are all considered in detail in the following sections of the report.
- 6.1.4 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.5 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.
- 6.1.6 Officers consider that the site is sustainably located, close to services and facilities and within the development boundary of the town. The redevelopment of the site, in any format, would provide economic benefits in terms of construction jobs and additional spending from residents and, in the case of the proposed extra care development, also provides on-site employment and economic generation from the café. There are also social benefits from residential development in the form of support for services and facilities and in addition the extra care development will provide 100% affordable housing for a specific part of the community. The comments of the Council Housing Officer confirm that the provision of extra care

housing is promoted by the Council and that there is an identified need. Environmentally the development will remove the existing buildings and hard standings and provide landscaping where there is currently none. However, the development does also propose a large scale building which has some environmental harm. The detail of the scale and impact is considered below.

6.2 **Layout, scale and design**

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.2.2 The application proposes a block of 53 (reduced from 55) apartments and a group of 8 bungalows. The site layout is constrained by the existing pipes which run east to west and north to south. The apartment block is proposed to the north of the Liverpool pipes and east of the local sewer pipe and has an angled L shape footprint. The bungalows are to the south of the Liverpool pipes in an L shape facing the internal road and facing Alexandra Road. The bungalows will follow the same line of the existing housing on Alexandra Road and then turn into the site, backing onto the properties on York Street. The apartment block has a section of gable end facing down Upper Ash Road extending back from Upper Ash Road towards the gardens of the properties on Vyrnwy Road with the café, lounge, kitchen and offices on the ground floor and two floors of apartments above. At the north-eastern corner of the building a fourth storey is provided with three flats in the corner section of the building.
- 6.2.3 The building then turns and runs parallel with the gardens of the properties on Vyrnwy Road and provides two to four storeys of apartments. The four storey part of the building in this section faces into the site, towards the road through the site and the proposed garden and bungalows. At the rear, facing towards the existing properties the building is predominately two storey with staff accommodation provided in the roof space. There are three flats in the fourth floor in the north-eastern corner of the building facing towards existing housing. A third section of the building is provided in a T shape at the eastern end of the site facing over the end of 15 Liverpool Road West and providing apartments partly two storeys and partly three storeys with the section facing towards the rear garden of 15 Liverpool Road West being two storey.
- 6.2.4 The concerns of the neighbouring residents and the Town Council are noted and acknowledged. However, it is also officer's advice to members that it is important to note that the building is not wholly four storey and provides variety in height, shape and form. The issue is whether the scale and massing of the building is appropriate and whether it complies with the requirements of adopted policy and the NPPF which promote development that is in keeping with the character and appearance of the area.
- 6.2.5 The submitted design and access statement notes that the site levels have been reduced following pre-application discussions with officers where the level of the site and the height of the building was raised as a potential issue. The agent considers that the scale and layout of the site has taken into account the existing

surrounding development and that the proposed differing roof heights and materials will break up the massing of the building.

- 6.2.6 Cross sections have been provided which show the scale of the building in relation to the neighbouring properties, however this plan is a little confusing in that it shows the scale of the development at the cross section and what is behind that section. It therefore appears that there are higher sections close to existing properties than there will be on the ground. Cross section AA does help to show the scale of the development and the height of the first floor balconies on the end of the building facing over 15 Liverpool Road West. The cross section shows that the first floor at this point would be lower than the first floor of the neighbouring property. It also shows the scale of the building and the distance to the house on Denham Drive.
- 6.2.7 Cross section BB shows the change in ground levels from the bungalow on Findon Drive and the site and that in this part of the development the first floor would be only slightly higher than the ground floor of the bungalows. Section CC shows the relationship of the proposed building with the properties on York Street and section DD shows the building between Vyrnwy Road and York Street properties. All the sections also show the existing buildings on site as dotted outline.
- 6.2.8 Officers accept that the scale is greater than the existing buildings on the site and also greater than the surrounding development. Policy CS6 of the Shropshire Core Strategy promotes development that is high quality and respects and enhances local distinctiveness. It further requires development to protect, restore, conserve and enhance the natural, built and historic environment which is appropriate in scale, density, pattern and design taking into account the local context and character. The policy does not require development to be the same scale and design as existing buildings but to respect and enhance distinctiveness and be appropriate in scale etc. It is therefore a case of considering whether the proposal is appropriate and respecting the distinctiveness or not. Officers acknowledge that the immediate surrounding housing is single storey and two storey. However, there are other buildings within the wider area which are larger and furthermore the land levels to the north and west of the application site rise above the site and therefore the houses further north and to the west are at a higher level.
- 6.2.9 It is officers opinion that the scale and density of the development, being four storey and flats, is not necessarily in keeping with the immediate surrounding scale and density of development. However, it is also officer's opinion that this difference in scale and density is not significantly harmful. It is unlikely that the development will be visible beyond the immediate area. The agent has provided additional drawings showing the building as viewed from within Denham Drive and Findon Drive with the existing buildings shown in the foreground. These two additional drawings show that beyond the two storey houses on Findon Drive and Vyrnwy Road the building will not be highly visible. It will be visible above the bungalows on Findon Drive but it will not be highly visible from the wider area. Therefore it is considered that the impact of the development will be on the immediate neighbouring properties, which is considered in detail in the following section, rather on the character and appearance of Oswestry.
- 6.2.10 Concern has also been raised that the applicant is applying for high density and

four storeys for increased profit. Although officers would advise that the finances of the scheme are not given significant weight in the determination of the application it can be confirmed that Wrekin Housing Trust, as the applicant, have applied for the number of units which would make the scheme financially viable. The brownfield nature, possible contamination and previous use and buildings need to be taken into account, the pipes across the site have constrained the available development area and the site levels are to be reduced. These issues have all added cost which would not be a factor on a greenfield site. To seek to further reduce the scale of the building may result in the development not proceeding and the site lying empty and dis-used and also not provide for a type of affordable housing which has been identified as a corporate need.

- 6.2.11 Within the comments from the Town Council and local residents the level of amenity space has been queried. As noted in the description of the layout above the apartments are proposed to have shared amenity space with an area to both the front and rear of the apartments. Furthermore many of the apartments are to be provided with balconies, where this does not result in significant overlooking, and there is a second floor outdoor terrace area also proposed. The proposed bungalows will have an area of shared amenity to the rear and small areas of amenity to the front of each property. Officers acknowledge the concern of the Town Council, however the proposal has been designed in discussion with the operator of the end use, Wrekin Housing Trust, who operate other similar sites and therefore officer's advice would be that the end user is happy with the level of amenity and therefore have no reason to question it.
- 6.2.12 Local representations have commented that the site has consent for 35 dwellings and that was what they thought was going to be developed. It is accepted that the Oswestry Place Plan identifies the site as being suitable for 35 houses, however there is no planning history for housing development on the site. The application presented to members needs to be considered on its own merits and the identification in the Place Plan is not grounds on which a refusal could be based. Members need to determine whether they consider that the scale, layout and appearance of the proposed development is acceptable or whether there are any substantial harms which would warrant refusal of the application.
- 6.3 **Impact on residential amenity**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Concern has been raised by the Town Council and local residents about the potential impact of the development on the surrounding properties. Concern has been raised about the affect on amenities, overlooking, loss of light and impact on people being able to enjoy their properties. These are valid planning considerations and the policy noted above does advise that development should safeguard amenity. However, because a development can be seen from an existing property or would result in some overlooking does not automatically make it refusible. Some loss of amenity is not necessarily unacceptable and the Council can only justify refusing an application which has unacceptable adverse impact on the amenities of the existing residents.
- 6.3.3 The proposed bungalows would be over 30 metres from the nearest neighbouring

property on York Street and 15 metres from the nearest existing property on Alexandra Road. However this nearest property would face a blank gable of a bungalow. The properties on the opposite side of Alexandra Road would be approximately 19 metres from the proposed bungalows and as such the existing residents along this side of the proposed development would not be significantly affected by the proposed development.

- 6.3.4 The main impact of the proposed development will be from the apartment block in the northern half of the site. The proposal as submitted was for 55 apartments in 2, 3 and 4 storey sections. During the consideration of the application amended plans were submitted which removed 2 apartments and have altered the scale of some parts of the building. As previously noted the building is not fully four storeys and the impact needs to be considered in terms of the scale of the section closest to each of the neighbouring properties. Not all of the surrounding properties will be affected by the four storey section other than by reason of being able to see it and the loss of a private view is not a planning consideration. The impact on the wider Oswestry area has already been discussed previously within this report.
- 6.3.5 Number 15 Liverpool Road West, an end of terrace, two storey property, sits to the west of the proposed apartment block with a blank gable in the side elevation of the existing property and the private garden to the rear between the house and an area of garages. The proposed development at this point will be 2 and 3 storeys facing towards the blank gable and the garden at a distance of 15 metres to the house and just under 12 metres to the garden. This would normally be considered to be an acceptable distance between a new dwelling and an existing dwelling, however in this case not only is the scale of the development up to three storeys but the proposal included balconies on this elevation which will enable residents greater views over the neighbours property than could be achieved from a window. Officers have therefore requested that the two balconies to apartments 16 and 17 which would face over the garden of 15 Liverpool Road West be amended.
- 6.3.6 Number 4 Findon Drive is a single storey dwelling which sits on a higher ground level than the application site, before the proposed reduction in levels, but with the rear elevation of the existing bungalow facing over the site. At this point the closest part of proposed development is 2 storey with a blank gable facing towards number 4 at a distance of 12 metres. This distance will ensure that the existing property does not suffer from loss of daylight to the bungalow. The 3 storey section closest to number 4 Findon Drive is over 20 metres from the existing dwelling and in the section where there are windows in the second floor flats these are provided by roof lights in the roof slope. As such officers do not consider that the development of the site would result in loss of privacy to number 4 Findon Drive. The impact on number 3 Findon Drive is similar with windows proposed in the roof slope facing these properties at a distance of more than 21 metres. Number 1 Findon Drive is set at an angle and as such does not have any windows facing directly towards the proposed development, is over 21 metres from the proposed development. The change in site levels will require the provision of supports to the existing gardens, however this will not affect amenity or the ability for these properties to enjoy their gardens.
- 6.3.7 53 to 43 Vyrnwy Road and 2 and 4 Denham Drive are all two storey semi detached houses with windows in ground and first floor facing towards the

proposed development and private rear gardens between the existing houses and the application site. It is at this part that the proposed development is 4 storeys in height with flats provided in all four storeys. The proposed building is 11 metres from the edge of the application site and over 30 metres from the existing dwellings. It is this part of the building that has been most amended in the revised plans. The revised plans now only propose 3 flats in the third storey and two in the fourth storey of the building. Flat 53 in the fourth floor will not have any windows facing towards Vyrnwy Roads only roof lights in the roof slope. Flat 52 in the fourth floor has windows and a balcony but these are set further back. It is officers opinion that the amended plans have reduced the impact on the existing properties noted here and that the impact will not be unacceptable.

- 6.3.8 Numbers 6 and 8 Denham Drive are also two storey semi detached houses backing onto the application. The amended plans have removed most of the fourth storey with the exception of flat 52. The ground floor is proposed to contain plant and offices. The distance between the proposed building and these two properties is over 22 metres, however again it includes balconies on the second and third storey. The angle of the proposed building does not directly face 6 and 8 Denham Drive and as such the impact will only be when residents use the balconies and step out and look towards the existing properties. It is therefore considered by officers that it would not be reasonable to require these balconies to be removed as the impact would be infrequent and reduced by the layout of the site. The distance of the proposed building from the existing would not result in any loss of light.
- 6.3.9 2 and 2a York Street also back onto the site and are two storey semi detached houses with a private rear garden between the site and the house. These properties are 21 metres from the nearest part of the proposed development, again at a point where it is 3 storey with balconies. However, as with Denham Drive, these properties are at an angle and do not face directly towards the proposed development and as such it is considered that the impact on these properties is also not unacceptable.
- 6.3.10 Some residents have objected on the grounds of loss of light to gardens and greenhouses. However, at no point is any part of the apartment block proposal within 5 metres of the boundary of the site and as such any loss of light would not be sufficient to warrant refusal of the proposal. The concerns raised regarding the loss of garden to the easement zone is based on a misunderstanding. The easement zone is not new, these properties are already affected by the existence of the sewer pipe which runs across the site and then through their gardens. The easement zone will not alter the ability for residents to use their gardens. In the same way the easement zones do not prevent parking, vehicular use, landscaping or storage. The easement only prevents buildings from being erected within these zones to ensure that the pipes remain accessible to the water company.
- 6.3.11 Concerns have also been raised about the potential of noise, smells and vermin from the proposed bin stores and also the impact on amenity during construction. This second matter can be dealt with by restricting the hours of demolition and construction by condition and officers advise that this would be wholly reasonable given the close proximity of other properties. The concern about the potential of adverse impact from the bin storage is not wholly understood by officers. It is accepted that un-maintained bin storage or shared bin stores where there is no-

one taking responsibility for the store can become problematic. However, in this case the bin stores will be managed and maintained along with all other on-site management matters. It is likely that any issues would be dealt with promptly as it would not be in Wrekin Housing Trust's interest to have problems.

- 6.3.12 The agent has also commented that the previous use of the site as a highway depot would have created noise and traffic movements of a variety of sized vehicles. At the officers site visit it was noted that there are areas of external storage which may have been used for gravel or salt, machine workshops and vehicle repair facilities all of which would have created noise in the local area. It is accepted that since the depot ceased use in 2014 the noise will have ceased, however the consent for this use would remain and as such a housing redevelopment would be a positive reduction in the potential noise from the site.
- 6.3.13 It is also acknowledged by the agent that the ground conditions are predominately peat and as such the construction of the development will involve pile driving. Given the close proximity of existing housing it is therefore advised that a condition be imposed restricting the hours of demolition and construction to limit the impact of the construction of the development. Any structural issues caused to existing properties by the proposed development will be a civil matter between the parties. The need for pile driven foundations is not a material planning consideration but a matter for the developer to manage.
- 6.4 **Highways, access, parking and rights of way**
- 6.4.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.
- 6.4.2 It is proposed to provide vehicular access to the site from Upper Ash Road and exit onto Liverpool Road West thereby providing a one-way road through the site. This would not alter the existing public highways around the site which would remain two way but would spread the traffic impact from the completed development onto the surrounding road network rather than all onto one road. Both accesses are existing but were not previously connected due to changes in site levels.
- 6.4.3 The previous use of the site as a highway depot would have had associated traffic movements including movements of large vehicles. Post development the traffic to the site will be that associated with residents, staff and visitors. However, the agent has confirmed that the number of residents with cars tends to reduce over time as residents rely on on-site and nearby services. The site is well located in relation to the town and services, there are footpaths leading from the site into town and the nearest bust stop is less than 200m from the site and on the town circular route. The staffing levels will be 10 to 12 members of staff during the day and 2 overnight. As such officers consider that the level of vehicle movements, post development, will not be significant and accept the agent's view that the traffic levels will be less than the previous use of the site.

- 6.4.4 Within the site the layout the development proposes 28 parking spaces, including 5 disabled spaces, a pull in, waiting area near to the main entrance and a turning head for delivery and waste collection vehicles. The roads and parking areas follow the lines of the water pipes and associated easement areas (areas retained for access to the water pipes). The parking and turning areas are therefore between the apartments and the bungalows and to the side of the apartments, adjacent to existing housing. The highway officer has noted that there is not cycle parking shown on the site and that this should be provided. It is considered that this can be dealt with through an appropriately worded condition as it is considered that there is sufficient space within the site to provide secure cycle parking.
- 6.4.5 A travel plan is also proposed to be set up for the site which will provide information for residents and staff on alternative means of travel, arrange walking trips, charge for staff vehicle parking and provide cycle parking and changing areas for staff. Officers advise that a travel plan should be promoted and, if operated correctly, would help to reduce traffic movements and encourage sustainable travel.
- 6.4.6 The Council highway officer has advised that they have no objection but have questioned the need for the one way system and would prefer to see both access points retained for access and egress. This is acknowledged, however it is not what the applicant has proposed and the highway officer has not given any reason for requesting this other than that there is no evidence of a problem. However, the comments do note that the one way system has come about through public consultation. In conclusion it is officers advice that the traffic which will result from the proposed development will not be sever and as such it would not be a defensible reason to refuse the application based on traffic movements. The level of parking is considered to be appropriate for the proposed end use and the addition of cycle parking and a travel plan will help to encourage sustainable transport. The development is therefore considered to comply with adopted local policy and the NPPF.
- 6.5 **Ecology and trees**
- 6.5.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.
- 6.5.2 The ecology surveys note the existing buildings and hard standing and trees which may be suitable habitat for bats and birds. All trees and hedges were surveyed with species and condition recorded and evidence of bats and birds noted. There was no evidence of any bats in any of the existing buildings and the report has recommended removal of trees outside nesting season, provision of nesting boxes, tree protection fencing, native species planting and bat sensitive lighting.
- 6.5.3 As noted under section 4 above the Council Ecologist has raised no objection and advised of conditions and informatives to be imposed. Turnstone (2014) carried out three bat emergence surveys on the southern most building in May and June 2014. The trees were assessed in the Phase 1 survey and found low bat roosting potential. Foraging behaviour by common and soprano pipistrelle bats was

recorded on the south and western site boundaries, however no bats were found to emerge.

6.5.4 The site currently has very limited landscaping with the majority of landscaping visible from the site being within neighbouring gardens. Several of the trees along the northern boundary are proposed to be removed, however this proposal follows consultation by the agent with the neighbours who have requested removal of the trees to improve day light to their properties. The proposed development includes areas of new landscaping, including tree planting, which officers consider would enhance the area and would mitigate the loss of the existing trees. As such it is considered that the scheme complies with the relevant policies, specifically policy CS17, in regard to protecting and enhancing the natural environment.

6.6 Drainage

6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity.

6.6.2 The development proposes connection of the foul drainage to the existing mains drainage system and the sewerage provider has not raised any objections to this proposal. Surface water is proposed to be dealt with by a sustainable drainage system which will deal with all of the surface water within the application site. Given that the majority of the site is currently buildings or hard standing and the proposal will provide greater levels of landscaping and garden areas it is considered by officers that the surface water of the site is likely to reduce.

6.6.3 The Council Drainage Engineer has confirmed that the drainage details could be submitted at a later date through appropriately worded conditions and has not raised any concerns about the proposals. Local representations have raised concerns about the potential for flooding from the existing water pipes crossing the site. Officers acknowledge that this is a potential, however it is considered that the risk is low. The pipes have been in situ for some time and officers are not aware of any previous issues or breakages on the pipework. It is considered that the possibility for flooding of the application proposals from existing water pipes is not appropriate ground to refuse an application as this would prevent development near any existing pipe and as there is no evidence of problems it would be unreasonable to restrict the development for this reason.

6.6.4 Easements are required either side of the pipes which cross the site which prevent built development in this area but do not prevent the easement areas being used as access road, parking or garden areas. The easements are required to ensure that the water company are able to access and service the pipework when required without buildings being in the way. As already noted within this report the easement shown over the neighbouring gardens does not affect the property owners use of their gardens but is to show where the pipes lead away from the site.

6.6.5 Overall it is considered that the development of the site will not increase flood risk within or beyond the site and is capable of being connected to existing mains foul drainage and an on-site sustainable surface water drainage system to comply with policy CS18 of the Shropshire Core Strategy.

6.7 Other matters

- 6.7.1 The previous use of the site has also raised the potential for contamination on site. The Council Public Protection Officer has requested additional information from the applicant to determine what conditions to impose. This comment does not suggest that the potential for contamination is a reason to refuse the application and this is a matter which most often can be dealt with by appropriately worded conditions to ensure that any contamination is dealt with correctly.
- 6.7.2 The Council Archaeologist has confirmed that there are no archaeological requirements for the site. Local objectors have also commented on the loss of property value and views neither of which are material planning considerations, although officers and members can acknowledge these concerns they are not matters which can be given weight in the determination of an application.
- 6.7.3 The Town Council and residents have also commented on the consultation process. The application was received just before Christmas and the neighbour's consultation letters were sent out before the Christmas holiday period and over a time when the Council offices were closed. However, the letters gave details of the website, which was available when the office was closed and furthermore comments have continued to be accepted up to the date of this committee meeting. Following receipt of the amended plans the Town Council and all neighbours who had previously made representations were re-consulted. Officers accept that there may be further comments to be received but these can be provided to members as an update at the meeting. The consultation period on the amended plans will have expired one week before the date of the committee meeting and as such all representations should have been received by the time the members consider the application.

7.0 CONCLUSION

- 7.1 The site is located within the development boundary for Oswestry and is also previously developed land. As such there is a presumption in favour of redevelopment of the site and residential development would be considered to comply with the principles of both local adopted policy and the National Planning Policy Framework. It is acknowledged that the density and scale of the apartment building is not in keeping with the density and scale of the immediate area, however it is not considered to be out of keeping with the wider area and the town as a whole and further is not considered to be visually harmful to the character and appearance of the town.
- 7.2 The development will provide extra care accommodation for residents over 55 years of age and as such provides 100% affordable housing for an identified need and a specific sector of the community.
- 7.3 The impact on the amenities of adjacent properties has been fully assessed and following submission of revised plans the impact is not considered to be unacceptable and therefore complies with the requirements in policy CS6 and the SPD on Type and Affordability of Housing.
- 7.4 The development will provide on-site amenity areas and parking which is considered to be sufficient for the proposed end use of the development. Furthermore, 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.

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

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

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

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Vince Hunt
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years 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 approved plans and drawings.

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

3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

4. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

6. Prior to commencement of development drainage calculations in accordance with the Proposed Drainage Strategy, dwg. CW-14-151-502-P3 should be submitted for approval. Calculations should demonstrate how the proposed discharge is limited to an equivalent existing run-off rate based on a rainfall intensity of 50mm/hr, plus 50% betterment for a range of 1 in 100 year plus 30% storm durations. The attenuation drainage system should be designed so that there will be no flooding of any property either within the proposed development or any other in the vicinity. There should be no discharge to a surface water body or sewer that results from the first 5mm of any rainfall event.

Reason: To ensure that the attenuation system for the disposal of surface water drainage, is suitable for the development site and to ensure the design is to a robust standard to minimise the risk of surface water flooding.

7. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

Reason: to protect the amenity of the area and the health and wellbeing of local residents.

8. 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:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. 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.

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

9. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

10. Prior to the first occupation of any of the units details for secure cycle parking shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be provided prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To encourage sustainable methods of travel.

11. A total of 3 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the buildings hereby approved. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. A minimum of 5 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

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

13. 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.

14. The occupation of the extra care units hereby approved shall be limited to persons who have reached the age of 55 and who are in need of extra care

Reason: The extra care apartment block is unsuitable for general needs housing due to the lack of parking and amenity provision.

15. The extra care units shall solely be occupied by those demonstrating a local connection to the Shropshire Council Area as defined in the Shropshire Affordable Housing Allocation Policy

Reason: To meet the identified extra care housing need in Shropshire

16. The extra care apartment building (Use Class C2) shall only be used for the purposes of providing extra care purposes. They shall not be used for any other purposes including any other purpose within Use Class C2 of the Town and Country Planning (Uses Classes) Order 1987 as amended without the prior written permission of the Local Planning Authority.

Reason: In the interests of the protection of residential amenity

17. The extra care accommodation made up of 61 units shall be made available as Affordable Rent accommodation and shall not be let or occupied other than under a tenancy in accordance with the normal letting policy of a registered Provider.

Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.