

Development Management Report

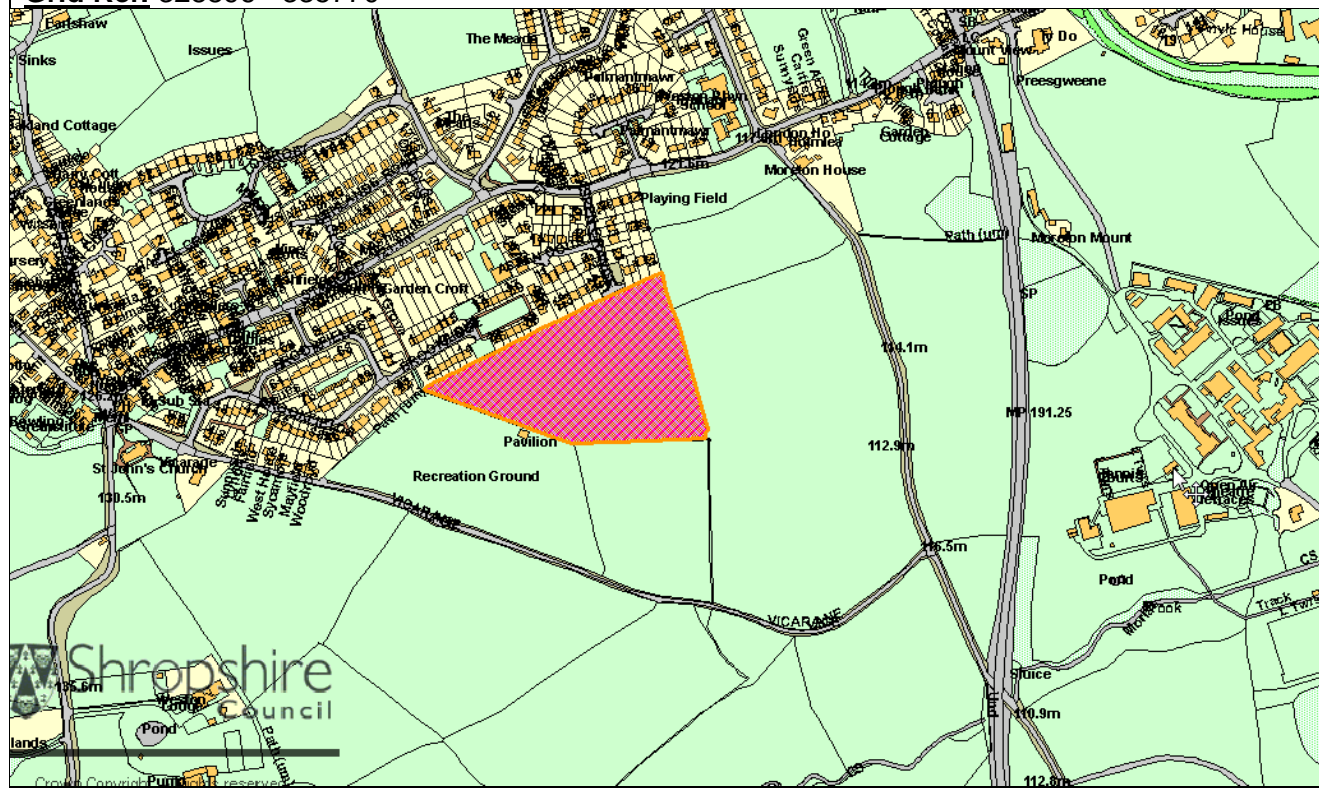
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/01654/OUT	Parish: Weston Rhyn
Proposal: Outline application for residential development (All Matters Reserved)	
Site Address: Development Land South Of Aspen Grange Weston Rhyn Oswestry Shropshire	
Applicant: M Richardson & Partners	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 328896 - 335770



Recommendation:- Grant planning permission subject to the applicants entering into a S106 legal agreement to secure affordable housing and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on land at Aspen Grange, Weston Rhyn. The application has all matters of access, layout, scale, appearance and landscaping reserved for later approval and as such is currently only considering the principle of residential development on the land.
- 1.2 To assist in the consideration of the application the submission is accompanied by a design and access statement, indicative layout and ecology survey. A flood risk assessment has also been requested during the consideration of the application given the concerns raised by the local community and in line with the guidelines in the SAMDev.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site area is 2.9 hectares and is currently in agricultural use for grazing. It is enclosed by well established hedges on all boundaries with sporadic trees in the eastern and southern boundaries and an existing watercourse crosses within the southern edge of the site. It is relatively flat with limited changes in ground level.
- 2.2 The land lies to the south of the existing housing on Aspen Grange and Brookfield Close. Aspen Grange is a modern estate of detached and semi detached houses with a turning head at the edge of the application site. The houses on Aspen Grange immediately to the north of the application site face over the application site with private driveways and gardens between. Brookfield Close is made up of terraces of bungalows and a more recent development of terrace houses around a parking court. All of the properties on Brookfield Close back onto the application site. To the east and south is open countryside. On the opposite side of the hedge on the western boundary is the village playing fields which include a football pitch and pavilion and multi use games wall, seating shelter and children's play equipment.
- 2.3 In the wider area the village is focused around the main road through the village from the school at one end to the church at the opposite end. There are estates off the main road varying in age and house type with a few older properties along the main road. The village is served by a school, shops, public house, takeaway facilities and church. It is within the rural area surrounding and supported by the town of Oswestry.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council has submitted a view which is contrary to the officer's recommendation and is based on material planning reasons which can not be overcome by condition or negotiation and Councillor Macey, local member, has confirmed that the views of the Parish Council should be debated at committee.

This request has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 Weston Rhyn Parish Council – At our most recent meeting residents of Aspen Grange attended and pointed out several issues relating specifically to this application that we were not aware of when first considering the proposal.

Having taken on board residents genuine concerns Weston Rhyn Parish Council now wishes to fully support resident's views in **objecting** to development of this site.

In particular they highlight serious flooding issues on the present estate that have not been rectified, access to the development site by heavy construction vehicles and inherent dangers apparent and the suitability of the Aspen Grange/ Station Road junction for additional traffic. Furthermore they highlight additional traffic flow that will be created on Station Road and the failure of Shropshire Council to reclassify Station Road as a "B" class road despite repeated representations plus the adequacy of the village drainage/ sewerage infrastructure to cope with such a large increase in dwellings.

The parish council therefore offer their full support behind resident's objections and trust you will take these views on board when considering the application.

4.1.2 Policy Officer – This site is allocated as a preferred option in SAMDev as WRN010 for 25 houses subject to appropriate drainage design; archaeological assessment and biodiversity surveys.

Most significantly, our draft Water Cycle Study update (current and on-going work by consultants CH2M) indicates that the site significantly affected by a high risk of surface water flooding. Whilst some development can be accommodated within flood zone 1, the capacity of the developable area is likely to be limited to 25 units. There is also an 'Ordinary Watercourse' along the southern and western part of the site and this will require further assessment to determine the level of fluvial flood risk to the site since this is not addressed in Environment Agency flood risk data.

4.1.3 Affordable housing – If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full or Reserved Matters application.

The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before an application is submitted.

4.1.4 **Conservation** – Will not be commenting in full in this case however:

- The design of the proposed dwelling should reflect local vernacular detail in terms of scale, details, materials, siting/layout etc.
- The development should be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

4.1.5 **Archaeology** – A non-designated possible prehistoric enclosure in the field to the south of the proposed development site was flagged up in our comments during the Stage 2b SAMDev assessment of the site. However, in assessing this application we have conducted a more in-depth assessment of the relevant record in the Shropshire Historic Environment Record, including a review of the original source material on which it was based. As a consequence it would appear that it was recorded on the basis of a rather indistinct feature visible on a set of vertical aerial photographs from 1983. A site visit was conducted in 1991 to assess the site and from this it was concluded at the time that it was unlikely to be an archaeological feature. Based on own knowledge of the aerial archaeology of the county, we would concur that the feature visible on the vertical photograph is likely to be either of natural origin or, more likely, a product of recent land management practices.

On balance, therefore, it is concluded that it would not be reasonable or proportionate to request submission of additional information or, given that the site itself will not be directly impacted by the development, to request an archaeological condition on this occasion.

4.1.6 **Highways** – No objection. Firstly, the application site, in part, is included as a preferred site within the SAMDev submission. The current land area proposed however is greater than that which is included in the SAMDev submission and therefore it is implicit that the number of dwellings that can be accommodated as part of this application is likely to be double the number than could be accommodated on the proposed housing area in the SAMDev submission. It is noted that the Parish Council made no comment initially on the basis, it is assumed, on its allocation during the SAMDev process and it having Parish Council support. However the Parish Council have now raised an objection which include highway issues.

The highway issues relate to heavy construction traffic, suitability of the Aspen Grange/Station Road junction for additional traffic and increase traffic created onto Station Road together with the failure of Shropshire Council to reclassify Station Road as a 'B' Class road.

With regard to the highway issues raised by the Parish Council, it is considered by the highway authority that Aspen Grange is suitable to accommodate the development land area, supporting a development of the scale indicated on the indicative layout plan showing 50 dwellings. Aspen Grange has a carriageway width of 5.5 metres flanked on either side by 1.8 metre and at its junction with Station Road visibility splays are provided in accordance with and in excess of Manual for Streets guidance. It is considered therefore that there are no fundamental highway grounds to object to the granting of an outline permission.

Issues surrounding construction traffic could, as is normally the case, be controlled within a standard condition. As regards the issue raised by the Parish Council concerning the classification of Station Road, this is not a matter which concerns the determination of this application.

The highway authority therefore raise no objection to the granting of outline consent subject to the further submission of satisfactory access, access road layout, parking and turning area(s) together with a construction management plan to be implemented during the construction phasing of the development.

4.1.7 **Ecology** – No objection subject to conditions and informatives relating to bats and birds.

There are two ponds over 400m from the application site. In view of the poor habitat for great crested newts (GCN) on the application site and the roads in between, it is not considered necessary to require surveys of these ponds due to the low risk of harm to GCN.

The trees and hedgerows bordering the site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour.

The trees and hedgerows on the site are likely to be used by nesting birds as such recommends a condition and informatives.

4.1.8 **Drainage** – 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.

Following submission of a Flood Risk Assessment advised that the document is acceptable although the risk from surface water flows through the site should be given greater consideration at the drainage design stage. A substantial quantity of surface water flow exists through the site and as such, the site layout and levels should accommodate these flows. The FRA states that floor levels will be 150mm above existing ground however this distance should be increased in areas of surface water flooding.

The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). No details of the proposed SuDS have been provided. Full details, plan and calculations of the proposed SuDS should be submitted for approval. This should

illustrate how the development will comply with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures to reduce surface water.

Soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change.

The layout of the proposed foul sewage system should be submitted for approval, along with details of any agreements with the local water authority. Due to the scale of the development the foul drainage should connect to a mains system and the use of septic tanks or package treatment plants are not deemed acceptable.

4.1.9 **Welsh Water** – We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

We refer back to comments made by us for this site at the recent LDP examination stage relating to this allocation, where it was advised that there are isolated incidents of flooding in the public sewerage system downstream of this site which will need to be overcome if development is to proceed and a communication to the public sewer is made. Further assessment of the sewer network by means of a Hydraulic Modelling Assessment (HMA) would be required to consider the impact of this development upon the receiving sewerage network and establish a solution to accommodate the foul flows only from this development site without causing detriment to existing customers or the environment. The use of the following Grampian condition, that has been suggested by Shropshire Local Planning Authority is supported in principle, however this is subject to the Local Planning Authority acknowledging that the only means of establishing a permanent solution for the disposal of foul drainage (as required by part 1 of the condition) shall be through the undertaking of a HMA and the subsequent implementation of any solution identified by the assessment (as required by part 2)

No dwelling hereby approved shall be occupied until: 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and 2) The appropriate permanent or

temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

Shropshire Local Planning Authority would have to be satisfied that this condition is reasonable/practical and would therefore meet the planning condition tests.

For the developer to obtain a quotation for the hydraulic modelling assessment, we will require a fee of £250 + VAT to engage our consultants, this fee is non-refundable. We therefore recommend that the developer engages with us as early as possible to discuss their intentions.

Further conditions

Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

Advisory Notes

In relation to the surface water flows from the proposed development, these will have to be disposed of separately by other means, such as using soakaways or discharging directly to a watercourse in liaison with the Land Drainage Authority and / or Natural Resources Wales

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into

public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

The Welsh Government have introduced new legislation that will make it mandatory for all developers who wish to communicate with the public sewerage system to obtain an adoption agreement for their sewerage with Dwr Cymru Welsh Water (DCWW). The Welsh Ministers Standards for the construction of sewerage apparatus and an agreement under Section 104 of the Water Industry Act (WIA) 1991 will need to be completed in advance of any authorisation to communicate with the public sewerage system under Section 106 WIA 1991 being granted by DCWW.

Welsh Government introduced the Welsh Ministers Standards on the 1st October 2012 and we would welcome your support in informing applicants who wish to communicate with the public sewerage system to engage with us at the earliest opportunity. Further information on the Welsh Ministers Standards is available for viewing on our Developer Services Section of our website - www.dwrcymru.com

Further information on the Welsh Ministers Standards can be found on the Welsh Government website - www.wales.gov.uk

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

- 4.1.10 **Environment Agency** – This appears to be a lower risk planning consultation which does not appear to require direct consultation with us; it does not fall within our 'consultation filter'.

The proposed development falls within Flood Zone 1, based on our 'indicative' Flood Map for Planning (Rivers and Sea). The site is approximately 2.9ha.

On this basis, we would recommend you refer to our area Flood Risk Standing Advice -
for 'Operational Development (+1ha) within Flood Zone 1' (LPA process note attached for completeness, in this instance). We would recommend that you consult with the Lead Local Flood Authority (LLFA) i.e. your Council's Flood and Water Management team, to assist review of the Flood Risk Assessment.

- 4.1.11 **Public Protection** – Is aware that there are regular issues with foul drainage systems in the area surcharging during high rainfall events. Has attended meetings with the water authority, Welsh Water, in the past where plans have

been developed to resolve these issues. However, introducing a large amount of properties to the area may put strain on the current infrastructure. As a result would recommend that Welsh Water and possibly Severn Trent Water are consulted to enquire as to the suitability of the foul drainage system in its current form and once works have been undertaken to take the extra capacity that this development will introduce.

Should this application be granted approval at reserved matters stage it is likely that this service will seek to place an informative to ensure that electric charging points for vehicles are installed at every residential property with off road parking.

4.2 **Public Comments**

4.2.1 16 letters of representation have been received raising the following concerns:

- Outside the development boundary
- Should develop brownfield land first
- No pre-application discussions
- Site boundary not correct
- Pressure on existing services, especially the school
- Loss of agricultural land
- Brownfield land should be developed first
- Proposed open space is not appropriate
- Access is too narrow
- Existing on-road parking problem
- Additional traffic, speeding traffic and risk to road safety
- Will impact on wildlife, especially local roosting bats
- Site is prone to flooding and the brook does not take much overflow
- Pressure on foul sewers
- Neighbours will need access to maintain hedges

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 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years’ supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev. With respect to Weston Rhyn there are outstanding objections relating to the proposed allocated sites, the number of dwellings being allocated, the identification of the village as a cluster and the impact on sewerage. As such only limited weight can be given to the SAMDev.
- 6.1.4 In the intervening period between submission and adoption of the SAMDev, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer’s advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 Weston Rhyn was defined in the Oswestry Borough Plan as one of a number “larger settlements” where the majority of new dwellings would be developed on sites with permission or allocation or on other suitable windfall sites in the development boundaries. The current application site is outside the development boundary for Weston Rhyn previously set within the Oswestry Borough Plan which shows the Aspen Grange estate as an allocated site. As such the application has

been advertised as a departure from the adopted local plan and would not normally be supported for development. However, these policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.

- 6.1.6 The identification of the site as a larger settlement in the Oswestry Borough Plan supports the principle that the village is a sustainable location for further development. In addition the village is being promoted as part of a Community Cluster with the villages of Rhoswiell, Wern and Chirk Bank with a housing target of 78 dwellings. Part of the current application site is the land being put forward as the proposed housing site for the village of Weston Rhyn (with a separate allocation in Rhoswiell on the opposite side of the railway line). The two allocation sites will provide 45 dwellings with the remainder to be made up of infilling, conversions and small groups of houses.
- 6.1.7 The agent comments on the proposed allocation within the design and access statement noting that the proposal to allocate only part of the current application site would leave the remainder of the site “marooned in a built up area” and of little agricultural use or value and any agricultural use would require vehicles to pass through the residential estate. It is also noted that the proposed larger site is not isolated from the village and will form a natural extension within the boundaries of the watercourse and the recreational field and that the development of the whole of the larger site will enable the provision of a pedestrian link through to the recreation field.
- 6.1.8 Notwithstanding this the SAMDev has yet to be adopted, although it has been submitted to the Planning Inspector for consideration and public enquiry it does not yet hold full weight. Furthermore advice has been taken which notes that sites which are otherwise sustainable and would comply with the NPPF should not be refused against the SAMDev. The issue is whether the larger site makes the development unsustainable or unacceptable for any other reason which would outweigh the presumption in favour of sustainable development.
- 6.1.9 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.
- 6.1.10 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 outweigh the

benefits.

6.2 **Is the site sustainable?**

6.2.1 The local objectors and parish have not questioned the sustainability of the site but have questioned whether the development of the site would add unacceptable pressure on the local services and facilities, including the school, highway network and drainage systems. The impact on the highway and drainage are considered in later sections of this report.

6.2.2 The agent notes the presence of the amenities within Weston Rhyn, the school, shops, post office, takeaway food shop and public houses; that the village is on a regular bus route and is close to the employment sites at Gledrid and Moreton Park.

6.2.3 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

6.2.4 The initial assessment of potential sites in the community cluster considered 25 sites in total. The whole of the large application site was assessed under stage 2 by Shropshire Council Policy Officers who scored the site positively for access to bus service, school and recreation facilities but negatively for being grade 3 agricultural land. It was also considered positively as being a previous infill site. It was considered to be capable of providing new housing and the conclusion of the assessment was that the overall sustainability of the site is good.

6.3 **Economic considerations?**

6.3.1 It is acknowledged that the site is on the edge of a rural village and therefore not within walking distance of employment or supermarkets. However, the aim of the Shropshire Core Strategy is to promote development in villages and rural areas with services or where new development can help to improve sustainability.

6.3.2 The agent suggest that the new housing will help local services and ensure viability of the village services whilst providing homes close to places of work. It is also commented that the site has the potential to provide housing, including affordable housing and a range of open market housing. The agent has also commented that the costs of developing the infrastructure (ie the estate road and drainage) for the allocated site would be proportionally greater than the cost if the whole of the application site was developed and as such the agent considers that the current application site would be more marketable to developers.

6.3.3 Officers acknowledge that none of these benefits are site specific. However, new housing will provide economic benefits and this needs to be given substantial weight in the determination of the application.

6.4 **Social considerations?**

- 6.4.1 Policy CS11 of the Shropshire Core Strategy requires all new housing to contribute towards affordable housing. The applicant has acknowledged the need for the site to provide affordable housing within the design and access statement. At present the target rate for this area would be 10%, however as an outline application the level of affordable housing to be provided on the site would be dependant on the target rate at the time of the submission of reserved matters and a legal agreement will be required as part of this outline consent to ensure that the affordable housing is provided and retained as such.
- 6.4.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £80 per square metre of new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent.
- 6.4.3 Concern has been raised by local residents about the pressure on the local school and other services. No evidence has been provided of the capacity of the school, this was not raised as an issue during consideration of the whole site in the SAMDev and the Council Learning and Skills team have not provided any comment on this issue in response to this application. The CIL contribution could provide for infrastructure enhancements or could also be used to contribute towards school places if this is considered to be a priority in the local area. As noted above the development of this site will add pressure but also income for local services and facilities and as such any harm resulting from the development needs to be balanced against the benefits.

6.5 **Environmental considerations?**

- 6.5.1 It is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. The development includes the provision of open space within the site including a green corridor along the watercourse and retention of the existing landscaping features. The site is currently private land and the proposal will provide public open space in the form of this green corridor along the southern edge of the site which will connect the existing housing estate to the village recreation field. This is an environmental gain which should be taken into consideration in the balance of harm against benefit.
- 6.5.2 Local objectors have raised concern about the loss of the agricultural land. The SAMDev site assessment notes that the land is grade 3 agricultural land but continued to promote part of the site for development. It is therefore considered that to enable development and growth of the village will result in the loss of some agricultural land. The loss of best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area

proposed for the 50 houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing. The concern of local residents that brownfield land should be developed first has not been quantified with any suggested sites. It is acknowledged that recent Government announcements seek to promote brownfield land but this does not require a sequential approach to development of land and the Council are continually promoting brownfield land for development where it is sustainable development.

6.5.3 The development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to archaeological assessment, this follows from a note in the SAMDev assessment of the site that there is a potential prehistoric enclosure south of the site. The current application has not been submitted with any archaeological information submitted. However the Council Archaeologist has confirmed that they have re-assessed the information and do not require any further information.

6.5.4 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.

6.6 **Layout, scale and design**

6.6.1 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.

6.6.2 The design and access statement confirms that the plan submitted with the application is for indicative purposes only and is intended to show that the site can be developed for a mix of housing. Within the design and access statement the agent also notes that the assessment of the site for early consideration in the SAMDev notes that the site could be developed for up to 73 dwellings at a density of 25 per hectare. The indicative plan suggests 50 dwellings and therefore a density of 17 dwellings per hectare. The plan recommends the provision of an area of open space within the southern edge of the site which will be accessible to the public and provided with enhanced landscaping. The plan also recommends that the density of the site relates to the existing housing in the northern part of the application site whilst reducing in density and scale in the southern part of the site. These are commendable principles to set and would help to assimilate the development into the surrounding area and reduce the visual impact of the site from the wider area. However, these matters are not submitted for consideration at this outline stage and would need to be determined at the time of an application for reserved matters.

6.6.3 In response to objections received the plan has been amended to alter the northern boundary of the site to exclude the trees and land immediately around the trees which has been proven through the objections to be within the ownership of the neighbouring properties. The amendment to the application site does not

alter the principles noted above.

6.7 Impact on residential amenity

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

6.7.2 As with the consideration of layout and scale the impact on the amenities of existing residents can not be fully assessed at this outline stage as the impact will predominately depend on the layout. It is noted that the existing housing on Aspen Grange face over the application site, although this provides a good separation distance it also raises issue of layout. Officers consider that the layout of the site, where it is adjacent to the housing on Aspen Grange facing over the site, should respect these frontages and provide frontages facing the existing housing. The existing properties on Brookfield Close back onto the application site and therefore the layout of the site could have houses backing onto these existing properties but would need to ensure that the separation distances protect the existing amenities in terms of loss of light and privacy. This is a matter which will need to be reconsidered at the time of submission of reserved matters.

6.8 Highways, access, parking and rights of way

6.8.1 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.

6.8.2 Although this is an outline application with all matters reserved the design and access statement and the indicative layout suggests a single point of vehicular access off Aspen Grange. The agent has commented within the design and access statement that the existing estate road is capable of accommodating the additional traffic that will result from the development proposed and that the estate road was designed to a higher standard than was required to serve the existing dwellings. The agent also comments that the junction onto Station Road has sufficient visibility and that the proposed road within the application site will be designed up to adoptable standards with kerbs and footways.

6.8.3 However, local objectors, including the parish council, have raised concern about the width and capacity of Aspen Grange and its junction with Station Road, and concerns about the general increase in traffic in the village. These issues have been considered by the Council Highway Officer.

6.8.4 The detailed response is provided in full under section 4 above. The advice from the Highway Officer is that an objection on highway matters could not be sustained. The existing road width is sufficient for the anticipated construction and housing traffic and the junction of Aspen Grange and Station Road has acceptable levels of visibility. The scale of the proposed development would not result in a sever impact on capacity of the highway network and the construction traffic

impact can be controlled by condition.

6.9 Ecology and trees

6.9.1 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. Furthermore the development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to appropriate biodiversity surveys. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.9.2 The submitted report considers the existing site conditions, surrounding features and evidence of protected species. Desk studies and field surveys were undertaken and the survey concludes that there is no evidence of any protected species and the proposed development is unlikely to have any impact on any protected species that might be found in the area.

6.9.3 Although local objectors have raised concerns that the site is used by wildlife the Council Ecologist has confirmed that the survey work is acceptable and has not raised any objection to the scheme subject to conditions to provide artificial nests and details of lighting. It is also noted that the development indicated proposes an area of open space, although objections have been received regarding this, the provision of open space within a development is a positive benefit both for the local community and also for enhancing habitat for wildlife and for providing new trees. Overall it is considered that the development of this site can be undertaken without harm to protected species and with enhancements and environmental gains in accordance with policy CS17.

6.10 Drainage

6.10.1 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. Furthermore the development guidelines in the SAMDev note that the development of the smaller parcel of land is subject to appropriate drainage design.

6.10.2 The application form suggests that the surface water will be drained via a sustainable drainage system to the existing watercourse. Within the design and access statement the agent notes the presence of 2 existing surface water drains which cross the site and which is accepted will need to be taken into account in considering the layout of the site at reserved matters. The design and access statement also notes that the site is not within any of the flood zones identified by the Environment Agency and that foul drainage is available in the existing estate road and that this will be subject to negotiation with Welsh Water.

6.10.3 Objectors, including the parish council, have raised concerns about the development of the site which is prone to flooding and also concerns about the increase pressure on the foul sewerage system. These concerns are noted and a flood risk assessment was requested.

- 6.10.4 Following submission of the flood risk assessment (FRA) the Council Drainage Engineer, Welsh Water and the Environment Agency have been consulted. The Environment Agency have provided standing advice and referred to the internal consultee. The Council Drainage Engineer has confirmed that the FRA is acceptable but has requested further details relating to surface water flows and the finished floor levels but also confirmed that this can be provided as part of the reserved matters application or through conditions. The details of the surface water drainage system and the foul drainage system can also be dealt with through condition. Overall the Drainage Engineer advice is clear that there is a solution available to enable development of the site without increasing flood risk either within the site or to the surrounding area.
- 6.10.5 Welsh Water did initially object to the proposal on the basis of the capacity of the foul sewerage network. Following the process taken on other applications where Welsh Water have raised objections the officer has negotiated with Welsh Water to establish whether a Grampian condition can be used as it is unlikely that the objection could be sustained at an appeal. Although Welsh Water have objected this objection requires upgrading of an existing foul drainage system to be undertaken by the developer which without the certainty of a planning application which officers consider would be unreasonable for the developer to be expected to undertake. A condition was proposed to Welsh Water, the condition is considered by officers to be necessary due to the issues raised by Welsh Water and the potential that a connection to the existing system without an upgrade may result in environmental consequences. Relevant to planning and the development proposed in that the environmental consequences would be as a result of the additional housing connecting to the system. Enforceable as the wording of the condition requires the details to be approved by the Council and occupation of the dwellings would not be possible until either the upgrade is undertaken and a connection made to the network or a temporary system is installed. Precise in that the wording details what is required of the developer at what stage of the development and also the condition is considered to be reasonable. As such officers consider that the condition meets the six tests set out in paragraph 206 of the NPPF and also that the condition will provide the protection to Welsh Water, the local community and wider environment whilst not preventing the commencement of the development or the occupation of the properties at an appropriate stage.
- 6.10.6 Welsh Water have now updated their response to this application and confirmed that the use of the Grampian condition is supported in principle. Officers consider that the condition will allow for the hydraulic modelling assessment and any upgrades required before occupation of the dwellings but also allows for a temporary system to be provided if the works are not completed and as such accepts that the only means of establishing a permanent solution for the disposal of foul drainage is through the undertaking of a HMA as requested by Welsh Water. The additional conditions and informatives recommended by Welsh Water are considered to be reasonable and as such are proposed to be included.
- 6.11 **Other matters**
- 6.11.1 Objectors have also raised concerns about access to maintain existing hedges. It

is assumed that these are the hedges which form the boundary of the site and as such the adjacent residents are only responsible for maintaining their side of the hedge. The maintenance of the opposite side would be the responsibility of the land owner, currently the farmer, and once developed this responsibility would pass to the future property owners and as such would become a civil matter between parties. This is not a material planning consideration that can be given any weight in the determination of the application.

7.0 CONCLUSION

7.1 The site is located outside the current development boundary for Weston Rhyn and is therefore classed as a departure from the development plan. However, part of the site is being promoted as a proposed site allocation for housing development in the forthcoming Site Allocations and Management of Development (SAMDev) Plan and it is therefore accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from the facilities, services and infrastructure offered by the village and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The size of the site and constraints from the existing development, watercourse and village recreation field limits the developable area, however in principle the site can be developed for housing without adversely affecting the amenities of the existing properties, in context with the surrounding built form and with an appropriate access. Furthermore, subject to a hydraulic modelling assessment, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided which also improves the accessibility and the landscaping of the area.

7.3 Accordingly, subject to conditions and the applicant entering into a S106 legal agreement to secure affordable housing, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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 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. **BACKGROUND**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
CS7 - Communications and Transport
CS9 - Infrastructure Contributions

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 David Lloyd MBE Cllr Robert Macey
Appendices APPENDIX 1 - Conditions

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

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

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

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years 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. This permission does not purport to grant consent for the layout shown on the deposited plan submitted with this application.

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

5. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The number of units
 - The means of enclosure of the site
 - The levels of the site
 - The means of access for disabled people
 - The surface water drainage scheme of the site
 - The finished floor levels

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- 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.

7. No dwelling hereby approved shall be occupied until:
- 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and
 - 2) The appropriate permanent or temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

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

8. Prior to the first occupation of the dwellings details of five woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

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

9. Prior to the erection of any external lighting which would illuminate trees and hedgerows 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.

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

10. The proposed development site is crossed by a 450mm surface water with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 5 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

11. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.

12. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

13. Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

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

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

15. 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.