

Development Management Report

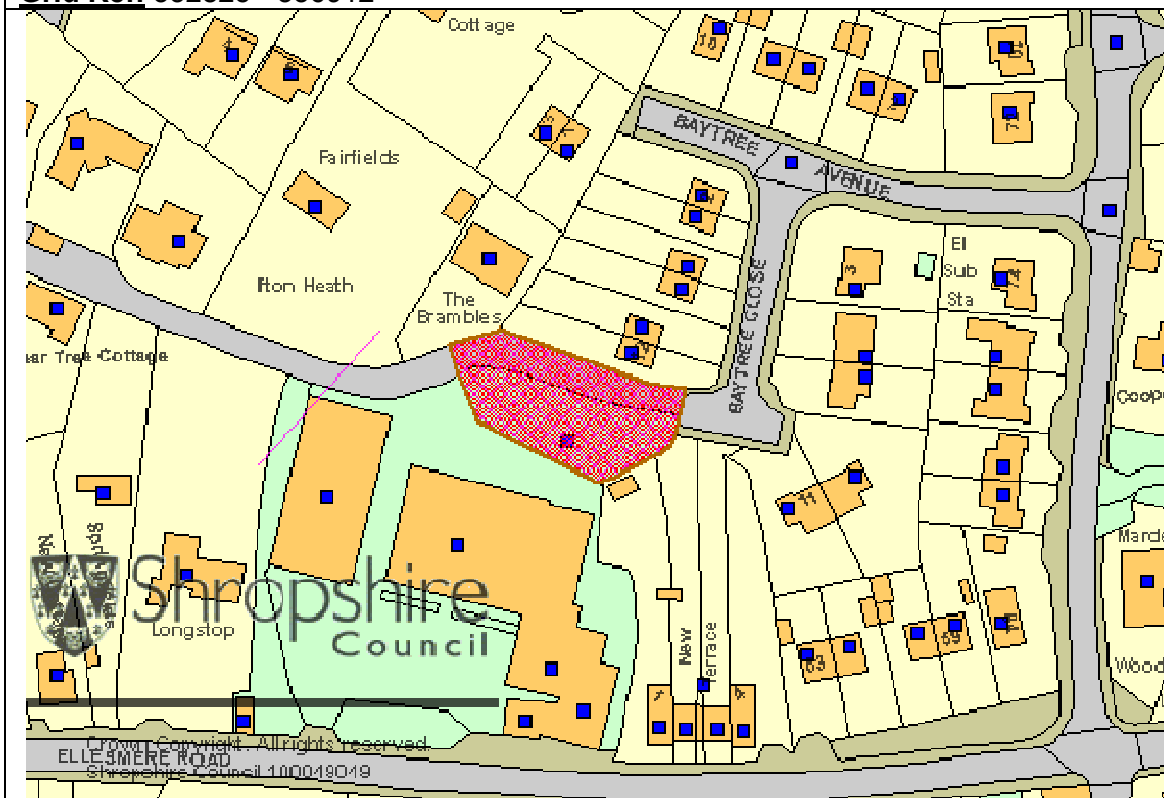
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/04980/FUL	Parish: St Martins
Proposal: Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme)	
Site Address: Residential Development Land West Of Baytree Close St Martins	
Applicant: Mr K Butterton	
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk

Grid Ref: 332825 - 336912



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

Recommendation:- That delegated powers be given to the Area Planning Manager to grant approval, subject to the applicants entering into a S106 agreement to secure affordable housing and subject to the conditions set out in Appendix 1, following resolution of the outstanding noise issues.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposal involves the erection of 3 no. 3 bedroom dwellings (one detached and one pair of semi-detached) and formation of vehicular access off Baytree Close and associated parking.
- 1.2 The application is a revised scheme following on from a previous application on the site (12/03763/FUL), which was refused planning permission in February 2014 on the grounds of overdevelopment and specifically lack of adequate amenity space.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to a small area of vacant land last used as a domestic garden and is for the construction of 3 dwellings to include one detached unit and a semi-detached pair.
- 2.2 Access to the site is provided off a cul de sac, Baytree Close, an adopted highway serving an existing housing estate. The site partially backs onto the Walker Engineering site to the south which is accessed off the Ellesmere Road but is surrounded on all other sides by residential development.
- 2.3 This includes 20th century semi detached dwellings along Baytree Close to the north and west and large detached dwellings to the west. Long, narrow garden plots to the rear of terraced housing along the Ellesmere Road back onto the east end of the site.
- 2.4 A line of trees, hedgerow and fence panels provide the boundary between the rear of the site and the Walker Engineering site. All other boundaries to the site are open.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Following an objection from the Parish Council the ward member has requested that the application is considered by planning committee. This request has been confirmed as being relevant by the Chair and Vice Chair of the committee and it was agreed that the issues raised should be debated at committee

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Drainage** – No objection subject to inclusion of condition.
- 4.1.2 **SC Affordable Housing** – No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of

the SPD Type and Affordability of Housing.

4.1.3 **SC Highways** – no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.

4.1.6 **SC Public Protection** – noise assessment specifications and locations of related information are requested prior to a decision being made on the application on account of existing industrial type operations to the south.

4.1.7 **SC Ecology** – No objection subject to conditions and informatives relating to nesting wild birds,

4.2 - Public Comments

4.2.1 **St Martins Parish Council** – neither object or support but are concerned over the surface water drainage in this area and three dwellings would be an over development of this site. In addition no development should be considered or approved from a private driveway but from an adopted road with street lighting to an LED standard.

5.0 THE MAIN ISSUES

- Principle of Development
- Siting, Scale and Design
- Impact on Amenity
- Drainage
- Highways Issues
- Public Protection
- Affordable Housing

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. The development plan for Shropshire is the Council's Adopted Core Strategy, the 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and 'saved' policies from the preceding local plans; in this case, the Oswestry Local Plan. The Council has produced a Site Allocations and Management of Development Plan (SAMDev) which is currently under consideration by the Planning Inspectorate. Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given significant weight in the determination of planning applications.

6.1.2 Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies

(the less significant the unresolved objections, the greater the weight that may be given); and

- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6.1.3 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.

6.1.4 There are currently three major policy considerations in the assessment of planning applications for housing:

- Five year housing land supply/housing supply.
- Weight to relevant policies in emerging Plan
- NPPF presumption in favour of sustainable development/boosting housing supply

6.1.5 1. Five year housing land supply/housing supply

6.1.6 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July 2014, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any 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 the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF paragraph 49 and these provide the starting point for considering planning applications.

6.1.7 2. Weight to relevant policies in emerging Plan

6.1.8 The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.1.9 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.

6.1.10 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people.

- 6.1.11 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 6.1.12 St Martins is classed as a 'larger settlement' under 'saved' policy H5 of the Oswestry Local Plan and has a clear development boundary; wherein development is permitted on allocated sites, on sites with planning permission and on other suitable windfall sites within the development boundary. In the emerging policy SAMDev (Revised Preferred Options), St Martin's has been put forward as a Community Hub and again has a clear development boundary which would be included as part of the development boundary should they be adopted. No other amendments to the existing development boundary are proposed. The development site lies within this boundary.
- 6.1.13 The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan version has not been through the examination stage, the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications.
- 6.1.14 On the basis of Policy CS4 and the site's location within the settlement boundary planning permission for the proposed new dwellings would be deemed acceptable in principle.
- 6.1.15 3. NPPF presumption in favour of sustainable development/boosting housing supply
- 6.1.16 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.17 In view of its location within a larger settlement which offers a wide range of services and facilities and access to larger settlements such as Oswestry and Ellesmere the site is deemed to be sufficiently sustainable to meet the overriding aims of the NPPF.
- 6.1.18 Policy CS6 (Sustainable Design and Development Principles) of the adopted Core Strategy is also relevant to this application. This seeks to ensure that development is designed to a high quality using sustainable design principles. Proposals are required to be appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance. The policy aims to ensure the safeguarding of residential and local amenity.
- 6.1.19 Policy CS11 (Type and Affordability of Housing) is also considered to apply and

requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing and the Council's Affordable Housing team have confirmed that the proposal would be liable for a contribution at a rate of 10% should the application be approved.

6.2 **Siting, Scale and Design**

- 6.2.1 The site is located alongside the access road leading between Baytree Close and a group of more recently constructed detached dwellings located to the north west.
- 6.2.2 The proposal involves the erection of 3 no. three bedroom residential units (one detached and one pair of semi-detached) with off street parking facilities. The semi-detached pair (units 2 and 3) are located towards the western end of the site; the single detached unit (unit 1) to the east.
- 6.2.3 The dwellings are all orientated with their north east elevations facing the road and are all one and a half storey in height with dormer windows at eaves level. Open car bays with bedrooms above are included at either end of the semi-detached units and to the eastern end of the single unit. These are lower in ridge height than the main dwellings and set back within the gables.
- 6.2.4 Proposed materials are to include facing brick (Ibstock Cheshire weathered), slate/tile roof or Marley eternity and UPVC windows and doors.
- 6.2.5 It is explained that sustainable design principles are proposed to be incorporated into the development's design and construction to include south facing rear gardens, locally sourced materials, high levels of insulation, background ventilation and double glazing.
- 6.2.6 Rear gardens are to be laid to lawn and sub-divided by way of 1.6m timber closed board fencing. Front garden areas adjacent to driveway hard standings are similarly proposed to be laid to lawn whilst landscaped areas are shown to be provided for driveways, sheds, greenhouses and general bin storage.
- 6.2.6 A total of 2 car parking spaces are to be provided per dwelling and 1 cycle space for each.
- 6.2.7 The application is an amendment to a previously refused scheme for 3 terraced style dwellings (12/03763/FUL) which was refused planning permission on the grounds of overdevelopment. The amended application follows on from discussions between officers and the applicant and the subsequent submitted scheme now indicates a reduction in the scale of the dwellings, a greater degree of visual separation between the units and the creation of larger areas of more useable amenity space around each dwelling. This has been in part achieved through the repositioning of the proposed units on the plot.
- 6.2.8 Unit 1 has been relocated slightly further forward on the site, in order to increase the amount of amenity space to the rear, whilst allowing for a small area of

separation between the dwelling and the access road.

6.2.9 The submitted plan also shows units 2 and 3 as being moved slightly further to the west of the site thereby allowing for more useable space around the buildings and in turn helping to minimise the overall visual bulk of development on the site.

6.2.10 Given the above amendments officers are of the opinion that the revised scheme is acceptable in its scale, layout and general design.

6.3 **Impact on Amenity**

6.3.1 The proposed dwellings have been designed to have a generally front to back aspect with no openings within the side elevations other than a side entrance door to unit 2 which opens into its attached car port. The nearest affected neighbouring residential properties are located on the other side of the access road, The Brambles and no 12. These properties have their principle elevations and windows angled facing away from the application site.

6.3.2 The properties either side are located some distance away with 1 New Terrace being located close to the Ellesmere road to the south and separated by way of a long rear garden and Longstop to the west buffered by the large industrial site also on Ellesmere Road.

6.3.3 The proposal is deemed unlikely to present any significant loss of amenity to surrounding dwellings and following amendments to the layout all of the proposed units are considered to include a reasonable amount of private amenity space.

6.3.4 Therefore, officers are of the view that it would be difficult to sustain an objection on the grounds of amenity.

6.4 **Drainage**

6.4.1 The Parish Council have expressed concerns regarding matters of surface drainage on the site. The Council's drainage team were consulted for their views and have confirmed that the drainage strategy and design, as previously agreed under the previous application (12/03763/FUL) is acceptable whereby 19.75 litres/second will discharge from Plots 1 to 5, referring also to existing residential development along Baytree Close. The current application for 3 houses in Plot 1, does not increase the 19.75 l/s discharge by installing 28 cubic metres of attenuation. Section 1.3 of the submitted Surface Water Disposal Report states that discharge from the development is presently un-restricted. Confirmation is required when discharge will be restricted to 19.75 l/s and the Drainage Engineer has indicated that this issue could be dealt with by way of a condition attached to any planning consent.

6.5 **Highways**

6.5.1 The Council's Highways team were consulted on the proposals and raised no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.

6.5.2 It was commented that the development seeks access to serve three further properties off the adopted turning head by increasing the width of an initial section of the private drive serving the existing properties. In terms of the traffic

experienced at this point in terms of flow and speeds, these are both likely to be low. The initial widened section of the private road will also allow vehicles of the properties to pass one another clear of the turning head. It was considered that the proposal was unlikely to result in adverse highway implications at this point to warrant a highway objection and no objection has been raised to the principle of the proposal.

6.5.3 The proposed access layout, drive and parking provision are deemed to be acceptable and in accordance with earlier approved/agreed details submitted in connection with the earlier application, 12/03763/FUL.

6.5.4 Initial comments from the Highways team noted that the proposed parking provision for plot 1 had been moved too far forward not maintaining a clear isle width of 6 metres and it was recommended that the spaces should therefore be altered and moved 1.5 metres back further into the curtilage of the plot. An amended plan has now been received which satisfactorily addresses this issue and has been approved by the Highways Officer.

6.6 **Public Protection**

6.6.1 The Council's Public Protection Officer has commented on the proposals as follows:

6.6.2 The proposed site is bounded to the south by industrial type operations. As a result there is the possibility for noise and odour to impact on future residents. It would be unfair to expect the businesses to change to accommodate future residents moving closer to them. As a result it is recommended that the applicant proposes mechanical ventilation and a high specification of double glazing to ensure that the future residents will not be affected by unsuitable noise inside their dwellings. Garden areas should be protected by suitable close boarded fencing to allow external areas to be used without noise being detrimental to health and wellbeing. It is requested that specifications and locations of the above information, e.g. position of fencing on a map, are submitted for approval prior to a decision on this application. Alternatively a noise assessment could be provided taking noise measurements of background noise in order to ascertain what measures are appropriate in this circumstance.

6.6.3 The above requirement had not been satisfied at the time of the committee report being finalised and any update on this issue will be reported at the committee meeting.

6.7 **Affordable Housing**

6.7.1 Officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').

6.7.2 Given the above, it is recommended that planning permission be granted only

subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

7.1 The site is located within the settlement of St Martins which has been identified as a Community Hub within the emerging SAMDev as being suitable for sustainable infill development within the development boundary. It is also located within the existing St Martins settlement boundary as contained within the Oswestry Borough Local Plan.

7.1.1 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and not to have any adverse implications relating to environmental issues or highways safety matters. Furthermore the proposed scale, layout and design is deemed to be acceptable in this location.

7.1.2 The proposal is therefore considered to generally accord with the relevant policy provisions set down within the NPPF and adopted Core Strategy and it is recommended that Committee grants delegated powers to approve the application subject to the receipt of satisfactory details in relation to noise abatement.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

National Planning Policy Framework

Shropshire Core Strategy

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

Oswestry Saved Policies

H5 - Larger Settlements

Relevant planning history:

12/03763/FUL Erection of 3 terrace style dwellings, formation of vehicular access off Baytree Close and associated parking REFUSE 21st February 2014

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 Steven Davenport

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 deposited plans and drawings as amended by the revised block plan (1210.82.02 received on 25th March 2015).

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. The drainage strategy and design, as previously agreed under the previous application 12/03763/FUL is acceptable whereby 19.75 litres / second will discharge from Plots 1 to 5. This application, 14/04980/FUL, for the 3 houses in Plot 1, does not increase the 19.75 l/s discharge by installing 28 cubic metres of attenuation. Section 1.3 of the submitted Surface Water Disposal Report states that discharge from the development is presently un-restricted. Confirmation is required in writing to the Local Planning Authority prior to development commencing on site when discharge will be restricted to 19.75 l/s.

Reason: To safeguard against flooding on the site.

4. A total of 2 'woodcrete' (or equivalent) artificial nests suitable for small birds such as robin (x1) and sparrow (x1) and shall be erected on or immediately adjacent to the site prior to commencement of the development hereby permitted.

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

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

5. The access amendments and private drive alterations shall be satisfactorily completed in accordance with the approved plan 1210.82.02 prior to any of the dwellings being first occupied.

Reason: In the interests of highway safety.

6. The development hereby permitted shall not be brought into use until the car parking spaces for plots 1 and 3 shown on the approved plan 1210.82.02 and amended for plot

1 have been satisfactory laid out and constructed in accordance with approved details; and the parking spaces thereafter shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles, associated with the development, off the highway in the interests of highway safety.