

Development Management Report

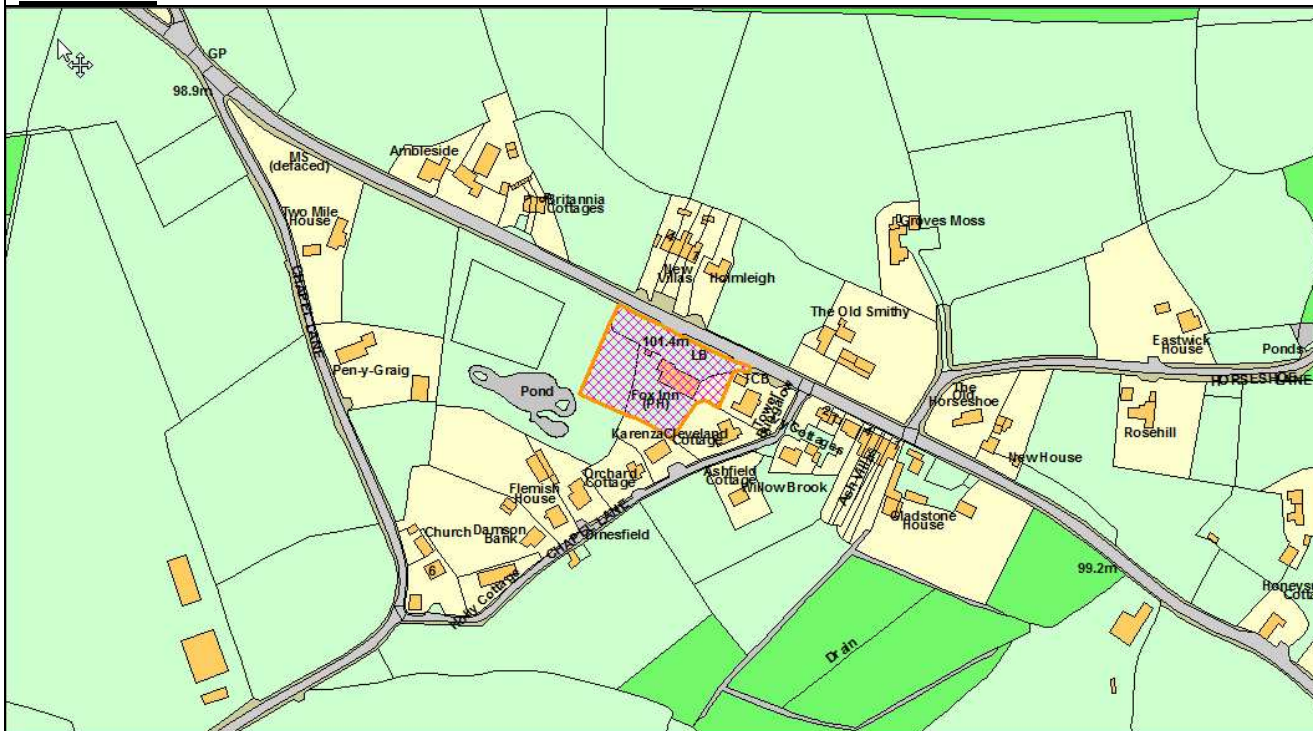
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/00325/REM	Parish:	Ellesmere Rural
Proposal: Reserved Matters application pursuant of outline application reference 13/04672/OUT dated 31st October 2014 for the erection of seven dwellings to include means of access, appearance, landscaping, layout and scale		
Site Address: Land Adjoining Bombay Palace Dudleston Heath Shropshire SY12 9JY		
Applicant: Sherwood Homes Ltd		
Case Officer: Melanie Durant	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 337542 - 336446



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

- 1.1 Reserved Matters application pursuant of outline application reference 13/04672/OUT dated 31st October 2014 for the erection of seven dwellings to include means of access, appearance, landscaping, layout and scale.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located in an area of open countryside and currently has a large two storey painted brick building at its centre which was last used as a restaurant and formerly the Fox Inn public house. The site has hardstanding to the front which was used for car parking and to the rear there is the former beer garden. The site also includes a parcel of unkempt and unused agricultural land to the west. To the side of the main building there is also a small detached brick built outbuilding.
- 2.2 The site has an open frontage directly onto the B5068 between Ellesmere and St Martins. Surrounding the site there are a number of dwellings. Directly on the opposite side of the B5068 there is a small terrace of two storey dwellings and a small detached bungalow. Most of the dwellings in the immediate area are off Chapel Lane to the south, a number of these properties have their rear gardens backing onto the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council have objected to the scheme and the local Ward Member has asked that the application be considered by the Planning Committee. The Chair/ Vice Chair consider that the application warrant consideration by the planning committee.

4.0 Community Representations**- Consultee Comments****Shropshire Council Affordable Housing:**

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.

Shropshire Council Drainage:

The Drainage Layout is different from the approved Drainage Layout Drg. no. BP-DL-200 dated February 2014. Full details of the surface and foul water drainage systems for the whole site including the cover and invert levels, hydrobrakes and outfalls should be submitted for approval.

- Public Comments**Ellesmere Rural Parish Council:**

Object to the application on the grounds that this is over development of the site. The front dwellings are situated too near the road and are not in keeping with properties in the vicinity. The building materials used should be in keeping with surrounding properties which all have slate roofs.

Concerns in respect of Plot 3 and Plot 4 as land drops off significantly into an existing pool which is an environmental issue and could cause flooding.

Consideration should be given to reducing the speed limit to 30mph in this area with the increase of traffic this development will bring.

Comments following amendments 21st May

Ellesmere Rural Parish Council are extremely disappointed that in revising the layout plans for the site only token changes have been made by reducing the size and proximity to the road of the building on Plot 1.

The Parish Council re-confirm its strong objection to the planning application, as submitted and revised, particularly on the basis of the following points:

It is overdevelopment of the site

The building materials should be more in keeping with the surrounding properties which have predominantly slate roofs.

The scheme layout creates a considerable amount of roadway, paths and hard standing areas.

The overall design and layout is very urban in style and not in keeping with the sites village location.

Serious concerns exist about the surface water drainage from the site and particularly from the area of plots 3 & 4 where the land levels fall significantly towards the neighbouring property to the south of the development site, which is already subject to surface flooding and contains a significant pond area supporting wildlife.

The Bio Disk sewage system proposed for the development appears to also discharge into the neighbouring property adding (i) to the drainage system and (ii) a potential pollution risk (unless strict long term monitoring and management arrangements are put in place as a condition of any planning approval)

Why were the properties at this development not on main sewage?

The overall volume of surface and treated water arising from the increased level of occupants and development poses a potential flooding risk to properties on Chapel Lane backing onto the field behind the development site.

The proposed raised level of the rear of plots 3 & 4 raises a privacy issue overlooking (from both ground floor and first floor level) the field/extended amenity area behind the development site enjoyed by the residents of Orchard Cottage as owners of the land to the west of the development site.

The property Karenza will be overlooked by Plot 5 and will become a privacy issue.

The Bombay Palace building still standing at this time but will be demolished the Parish Council ask that the date stone near the roof line stating 1783 T I E should be removed from the building before being demolished and placed at an appropriate place on the development site as a feature.

Consideration should be given to reducing the speed limit to 30mph in this area with the increase of traffic this development will bring.

The scheme layout and mix of houses should be redesigned to reflect the existing match of terrace and small detached cottages and bungalows with a reduced density and occupancy capacity to overcome the concerns raised above.

The Parish Council request that the Planning Officer for the development site meet representatives of the Parish Council on site before any final decision is made.

3 objections have been received from surrounding neighbours (some originally we submitted on the outline application but referring to this scheme). The objections were outlining a number of issues including the following:

- Not brownfield
- Over looking
- Drainage
- Ecology
- Landscaping

5.0 THE MAIN ISSUES

- Principle of development
- Details of the proposal
- Impact on surrounding residential amenity
- Drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application seeks permission for reserved matters as the overall principle of residential development has already been approved under the previous outline approval.

6.1.2 Policy CS6 of the adopted Shropshire Core Strategy is particularly relevant and requires development to be designed to a high quality using sustainable design principles and to be appropriate in scale, density, pattern and design taking into account local context and character. It also seeks to ensure that residential and local amenity is safeguarded and that there is sufficient capacity and availability of infrastructure.

6.2 Details of the proposal

6.2.1 The proposal is for a small estate comprising of seven 4 bedroomed detached properties orientated around a central access. Detached single garages are also proposed for each plot with plot 5 having a detached double garage. One of the objections from the Parish Council is regarding the density of the development. An indicative layout showing 7 dwellings was supplied at outline stage and it was felt then that the site could comfortably accommodate the proposed number of dwellings in the locations without compromising amenity of future occupiers or surrounding neighbours. Officers remain of the opinion that the development is of an appropriate density taking account of the surrounding built form.

6.2.2 Plots 1 to 6 are designed with an open plan kitchen/dining area, living room, utility and WC to the ground floor and four bedrooms (one en-suite) and separate bathroom. Plot 5 is a similar design but with a larger footprint incorporating a study to the ground floor and 2 of the bedrooms at first floor being en-suite.

6.2.3 The Parish Council have objected to the proposal on a number of issues but one of which related to plot 1 and its proximity to the highway. Following this amendments were submitted from the applicant altering the house type on this plot allowing it to

be situated further back into the site away from the adjacent highway. This is considered to be acceptable by officers and it is felt that there would be no safety issues in relation to the highway with the amended design.

- 6.2.4 Materials proposed for the development are a mixture of lbstock red facing brick types and grey Marley clay & concrete tiles. This would be conditioned on any decision notice that all materials need to be in accordance with details supplied on the plan. The Parish Council have also expressed that slates would be more in keeping with the area. It is felt that this could be explored further with a conditions relating to materials as a concrete tile of a colour which matches the surroundings may be acceptable.

6.3 Impact on surrounding residential amenity

- 6.3.1 A number of objections have been received from neighbours to the rear in relation to overlooking issues. It should be noted that many of these objections were submitted electronically to the outline application but do relate to the reserved matters proposal so are considered as part of this application.
- 6.3.2 The site is elevated from properties at the rear and the ground slopes at the back of a plot to a pond area to the south west. The area as a whole is colloquially named 'the bog' which has also generated some drainage concerns (discussed further below).
- 6.3.3 Firstly the proximity of plot 5 to neighbouring properties was queried. In considering this it should be noted that the original property (i.e. Bombay Palace) was in this location on the site and had windows facing directly to neighbouring properties. Plot 5 has been oriented so that windows facing neighbouring Karenza (approx. 11m from plot 5) are obscure glazed bathrooms at first floor and a sitting room and study at ground floor. It is felt there will be no overlooking issues in this direction due to the boundary treatments between the 2 properties. The elevation facing Cleveland Cottage will have 3 bedroomed windows at first floor but the angle of the proposal is more obscure than the existing Bombay Palace on the plot so views would be part of the rear garden of Cleveland and not any habitable rooms. In addition there will be approx. 20m between the windows and this neighbouring property.
- 6.3.4 A query has also arisen regarding overlooking issues of Plots 3 and 4. Although a neighbouring property has incorporated land to the rear of the proposal site into their garden this area is still considered agricultural land and hasn't had permission for change of use. However even if this were garden area the proposal would be considered in terms of the distance of the windows in the new properties to habitable rooms in neighbouring properties. This distance is felt to be sufficient so as to not to cause any overlooking issues or harm to surrounding residential houses.
- 6.3.5 In light of the above it is felt that the proposal will have no adverse effect on surrounding residential amenity and therefore meet with the relevant policies.

6.4 Drainage

- 6.4.1 A number of drainage concerns have arisen from neighbouring properties plus a condition was added to the Outline permission as follows:

6. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

Initially the applicant wished to use soakaways for the disposal of surface water, however this was found to be inadequate on this site due to the water rich nature of the ground in the area. The applicants are currently exploring a separate scheme and have employed a drainage engineer. This scheme has yet to be submitted to our drainage section and is part of a discharge of conditions application (15/00330/DIS) running concurrently with this application. No work on site would be able to start until a scheme has been approved by the Council's drainage engineer so it is felt that no further conditions are required regarding this issue in the reserved matters application. A condition will be added stipulating that all Outline conditions remain in force unless discharged by the LPA.

7.0 CONCLUSION

The proposed development is acceptable in its design and scale and it will not have a detrimental impact on the character and appearance of the area. Furthermore the proposal will not have a detrimental impact on the residential amenities of the area.

Therefore the proposal is in accordance with the NPPF and policies CS5, CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy.

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

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

National Planning Policy Framework

Relevant planning history:

13/04672/OUT Outline application for the erection of 7 dwellings to include access
GRANT 31st October 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 shall be carried out strictly in accordance with the plan no.s SA18263/02 rev A, 05 rev A, 11, 09 & 07.

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

2. All conditions attached to outline planning permission 13/04672/OUT, dated 31st October 2014, are unaffected by this notice and shall remain in full force unless discharged previously in writing by the Local Planning Authority.

Reason: The conditions of the outline planning permission remain applicable.

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

3. The external materials and their colour shall be as shown on the deposited plan, no alterations shall be made to these materials or colour without the express consent in writing of the Local Planning Authority.

Reason: To ensure that the proposed development shall harmonise with surrounding development.