



Committee and date  
Central Planning Committee  
16 July 2015

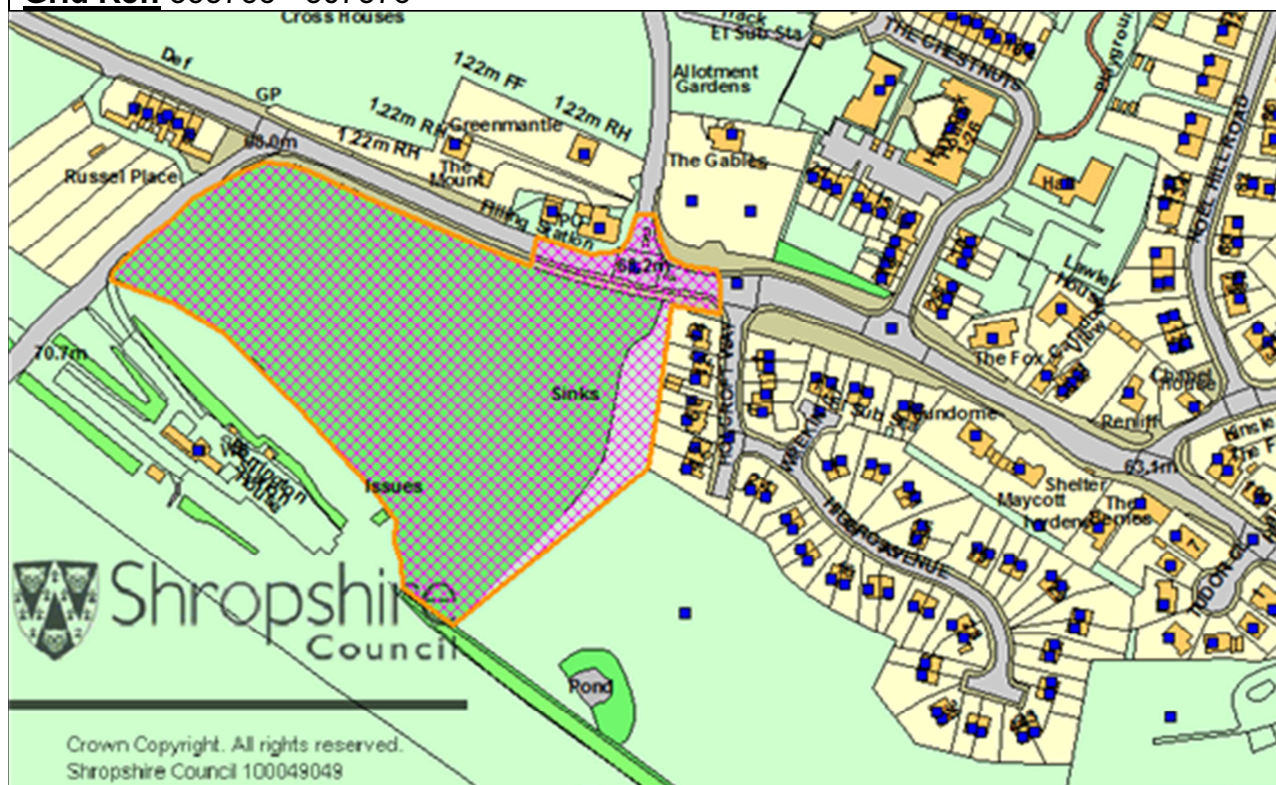
## Development Management Report

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### Summary of Application

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| <b>Application Number:</b> 15/00539/OUT   | <b>Parish:</b> Berrington  |
| <b>Proposal:</b> Outline application for residential development to include means of access |  |
| <b>Site Address:</b> Land Adj. To Holcroft Way, Cross Houses, Shrewsbury, Shropshire        |  |
| <b>Applicant:</b> Mr Clive Benfield   |  |
| <b>Case Officer:</b> Jane Raymond   | <b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a> |

**Grid Ref:** 353756 - 307376



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC at the prevailing rate at the time of the application for Reserved Matters, and the provision of an improved and enlarged roundabout on the A458.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application relates to Outline permission for residential development to include means of access. It is phase 2 of a development approved under application 14//02406/FUL. The indicative layout for that proposal indicated 39 dwellings with access off Holcroft Way. This application indicates an additional 35 dwellings with access via an improved and enlarged roundabout off the main road (A458). The previously approved scheme and the existing properties in Holcroft Way and High Cross Avenue are also proposed to be accessed via this improved roundabout.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site lies to the North West of the previously approved site and is situated between the A458 to the North East and the disused railway line and converted Station House to the South West. Further to the North West is the minor road to Berrington and the properties in 'Russel Place', which is a terrace of five grade 2 listed buildings situated on the opposite side of this road.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposed development is considered to be a major application with complex issues which in the view of the Planning Services Manager in consultation with the committee chairman and vice chairman and the local member should be determined by the relevant Planning Committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

##### 4.1.1 SC Highways DC

###### Recommendation

The highway authority raises no objection to the granting of consent.

###### Background

We understand that this application follows discussions with the local community during the consideration of the adjacent approved site referenced 14/02406/OUT, where requests were made via the parish council for an upgrade to the existing mini-roundabout to a full roundabout. Whilst this infrastructure upgrade was not considered viable or required under the previous application, the applicant has decided to submit this application to extend the area of proposed residential

development which makes the construction of the replacement roundabout financially viable. The proposals include the closing off of the existing Holcroft Way priority junction following the completion of the roundabout, which would provide access to the proposed and existing residential development; given that a number of recent collisions have been recorded at this junction, the proposals should have a positive benefit to road safety along this length of the A458.

We consider that the proposed roundabout should provide traffic management benefits when compared with the existing mini roundabout, including possible lower vehicle speeds along this stretch of the A458. The removal of the Holcroft Way junction will also remove a potential distraction near to the existing zebra crossing, which could improve the conspicuity of this crossing point.

As the proposed roundabout would be a 'retro-fit' onto the existing network, there is likely to be a deficiency in deflection when travelling south-east through the junction (meaning some vehicles will be able to travel in a reasonably straight alignment through the junction). However, we consider that the roundabout will have a greater visual impact to the approaching driver who is more likely to adopt a lower speed when compared with the existing mini-roundabout. Therefore on balance we consider that the proposed junction will yield the positive benefits outlined above.

We understand the layout of the site is reserved for approval at a later stage, should the application be approved.

#### 4.1.2 **SC Ecologist**

I have read the above application and the supporting documents, including the Ecological Survey Report by Turnstone Ecology dated February 2015

##### Great crested newts

There is one pond (Pond 1) sited 50m to the south west of the development site. Pond 2 is around 170 m to the south east. Turnstone (2014) carried out six presence/absence surveys for great crested newts (GCN) on these ponds in May and June 2014.

One adult female and one adult male were found in Pond 2. No amphibians were found in Pond 1. No GCN eggs or larvae were found which would have confirmed breeding. Turnstone (2015) recommends precautionary mitigation measures including installation of temporary exclusion fencing for GCN before development and removed on completion of the works. This approach was accepted for the adjacent application 14/02406/OUT which is closer to Pond 2.

##### Bats

The hedgerows, stream and trees will offer bat foraging and commuting routes for bats. It is important that these are retained and that lighting is sensitively designed. Turnstone (2014) recommends erection of bat boxes and bat bricks.

### Badgers

No conclusive evidence of badgers was found in or adjacent to the application site. There is known to be a badger sett over 150m away. Turnstone recommends that a check for badger setts is undertaken at least 8 weeks prior to the start of construction.

### Nesting birds

The boundary vegetation is suitable for a variety of nesting birds.

Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

#### **4.1.3 SC Drainage**

Recommends drainage details, plans and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

#### **4.1.4 SC Rights Of Way**

Public Footpath 2 Berrington runs directly through the proposed site as shown on the attached 1:2500 scale plan. The path will need to be taken into consideration at an early stage in the planning process. The block plan and design and access statement acknowledge the existence of the public right of way stating that it will be retained and routed through areas of public open space within the development. The path currently runs from the dismantled railway line directly north easterly to meet the County Road and it will require a legal diversion to re-route the path to follow the line shown on the Block Plan. The applicants will need to contact the Mapping and Enforcement Team to discuss the necessary diversion. The applicants will also need to apply for a temporary closure of the footpath if it cannot be kept safely open for use by walkers at all times when development commences.

#### **4.1.5 SC Affordable Houses**

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

#### 4.1.6 **SC Learning & Skills**

Shropshire Council Learning and Skills reports that this development, in aggregation with any others in the village, may cause capacity pressures at the local primary school in the medium to longer term. It is therefore essential that consideration is made to developers of this and any other new housing in the village making contributions towards the consequential cost of any additional places/facilities considered necessary at the school.

#### 4.1.7 **SC Planning Policy**

The site is bounded to its north by the A458, to its east by houses at Holcroft Way, to its south by the line of the former railway and station, and to its north-west by Russel Place. The scheme represents the second phase of a larger development, the first phase being on land to the south-east of the site which has already received approval for around 40 dwellings (final numbers to be confirmed at reserved matters stage).

##### Policy context and the Principle of Development

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 150 of the NPPF, planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan currently consists of the Core Strategy (adopted in 2011) and the remaining 'Saved' policies from the Shrewsbury and Atcham (SABC) Local Plan (adopted in 2001). In addition, and importantly, the Site Allocations and Management of Development (SAMDev) Plan is at an advance stage and is currently subject to consultation on proposed modifications ahead of likely adoption in September 2015.

##### Core Strategy

For Shropshire's rural area, policies CS4 and CS5 are particularly relevant. CS4 establishes the intention to focus development in the rural areas into identified community hubs and community clusters, whilst CS5 establishes the policy framework to apply to those areas outside defined settlements in the 'open countryside'. Of importance CS5 focusses residential development in the countryside on affordable dwellings to meet local need; and dwellings to house agricultural, forestry or other essential workers. New open market housing is restricted, except where this is linked to a residential conversion.

##### SABC Local Plan

'Saved' policy HS3 states that in Cross Houses development will only be granted for residential development proposals subject to a number of criteria being met, including that the development lies wholly within the development boundary. Whilst it is accepted that relatively little weight should be attached to this policy due to its age, it continues to be appropriate to treat this proposal as a departure from the Local Plan given the site's location outside the settlement's development boundary.

### Site Allocations and Management of Development (SAMDev) Plan

The Council's SAMDev Plan was submitted for examination in August 2014. The Plan identifies those settlements in the rural area which will act as a community hub or as part of a community cluster following several stages of consultation, and significant involvement from parish councils.

The village of Cross Houses was not identified in the submitted SAMDev Plan, and would therefore be treated as open countryside in policy terms.

The Council have recently received the Schedule of Main Modifications into the submitted version of the Site Allocations and Management of Development (SAMDev) Plan from Inspector Claire Sherrett. The proposed modifications to the Plan have been arrived at following the Inspector's assessment of representations and following public hearing sessions during November and December 2014.

The proposed schedule of main modifications is currently out for consultation until 13th July. Only those areas subject to a proposed modification are subject to consultation. For clarity, there are no proposed modifications which relate to Cross Houses. In light of this it is considered that the SAMDev Plan establishes Cross Houses as a settlement in the open countryside.

The NPPF Paragraph 216 also states that decision makers may also give weight to relevant policies in emerging plans according to: the stage of preparation; the extent of unresolved objections; and the degree of consistency with the NPPF. It is therefore considered appropriate to give significant weight to those parts of the SAMDev Plan not currently subject modification.

It is not considered therefore that the principle for open market residential development in Cross Houses has been established and, given the primacy of the development plan in decision making, significant weight should be attached to this in decision making.

### Housing Land Supply

It is considered that Shropshire has a 5.43 years supply of deliverable housing sites, and that in line with paragraph 49 of the NPPF that the housing supply policies of the Local Plan are not out of date.

### Other Material considerations

In noting the requirements of the Planning and Compulsory Purchase Act 2004, it is relevant and appropriate to given consideration to other material considerations that could be given weight in decision making.

In this case it is noted that the developer has clearly indicated they would be prepared to provide land and the full construction costs of a redeveloped roundabout on the main A458 road to act as the vehicular access to both phases of the overall proposal. Taking both phases as a whole, it is view of the Highways Authority that this is necessary to make this scheme developable in planning grounds. It is noted that the scheme has support from the Parish Council and that

there is general community support for the proposal to enhance the highway junction. In weighing up the overall planning balance, it is considered that in this instance these are relevant material considerations that should be given weight in decision making.

In weighing up the overall planning balance, if it is considered that the material benefits of the scheme are of a sufficient nature to give support to the scheme, given the proposed highway improvements are both necessary and directly related to the proposal, it is considered necessary to ensure their delivery through a legal agreement, rather than through CIL.

## 4.2 - Public Comments

4.2.1 **Berrington Parish Council:** Supports this application in principle providing a construction access is constructed before work is started on Phase 1 of the development.

4.2.2 Three letters of representation have been received summarised as follows:

It is inevitable that this development will occur despite the initial resistance by the public and it would have been fairer to have presented both phases from the outset.

The residents of Holcroft Way will be subject to a long period of construction work and the construction of Phases One and Two should be sequential and carried out expeditiously within a three year period.

The construction of the proposed enlarged roundabout and the blocking up of Holcroft Way should be carried out prior to any construction taking place to improve the access to the site by large vehicles and lessen the disruption to the existing residential area.

The roundabout should be constructed prior to commencement for reasons of highway safety because it is considered that the central road markings beyond the roundabout from the Shrewsbury direction are an insufficient deterrent to prevent traffic turning right into Holcroft Way from that direction.

It is appreciated that the Proposed Block plan is indicative but it does not show the blocking up of Holcroft Way whilst the Design and Access Statement does and this should also be conditioned to ensure that it happens.

Requests that a brick wall is extended across the gap with the verges on either side also extended with an access for pedestrians in the centre.

## 5.0 THE MAIN ISSUES

Principle of development  
Highways/Access  
Scale, appearance and layout

Trees, Landscaping and Open Space  
Ecology  
Drainage  
Developer contributions

## 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. Since the adoption of the Councils Core Strategy policies the National Planning Policy Framework (NPPF) has been published and also needs to be given weight in the determination of planning applications. Paragraph 12 of the NPPF states 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'.*

6.1.2 Paragraph 14 of the NPPF states that:

*'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*

*— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the]Framework taken as a whole; or*

*— specific policies in [the] Framework indicate development should be restricted.'*

With regards to housing development paragraph 49 of the NPPF states that:

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'.*

and that

*'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'*

6.1.3 The key issue in determining this application therefore is whether adopted and emerging policies are considered up to date and what weight should be given to these policies balanced against the weight that can be given to other material considerations. The Council published a revised 5 year land supply statement alongside the submission of the Site Allocations and Management of Development



(SAMDev) Plan in August 2014 which demonstrates that the Council currently has a 5 year land supply. Now that the Council is in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements, policies for the supply of housing should be considered up-to-date.

## 6.2 Policy considerations

6.2.1 The relevant Local Plan for Cross Houses is the SABC Local Plan and the adopted Core Strategy in addition to the SAMDev DPD. Cross Houses is identified as a HS3 settlement within the SABC Local Plan which identifies that residential development would be acceptable subject to satisfying the following list of criteria:

*(i) that the development lies wholly within the settlement as identified by the development boundaries on the proposals map;*

*(ii) that the development does not detract from the character of the settlement and is of an appropriate scale, design and character sympathetic to the immediate environment;*

*(iii) that the development does not result in the loss of any land in open use that is considered important to the setting and character of the settlement;*

*(iv) that adequate provision can be made for essential utilities;*

*(v) that an adequate and safe means of access exists or can be provided.*

It is considered that the proposal meets with (ii) – (v) of the above (to be considered later in the report) but that it does not meet with (i) as the proposed site is outside the development boundary. The proposal would therefore be contrary to this policy and the site is considered to be situated in the countryside.

6.2.2 CS4 of the Core Strategy outlines how villages will be identified as Hubs or Clusters within the SAMDev DPD where additional development will be supported. Cross Houses is not identified as a hub or a cluster settlement. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.2.3 The Council have recently received the Schedule of Main Modifications to the submitted version of the SAMDev Plan and only those areas subject to a proposed modification are subject to consultation. Planning Policy have confirmed that there are no proposed modifications which relate to Cross Houses and that in light of this it is considered that the SAMDev Plan establishes Cross Houses as a settlement in the open countryside and that significant weight should be attached to this.

6.2.4 SAMDev Policy MD3 is subject to proposed modifications so less weight can be attached to this policy which is subject to consultation. MD3 relates to the delivery of housing development and states the following:

*Delivering housing:*

*In addition to supporting the development of the allocated housing sites set out in Settlement Policies S1-S18, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a.*

and at 4.16 states the following:

*“A key component of the housing land supply is the allocated housing sites identified in the Policies S1-S18, with related development guidelines. ‘Windfall’ development on other sites is also important, both within settlements and in the countryside, including both brownfield and, where sustainable, greenfield sites, having due regard to the policies of the Local Plan. The NPPF sets out a presumption in favour of sustainable development with reference to its economic, social and environmental dimensions.*

- 6.2.5 The reason given for the modifications is ‘*to clarify approach to review of the Local Plan and the positive approach to allocations and windfall development*’ and that these particular modifications ‘*reflect national guidance, provide a cross reference and clarify the requirements of the policy. They do not represent a significant change*’.

MD3 as modified supports sustainable windfall development on greenfield as well as brownfield sites both within settlements and in the countryside. However as this policy is subject to proposed modifications less weight can be given to MD3 during this period of consultation on the main modifications. Although significant weight should be given to adopted policy, and emerging policy not subject to modifications, the NPPF presumption in favour of sustainable development is still a material consideration that needs to be considered in weighing up the overall planning balance. This approach is also supported by adopted CS5 which seeks to restrict open market housing development in the countryside but also states the following:

*‘development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits’.*

In addition to a consideration of whether the proposal represents sustainable development the benefits of the proposal need to be considered and balanced against the conflict with adopted and emerging policy.

### 6.3 **Other Material Considerations**

#### 6.3.1 Sustainable development

- 6.3.2 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. 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.

6.3.3 Cross Houses is a large village with a range of services including a shop, post office, pub, community centre and petrol filling station and a regular bus service to Shrewsbury and a bus service to the primary schools in Condover or Cressage. The facilities in the village can be accessed on foot or by cycle, and the services, facilities and employment opportunities in Shrewsbury which is a short car journey away can also be accessed by public transport. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over reliance on the private motor car and is more sustainably located than many settlements that have been put forward as Hub and Cluster settlements suitable for development.

6.3.4 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

6.3.5 Economic role – The provision of additional houses in this location will support local businesses as future occupiers are likely to access and use local services and facilities in this and neighbouring villages helping them to remain viable. The proposal will provide employment for the construction phase of the development supporting builders and building suppliers. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan. However these benefits are not specific to development in this particular location.

- 6.3.6 Social role – The proposal will provide up to 35 houses which will help boost the housing supply providing a mix of family homes and will also provide much needed affordable housing on site at the prevailing rate at the time of the reserved matters application. Allowing villages to expand in a controlled manner will help provide support for and maintain (and potentially increase) the level of services and facilities available in the village and surrounding area helping them to become more sustainable. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Increasing housing numbers and population will help ensure services remain viable and that villages and rural communities remain or become more sustainable. In addition Cross Houses is one of the larger settlements in Shropshire and up to 35 houses in addition to up to 39 on the site already approved it is not considered to be a disproportionate number that would adversely change the structure and character of the community.
- 6.3.7 Environmental role – The environmental role of sustainability relates to protecting and enhancing the natural, built and historic environment, helping to improve biodiversity and moving to a low carbon economy. The site is grade 2 and 3 agricultural land but has no heritage, cultural or ecological designation. It is considered that the development of this relatively small piece of agricultural land of low ecological value would not be a significant loss. The proposal would not result in any adverse ecological implications or loss of trees but there would be some ecological enhancements of the site including tree and hedge planting and creation of a pond. In addition residential gardens often offer greater biodiversity than managed agricultural land. Although a green field site the development does not represent an intrusion into the countryside as the site is contained by a main road to the North East, the minor road to the North West with houses the other side, the disused railway line and Station House to the South West and the site previously given permission for development and Holcroft Way to the South East.. It is therefore considered that the development of this site (subject to a sensitive layout and design that preserves the setting of the adjacent listed buildings) would protect the natural, built and historic environment. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by a short car journey or public transport to the array of services, facilities and employment opportunities in Shrewsbury.
- 6.3.8 In conclusion it is considered that there would be no adverse impact of the proposal in terms of the three dimensions of sustainable development and that the proposal would fulfil all three roles. However some of the benefits that the proposal will bring (particularly the economic role) are not significant or specific to development of this particular site and could be applied to most developments in any location. At the time of the previous approval on the adjacent site it was considered that the proposed residential development would provide significant benefits in terms of boosting housing supply numbers but that was at a time when significant weight was being given to increasing housing numbers when the SAMDev plan wasn't at such an advanced stage. With SAMDev nearing adoption and sufficient land identified to meet the 5 year land supply less weight is being given to this.

### 6.3.9 Other benefits

6.3.10 In addition to representing sustainable development other material considerations have to be given weight and balanced against the conflict with adopted and emerging policy.

6.3.11 This proposal is phase 2 of a development already approved for up to 39 houses. At the time of that application there was concern about the impact on highway safety at the junction of Holcroft Way with the main road in proximity to a pedestrian crossing and the roundabout where there have been several accidents and near misses. However there was no objection from Highways and that application was approved subject to conditions securing some highway improvements but it was not considered necessary to require the developer to fund any improvement of the existing roundabout. It would also not have been viable for the developer to do so. However with the submission of this application with potentially up to 75 houses across both sites the provision of an improved roundabout becomes viable. Highways have confirmed that the improvements to the roundabout are required and necessary to make this second phase of the development acceptable in planning terms. Securing the provision of the land and improvements to the roundabout via a S106 agreement (all to be funded by the developer) meets the tests set out in paragraph 204 of the NPPF:

*Planning obligations should only be sought where they meet all of the following tests:*

*necessary to make the development acceptable in planning terms directly related to the development; and fairly and reasonably related in scale and kind to the development*

6.3.12 The roundabout is required to make the development acceptable and is directly related to and fairly and reasonably related in scale and kind to the development proposed. However in addition it brings the added benefits of providing a new and safe access onto the A458 for the existing residents in Holcroft Way and High Cross Avenue and will also help reduce vehicular speeds travelling through this part of Cross Houses and improve existing pedestrian and highway safety in a location which has been identified as hazardous by the parish and local residents. Many residents expressed concern about the difficulty of accessing the main road off Holcroft Way at busy times and also highway safety around the existing roundabout and pedestrian crossing due to speeding traffic on the main road. The roundabout improvements, the provision of a new and safe means of access on to the main road for residents in Holcroft Way and a reduction in traffic speeds approaching the roundabout are considered to be significant benefits of the proposal that are a material consideration when weighing up the overall planning balance.

6.3.14 As this proposal meets the three dimensions of sustainability and will provide significant benefit in terms of improving highway safety it is considered that on balance this outweighs the conflict with both adopted and emerging policy relating to housing land supply. It accords with CS5 representing development that will maintain and enhance countryside vitality and character and will improve the sustainability of this rural community by bringing local economic and community

benefits. In addition if the main modifications to SAMDev MD3 are approved it will also accord with MD3 representing sustainable development on a windfall site that reflects the NPPF presumption in favour of sustainable development. The proposed development is therefore considered to be acceptable in principle.

#### **6.4 Highways/Access**

6.4.1 The proposal includes upgrading the existing mini-roundabout to a full roundabout to provide access to both the proposed site and the previously approved site and also to Holcroft Way. Highways have confirmed that this is an acceptable means of access to the proposed development site and given that a number of recent collisions have been recorded at this junction and at the zebra crossing the proposals should have a positive benefit to pedestrian and highway safety along this length of the A458. These include potential lower vehicle speeds and the removal of the Holcroft Way junction which will also remove a potential distraction near to the existing zebra crossing.

6.4.2 Highways have recommended conditions requiring the proposed roundabout junction with the A458 to be constructed prior to the development first being brought into use and on completion of the development connecting the new access road to Holcroft Way and closing off to motor vehicles the existing junction between Holcroft Way and the A458. The Parish support the proposal providing a construction access is provided before work is started on Phase 1 of the development. A few residents have requested that construction of the proposed enlarged roundabout and the blocking up of Holcroft Way should be carried out prior to any construction taking place to improve the access to the site by large vehicles and lessen the disruption to the existing residential area. However Holcroft Way cannot be blocked off and connected to the new estate road and enlarged roundabout until the development is almost complete. However it might be potentially hazardous for all construction vehicles, deliveries and site workers to access both the phase 1 site and the phase 2 site via Holcroft Way so a condition will be imposed requiring a construction management plan being submitted that will include details of access to the site during the construction period. A few residents have also requested that the construction of Phases One and Two should be sequential and carried out expeditiously within a three year period but it is not possible to impose such a condition

#### **6.5 Scale, appearance and layout**

6.5.1 This proposal is Outline with all matters other than access reserved for later approval. The indicative layout indicates an estate of predominantly family sized detached houses and semi-detached homes. This is only indicative to illustrate how the site might accommodate the number of dwellings indicated and it is considered that the site could accommodate up to 35 dwellings without appearing cramped or over developed.

6.5.2 The North West part of the site is adjacent to the road to Berrington and is opposite a terrace of listed properties known as 'Russel Place'. The proposed development therefore might affect the setting of these listed buildings and has the potential to impact on these heritage assets. The proposed layout, design and appearance

needs to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special regard is given to the desirability of preserving the setting of listed buildings. However as this application is only outline with siting, scale and appearance reserved for later approval the density, siting and design of dwellings is not part of the proposal and would not be fixed by approval of this application. The number of dwellings and the layout could change completely and will be considered fully at the Reserved Matters stage along with scale and appearance and the impact on the setting of the nearby listed buildings.

- 6.5.3 It is considered that a sensitively designed scheme of an appropriate scale and design could be achieved that would not significantly and adversely affect the character and appearance of the locality or the setting of the heritage assets.

## 6.6 **Trees, Landscaping and Open Space**

- 6.6.1 A tree survey and arboricultural Impact assessment has been submitted. There is a mature hedgerow along the boundary with the A458 to the North East and the road to Berrington to the North West and a mature hedgerow and trees along the boundary near to the disused railway line to the South West. A small section of hedgerow will be required to be removed to make way for the enlarged roundabout but this will be compensated by new hedge planting. The area between the railway line and the site boundary will remain as it is and provide a green corridor. There are no trees within the site and the land can be developed without impacting on trees along the periphery of the site and on adjacent land subject to tree protection measures.

- 6.6.2 The layout and landscaping shown on the indicative layout submitted includes open space provision around the route of the existing public footpath. For a development of more than 20 houses recreational open space should be provided on site in accordance with the IPG. Any equipped play areas within recreational open space is funded by CIL. The Design and Access statement indicates that enough open space for both the phase 1 and phase 2 developments can be provided on this site as it is preferable to deliver a large, functional area of public open space to serve both developments as outlined in the IPG (rather than having two smaller areas split between both sites). It is considered that the site is developable without the loss of mature trees and the density and layout of the development including detailed landscaping, open space provision and the exact route of the footpath will be considered in detail and determined at the reserved matters stage as will a tree protection plan.

## 6.7 **Ecology**

- 6.7.1 An Ecological Survey Report has been submitted and concludes that the development will affect an ecologically poor arable field and that the existing drain will form part of a sustainable drainage system to include open pools. The trees, hedgerows and scrub around the northern, western and southern boundaries of the site will be retained and enhanced. The site is not designated for its wildlife interest

at an international, national or local level and no legally protected plant species were identified or are likely in the habitats encountered. No evidence of protected species was found within or immediately adjacent to the proposed development site during the survey but there are habitats with suitability for bats, nesting birds, Great Crested Newt and reptiles within or adjacent to the site. The habitat protection, enhancement and creation proposed within the report would maintain and increase connectivity and species diversity around the site and provide increased opportunities for a range of flora and fauna. Appropriate conditions and informatives regarding ecological protection and enhancement suggested by the Councils Ecologists will be imposed.

## 6.8 Drainage

6.8.1 A flood risk assessment and drainage proposal have been submitted and identifies that the site is situated within flood zone 1 (the lowest risk of flooding) and is not affected by flooding from rivers but that there is some surface water flooding along the course of the drainage ditch that crosses the site. A sustainable surface water drainage system is proposed that will utilise the existing ditch and will include flow control to release the water into this existing drainage ditch at a slow greenfield rate. Full details of the surface water drainage will be submitted at the Reserved Matters stage as suggested by SC drainage.

## 6.9 Developer contributions

6.9.1 The proposal is outline only but due to the likely number of dwellings affordable housing will be provided on site and the amount will be determined by the target rate at the time of the submission of an application for Reserved matters. This will be secured by a S106 in accordance with CS11 and the Housing SPD. At the current rate of 15% a development of up to 35 houses would include 5 affordable homes on site. The proposal will also be liable for a CIL payment and development of 30 market dwellings would be liable to make contributions at the rate of £80 per square metre floorspace. With an average floorspace of 100sqm per dwelling the development will generate an estimated £240,000 of Community Infrastructure Levy (CIL) monies. 90% of net CIL funds should be spent '*in the settlement in which the development occurs*' and therefore this contribution would be largely invested in Cross Houses. Berrington Parish Council sets its priorities for the use of CIL monies through the annually reviewed Shropshire Place Plan for this area. Additional developer contributions are not required towards education as CIL replaces the need to seek additional developer contributions for education or other infrastructure improvements for example and can be used to target community improvements identified in the LDF Implementation plan and Place plans. However CIL monies cannot be used to fund an aspect of the proposed development that is considered to make it acceptable in planning terms. Therefore as already outlined in paragraph 6.3.11 above the improvement and enlargement of the existing roundabout will be funded entirely by the developer and secured by a S106 agreement.



## 7.0 CONCLUSION

- 7.1 The NPPF advises that proposed development that conflicts with an up to date local plan should be refused unless other material considerations indicate otherwise. The Council can demonstrate a 5 Year land supply and policies for the supply of housing are therefore considered to be up to date. Significant weight should therefore be given to adopted SABC policy HS3 and policies (not subject to main modifications) within the emerging SAMDev plan and these both identify the site as countryside where development should be restricted under CS5. However CS5 does support '*development proposals on appropriate sites which maintain and enhance countryside vitality and character ... where they improve the sustainability of rural communities by bringing local economic and community benefits*'. Therefore an application cannot be refused simply because it is contrary to policy relating to housing land supply but other material considerations have to be given weight and balanced against the conflict with adopted and emerging policy. Other material considerations include whether the proposal represents sustainable development and whether there are any other significant benefits (or adverse impacts) of allowing the proposal.
- 7.2 There would be no adverse impact of the proposal in terms of the three dimensions of sustainable development and the proposal would fulfil all three roles of sustainability; although it is acknowledged that the economic, social and environmental benefits are not significant. However the proposed improvements to the existing roundabout to make the development acceptable will also bring highway and pedestrian safety improvements to an area already identified as hazardous and will benefit the community. It is considered that the significant benefits to highway and pedestrian safety that this development will bring in addition to the presumption in favour of sustainable development on balance outweighs the conflict with both adopted and emerging policy and the proposed development is therefore considered to be acceptable in principle.
- 7.3 Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in harm to the character and appearance of the locality or the setting of the adjacent terrace of listed buildings. The proposal would not result in the loss of any significant trees, would have no adverse highway or ecological implications subject to conditions being imposed, and landscape details and open space provision will be determined as part of an application for reserved matters. The on-site affordable housing provision and any balance of AHC and the proposed highway improvements will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS5, CS6, CS11, and CS17 and the aims and provisions of the NPPF.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

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

### 8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

### 8.3 Equalities

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

## 9.0 Financial Implications

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

the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: SABC saved policy HS3 and Core Strategy policies CS4, CS5, CS6, CS11 and CS17.

### RELEVANT PLANNING HISTORY:

14/02406/OUT Outline application for residential development to include means of access GRANT 4th February 2015

## 11. Additional Information

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| List of Background Papers: File 15/00539/OUT     |
| Cabinet Member (Portfolio Holder): Cllr M. Price |
| Local Member: Cllr Claire Wild                   |

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the siting, design and external appearance of the development and the 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 the reserved matters shall be made to the local planning authority before the expiration of one year 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 be begun 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. Full details, plans and calculations of the proposed SuDS including information on the proposed maintenance regime for any sustainable drainage system proposed and details of who will take responsibility, should be submitted for approval as part of the first application for reserved matters. The SuDS shall be implemented as approved prior to the first occupation of the dwellings

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to ensure that the drainage system remains in good working order throughout its lifetime.

5. As part of the first application for reserved matters a contoured plan of the finished ground levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

6. As part of the first application for reserved matters a Construction Method Statement shall be 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:
- o vehicular access to the site during construction
  - o the parking of vehicles of site operatives and visitors
  - o loading and unloading of plant and materials
  - o storage of plant and materials used in constructing the development
  - o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - o wheel washing facilities
  - o measures to control the emission of dust and dirt during construction
  - o 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. As part of the first application for reserved matters details of the design and construction of any new roads, footways, and accesses together with details of the disposal of surface water shall be submitted to the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

8. As part of the reserved matters details of the location and design of ten bat boxes or bat bricks shall be submitted to the LPA for approval and shall be erected prior to the first occupation of the dwellings.

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

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

9. No development or earth moving shall take place or material or machinery brought onto the site until Risk Avoidance Measures for great crested newts have been submitted and approved and protective fencing has been erected on site in accordance with the approved Ecological Survey Report by Turnstone Ecology revision 02 report dated September 2014. The approved Risk Avoidance Measures shall be implemented.

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

10. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development site to which this consent applies immediately prior to work commencing. The site should be inspected within 3 months prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning

Authority. If the survey indicates the presence of any Badger Setts within 30 metres of the site then prior to the commencement of the development a detailed mitigation plan shall be submitted for the approval of the Local Planning Authority. The mitigation shall be undertaken in accordance with this approved plan.

Reason: To ensure the protection of badgers

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

11. The proposed roundabout junction with the A458 shall be modelled using ARCADY, or other appropriate assessment tool and a Road Safety Audit carried out on the proposed design and details of these assessments shall be provided to the local highway authority for review prior to the commencement of the access works on site.

Reason: To ensure a satisfactory access to the site and in the interests of highway safety

12. The proposed roundabout junction with the A458 shall be fully constructed in accordance with the approved design prior to the development first being brought into use and/or the first occupation of the site.

Reason: To ensure a satisfactory access to the site and in the interests of highway safety.

13. Upon completing and opening to the public the proposed roundabout junction with the A458 the new access road shall be connected to Holcroft Way and the existing junction between Holcroft Way and the A458 shall be closed to motor vehicles, in accordance with the approved design.

Reason: In the interests of highway safety.

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

14. Any external lighting on the site shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.

15. 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.

16. 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.