

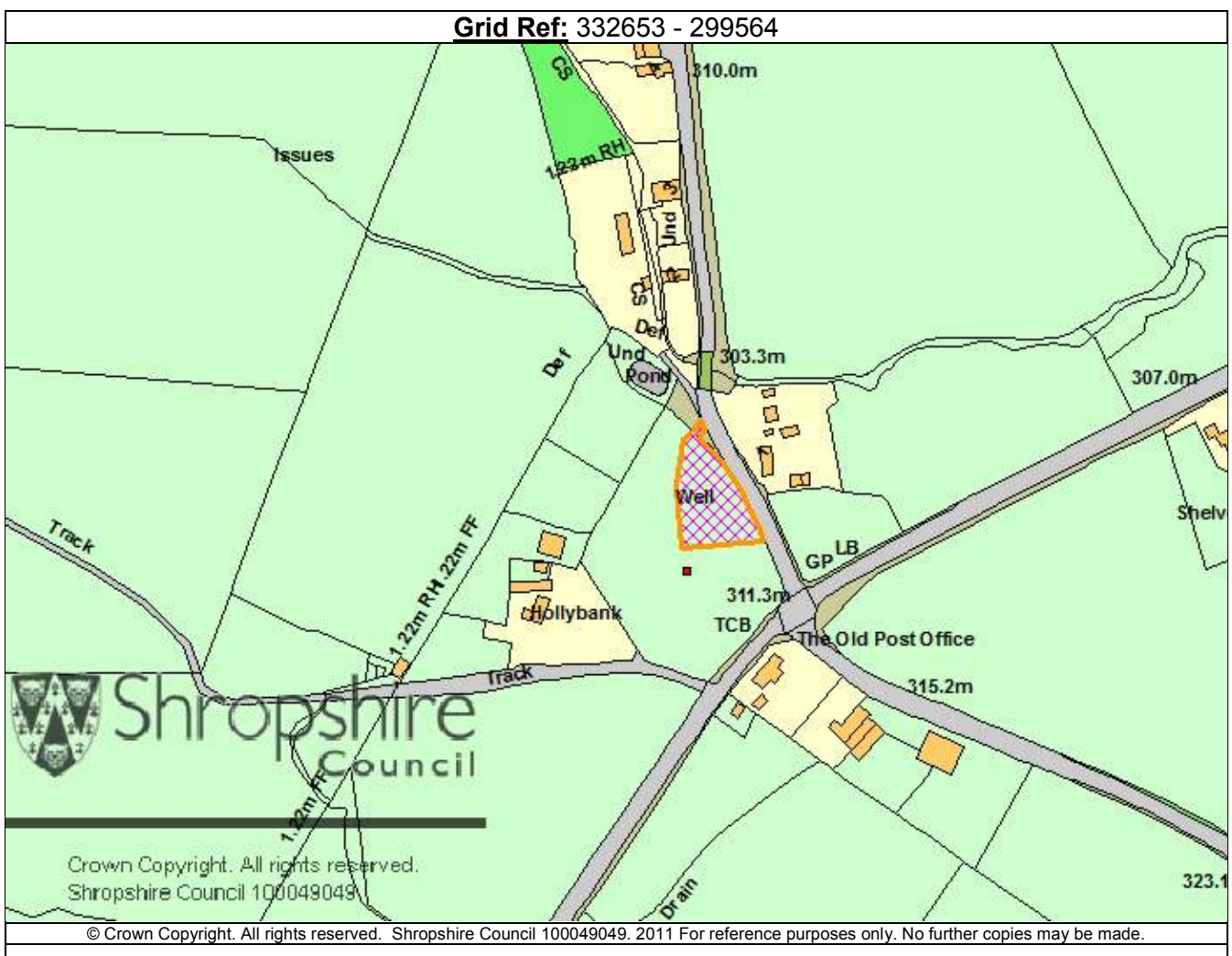
## Development Management Report

Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 14/03447/OUT	<b><u>Parish:</u></b>	Worthen With Shelve
<b><u>Proposal:</u></b> Erection of one dwelling with detached domestic garage, and formation of vehicular access (outline application to include access, layout and scale, but with matters of appearance and landscaping reserved)		
<b><u>Site Address:</u></b> Proposed Residential Development Land At Hemford Bromlow Minsterley Shropshire		
<b><u>Applicant:</u></b> Mrs J Harrison		
<b><u>Case Officer:</u></b> Trystan Williams	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	



**Recommendation:** Refuse

**Recommended reason for refusal:**

1. On account of its elevated and prominent situation, and the need for substantial level changes and hard landscaping as a result of the topography, the development would appear stark and incongruous by comparison with the scatter of established dwellings in the vicinity. Consequently it would detract from the scenic quality and essentially open character of the Shropshire Hills Area of Outstanding Natural Beauty, contrary to the National Planning Policy Framework and Policies CS6 and CS17 of the Shropshire Council Local Development Framework Core Strategy.

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application, as amended, seeks outline planning permission to erect a single open-market dwelling with detached garage. Also sought at this stage is approval of details of access, layout and scale, which would be as per the latest revised plans. However, matters of appearance and landscaping are reserved for consideration under a separate application, and in these respects the plans should be regarded as indicative.
- 1.2 Originally the proposal was for two dwellings across a larger area, with all matters reserved except for the means of access.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Hemford is a scattered hamlet in the valley between Shelve Hill and Bromlow Callow, within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). The revised application site comprises the northeast quadrant of a paddock which rises from north to south. Along the southeast boundary runs the A488 Bishop's Castle – Shrewsbury road, with a red brick house formerly the local post office opposite. To the east the site is bounded by the local road to Bromlow, beyond which is a rendered cottage named 'Brooklyn'. There is also a loose ribbon of roadside properties beyond a brook to the north, and to the west a smallholding named 'Hollybank'. In general the area is characterised by small hedged pasture fields interspersed with forestry plantations and unenclosed moorland on the higher ground.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Although the Parish Council has classified its comments as neutral, the Local Member for Shropshire Council feels the application raises significant material considerations. Accordingly, in line with the Council's adopted Scheme of Delegation, the application is referred to the planning committee for determination.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee comments**

##### **4.1.1 Shropshire Council Flood and Water Management – comment:**

Full details of the proposed surface water soakaways, to include percolation test results, sizing calculations and a layout plan, should be submitted for approval. A silt trap or catch pit should be installed upstream of the drainage fields. Since the site is identified as being at moderate to high risk of groundwater flooding the level of the

water table must also be established if infiltration techniques are to be used, and details for the management of groundwater will need to be provided.

- 4.1.2 If soakaways are unfeasible details of a suitable attenuation system should be submitted instead. Additionally if driveways or parking areas would have non-permeable surfaces measures to intercept run-off should be detailed, and in any case the incorporation of other sustainable drainage systems (SuDS) is encouraged.
- 4.1.3 Regarding foul drainage, full details of the proposed septic tank and its drainage fields should be submitted.
- 4.1.4 All of the above details could be secured by condition for approval at the reserved matters stage.
- 4.1.5 Shropshire Council Rights of Way – no objection:  
A public footpath follows the track along the southwest boundary, but would be unaffected by the proposal.
- 4.1.6 Worthen with Shelve Parish Council:  
26/8/14 – comment:  
No objection, given that the development appears to accord with the Parish Plan and Local Implementation Plan. However, clear visibility should be ensured at the access point, both for emerging vehicles and passing motorists, who seem to exit the A488 and cross the road bridge to the north at high speed.
- 4.1.7 3/10/14 – comment:  
No further comments.
- 4.1.8 5/11/14 – comment:  
The Parish Council maintains its original comments, and reiterates its concerns regarding visibility and vehicle speeds at the access point.
- 4.1.9 30/6/15 – comment:  
The Parish Council maintains its original comments.
- 4.1.10 Shropshire Council Historic Environment (Archaeology) – no objection:  
No comments in respect of archaeological matters.
- 4.1.11 Shropshire Council Ecology:  
7/11/14 – objection:  
In the absence of additional information in respect of great crested newts there can be no certainty the development would not cause an offence under the Conservation of Habitats and Species Regulations 2010. Natural England advises that ponds within 500 metres of development sites should be assessed for their suitability for great crested newts. In this case there has been no full search of a pond located on the site boundary. It is unclear whether the ecological consultant was denied access to this pond, but if so the Council would require written evidence of this.

- 4.1.12 The consultant has suggested the pond may be dry, but again no evidence has been provided to support this statement. Indeed there is some ambiguity within the ecologist's report, which further on advises care in implementing and maintaining drainage systems in order to avoid any significant impacts on what it refers to as wetter habitats adjacent to the pond and stream.
- 4.1.13 Other ponds within 250 metres should be assessed for their broad suitability for great crested newts using a Habitat Suitability Index. If any ponds are found suitable it may be necessary to carry out a presence/absence survey, and, if newts are found, a population size class estimate. The ecologist should then make recommendations on whether a European Protected Species Licence, mitigation scheme and/or precautionary method statement will be needed.
- 4.1.14 10/2/15 – objection:  
The updated ecological assessment has now been reviewed, along with objectors' comments. Additional information is required in relation to the site's botanical interest.
- 4.1.15 The ecological report now considers the approximate areas of more species-rich grassland identified during the Phase 1 survey. It advises that the eastern side of the site has some botanical interest and should be retained/protected during and post-development. However, this is not reflected by the current layout plan. Alternatively if the current plan is considered more acceptable for other reasons it is recommended that another area of the paddock should be retained and managed for its botanical interest. This should be shown on an updated plan.
- 4.1.16 Regarding great crested newts, Council ecologists have now visited the adjacent pond and confirmed that its suitability for breeding newts is low. A fast flowing stream separates this pond from the wider environment and would act as a dispersal barrier for newts. As a precaution, however, adherence to the ecological consultant's recommendations should be ensured by condition, and an informative regarding the legal status of great crested newts should also be included on any planning permission. Further informatives should address the operation of trenches and storage of building materials.
- 4.1.17 A neighbour has recorded badgers in close proximity. The applicant's ecologist did not identify any badger setts within 50 metres of the site boundaries, but has proposed reasonable avoidance measures to ensure the protection of mammals which may use the site for foraging/dispersal. An informative regarding the legal status of badgers should be attached.
- 4.1.18 Having visited the site, the Council's ecologists have assessed its potential to support curlew and lapwing. Given its location and current management regime this is considered to be limited, and so the development is unlikely to have a detrimental impact on ground-nesting bird species. An informative regarding the legal status of nesting birds should be included as a precaution.
- 4.1.19 The site does have potential for foraging and commuting bats. Conditions should be used to control external lighting and secure provision of bat boxes.

- 4.1.20 The additional hedge planting referred to on the amended layout plan is welcomed. Precise details should again be secured by condition.
- 4.1.21 15/6/15 – no objection:  
The latest amended plans show the development area reduced. This will help retain botanical interest on site. Previous comments on great crested newts, badgers, ground-nesting birds, bats and landscaping are reiterated.
- 4.1.22 Shropshire Council Highways Development Control:  
7/11/14 – objection:  
There are concerns over visibility for drivers emerging from the proposed access. The submitted layout plan indicates visibility splays of 2.4 x 43 metres can be provided. However, 43 metres is the minimum distance acceptable for 30mph restricted zones under the Department for Transport's *Manual for Streets*, whereas the proposed access would emerge onto a section of single carriageway road with a derestricted speed limit. If the application is to be supported further justification for the reduced visibility splays should be sought.
- 4.1.23 Objectors refer to the potential impact of additional vehicle movements on the surrounding highway network, and on the A488 Shelve crossroads in particular. The highway authority recognises that the site is close to the crossroads, and that this has been identified previously as an accident cluster. However, given the numbers of vehicle movements and turning manoeuvres which occur already at the junction it would be difficult to demonstrate that the additional traffic likely to be generated by the development would have so significant an impact on highway safety as to sustain an objection on these grounds.
- 4.1.24 11/2/15 – no objection:  
Whilst it is acknowledged that the proposed visibility splays do not meet the minimum standards desirable for the speed limit applicable here, given the alignment of the highway carriageway the speed of approaching vehicles is in fact likely to be constrained. On account of this, and bearing in mind the scale of the development, it is unlikely that a highway authority objection could be sustained on the grounds of insufficient visibility. No objection is therefore raised, subject to precise details of the layout, construction and sightlines of the new access being secured by condition. The information submitted should also include details of any additional passing place to be provided alongside the entrance, as outlined in the agent's correspondence dated 20<sup>th</sup> November 2014.
- 4.1.25 Shropshire Hills AONB Partnership – comment:  
The local planning authority has a statutory duty to take into account the AONB designation, and National Planning Policy Framework (NPPF) policies give the highest level of protection to AONBs. The application also needs to conform to the Council's own Core Strategy policies and emerging Site Allocations and Management of Development (SAMDev) plan, whilst the Shropshire Hills AONB Management Plan is a further material consideration. The lack of detailed comments by the Partnership should not be interpreted as suggesting that the application raises no landscape issues.

## 4.2 Public comments

4.2.1 Prior to the latest revisions where the number of dwellings proposed was reduced from two to one, the application attracted objections from five separate households. The following issues were raised:

- Greenfield agricultural land within AONB unsuitable for housing. Development of open countryside adjacent to farms and smallholdings would not constitute infill.
- Under the NPPF isolated new homes in the countryside should be avoided, and recent appeal and High Court decisions indicate lack of a defined five-year housing land supply need not dictate approval of inappropriate development in AONB.
- General political consensus that brown field sites should be used for housing in preference to greenfield land.
- No current need for more housing in Hemford area. In August 2014 there were 47 properties for sale within a three mile radius, 17 of them three-bedroomed like those proposed. Additionally the Old Post Office directly opposite has stood empty for five years and is owned by the applicant's family. Preference should be given to reusing empty properties such as this.
- Applicant's agent claims a pressing need for bungalows in the area, but provides no evidence to support this. Open-market detached 3-bedroomed bungalows tend to be more expensive than open-market detached 3-bedroomed houses, and may well be beyond reach of most local families.
- In November 2014 a property website listed 42 dwellings for sale within a 3-mile radius of the site, 16 of which were 3-bedroomed houses or bungalows. This suggests a surfeit of demand and a need to reuse empty properties instead of building more. Findings were similar in February and May 2015.
- Scheme would not address local need for affordable housing
- No public/social facilities or amenities in close proximity, so development would be unsustainable and of no benefit to local community
- Local amenities referenced by supporters not easily accessible on foot, and some lack public transport connections.
- Occupiers likely to rely on private transport since local bus service very limited (five trips per day at two hourly intervals, with none in evenings or on Sundays, and not all journeys serving the Royal Shrewsbury Hospital)
- Limited communications – internet connections are slow and unreliable, and mobile phone reception is poor
- Houses would appear prominent from all directions on account of their position on top of slope alongside A488.
- Modern houses on small plots would undermine established pattern of development, with existing housing largely comprising linear development of mid-19<sup>th</sup> Century miners' cottages built in quartzite, or smallholdings in substantial grounds.
- Hemford does not have an obvious concentration of properties around adjacent road junction, and neither would development nestle discreetly amongst wider scatter of outlying cottages
- Agent's 'Visual Landscape Appraisal' does not consider cultural/historical elements of landscape character, omitting views from well-known historic sites and landmarks such as Bromlow Callow and Stapeley Common, and downplaying the site's visibility from Ladywell Engine House. No representation of how development would appear in situ, and no consideration of views from

adjacent dwellings. Development would also be highly visible from the A488, the road from Bromlow, and the adjacent footpath. A range of alternative photographs is provided.

- Landscape impact of increased light pollution
- Modern development would be detrimental to conservation of local mining heritage, including the Ladywell Engine House scheduled monument which looks down on the site, and other archaeological remains. Application includes no assessment of the significance of these heritage assets, including the contribution made by their setting.
- With regard to impacts on wider historic environment, English Heritage document *Enabling Development and the Conservation of Significant Places* suggests outline planning permissions may be inappropriate where development's appearance is crucial to its acceptability. Impacts of cumulative change should also be considered.
- Site's imposing elevation would result in overlooking of neighbouring properties, particularly since boundary vegetation is mainly deciduous.
- Loss of natural light to opposing property, Brooklyn
- Neighbours would suffer glare from headlights of cars entering or leaving site
- Access would be onto a single-track road with poor visibility in both directions on account of curvature, gradient and high verges, and which is treacherous in ice or snow. An extra driveway (the opposing entrance to Brooklyn is not shown on the plans) and additional motorists would only increase risk of accidents.
- Agent's suggestion that a 2.4 x 75-metre visibility splay could be achieved to the south is incorrect since view would be obscured by curvature of high embankment and hedge. Additionally applicant has no control over highway verge.
- Agent's assumption of average vehicle speeds closer to 30mph at point of new access is questionable. Vehicles travelling southwards will have followed a straight section of road for approximately ½ mile, ample distance to reach 60mph before having to decelerate to negotiate the bridge and bend, whilst those approaching from the A488 crossroads will already have started to accelerate by the time they are within the 43-metre splay visibility splay and could easily be exceeding 30mph when they reach the entrance.
- Although existing access points to adjacent properties are undoubtedly substandard, these properties predate planning legislation. The proposed development would worsen the situation.
- The road to Bromlow is well used by agricultural and forestry traffic, and already is often obstructed by delivery vehicles etc.
- Only space available for new passing place in vicinity of proposed access would be a short section of verge which, if used for parking, would obstruct visibility for emerging drivers.
- Difficulties in negotiating a steep access drive would increase numbers of vehicles left stranded on roadside in icy conditions
- Increased risk to walkers – no pavements in this location
- Increase in traffic using adjacent crossroads on A488, which offers poor visibility and is an accident blackspot. Further accidents have occurred here since application submitted
- Highways Development Control Officer's comments are based on number of reported accidents as opposed to actual numbers.

- Other junctions with the A488, at Hope and The Gravels, are on comparatively level ground and hence safer.
- Unclear why Highways Development Control Team withdrew its initial objection
- Ecological report submitted is uncomprehensive, relying on survey conducted on one afternoon in prolonged dry period and failing to take in adjacent land. Survey occurred after curlew and lapwing breeding/nesting period, and report makes no mention of butterfly or dragonfly species.
- Although development site may be 600 metres from closest site known to support great crested newts, this species has a wide terrestrial range of at least 1km. The adjacent stream would not necessarily impede their roaming given presence of low wooden bridges and the lack of fast-flowing water across Black Marsh to west.
- Recent curlew and lapwing survey by Upper Onny Wildlife Group observed these declining bird species using development site for feeding. It must not be discounted as a potential breeding site.
- Pipistrel bats fly around and cross the site daily.
- Evidence of badgers accessing site from surrounding area
- Surrounding area provides conditions for pine martens, one of which was observed entering site in 2012
- Otter have been filmed entering site
- Site identified as an environmentally sensitive area (ESA)
- Shropshire Wildlife Trust should be consulted
- Development of already marshy field would create impermeable surfaces, so increasing run-off and risk of flooding and ice on adjacent road as well as further downstream
- Percolation tests and drainage calculations need to be completed.
- Scheme may set precedent for future development of remainder of field
- Land presented for sale in 2012 on understanding it would not be developed
- Site appears as common land on 1838 tithe map, and legal action has previously been taken over misappropriation of land adjacent to Hollybank. Documentary evidence of applicant's title to the land should be sought, along with confirmation that commoners' rights no longer apply.
- Trees and hedges along south and west boundaries belong to Hollybank. Any felling or pruning works would result in a complaint of criminal damage.
- Mains stop valves for adjacent properties are situated in northeast corner of field, necessitating access rights for affected householders
- Increased demand on mains water supply could affect water pressure in neighbouring properties.
- Parish Council has objected to other similar proposals nearby on the grounds of an over-proliferation of housing applications in the same ward, visual impacts on the AONB, impact on historic character, poor access etc. All of these issues apply equally to the Hemford site.
- Letters of support appear to be written by family, friends and associates of the applicants who would not be affected directly.



- 4.2.2 The latest amended plans have attracted objections from three separate households, who make the following additional points:
- Building a single dwelling on greenfield land in AONB still undesirable when there are more suitable brownfield sites in close proximity
  - Old Post Office remains vacant and should be returned to use by applicant before new house is approved.
  - Revised plan unclear whether new dwelling would be affordable or open-market. Recent policy changes mean a single open-market dwelling would no longer trigger affordable housing payment
  - Number of bedrooms unknown. Parish Council has objected to other outline applications on this basis, given local need for smaller dwellings.
  - Amended plans show single much larger dwelling but fail to confirm its measurements. Statement that it would be no higher than opposing cottage implies it could be a two-storey house rather than a bungalow as shown.
  - Hemford not a cluster of residential properties as stated in the agent's latest email, but a linear development of established miners' and smallholders' properties, each within its own substantial grounds, in a dispersed pattern. Proposed dwelling would have adverse impact on area's visual amenity and character
  - Proposals still detrimental to historic environment. Council's Archaeology Team should review its comments to take into account features such as Hoar Stone Bronze Age round barrows on Black Marsh, which form part of the prehistoric landscape of Stapeley Common, as it has with another scheme less than a mile away.
  - Dwelling now closer to Brooklyn, worsening overlooking, overshadowing and noise impacts
  - No revisions to access arrangements. Retention of large area of paddock means entrance would also be used by agricultural vehicles.
  - Revised plan does not greatly reduce ecological impacts since development area contains some less common plant species, and is home to ground-nesting birds and rare mammals. Remaining paddock area would need to be managed as nature reserve rather than used for agriculture.
  - Forming a level platform to allow the dwelling to sit no higher than the opposing house involves more extensive excavations and building substantial retaining walls on three sides. This will increase surface water run-off, and may destroy old well situated immediately in front of property. This should be reviewed by Council's Flood and Water Management Team.
  - A single dwelling could still set a precedent for further development.
- 4.2.3 Three separate households supported the original scheme for the following reasons:
- All essential amenities available within reasonable distance (e.g. shop/post office – 1.5 miles; primary school – 1.9 miles; pub – 1.3 miles; doctors' surgery – 4.1 miles). Further facilities at larger villages of Minsterley (5.4 miles) and Pontesbury (6.8 miles) which, like Bishop's Castle, are accessible by bus. These facilities and businesses would benefit from additional patronage.
  - Mains electricity and water are available.
  - Small-scale developments such as this would meet local housing needs, since existing properties at Hemford are all owned and occupied by older people and would command prohibitively high prices if marketed.

- Applicants have lived and worked locally all their lives
- Small paddocks such as this can no longer be farmed viably.
- Houses would be tucked away out of site
- Density of development sympathetic, with large gardens and generous distances between proposed dwellings and those existing, and with large area of paddock to remain undeveloped.
- New entrance would be better than those serving many existing dwellings
- Adjacent crossroads safer than steep junctions with A488 at Hope and The Gravels
- Local road towards Bromlow is maintained during adverse weather conditions since it is used by local school bus.

4.2.4 Following submission of the amended plans for a single dwelling, one household has reiterated its support.

4.2.5 A local ornithologist has made 'neutral' comments. He notes that lapwing, curlew and snipe breed on fields nearby and believes the application site is part of their foraging area, but confirms it is not a known breeding site. However, he also suggests that if the development might cause known breeding sites to dry out it should be opposed until a full hydrological assessment is made.

## 5.0 THE MAIN ISSUES

- Principle and sustainability of development
- Layout, scale and design/landscape impact
- Impact on historic environment
- Residential amenity
- Access and highway safety
- Ecology
- Flood risk and drainage
- Other matters raised in representations

## 6.0 OFFICER APPRAISAL

### 6.1 Principle and sustainability of development

6.1.1 A key objective of both national and local planning policy is to concentrate new residential development in locations which promote economic, social and environmental sustainability. Specifically, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in the Council's emerging SAMDev plan. Isolated or sporadic development in open countryside is unacceptable unless there are exceptional circumstances.

6.1.2 Hemford is not a settlement designated for housing development under any *current* planning policy (i.e. 'saved' Policies SDS3 and S1 of the former South Shropshire Local Plan). However, its inclusion as a component of a proposed 'Community Cluster' under Policies MD1 and S2 of the SAMDev Pre-Submission Draft can now be afforded some weight since this plan is at an advanced stage in the process towards formal adoption (the Secretary of State Inspector has recently confirmed the proposed main modifications following the public examination sessions, and any plan content not included in the modifications schedule may be considered sound in principle in accordance with NPPF Paragraph 216). Policy S2.2 (vii) gives a guideline

of approximately 15 additional dwellings across this particular Cluster, and besides conversion projects the intention is for these to comprise infill development on suitable small-scale 'windfall' sites within the named settlements.

- 6.1.3 Since it is not proposed to designate development boundaries around the Cluster settlements the question of whether or not specific schemes would constitute infilling is a matter for judgment in each case. Hemford is no more than a hamlet with a dispersed development pattern, and as such identification of logical infill plots is difficult. Although the proposed site is not bounded tightly by existing dwellings it lies at the end of the ribbon to the north, and, as described in Section 2.0, is loosely encircled by outlying cottages and smallholdings to the east, south and west. The development would generally be seen in the context of this scattered group, and so on balance could be regarded as infill. However, that is not to say its landscape impact would necessarily be acceptable (see Section 6.2).
- 6.1.4 With regard to housing land supply the Council's Planning Policy Team now claims to have identified sufficient (i.e. five-year) provision, although this relies on allocated sites and designations within the SAMDev Plan. Until the latter has been formally adopted it cannot be given *full* weight, and in the interim the NPPF presumption in favour of sustainable development and its specific aim to boost the supply of new housing may be held to take precedence. For this reason local perceptions of a lack of housing demand and concerns over multiple planning applications having effectively used up the SAMDev allowance for the Hope ward can be given little weight at present.
- 6.1.5 Whilst it is difficult to argue that Hemford is sustainable in the conventional sense there is a comparatively frequent bus service along the A488 adjacent to the site, and the Community Cluster concept acknowledges the provision of 'shared services' in neighbouring settlements. One of the scheme's supporters lists various facilities available in the area (Section 4.2.3), although it should also be noted that not all of these are accessible by public transport and that a lengthy walk is unlikely to prove an attractive proposition to many. On balance it is suggested that these factors, combined with the hamlet's emerging status as a Cluster settlement, are sufficient to conclude that the location is broadly sustainable in terms of access to services, and that open-market development would therefore be acceptable in principle. However, officers also consider that this small-scale development's modest economic and social benefits (in terms of supporting existing services and increasing housing supply, as well as in providing limited short-term employment during construction) would fail to outweigh the significant and lasting environmental harm which would result from its impact on the landscape, discussed in detail below. In this respect the application fails to comply with all three dimensions of sustainability as summarised in Paragraph 7 of the NPPF.
- 6.1.6 With reference to objectors' claims that the proposed dwelling would fail to meet local housing needs on account of its scale and tenure, the provision of smaller properties has, quite understandably, been identified as a community aspiration through the Parish Plan. However, the lack of affordable provision on-site would not be sustainable as a reason to refuse permission since this is not a requirement of any adopted planning policy, or indeed the emerging SAMDev plan. On the other hand the applicant's local connections should not be given any weight.

6.1.7 Regarding the issue of a financial contribution towards affordable provision elsewhere, the recent Ministerial statement advising against the use of planning obligations to secure tariff-style payments is a material consideration and has been afforded significant weight in a number of recent appeal decisions, notably in the case of a development at 'Vashlyn', Copthorne. However, the latter does not necessarily set a binding precedent since in that case the appellant had agreed to make the contribution and was not challenging the Council on this issue, and consequently the Council did not provide detailed evidence or reasoning to support its position. Subsequently, therefore, the Council has maintained its stance that an affordable housing contribution should continue to be sought. This accords with adopted Core Strategy Policy CS11, which is based on evidence of housing need presented to an independent planning inspector and tested through the examination process, and which has been applied consistently since 2011 with no compelling evidence to suggest any adverse effect on the delivery of smaller housing sites. Indeed the policy was formulated in conjunction with a developer panel to establish a dynamic viability rate relevant to Shropshire. Consequently, if members are minded to approve the current scheme this should be subject to prior completion of a legal agreement to secure the appropriate payment.

## 6.2 **Layout, scale and design/landscape impact**

6.2.1 The NPPF and Core Strategy Policies CS5, CS6 and CS17 all acknowledge the importance of achieving quality and sustainability of design, particularly in terms of reinforcing local distinctiveness and conserving and enhancing the character of the built, historic and natural environment. Meanwhile NPPF Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in this respect.

6.2.2 This site is highly visible from the A488 and also particularly prominent when approaching along the local road from the north, where it appears directly ahead as an exposed facing slope beyond the tree-lined stream. Although Shelve Hill provides a backdrop to the longer-range views officers were nevertheless concerned that two dwellings as proposed originally would have involved developing the highest part of the site, and furthermore that the houses would have appeared to 'float' randomly within the open paddock as opposed to reflecting the prevailing pattern of vernacular cottages clinging tightly and reasonably discreetly to the roadsides. A subsequent revision showed the properties set closer to the northeast and southeast boundaries, but again they would have appeared unduly prominent on account of the site's elevation, and because significant level changes would have been necessary to form level platforms.

6.2.3 The applicant's agent has now sought to address these issues by proposing a single dwelling on the lower part of the site, and by providing further details of layout and scale. Clearly, since appearance remains a reserved matter, the detailed design would be subject to change, although conditions could be used to specify a single-storey building and/or maximum height. Even so the development would undoubtedly be exposed to view, more so than the adjacent properties on account of its situation, elevation (even a bungalow as shown would be almost level with the ridgeline of the two-storey cottage opposite) and the site's steep gradient. The agent's

landscape/visual appraisal includes a photographic survey, but officers would tend to agree with objectors that this omits a number of key public views, particularly at close range. Furthermore the large footprint shown contrasts with the scale and form of the neighbouring cottages, and could result in a more bulky and less traditional appearance.

- 6.2.4 The plans also confirm the need for considerable excavation and hard landscaping works. These in themselves would introduce stark and distinctly urban elements at odds with the rustic and essentially agricultural character of the surroundings.
- 6.2.5 Officers consider that the above changes would demonstrably harm the character and appearance of the local area by detracting from the established settlement pattern and intrinsic beauty of the landscape, contrary to the identified policies.
- 6.2.6 In terms of light emissions, it is unlikely that one further dwelling in an existing (albeit loose-knit) settlement would impact significantly on visual amenity.

### 6.3 **Impact on historic environment**

- 6.3.1 Part 12 of the NPPF requires local planning authorities to have regard to the desirability of sustaining and enhancing the significance of both designated and non-designated heritage assets, and indeed to give “great weight” to the former’s conservation. Paragraph 128 advises local planning authorities to require applicants to describe the significance of any heritage assets which would be affected by their proposals, and to have them assessed using appropriate expertise *where necessary*. Paragraph 132, meanwhile, recognises that an asset’s significance can be harmed or lost through development within its setting. This guidance is reinforced at the local level by Core Strategy Policies CS6 and CS17.
- 6.3.2 In this case objectors suggest the proposal would harm the setting of a number of heritage assets, notably the scheduled monument of Ladywell Engine House which stands elevated some 350 metres to the southeast. However, although the development may be discernible in long-range views from and towards the monument, it would not feature prominently on account of the distances involved, the difference in levels and the intervening vegetation. It is therefore considered there would be no significant impact on the monument, and that it would be unreasonable to require the applicant to undertake a more detailed assessment beyond that included in the landscape appraisal. Similarly there is no sound reason why an outline application should not be entertained.
- 6.3.3 The archaeological potential of the site itself is considered lower than in the case of the other planning application referred to by one of the objectors since it is further from and less directly connected with known historic sites. Accordingly the Historic Environment Team has not recommended an archaeological inspection in this instance.

### 6.4 **Residential amenity**

- 6.4.1 Clearly the development would be visible from some of the neighbouring properties, particularly Brooklyn, whose occupants would likely perceive some loss of outlook. However, given that the two dwellings would not directly oppose each other and that their rooflines would be roughly level, there would be no significant loss of sunlight

or direct overlooking and the development should not appear unduly oppressive or overbearing. It should also be noted that there is no legal right to a private view across another's land, whilst occasional disturbance by domestic noise or glare from car headlights would be no more problematic than in countless other locations where a one property opposes another. It is therefore considered unlikely that the scheme would cause demonstrable harm to residential amenity in planning terms.

## 6.5 Access and highway safety

6.5.1 Vehicular access would be onto the outside of a bend in the Class C road running north from the A488 crossroads towards Bromlow. This position in fact provides a *better* (as opposed to equal) measure of visibility than many of the existing entrances serving the neighbouring properties, and whilst the splays would fall short of those recommended in *Manual for Streets* where the speed limit is derestricted, the Highways Development Control Officer accepts the agent's reasoning that traffic speeds are likely to be closer to 30mph given the road's narrowness, curvature and gradient. It is these points which were clarified in November 2014, hence the highway authority's revised comments. If members are minded to grant permission precise details of the new access should be secured by condition, whilst works on the highway verge would be subject to the requisite licensing.

6.5.2 It is acknowledged that access may be difficult during inclement weather conditions. However, in recent harsh winters this has been true of many properties, and not just those served by minor roads. Similarly many roads in the area are used by agricultural traffic, whilst urban routes can also be obstructed on occasion. These arguments are therefore unsustainable as reasons to refuse consent.

6.5.3 It is not disputed that the nearby crossroads on the A488 is an accident cluster site, hence the highway authority's efforts to reduce traffic speeds here through appropriate signage. However, the additional traffic generated by one further dwelling would be unlikely to increase the risk of accidents significantly, again meaning this cannot be sustained as a refusal reason.

## 6.6 Ecology

6.6.1 As summarised above the Council's Ecology Team has considered in detail potential impacts on biodiversity and protected species. This has involved the ecological consultant's report being revised, and the Council's own ecologists visiting the site and establishing that the adjacent pond has low potential for great crested newts. Whilst it would not be impossible for newts to access the development area from a known breeding site further afield, officers are satisfied there is no reasonable likelihood of adverse impacts. Similarly, although lapwing and curlew are known to breed nearby, the evidence suggests the application site is used only for foraging. With regard to the local ornithologist's comments precise drainage details could be secured by condition in order to avoid affecting the drainage characteristics of land further downstream.

6.6.2 No badger setts or bat roosts were recorded on site, but otters and pine martens have been observed by a neighbour. Again measures to protect and/or enhance the potential for these and other mammal species could be secured by condition.

6.6.3 With regard to objectors' other comments, the purpose of ESA designations was to offer incentives to encourage farmers to adopt sympathetic agricultural practices in areas of particularly high landscape, wildlife or historic value. However, ESAs have no planning status and cannot be used as a reason to refuse planning permission. Meanwhile there are no designated local wildlife sites in close proximity, hence the Shropshire Wildlife Trust has not been consulted.

## 6.7 **Flood risk and drainage**

6.7.1 The Council's Flood and Water Management Team is satisfied that full drainage details could be secured by condition. The aim would be to ensure that soakaways and/or other SuDS would mimic the greenfield run-off rate and hence avoid exacerbating flooding elsewhere. The amended plans and the presence of the well (which is not recorded as a private water supply) would not alter this requirement.

## 6.8 **Other matters raised in representations**

6.8.1 Disputes over land ownership, grazing/access rights or other easements are civil matters outside the local planning authority's remit, as would be damage to vegetation on neighbouring land. Meanwhile the adequacy of the water supply is a matter for the utility provider.

6.8.2 It is noted that one of the objectors feels the Parish Council has been inconsistent in its approach to this and other similar proposals nearby. This would need to be pursued with the Parish Council, but ultimately the planning issues raised by both parties have been considered above. Meanwhile the provenance of the public support letters is irrelevant; rather it is the points they make which must be taken into account.

## 7.0 **CONCLUSION**

7.1 Although the settlement of Hemford is not currently designated for residential development, provision for this is made within the emerging SAMDev plan. Weight can also be attached to the NPPF presumption in favour of sustainable development and increasing housing supply, and thus on balance the principle of the scheme is considered acceptable. However, on account of its elevated and prominent situation, and the need for substantial level changes and hard landscaping as a result of the topography, the development would appear stark and incongruous by comparison with the scatter of established cottages in the vicinity. Consequently it would detract from the scenic quality and essentially open character of the AONB. In these respects the proposal is contrary the relevant development plan policies and it is therefore recommended that planning permission is refused.

## 8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### 8.1 **Risk management**

8.1.1 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 three months 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications if the decision and/or imposition of conditions are 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.

## 10.0 **BACKGROUND**

### **Relevant Planning Policies:**

National Planning Policy Framework:

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 10: Meeting the challenge of climate change, flooding and coastal change

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:



CS1: Strategic Approach  
CS4: Community Hubs and Clusters  
CS5: Countryside and Green Belt  
CS6: Sustainable Design and Development Principles  
CS11: Type and Affordability of Housing  
CS17: Environmental Networks  
CS18: Sustainable Water Management  
Supplementary Planning Documents:  
Type and Affordability of Housing

'Saved' South Shropshire Local Plan Policies:  
SDS3: Settlement Strategy  
S1: Housing Development

**Relevant Planning History:**

None

**11.0 ADDITIONAL INFORMATION**

**View details online:**

<http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N9L9PITDLTZ00>

**List of Background Papers:**

Application documents available on Council website

**Cabinet Member (Portfolio Holder):**

Cllr M. Price

**Local Member:**

Cllr Heather Kidd

**Appendices:**

Appendix 1 – Informatives

## **APPENDIX 1 – INFORMATIVES**

1. In arriving at this decision the Council has endeavoured to work with the applicant in a positive and proactive manner, as required by Paragraph 187 of the National Planning Policy Framework, by discussing the relevant planning issues and allowing additional time for the preparation and consideration of revised plans and supplementary information. However, it has not been possible to reach an agreed solution in this instance, and as it stands the proposal is considered contrary to policy for the reason set out above.