

Committee and date

Central Planning Committee

10 September 2015

Development Management Report

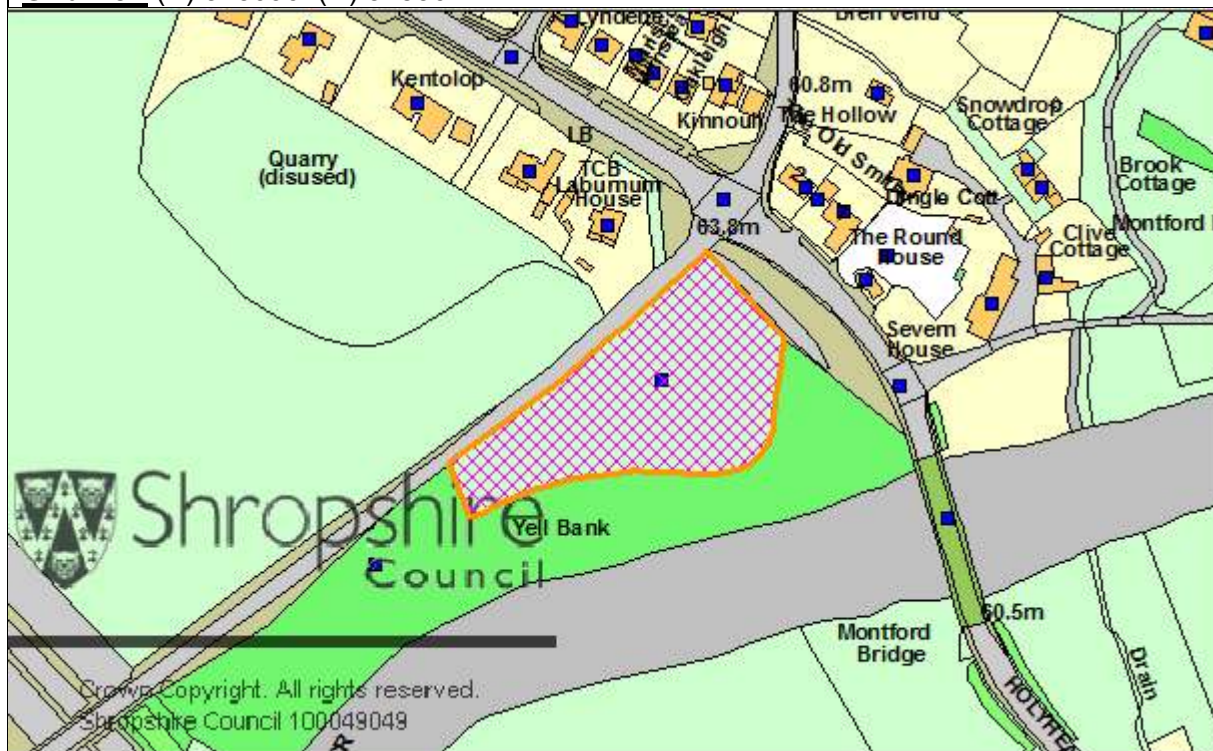
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/02964/OUT	Parish:	Montford Bridge
Proposal: Erection of 8 no. dwellings and formation of new vehicular access off Montford Bridge Road; provision of car parking to serve the existing fishing rights of the site.		
Site Address: Proposed Development Land NW Of Montford Bridge, Shrewsbury, Shropshire.		
Applicant: Shropshire Homes Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 343096 (N) 315361



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

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant affordable housing provision depending on rate at submission of Reserved Matters.

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 12th March 2015 it was resolved by the Central Planning Committee to grant full planning permission for the erection of 8 dwellings and formation of new vehicular access off Montford Bridge Road together with the provision of car parking to serve the existing fishing rights of the site. The permission is subject to conditions and following completion of Section 106 agreement to secure the relevant affordable housing provision in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed Main Modifications to the plan following the examination sessions held in November & December 2014. The Main Modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.2 **SAMDev policy S16.2(xii)** identifies Montford Bridge West as a Community Cluster in Montford Parish where development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the village, with a housing guideline of approximately 10 additional dwellings over the period to 2026. Outline planning permission has been granted (2013) for 5 dwellings on land south-west of the Holyhead Road. Applications on further sites within or adjacent to the village will be considered on an individual basis, but with a maximum of 1-2 dwellings per site sought in the Parish Council's Montford Housing Strategy.

Following the publication of Main Modifications this can now be given significant weight and the application must also be assessed against emerging Policy MD3 although it is noted that only limited weight can be given to this policy prior to adoption.

- 2.3 It is acknowledged that this application site is situated across the road from the built development in the village, but it is considered that the site is well contained and well screened by a substantial boundary hedge along Holyhead Road and is screened from view by a steep incline down to the River Severn to the rear. Moreover, as part of the previous considerations by the Central Planning Committee the proposal was considered to constitute a sustainable form of development where any harm would be outweighed by benefits.
- 2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:
- The draft s106 has been signed and a decision could be released immediately;
 - The site is well contained and well screened by a substantial boundary hedge along Holyhead Road and is screened from view by a steep incline down to the River Severn to the rear. As such the proposal would result in no visual harm or encroachment into the open countryside or wider landscape;
 - The proposed development includes the widening of this road and providing a footway link along it to join with the footways running through the village.
 - The proposed development includes the provision of access and car parking to serve the existing fishing rights of the site in perpetuity.

3.0 Conclusion

- 3.1 Development of the proposed site would accord with the emerging local development plan policies for the location of housing. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in March. Weight must also be given to other material considerations and those relevant to the determination of this application have been outlined above. It is considered that the benefits of the proposal outlined would still warrant a recommendation in favour of this application.
- 3.2 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

4.0 Risk Assessment and Opportunities Appraisal

4.1 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 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.

4.2 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.

4.3 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.

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Saved Policies:

HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

CS4: Community Hubs and Community Clusters

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development

RELEVANT PLANNING HISTORY: n/a

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information):

Planning file 14/02964/OUT including report to 12th March 2015 Central Planning Committee

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr John Overall

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITIONS

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 reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The number of dwellings submitted with the Reserved Matters application shall not exceed 8 (eight).

Reason: To ensure the development is of an appropriate size in relation to the existing settlement and the services available.

5. Details of a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority concurrently with the submission of the first reserved matter. The approved scheme shall be completed before the development is occupied.

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

6. As part of the reserved matters details of the location and design of bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Assessment by Star Ecology dated April 2014.

Reason: To ensure the protection of badgers, hedgehogs and otters

8. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Risk Avoidance Measures for Reptiles by Star Ecology dated November 2014

Reason: To ensure the protection of reptiles and other wildlife.

9. 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

10. 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.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

11. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

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

12. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing

immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Note: In order to address the potential for gassing from the infilled material it is suggested that monitoring is carried out at the north west boundary of the site in order to establish if there is any gas migrating from the former quarried area to the proposed site. Alternatively information should be provided which states that gassing is not likely due to the type of infill material used e.g. inert material, this would be acceptable.

13. Prior to the commencement of the development full engineering details of the highway widening and footway link across the site frontage and to the B4380 shall be submitted to and approved in writing by the Local Planning Authority; these works shall be fully implemented in accordance with the approved details prior to the dwellings hereby permitted being first occupied.

Reason: In the interests of highway safety.

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

14. Prior to the first occupation of the dwellings six artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

15. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

16. The parking and turning areas, including those serving the fishing rights shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained in perpetuity for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.