



Committee and date

Central Planning Committee

10 September 2015

## Development Management Report

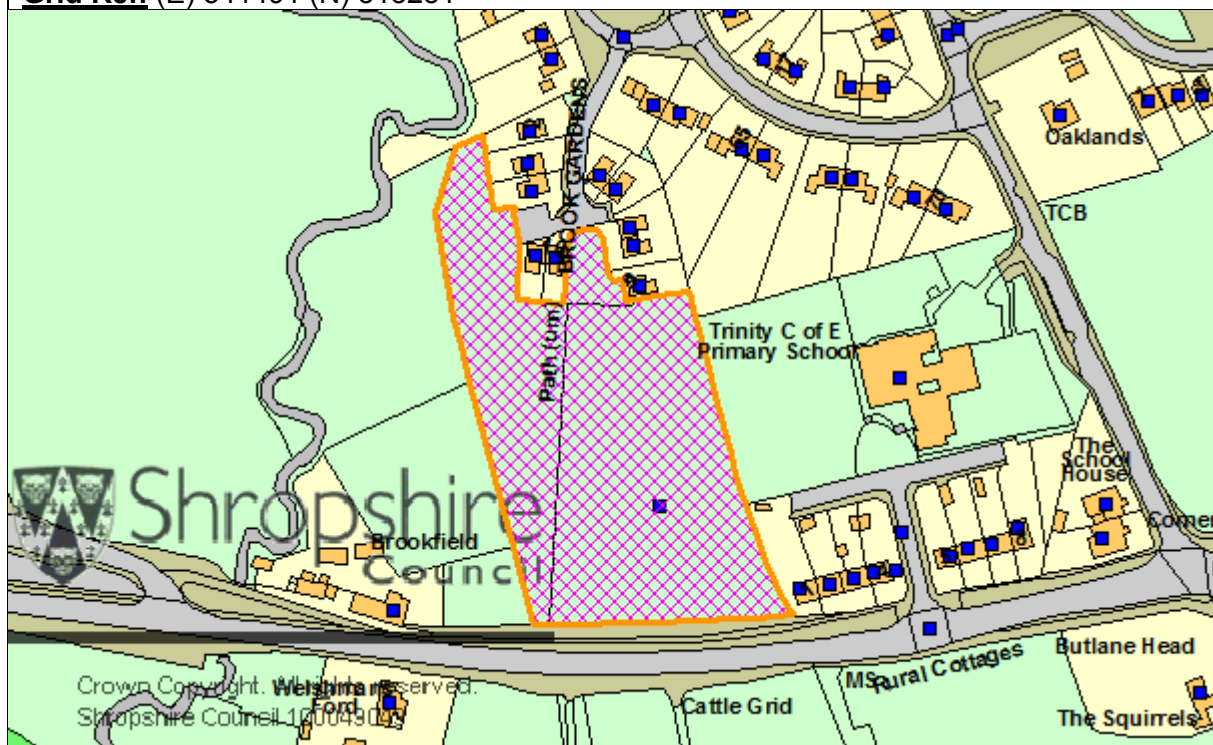
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/01819/OUT	<b>Parish:</b>	Ford
<b>Proposal:</b> Outline application (access for approval) for mixed residential development.		
<b>Site Address:</b> Development Land North Of A458, Ford, Shrewsbury, Shropshire.		
<b>Applicant:</b> Shropshire Homes Ltd		
<b>Case Officer:</b> Andy Gittins	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** (E) 341491 (N) 313231



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.**

Contact: Tim Rogers (01743) 258773

## REPORT

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

#### 1.0 Background

- 1.1 On the 13<sup>th</sup> November 2014 it was resolved by the Central Planning Committee to grant outline planning permission (to include access) for residential development, with an indicative plan showing 26 dwellings subject to conditions and to the signing of a Section 106 Legal Agreement to secure the affordable housing financial contribution 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 S8.2 does not** identify Ford as either a Community Hub or Cluster confirming its status as countryside, and this can now be given significant weight.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Ford and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however considered to constitute a sustainable form of development with the application site located within a suitable position, immediately adjacent to the development boundary and bounded on two sides by the development boundary and existing housing itself.
- 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 application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply including affordable in the immediate future;
- The indicative site plan illustrates a scheme with a good mix of housing ranging from two-four bed properties;
- The draft s106 has been signed and a decision could be released immediately;
- Due to the topography of the site and its position bounded on three sides by development (including the truck road) it is contained within the built form of development for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;
- The application includes the provision of a footpath link from the site into and towards the centre of the village for future occupants.

### **3.0 Conclusion**

- 3.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. 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 February. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting 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)**  
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

RELEVANT PLANNING HISTORY: n/a

7. Additional Information

View details online:

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

Planning file 14/01819/OUT including report to 13<sup>th</sup> November 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)  
Cllr M. Price

Local Member  
Cllr Roger Evans

Appendices  
APPENDIX 1 - Conditions

## APPENDIX 1

### STANDARD CONDITIONS

1. Approval of the details of the layout, scale, appearance and 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 2015 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 following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The number of units  
The means of enclosure of the site  
The drainage of the site

Reason: To ensure the development is of an appropriate standard.

5. This permission does not purport to grant consent for the layout shown on the deposited Proposed Site Plan F0-P-01i submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

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

6. 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.

7. Prior to the first occupation of the dwellings details of five bat boxes 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. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. 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

8. Prior to the first occupation of the dwellings details of two woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow 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 nesting opportunities for wild birds.