

Committee and date

Central Planning Committee

10 September 2015

## Development Management Report

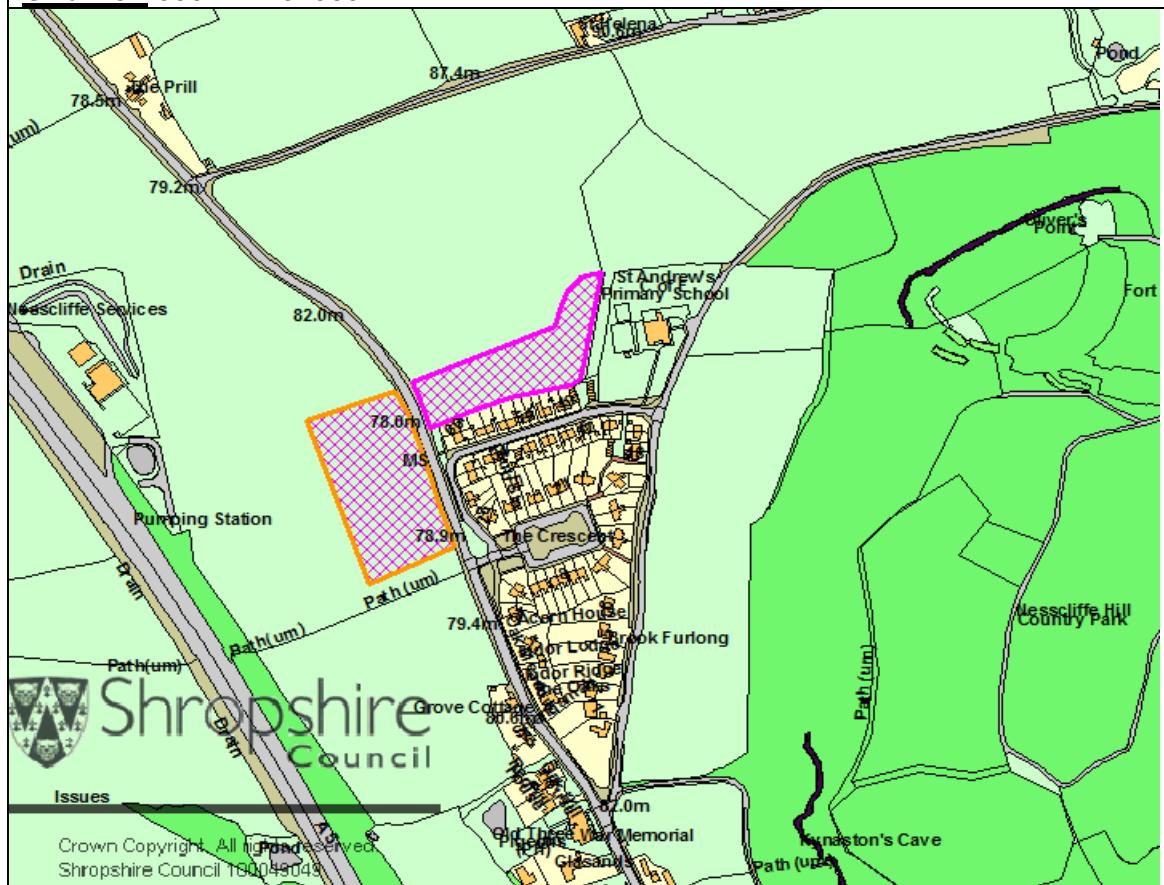
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/03357/OUT	<b>Parish:</b>	Great Ness
<b>Proposal:</b> Outline application for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access)		
<b>Site Address:</b> Proposed Residential Development Opposite The Crescent Nesscliffe Shrewsbury Shropshire		
<b>Applicant:</b> JC & MW Suckley		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 338127 - 319532



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

## REPORT

### ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

#### 1.0 Background

- 1.1 On the 11<sup>th</sup> December 2014 it was resolved by the Central Planning Committee to grant outline planning permission for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access) subject to conditions and to the signing and completion 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 progressed to a point where the s106 has been signed. Following consideration of this application on this agenda then the planning permission could be issued 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 was made 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 (iv)** identifies Nesscliffe as a Community Hub and this can now be given significant weight. The application can also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy, prior to adoption.
- 2.3 This application site is located at the northern end of the village to the north and east of the allocated site for housing as set out in SAMDev. Nesscliffe does not have any defined development boundary and SAMDev identifies a housing

guideline for the village of Nesscliffe of around 30 new dwellings. This has already potentially been mostly taken up by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by other smaller sites that have also been recently resolved/granted for approval in the village. This application has been submitted by the same developers as for the adjacent allocated site and it is intended that both sites would be developed as one scheme. As part of the previous considerations by the Central Planning Committee it considered that the development would constitute a sustainable development with the application site located within a suitable position, at the edge of the village, adjacent to existing dwellings.

**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 in the immediate future;
- The s106 has been produced and has been signed and sealed already;
- The proposal would be developed at the same time as the adjacent allocated site;
- The proposal also includes a drop off/pick up facility to serve the adjacent school and the provision of land to be utilised for community development.

### **3.0 Conclusion**

**3.1** Development of the proposed site would potentially 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 last December. 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:

NPPF

Core Strategy and Saved Policies:

CS4,CS5,CS6,CS9,CS11,CS17

SAMDev  
Housing Types and Affordability SPD

RELEVANT PLANNING HISTORY:

13/04757/OUT Application for Outline Planning Permission (access for approval) for residential development and associated works PDE

7. Additional Information

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

Planning File 14/03357/OUT and committee report for December 2014 Central Planning Committee

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr David Roberts

**Appendices**

APPENDIX 1 - Conditions

**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 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 two years 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.

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

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

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

5. 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.

Reason: To ensure the protection of badgers

6. Prior to the commencement of the development full engineering details of the new access roads, existing highway/road works, structures, foot/cycleways, surface water drainage, street lighting and carriageway markings/signs, shall be submitted to and approved by the planning authority; the works shall be fully implemented in accordance

with the approved details prior to the development hereby permitted being first brought into use.

Reason: To ensure the construction is to an adequate standard in the interests of road safety.

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

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

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with Appendix 7 of the Ecological Survey Report by JW Ecological Ltd dated June 2013.

Reason: To ensure the protection of reptiles. The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

8. 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

9. Prior to the erection of any external lighting above 150W 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.

#### Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
2. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for

requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
5. In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building. Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."
6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
7. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird

nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

8. The proposed site access and highway improvement works will require a s278 agreement with the local highway authority prior to these works commencing on site.
9. The use of soakaways should be investigated in the first instance for surface water disposal. The SuDs applicability for the area is Infiltration PLUS treatment as the development lies within a groundwater Source Protection Zone. Surface water run-off must be treated through a filtration unit prior to entering the soakaway and also pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. As identified in the FRA the site is identified as being at risk of groundwater flooding. The level of water table should be determined if the use of infiltration techniques are being proposed.
10. If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity. Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.
11. The Management Train Approach should be central to the surface water drainage strategy of the proposed site. The main objective is treatment and control of runoff as near to the source as possible protecting downstream habitats and further enhancing the amenity value of the site aiming to incrementally reduce pollution, flow rates and volumes of storm water discharging from the site. SuDS should link with the individuals plot structure, planting, public open space requirements and amenity areas, gaining multiple benefits from a limited area of land. The use of large diameter pipes and crate storage together with a large number of chambers is likely to prove to be an expensive solution in terms of both construction and maintenance. The sites topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable. Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.
12. The applicant should consider employing measures such as the following: Water Butts; Rainwater harvesting system; Permeable surfacing on any new driveway, parking area/ paved area and Greywater recycling systems to ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.
13. Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.