



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

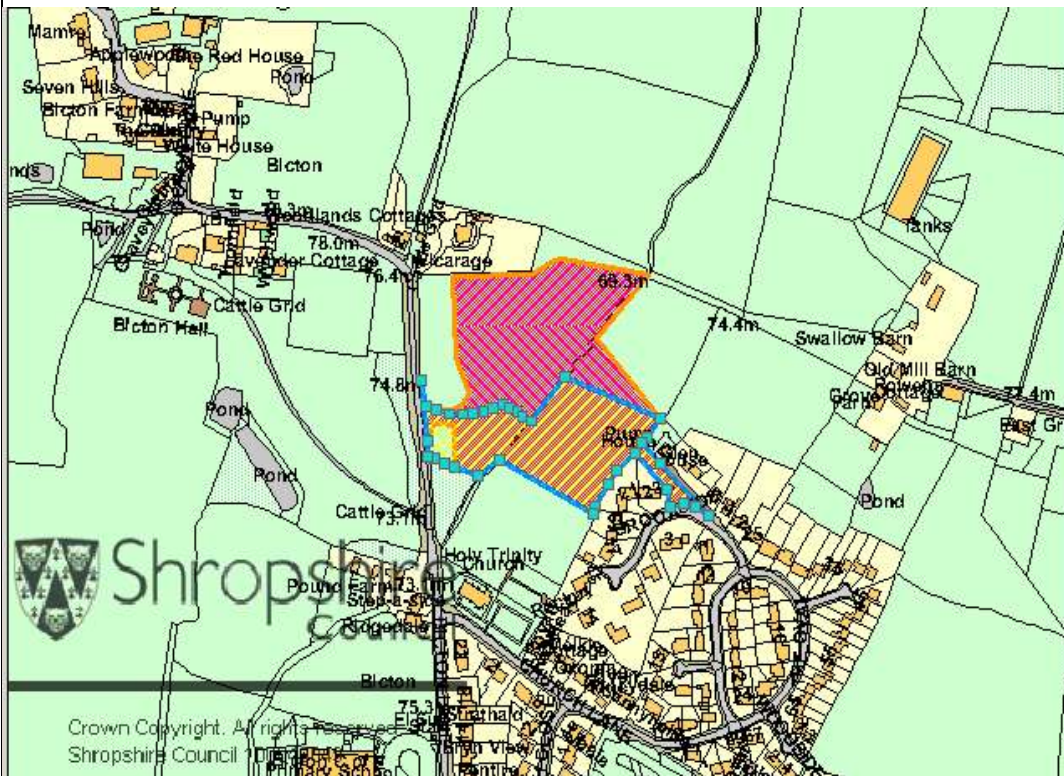
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Summary of Application

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| Application Number: 14/02239/OUT | Parish: | Bicton |
| Proposal: Outline application for residential development to include means of access (amended description) | | |
| Site Address: Land East Of Bicton Lane Bicton Shrewsbury Shropshire | | |
| Applicant: Galliers Homes Limited | | |
| Case Officer: Jane Raymond | email: planningdmc@shropshire.gov.uk | |

Grid Ref: 344856 - 315035



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC.

REPORT

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

1.0 Background

- 1.1 On the 09 April 2015 it was resolved by the Central Planning Committee to grant outline planning permission for residential development to include means of access (with an indicative layout of 15 dwellings) 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 applicant has progressed the S106 agreement to a point where it is has been signed and returned to the Council for sealing. A revised 5 year housing land supply statement has also been published confirming that the Council has a 5 year supply of housing land. There have also been further developments with the Site Allocations and Management of Development (SAMDev) Plan that has been submitted for examination. The examination has been undertaken and the main modifications were published in June 2015 and have been consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 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 since that time.

2.0 Impact of SAMDev progress

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless there are other material considerations that indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF constitutes guidance for local planning authorities and is a material consideration to be given significant weight in determining applications. NPPF Paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The council has published a revised 5 year land supply statement which demonstrates that the Council now considers that it still has

a 5 year supply of housing. Policies for the supply of housing should therefore be considered up-to-date. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The NPPF is a material consideration but does not change the statutory status of the development plan for decision taking and the presumption in favour of sustainable development does not outweigh the development plan but it is one of the considerations that need to be weighed alongside it. The starting point for determining all applications is the local development plan as indicated by paragraph 12 of the NPPF and the relevant local plan policies relevant in assessing the acceptability of this housing application in principle are discussed below:

- 2.3 The Development Plan - The development plan presently comprises the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The relevant saved policies in the SABC local plan remain saved policies until the adoption of the SAMDev, however these policies could be argued to be out of date due to their age and as the SAMDev progresses the weight that can be given to SABC saved policies reduces.
- 2.4 Adopted policy – The relevant adopted housing policy is saved policy H3 of the SABC local plan, and Bicton is not a settlement identified under this policy where residential development would be supported and the site is therefore located in an area defined as ‘countryside’ for the purposes of planning policy. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development (accommodation for essential countryside workers and other affordable housing for example) is permitted. The proposal therefore conflicts with this policy being predominantly for open market housing. CS5 also advises that proposals that would result in isolated and sporadic development that would erode the character of the countryside would not be acceptable. However it is not considered that the proposal represents isolated and sporadic development within the countryside as it is sited within Bicton and is not considered to be an unacceptable intrusion and extension of the village into open countryside. CS4 is also relevant and outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD and not allowing development outside these settlements unless it meets policy CS5.
- 2.5 Emerging policy - The SAMDev plan is now considered to be 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.

- 2.6 Policy S16.2(vi) within the SAMDev plan identifies Bicton as a Community Cluster settlement where a limited amount of development would be acceptable and states the following:

S16.2(vi): 'Bicton and the Four Crosses area are a Community Cluster in Bicton Parish where development by infilling, conversion of buildings and small groups of houses may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with a housing guideline of around 15 additional dwellings over the period to 2026.'

Development of the proposed site would therefore be contrary to the housing development policy in both adopted and emerging policy and this was outlined in the previous report to committee.

- 2.7 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In order for policies contained in the SAMDev Plan to proceed to adoption they will therefore need to comply with the sustainable guidance set out in the Framework. The policies relating to the location of housing within settlements in the countryside are not included in the schedule of proposed main modifications and therefore these policies are considered to be sound and in accordance with the NPPF guidance. Therefore significant weight should now be given to the settlement policies in the SAMDev plan and as development of this site would be contrary to this plan the proposal should be refused unless there are material considerations that indicate otherwise and weigh in its favour.

3.0 **Other material considerations**

- 3.1 Officers consider that there are other material considerations which should be taken into account in considering the application and weighed against the conflict with the adopted and emerging policy relating to housing prior to the adoption of SAMDev:
- 3.2 Sustainable development: The April 2015 report outlined the sustainability credentials of the proposal and concluded that the proposal represented sustainable development and that there would be no adverse impacts of allowing this proposal that would outweigh the benefits. The site is considered to be in a sustainable location within a village that has some local service provision including a primary school and garage/shop and a regular bus service to the larger settlements of Shrewsbury and Oswestry.
- 3.2 Environmental impact: The previous report identified that although in policy terms this site is greenfield land in open countryside the development was not considered to be an encroachment into the countryside as the built development will be within a small field that is bound on three of its four sides, one of which is a residential estate. The PC were concerned that the areas East and West of Bicton Lane should be kept as open fields in order to distinguish between the new and old areas of the village. The dwellings will be situated on a square piece of land accessed via

a new access road off Bicton Lane that would be set within landscaped open space. The developed part of the site would not be readily visible from Bicton lane and is bound on two sides by existing hedgerows and trees and the South West boundary abuts the existing houses in Brookside. The site area only occupies one small field and would not close the gap between the new and the old parts of the village and would therefore preserve the setting of these distinct parts of the settlement. The development site is adjacent to Brooklands the newer housing within the village and it is not considered that the proposed development would impact on the rural setting or the character and appearance of the village when approached from different directions. It is still considered that the proposed development would not intrude into the open countryside or have a significant visual impact that would affect the rural setting of the settlement.

- 3.4 Vehicular and pedestrian access: The proposal includes the provision of a new vehicular and pedestrian access onto Bicton Lane to the West of the site including widening of Bicton lane at this point to provide an additional passing place. A new pedestrian link is to be provided to the East of the site and this will provide an alternative safe pedestrian route for existing residents in Brookside and the Oval to the new open space and on to Bicton Lane as well as providing an alternative route for new residents to different parts of the village. The proposal therefore provides for greater connectivity to the wider pedestrian network for both new and existing residents
- 3.5 Boosting housing supply: Although the Council can currently demonstrate a 5 year land supply this proposal will contribute to the overall housing supply figure.
- 3.6 Deliverability: The applicant is a local house builder (Galliers Homes) and the Reserved Matters application is due to be submitted immediately following release of the outline decision with development planned to commence soon after a decision on the reserved matters application being issued. The S106 has been signed so the decision can be issued immediately and in any case will require submission of the reserved matters application within 12 months of the date of the decision. A layout plan has already been prepared ready for the Reserved Matters application and has been submitted to demonstrate the commitment of the applicant to progress the development of this site. It is therefore considered that the application is not speculative but that it is a highly deliverable sustainable housing site.
- 4.0 **Conclusion**
- 4.1 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 April. 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.

4.2 It is also considered that the proposed development includes a safe means of access and that a satisfactory layout, design and appearance of buildings and landscaping of the site (the reserved matters) can be achieved without adverse impact on the character and appearance of the area or residential amenity. The proposal would not result in the loss of any significant trees or hedgerow, and would have no adverse highway or ecological implications subject to the recommended conditions being imposed. Landscape details and open space provision will be fully considered and determined as part of the application for reserved matters. The on-site affordable housing provision will be secured by the S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than 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

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS4, CS5, CS6, CS11 and CS17

11. Additional Information

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| List of Background Papers: File 14/02239/OUT and report to Central Committee 09 April 2015 |
| Cabinet Member (Portfolio Holder) Cllr M. Price |
| Local Member Cllr John Overall |
| 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 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 one year from the date of this permission.

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

3. The development hereby permitted shall 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 first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved prior to the first occupation of the dwellings or in accordance with an agreed timetable. The submitted scheme shall include:

- a. Means of enclosure, including all security and other fencing
- b. plan clearly showing a minimum of 5m wildlife corridor from the existing corridor features (watercourse) to the proposed development site fenced during development. Post development this area should be shown as not included within gardens
- c. Hard surfacing materials (including wildlife friendly gully pots and kerbs)
- d. Planting plans, including wildlife habitat and features (e.g. 6 hibernacula, areas of long grassland, bird and bat nest box)
- e. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- f. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- g. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- h. Implementation timetables
- i. Ecological trends and constraints on site that may influence management of public open space as newt habitat;
- j. Aims and objectives of management of public open space

- k. A works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be reviewed every 5 years)
- l. Personnel responsible for the management of public open space and implementation of the plan in k above

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design

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

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

- 6. As part of the first application for approval of Reserved matters full engineering details of the site access works, new access road, 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

- 7. The footpath link between the proposed site and Brookfield shall be provided prior to the first occupation of the dwellings hereby approved.

Reason: In the interests of sustainability.

- 8. If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway. The approved scheme shall be implemented prior to the first occupation of the dwellings hereby approved.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

9. Prior to the first occupation of the dwellings 10 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected at an appropriate height above the ground with a clear flight path.

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

10. Prior to the first occupation of the dwellings details of 6 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected.

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

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

11. Work shall be carried out strictly in accordance with the Great Crested Newt Assessment and Mitigation Strategy Supplementary Report by Eco Tech (January 2015, updated 24th March 2014).

Reason: To ensure the protection of GCN, a European Protected Species