



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

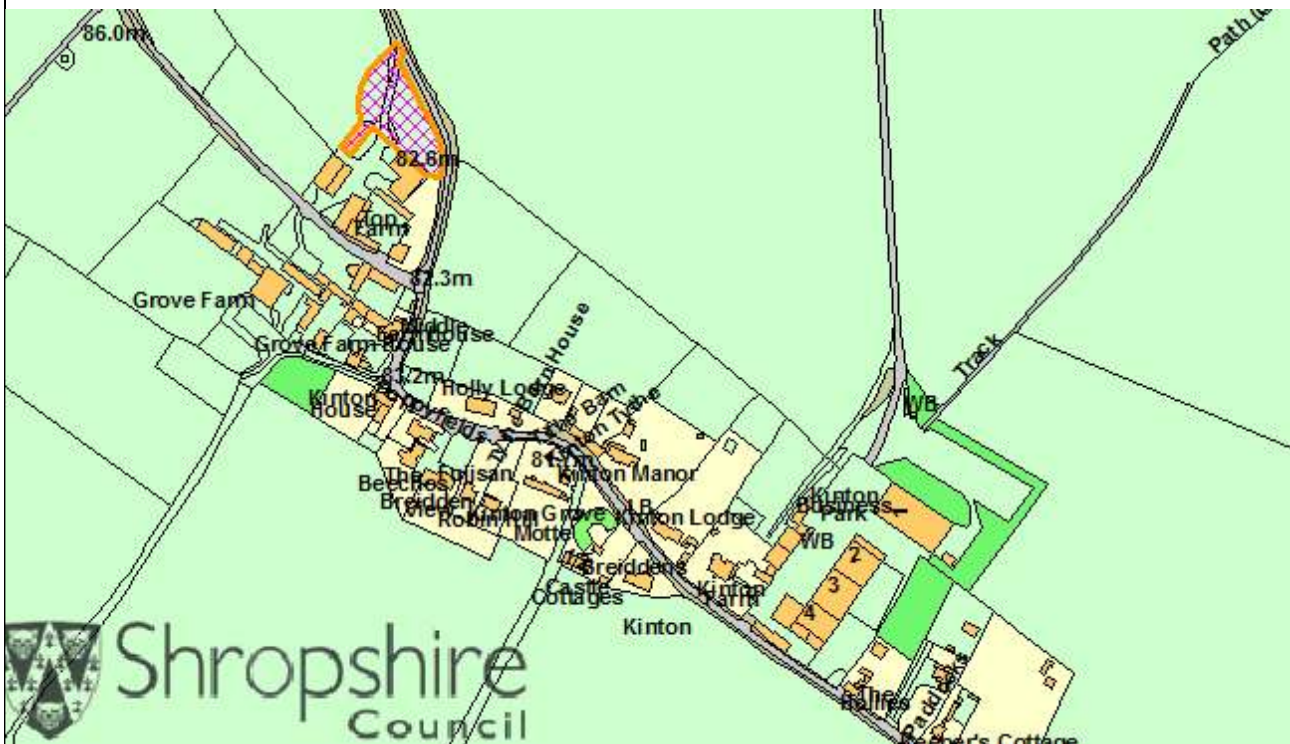
Responsible Officer: Tim Rogers

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Summary of Application

| | | |
|---|--|------------|
| Application Number: 13/05065/OUT | Parish: | Great Ness |
| Proposal: Outline application for the erection of dwelling including re-aligned agricultural access and removal of agricultural shed | | |
| Site Address: Land North Of Top Farm Kinton Shrewsbury Shropshire | | |
| Applicant: Mr J Hitchen | | |
| Case Officer: Jane Raymond | email: planningdmc@shropshire.gov.uk | |

Grid Ref: 336973 - 319742



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Contact: Tim Rogers (01743) 258773

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a s106 agreement to secure the relevant AHC the Reserved Matters stage.

REPORT

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

1.0 Background

1.1 On the 06 March 2014 it was resolved by the Central Planning Committee to grant outline planning permission for the erection of a single dwelling including re-aligned agricultural access and removal of an agricultural shed 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 following events have occurred:

- The applicant has progressed the S106 agreement to a point where it has been signed and returned to the Council for sealing. The applicant has been ready to sign the agreement since April 2015 and had been advised that it was on hold due to the challenge to the Ministerial Statement on sites of 10 or less not requiring an AHC.
- The number of decisions for approval released in the Kinton cluster of settlements has increased.
- A revised 5 year housing land supply statement has been published confirming that the Council has a 5 year supply of housing land.
- There have 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' in light of the publications of the SAMDev Plan main modifications since the applications was first considered at the March 2014 Central Committee.

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 Hopton 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 for a single open market dwelling. 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 on the edge of the settlement of Kinton 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.

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 Under policy MD1 within the emerging SAMDev Hopton is identified as a Community Cluster settlement where a limited amount of development would be acceptable. Under policy S16.2(ix) of SAMDev Hopton is part of a group of 7 settlements identified as a community cluster and states the following:

Great Ness, Little Ness, Wilcott, Hopton/Valeswood, Kinton, and Felton Butler are a Community Cluster in the Nesses Parish where development by limited infilling/conversions of buildings may be acceptable on suitable sites within the villages, with a housing guideline of approximately 10-15 dwellings over the period to 2026.

This policy would therefore allow an average of 2 dwellings per settlement across the cluster of 7 settlements within the plan period.

2.7 To date within this plan period the following permissions have already been approved for 26 open market houses within this 'Community Cluster' with 3 of them in Kinton :

13/01591/FUL – 2 dwellings (Kinton)
11/00371/FUL – 1 dwelling (Kinton)

14/05711/FUL – 1 dwelling (Great Ness)
14/02165/FUL – 2 dwellings (Great Ness)
14/04155/REM – 3 dwellings (Great Ness)

14/03029/OUT – 2 dwellings (Little Ness)
14/01106/FUL – 1 dwelling (Little Ness)
13/03505/FUL – 2 dwellings (Little Ness)

14/03070/OUT – 2 dwellings (Wilcott)
14/01945/FUL – 2 dwellings (Wilcott)
11/00052/FUL - 1 dwelling (Wilcott)

12/02933/FUL – 2 dwellings (Hopton)
12/05222/FUL – 1 dwelling (Hopton)
11/04268/FUL – 1 dwelling (Hopton)

13/04525/OUT – 2 dwellings (Valeswood)
14/02388/OUT – 1 dwelling (Valeswood)

Many more applications have a resolution to grant permission but the decision notices have not yet been released and won't be until a S106 has been signed to secure the relevant affordable housing contribution.

- 2.8 Allowing additional dwellings would obviously exceed the housing guideline both within the settlement of Hopton and across the cluster as a whole. However the housing numbers is a guideline and not a maximum and there is scope for exceeding the housing guideline in some settlements and this is being considered on a case by case basis. Obviously in settlements that are more sustainably located and which have more facilities and services, applications significantly above the housing guideline are more likely to be acceptable as suggested by 2 iii and v of SAMDev policy MD3:

MD3 - Delivery of Housing Development (as amended in the Inspectors main modifications) states the following:

Matching the Settlement housing guidelines:

2. The settlement housing guideline is a significant policy consideration. Where development would result in the number of completions plus outstanding permissions ~~exceeding~~ providing more dwellings than the guideline, decisions ~~on whether to exceed the guideline~~ will have regard to:

- i. The increase in number of dwellings relative to ~~degree by which the requirement is exceeded~~ the guideline; and*
- ii. The likelihood of delivery of the outstanding permissions; and*
- iii. ~~Evidence of community support; and~~*
- iii. The benefits arising from the development; and*
- iv. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and*
- v. The presumption in favour of sustainable development.*

- 2.9 Although limited weight can be given to this policy at this stage it is a useful guideline. With regards to (i) and (iv) one additional dwelling is not considered to be a significant increase to the number of dwellings allowed in Kinton and would not have a significant cumulative impact on the number of new dwellings across the seven settlements within this cluster. With regards to (ii) full planning permission has been granted for 19 dwellings and these are more likely to be delivered than the Outline permissions for 7 dwellings that could be considered to be speculative. With regards to (iii) and (v) the benefits of the proposal and whether it represents sustainable development will be considered below.
- 2.10 In addition to housing guidelines SAMDev policy S16.2(ix) also refers to limited infilling but there is no definition of 'infill' in local policy. The site is however considered to be an infill site as it is land situated between the farm yard complex and the highway. It is considered that the proposal generally accords with policy S16.2(ix) but prior to adoption of SAMDev it is still considered appropriate to also

consider whether the proposal represents sustainable development which is one of the considerations that MD3 requires decisions to have regard to when housing guidelines are exceeded.

- 2.11 Sustainable development: Within paragraph 4.63 of CS4 (the core strategy policy promoting hubs and clusters) it states that:

Smaller settlements generally have fewer facilities, services and infrastructure, and less choice of housing, than larger settlements. As they generally start from a lower base in sustainability terms, it takes greater effort to raise their sustainability. In recognition of this fact, development in Community Hubs and Community Clusters will generally have to work harder to improve sustainability.

And within 4.65 it states that:

Rather than abandoning settlements that have lost services as perpetually 'unsustainable', this approach seeks to improve the sustainability of rural settlements and their hinterlands, even those that start from a low base. Shropshire Council will work with communities, including delivery stakeholders and landowners that wish to achieve this vision.

The explanation to CS4 clearly recognises that some cluster settlements aren't sustainable but that by allowing limited development that is of a scale appropriate to the settlement that this will help to improve the overall sustainability of that settlement and settlements nearby.

- 2.12 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. There is no bus service that serves Kinton but the proposal is only for one dwelling and it is not considered that the proposal will result in a significant increase in traffic. The nearest primary school is in Nescliffe and the nearest secondary school is Baschurch and therefore future residents (if families) are likely to rely on the private car rather than walk or cycle to school. Residents are also likely to travel by car to access other essential services and employment.
- 2.13 However the NPPF suggests that sustainable development isn't solely about accessibility and proximity to essential services but that it is '*about positive growth – making economic, environmental and social progress for this and future generations*'. The Framework seeks to promote sustainable development in rural areas and advises that there are three dimensions to sustainable development: economic, social and environmental.
- 2.14 Economic role - In terms of the economic role the proposal will contribute in a small way due to the jobs created in the construction phase supporting builders and building suppliers. The proposal would also bring some economic benefits in terms of the New Homes Bonus, Community Infrastructure Levy contributions and Council Tax payments. Future residents might potentially support local businesses and services within the surrounding settlements and the larger settlement of

Nesscliffe. Economic benefits are therefore considered to be limited given the scale of the development, although future occupiers will bring additional spending to the local community supporting the local economy.

2.15 Social role - The social role of sustainability includes supporting strong, vibrant and healthy communities with accessible local services and the NPPF advises that housing should be located where it will enhance or maintain the vitality of local communities. Allowing additional housing of a small scale in this community will improve the overall sustainability of the settlement and surrounding settlements by future residents using and supporting local facilities and services within this cluster of settlements and the nearby Nesscliffe. The proposal will make a small contribution to the Government's objective of boosting the supply of housing and will also provide an AHC which will go towards funding much needed affordable housing in the area.

2.16 Environmental role - The environmental role of sustainability requires the planning system to contribute to protecting and enhancing the natural, built and historic environment. The site is a small field adjacent to the existing farm complex on the edge of the settlement of Kinton and development of this site is not considered to be an intrusion into the countryside and would not adversely impact on the character and appearance on the approach to the village. The site itself has no specific land-use designation in respect of landscape, ecological or historic value. Whilst not bringing any significant environmental benefits the site is considered to be an infill site and the proposal will not extend the settlement into open countryside and would have no adverse impact on the natural, built and historic environment.

3.0 **Conclusion**

3.1 Since this application was determined by members in March 2014 greater weight is now given to the SAMDev policies including policy S16.2(ix) that relates to the cluster of settlements that includes the village of Kinton. More houses have been approved for this particular cluster of settlements since the Central Committee resolved to approve this application in March 2014 and the housing guideline of 15 has been exceeded by 11. However one additional dwelling is not considered to be a significant increase to the number of dwellings allowed in Kinton and would not have a significant cumulative impact on the number of new dwellings across the seven settlements within this cluster. It is still considered that allowing this proposal is acceptable in principle and accords with Core Strategy CS4 and CS5 and the SAMDev policies MD1, S16 and MD3. It is recognised that Kinton is a dispersed settlement and that the site is not in itself a particularly sustainable location for new housing development when assessed against the three strands of sustainability outlined in the NPPF. However para 10 of 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 are therefore considered to be sound and in accordance

with the NPPF guidance on sustainable development. Core Strategy Policy CS4 acknowledges that smaller settlements will generally have fewer local services and facilities and start from a lower base in sustainability terms, but when grouped with other nearby settlements proportionate development and support for their shared facilities plays an important role in reinvigorating rural communities and may improve the overall sustainability of that group of settlements. Limited additional housing in Kinton is therefore supported in accordance with CS4 and will contribute to infrastructure and affordable housing and help to retain existing services and may lead to the provision of new facilities and services in the area.

- 2.18 The proposal is therefore still considered acceptable in principle ahead of the adoption of SAMDev. The site is considered to be an infill site and the proposal will not extend the settlement into open countryside, it is of a sufficient size to accommodate a single dwelling and the scale and appearance will be considered at the reserved matters stage. The proposal would have no adverse highway safety implications, and the S106 will secure the payment of an AHC. The proposal therefore accords with Shropshire Council LDF Policies CS4, CS6 and CS11.

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 1970.

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 13/05065/OUT and report to Central Committee on 06 March 2014 |
| Cabinet Member (Portfolio Holder): Cllr M. Price |
| Local Member: Cllr David Roberts |
| Appendices APPENDIX 1 - Conditions |

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Details of the layout, scale, appearance and landscaping, 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 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 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 three 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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. Details of the means of access, including the layout, construction and sightlines, shall be submitted as part of the application for reserved matters and the agreed details shall be fully implemented prior to the first occupation of the development.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

5. Details of the driveway and turning and parking area and surfacing materials shall be submitted as part of the application for reserved matters. If non permeable surfacing is used on the driveway and parking area and/or the driveway slopes towards the highway the submission shall also include a drainage system. The agreed scheme shall be fully implemented prior to the first occupation of the development and shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles off the highway and to enable the turning of vehicles within the site curtilage in order that they may enter and leave the site in a forward gear in the interests of highway safety and to ensure that no surface water runoff from the new driveway runs onto the highway.