



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: 14/00701/FUL	Parish:	Condover
Proposal: Erection of six residential dwellings		
Site Address: The Fox Inn, Ryton Shrewsbury, Shropshire.		
Applicant: Mr John Owen		
Case Officer: Tim Rogers	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 349000 (N) 303176



© 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 one on-site affordable dwelling.

REPORT

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

1.0 Background

- 1.1 On the 18th September 2014 it was resolved by the Central Planning Committee to grant full planning permission for the erection of 6 dwellings subject to conditions and to the signing of a Section 106 Legal Agreement to secure one on-site affordable dwelling 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 Ryton 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 within the built envelope of the village, and would be erected on amenity land associated with the public house. However, the proposal would 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, representing an efficient reuse of brownfield land with no encroachment into open countryside.

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 proposal has been submitted as a Full Application which demonstrates a clear intent that the scheme will be delivered within the 5 year period.
- The draft s106 has been signed and a decision could be released immediately;
- The proposal will be sited on brownfield land associated with the public houses therefore representing an efficient use of land enhancement of the visual amenity of the village, and not representing an encroachment into countryside;
- The proposal will not compromise the viability of the pub going forward. Indeed it is considered that the proposal will contribute to the protection and retention of the pub as an existing community facility.
- The scheme includes a mix of four 2-bed and two 3-bed dwellings, with the later benefiting from attached garages. Within this mix the proposal includes one rented affordable dwelling.

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 November. 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

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

Planning file 14/00701/FUL including report to 18th September 2014 Central Planning Committee

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Tim Barker

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

STANDARD CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

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

4. Prior to first occupation of any of the dwellings hereby approved, the vehicular access shall be set out and surfaced in accordance with the approved plans. The access shall thereafter permanently be maintained as agreed.

Reason: In the interests of highway and pedestrian safety

5. Prior to first occupation of the dwellings hereby approved, the parking and turning areas shall be set out in accordance with the details shown in the unreferenced amended site plan received 7th August 2014. On-site parking shall thereafter be retained as shown and kept free from obstruction.

Reason: In the interests of highway safety to ensure that sufficient parking space is available on site and to prevent the occurrence of on-street parking or the requirement to park in the adjacent public house car park where space is limited.

6. Prior to first occupation of the dwellings hereby approved, a scheme of landscaping shall be submitted to and agreed in writing by the local planning authority. The submitted scheme shall include:

Means of enclosure

Hard surfacing materials

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

A timetable for the implementation of the agreed scheme.

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

7. The following restrictions shall apply to windows in the development hereby approved: -

- The first floor windows in the rear elevation of units 2 and 3 shall be obscure glazed and fitted with opening restrictors (fitted to have a maximum opening of 100mm).

- The first floor window in the south west facing (side) elevation of unit 4 shall be fitted with obscure glazing.

The above requirements shall have been installed prior to first occupation of the units concerned and shall permanently be retained as such

Reason: To protect the privacy of occupants of Wisteria Cottage and holiday lets.

8. The drainage scheme to be provided in the development hereby approved shall be carried out strictly in accordance with the details indicated in the unreferenced Amended Site Plan received 7th August 2014, Site Layout Plan ref. 1142/11-10 received 23rd May 2014, and Surface Water Drainage Proposal Plans ref. T17219/14/115B and T17219/14/115D both received 23rd May 2014 together with the accompanying Drainage Statement prepared by David Bennion Drainage dated 20th May 2014. The approved scheme shall be fully completed before the development is first occupied.

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

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class A, B and C, (or any Order amending or revoking and re-enacting that Order), the enlargement, improvement or other alteration of the dwelling shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class E, (or any Order amending or revoking and re-enacting that Order), the erection of any freestanding structure within the curtilage of the property shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

11. 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.

12. 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.