## Development Management Report

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### Summary of Application

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<th><strong>Application Number:</strong> 12/00821/OUT</th>
<th><strong>Parish:</strong> Great Ness</th>
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<tr>
<td><strong>Proposal:</strong> Outline application for residential development to include means of access (amended description)</td>
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<td><strong>Site Address:</strong> Land West Of Nesscliffe Hotel Nesscliffe Shrewsbury Shropshire</td>
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<td><strong>Applicant:</strong> Berrys</td>
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| **Case Officer:** Amy Mottram  
email: planningdmc@shropshire.gov.uk |  |
| **Grid Ref:** 338281 – 319117 |  |
Recommendation: That the application be Refused.

Recommended Reason for Refusal

The proposed development is located within an area of defined as open countryside for planning policy purposes and accordingly would lead to sporadic and unsustainable development that would undermine the “rural rebalance” approach to development. Accordingly the proposal is considered contrary to adopted Policies CS1, CS4, CS5 and CS6 of the Shropshire Core Strategy, and to Government advice contained in the National Planning Policy Framework (in particular paragraph 55).

REPORT

1.0 THE PROPOSAL

1.1 This application is seeking outline planning permission to establish the principle of residential development on this site, with access the only matter of detail currently under consideration. It should be noted that the application has been amended from the original submission to leave all matters reserved – apart from access, for later approval. The original application included an indicative layout and design for the proposed development and some of the comments received relating to the development are, in part, based on those details submitted. To avoid any confusion, all interested parties have been re-notified of the amended description.

1.2 The application seeks to establish in principle, agreement to the development of a field to the rear of the car park serving the Nesscliffe Hotel, which fronts on to the western side of the old A5 in the settlement of Nesscliffe. Access to the site would along the side of the car park, adjacent to an existing bridleway. The site as a whole measures 0.3 ha.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is situated within the residential element of the village, to the rear of the Nesscliffe Hotel car park, which itself it located on the opposite side of the main road to the hotel. The site has previously been used for grazing horses, with an outbuilding on it. Access to the site is via a track along the side of the car park, which is also used as a public footpath/bridleway. Ground levels slope away across the site from the road, down towards the bypass and clear views of the village and country park are possible from the bypass.

2.2 The parish council undertook a Parish Plan several years ago which identified a need for smaller sized family houses within the village. The planning history to this site shows a previous application was made on this site for 2 executive style dwellings, which he parish council objected to as they did not meet the needs of the area. That application was subsequently withdrawn and the outline application submitted in an attempt to meet the aspirations of the parish council and local residents, as identified by the parish plan.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The proposal comprises one of a number of current applications for residential development within Nesscliffe. The Parish Council have indicated differing opinions on some of the applications and accordingly the Planning Manager considers the applications raise complex matters that warrant consideration by the Planning Committee.
4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.2 **Nesscliffe Parish Council** – Support. Following the parish council meeting held on 21.6.12 Great Ness and Little Ness Parish Council support the application with its amended description. The Parish Council support the application for residential development on land opposite to the Nesscliffe Hotel as they consider that this site is a brown field site as there has been stone agricultural buildings erected on it in the past. The Parish Council support the principal of development on this site because it will have a minimal impact on neighbouring properties. The existing core strategy for Nesscliffe currently allows only infill development in the Parish and the Parish Council considers that this site can be defined as infill development.

4.3 **Shropshire Fire and Rescue** - It will be necessary to provide adequate access for emergency fire vehicles. There should be access for a pumping appliance to within 45 metres of all points within the dwellings. This issue will be dealt with at the Building Regulations stage of the development. However, the Fire Authority advise that early consideration is given to this matter.

4.4 **SC Highways** – Shropshire Council, as Highway Authority, has no objection in relation to the development proposals as outlined on the documentation submitted. Concerns have been raised with regard to the access to the proposed development. The current proposals do not provide any details with regard to the proposed visibility splay and gradient into the development. Therefore prior to commencement on site recommend that details are submitted to confirm the correct visibility splay can be provided and a suitable gradient and width at the access to the site.

4.5 The proposed access to the development is located in close proximity to the car park for the Nesscliffe Hotel. In consideration of the proposed number of dwellings and the anticipated peak hour movements it is not anticipated that this will have a significant impact on safety within the vicinity of the development site. However, it would be beneficial if the access/exit to the car park nearest the development was closed or an access created off the development site to reduce driver confusion, it is appreciated that this remains outside the development boundary and may not be possible to achieve. Please note that the service strips will need to be provided throughout the development to bring the road to adoptable standard. Recommend conditions regarding access construction and layout, road design, construction method statement, visibility and gradient of the carriageway.

4.6 **SC Rights of Way** - It appears that the proposal will directly affect Footpath 12 Great Ness Parish. Footpath 12 is contained within the curtilage of the development site as shown on the block plan, heading in a SSW direction from the track that leads in a SW direction from the county road just north of the Nesscliffe Hotel. The Outdoor Recreation Team are currently discussing the options available with the applicants agent, with a view to possibly diverting this path, however it should be noted that submitting a diversion application is not guaranteed to be successful. The Outdoor Recreation Team asks that no development takes place until a diversion application is processed.

4.7 With regard to the development itself, please ensure that the applicant adheres to
the criteria stated below:
Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.
Building materials, debris, etc must not be stored or deposited on the right of way.
There must be no reduction of the width of the right of way.
The alignment of the right of way must not be altered without an application to divert the path is processed and confirmed.
The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation as mentioned above.
If it is not possible to maintain public access along the footpath at all times while building works take place, the applicant should apply to the Outdoor Recreation Team for a temporary closure of the path.

4.8 **SC Public Protection** - Specialist Pollution do not have any comments to make in respect of this application.

4.9 **SC Drainage** - On the Design and Access statement, it states that the surface water will drain via a soakaway and a reed bed. On the SUDs Applicability map, the site is Infiltration PLUS Treatment. Ground water must be protected from any form of pollution in this zone. This treatment may take the form of a reed bed removing any contamination prior to the soakaway. Percolation tests and the sizing of the soakaway 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. Alternatively, it may be acceptable for a soakaway to be designed for the 1 in 10 year storm event provided the applicant submits details of flood routing to show what would happen in an ‘exceedance event’ above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Recommend conditions and informatives relating to percolation tests, soakaways, reed beds and SUDs, including drainage calculations for drainage of the adopted road and connection to the mains foul sewer.

4.10 **SC Ecologist** – Recommend conditions and informatives relating to bat boxes, lighting plans, nesting wild bird boxes and badgers.

4.11 **SC Public Protection** - No objection. Recommend conditions are attached relating to hours of construction work, minimisation of airborne dust and burning of waste materials on site

4.12 **Public Comments**
- ..... Generate more traffic problems/hazards for a busy road, where the 30 mph speed limit is rarely kept too.
- Impact on the public footpath, used by children and parents from neighbouring villages on their way to and from the local school.
- ..... Where is the need for so many new properties in such a small area? Especially as another application has recently been made for 10 dwellings and 2 affordable dwellings within 150 yards of this one.
- ..... The recently published SAMdev Planning Document clearly states that all new developments must be of a scale and design that is sympathetic to the character of the village. There is no way that this back-field development
would be covered by the spirit of the SAMDev document.

• ..... The very small size of the dwellings shown on the Indicative Sketch Site Plan seems to bear no resemblance to the size of existing surrounding dwellings.

• ..... Tightly packed, high density building is totally out of character with the existing street scene of the village.

• ..... The proposed development will alter the character of the village and result in loss of visual amenity.

5.0 THE MAIN ISSUES

5.1 Principle of development

Siting, scale and design of structure

Visual impact and landscaping

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The prevailing policy currently applicable to Nesscliffe is Core Strategy Policy CS5 Countryside and Green Belt. Shrewsbury and Atcham Borough Local Plan Policy HS4, which previously applied to Nesscliffe, is no longer in effect, following the adoption of the Core Strategy in 2011. Policy CS5 precludes residential development outside identified settlements (including hubs and clusters) other than to meet specific needs such as affordable dwellings or agricultural workers dwellings.

6.1.2 At this present time the village of Nesscliffe has not yet been formally designated as a Hub or a Cluster and is therefore open countryside. The SAMDev Plan preparation process is on-going. In situations where there is a consensus of opinion regarding the emerging policies for a settlement and development proposals are supported by the community within which they are being proposed, some weight can be given to the emerging SAMDev Plan policies. In settlements where policy issues remain unresolved and development proposals come up against objections from the local community, or mixed views, then existing policy must prevail. Where competing sites come forward the Plan Led process must be the means of taking sites forward.

6.1.3 At this time the Planning Authority has three current applications for housing developments in Nesscliffe. Due to the unresolved nature of the policies for the future development of Nesscliffe beyond the Parish Council’s stated wish to be a “community hub”, the officers cannot currently support any of the submitted schemes.

6.1.4 In the rural areas, the Council is working with local communities to identify community hubs and community clusters that aspire to be stronger social, economic and environmentally sustainable communities. The approach recognises that sustainability is based on many factors, including the presence of employment, affordable housing, facilities and services, but also intangible assets such as social fabric. In community hubs and clusters, development that improves their sustainability will be welcomed, for example where it provides employment opportunities, affordable housing or services and facilities for local needs. In this way, the sporadic speculative development that has occurred in Shropshire’s villages, smallest settlements and open countryside over recent decades can be
managed in a more positive way, targeted instead at helping deliver rural regeneration. Whilst Nesscliffe may in the future be part of the drive to ensure the sustainability of future development its likely role is as yet not properly defined.

6.1.5 In this instance, the Parish Council’s support of the application is not enough to provide a clear distinction between this site and the competing site at The Gables – both schemes are in outline, both a similar size and presumably for a similar number of dwellings and both accessed off the same road.

6.2 Siting, scale and design of structure
6.2.1 Given that the application is in outline only with matters reserved, there are few elements with regard to the proposal that can be assessed at this stage. There is considered to be sufficient space to accommodate access to serve potential development on the site and colleagues in Highways Development Control have not raised an issue with this.

6.2.2 The agent has confirmed that should planning permission be granted, they would liaise with the Parish Council and local community to produce a mix and type of residential development that the community is seeking.

6.3 Visual impact and landscaping
6.3.1 Whilst the site is not situated adjacent to the road, and therefore has no roadside frontage, it set back behind an existing car park, which for the majority of the time is unused, and therefore views across the car park to the development will be possible. Views will also be possible from the bypass to the rear of the site due to a significant change in ground levels; however there is substantial tree along the bank providing screening thorough much of the summer months. The proposed site is considered to infill a current gap in the development along this side of the village and would be unlikely to cause demonstrable harm to the visual amenity of the country park when viewed from further afield such as the A5 bypass.

7.0 CONCLUSION
7.1 The annexe to the NPPF makes it clear that Policies adopted post 2004 should be given full weight in determining applications for 12 months from publication of the NPPF. As Nesscliffe has not yet been formally designated a hub or cluster its potential designation can only be given little or no real weight. The prevailing policy therefore currently applicable to Nesscliffe is Core Strategy Policy CS5 Countryside and Green Belt where Nesscliffe is classified as open countryside.

7.2 The proposal would constitute unwarranted premature development in a location which is currently outside any settlement identified in the development plan as suitable for such development, and accordingly would be contrary to the aims and requirements of adopted Polices CS4, CS5 and CS6 of the Shropshire Core Strategy, and to Government advice contained in the National Planning Policy Framework.
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 - written representations, a hearing or inquiry.

- The decision is 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 a) promptly and b) in any event not later than three months after the grounds to make the claim first arose 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 give 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 of 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 dependant on the scale and nature of the proposal. The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.
10. Background

Relevant Planning Policies

Accordingly the proposal is considered contrary to adopted Polices CS1, CS4, CS5 and CS6 of the Shropshire Core Strategy, and to Government advice contained in the National Planning Policy Framework (in particular paragraph 55).

RELEVANT PLANNING HISTORY:

11/03917/FUL Erection of two detached houses with balconies to front elevation; erection of detached triple garages and formation of estate road WDN 1st March 2012

11. Additional Information

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

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member Cllr David Roberts

Appendices: None