

Date: Thursday, 18 September 2014

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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## CENTRAL PLANNING COMMITTEE

### TO FOLLOW REPORT

- 8 The Fox Inn, Ryton, Shrewsbury, Shropshire, SY5  
7LS (14/00701/FUL) (Pages 1 - 8)**  
Erection of six residential dwellings.

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Committee and date  
 Central Planning Committee  
 18 September 2014

## Development Management Report Update report – The Fox Inn, Ryton, Shrewsbury, Shropshire, SY5 7LS.

Responsible Officer: Tim Rogers  
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### Summary of Application

<b>Application Number:</b> 14/00701/FUL	<b>Parish:</b>	Condover
<b>Proposal:</b> Erection of six residential dwellings		
<b>Site Address:</b> The Fox Inn Ryton Shrewsbury Shropshire SY5 7LS		
<b>Applicant:</b> Mr John Owen		
<b>Case Officer:</b> Steve Drury		<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 349000 - 303176

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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a s106 legal agreement to secure the provision of one on-site affordable dwelling.**

## REPORT

### 0.0 UPDATE

0.1 This application was deferred at the 26th June 2014 meeting of the Central Planning Committee to enable further consideration of the proposed drainage scheme to take place.

### 0.2 Drainage Issues:

Prior to the Committee meeting, the Flood and Water Manager provided additional comments which are available in full on the planning file but have been summarised as follows:-

1. The ditch, which forms the northern boundary of the site in question, is classified as a watercourse. A watercourse is any natural or artificial channel through which water flows, such as a river, brook, beck, ditch, mill stream or culvert. Whilst, in recent history, a lack of maintenance and alterations to the watercourse may have resulted in locally perceived lower flows, the watercourse is currently flowing, as one would expect, due to the high ground water levels in the area. The flows witnessed during a site visit on 24 June 2014 were deemed likely to be sufficient to accept the discharge from a packaged sewage treatment plant, subject to the necessary exemption certificate / consent from the Environment Agency.
2. The proposed development accords with Shropshire Council's 'Surface Water Management: Interim Guidance for Developers' document, as the proposal will include a single outfall of 5l/s into the watercourse. The existing run-off (using Shropshire Council's criteria for a brownfield assessment) would be 21.5l/s and Shropshire Council requires a 50% betterment to the existing flow for the new development, which the design achieves.
3. The design shows that there is sufficient capacity in the system to accommodate a 1 in 100 year plus 30% storm with flooding. In the event of high intensity rainfall, exceedance flow will be stored along the western boundary wall, whereas with the existing situation overland flow is able to flow to adjacent land.
4. Concerns have been raised by neighbours that the northern ditch was not a constantly flowing watercourse and the Environment Agency would unlikely consent to the outfall. As stated above, the watercourse has been witnessed as flowing by the Flood and Water Management Team. A historic planning document for the neighbouring development of Wysteria House in 2008 supports this.
5. It is understood, from reports by neighbours and the applicant's drainage consultant, that some exploratory work has been undertaken within the proposed development site. After discussion with both neighbours and the consultant, a further site visit was undertaken by the Flood and Water Management Team on 24 June 2014. It was evident that the work carried out was to clear existing land drainage systems within the development site. This maintenance work did not require consent. The work has resulted in land drains being able to freely flow once more.

6. Historic mapping supports the view of the Flood and Water Management Team, acting as the Land Drainage Authority, that this is a watercourse which, when maintained as it should be by the responsible riparian landowners, flows under normal circumstances.
  7. The site visit undertaken on the 24 June 2014 confirmed the existence of a 300mm diameter culvert beneath the large field to the west of the proposed development and its neighbours. The culvert forms the conduit between the open watercourse to the west and the open watercourse adjacent to the development site. It was found to be in a poor state of repair and the landowners responsible for its maintenance are to be contacted under the Land Drainage Act to require its return to normal serviceability. It appears that, over time, the interconnecting drains and ditches have been 'modified' and this, in turn, has resulted in the existing situation where the culverted watercourse has become silted. The proposed development cannot be held accountable for the lack of maintenance downstream, since it has a 'right to drain' albeit in natural quantity. Riparian landowners have a duty, in common law, to accept natural flows from the land above them. The proposed surface water drainage system for the development replicates this natural flow.
  8. Separate to this planning application, the Flood and Water Management Team will seek to resolve the existing land drainage issues downstream of the development site by working with those riparian landowners who are responsible for the watercourse's maintenance.
  9. The proposed development site has a right to drain its surface water, in the manner it is proposing, via a restricted outfall of 5l/s, despite there being land drainage issues downstream which are the responsibility of third parties. This principal was explored in some detail, albeit for a larger development, as part of the recent Southern Planning Committee decision for 14/00062/OUT.
  10. The watercourse is suitable to receive treated foul effluent from the package treatment plant as the watercourse is flowing constantly.
- 0.3 The above comments were only received 24 hours prior to the Committee meeting but were reported to members in the Additional Representations Sheet and during the Committee site visit. Concerns were raised by neighbours and members regarding the timing of the comments which were received within 24 hours of the Committee meeting, thus not giving objectors the opportunity to fully consider their contents.
- 0.4 As suggested by members at Committee, meetings have subsequently taken place separately with the applicants and neighbour and their respective drainage consultants. Further to these meetings, the following has taken place: -
1. A flow monitor has been installed in the watercourse at the rear of the site in order to demonstrate its suitability to receive treated foul effluent from the package treatment plant. The applicants Drainage Consultant has advised that the flow rate did not drop below 12 litres per minute during the week it was installed. The Councils Flood and Water Manager has confirmed that the flow witnessed on site during an unannounced visit would be sufficient to discharge the package treatment plant into the watercourse. Under current

environmental permitting regulations, the applicant requires an exemption certificate from the Environment Agency, to do this. This has been obtained and submitted for officer's attention.

2. Following a request from officers, an updated plan has been submitted providing the following additional information: -

- Foul and SW drainage arrangements for the barn conversion scheme approved under reference 14/00392/FUL and how these relate to the proposed development.

The plans show that foul sewage from the barn will discharge into a sealed foul cesspit and will have no impact. SW will be as per the existing arrangements draining directly into the watercourse. No impermeable areas will be provided around the barn and no increase in SW runoff will take place. The Councils Flood and Water Manager comments that 'We do try to encourage a reduction in the rate of surface water discharge as part of all 're-development', however, for very small sites, such as individual barn conversions, options are extremely limited and so this is typically done through encouraging the removal of existing impermeable surfaces. Since the 'non-roof' surfaces are already permeable here, existing surface water discharge rates are acceptable'.

- Clarification of proposed SW and foul drainage at The Fox Inn.

A new above ground sealed cesspool for use by the Fox Inn will be provided in the curtilage of the pub and will have no impact upon the development. SW drainage currently discharges into the watercourse, with the exception of two down pipes which drain into flower beds. There is no intention to attenuate storm water from the public house as this does not form part of the development. The Councils Flood and Water Manager comments that 'The surface water draining from the Public House does not form part of the development proposals and, therefore, the fact that it is not being altered in any way is acceptable'.

- Details of foul drainage connections from each of the individual properties and a sampling chamber.

The Council's Flood and Water Manager has inspected the submitted details shown in an updated drainage plan received 7<sup>th</sup> August 2014 and comments that 'details of the foul drainage connections from each of the individual properties and a sampling chamber from which samples of the discharge can be collected if required, are shown on the plan. The nature and location of these items appear to be acceptable. Such items will be signed off as part of building regulations approval'.

- Details of flow levels within watercourse

The applicant's drainage consultant has advised that flow meters left on for a week recorded flows of 12 litres per minute. The Council's Flood and Water Manager comments that 'The rate of flow within the watercourse, as demonstrated by the applicant and witnessed on site by us, is sufficient to discharge the package treatment plant'. A copy of the exemption certificate obtained from the Environment Agency confirming the applicant's right to discharge the package sewage treatment plant into the watercourse has been submitted for information.

0.5 Following submission of the above information, a letter raising 11 further queries has been submitted by the neighbours at 4 Marshwall, in addition to an earlier letter from the same neighbour dated 31<sup>st</sup> July 2014 which raised 14 queries. Copies of the letters are available in full on the planning file. Not all points raised are necessarily relevant to the consideration of the application and concern matters outside the remit of the planning system. Officers consider that a number of the points raised have been addressed in the additional information submitted by the applicant and above comments. For clarity, however, the following further points are added:-

- The submitted hand drawn plans are considered to be of sufficient scale to assess the proposal and have been accepted by the Council's Drainage team. Further plans are not considered necessary.
- SW drainage arrangements at the barn will not change and are considered acceptable in this respect. Comments regarding betterment have been addressed above.
- The position of cesspools and package sewage treatment plants in terms of their distance from habitable buildings and the watercourse will be assessed at the Building Regulations stage to comply with necessary legislation,
- Existing SW drainage at The Fox Inn does not form part of this development and no alterations are required.
- With regard to a request for catchpits to be provided on the alterations to land drains, the Flood and Water Manager advises that these are not normally required on bends in land drains,
- With regard to flow levels in the watercourse, the applicants Drainage consultant has confirmed in writing the levels recorded and the Council's Flood and Water Manager has confirmed his satisfaction with the levels recorded which were viewed during a site visit.
- The monitoring of flow levels within the watercourse and the suitability of that watercourse to receive outfall from the proposed development are technically matters outside of the planning process and are subject to an environmental permitting process administered by the Environment Agency. From the information received, officers are satisfied that there is sufficient flow to accommodate the proposal, however, it is the applicants responsibility to ensure this as part of their on-going responsibility under the permitting regulations.
- An investigation into the land drainage downstream to the west of the site is taking place separately to this application by the Council's Flood and Water Management team. The proposed development cannot be held accountable for the lack of maintenance downstream, since it has a 'right to drain' albeit in natural quantity. Riparian landowners have a duty, in common law, to accept natural flows from the land above them. As has been mentioned elsewhere in this report, officers consider that the proposed surface water drainage system for the development replicates this natural flow. The Flood and Water Management Team will seek to resolve the existing land drainage issues downstream of the development site by working with those riparian landowners who are responsible for the watercourse's maintenance.



- 0.6 Following submission of the additional information by the applicant, the Council's Flood and Water Manager has confirmed that the drainage proposals for the site are considered acceptable.
- 0.6 Additional Conditions:  
At the previous committee meeting, two further conditions relating to drainage were proposed in the additional representations sheet, however, following the additional information submitted by the applicant as referred to above, it is no longer considered that these conditions are necessary.
- 0.7 On-site Parking:  
At the previous committee meeting, members raised concerns that the development only included 10 parking spaces for 6 dwellings, which is less than 2 spaces per dwelling. Given concerns regarding loss of parking at the public house, it was not considered acceptable to rely upon overflow parking on The Fox Inn car park. The applicant has therefore submitted amended plans showing parking space for up to 16 cars, including the two attached single garages at the rear of the site. The proposed development will now provide sufficient off street parking provision for the size of development proposed without the need to rely upon additional overflow parking at the public house.
- 0.8 The provision of additional car parking spaces will be carried out using permeable paving and will not increase surface water run-off or drainage calculations within the site.
- 0.9 Securing Overflow Parking in S106:  
It has also been queried by the Parish Council whether the overflow parking on adjacent fields should be secured and controlled by a S106 legal agreement. Members are advised that such an agreement is not considered necessary given that officers consider that the parking available at The Fox Inn is already sufficient to ensure the continued viability of the pub and compares favourably with other rural public houses within the area.
- 0.10 Distance to Dorrington:  
The Parish Council have advised that the distance between the site and Dorrington centre is 3 kilometres by road and not 1km as stated in the Committee Report. This is considered to be an important point given that the proximity to Dorrington is given as an argument for the development being considered sustainable. Officers have again reconsidered this point and confirm that the actual distance from the site to the crossroads in the centre of Dorrington is 1.1 miles or 1.8 kilometres.
- 0.11 Additional treatment to Windows:  
A request has been received from the owner of the neighbouring property, Wysteria Cottage, that obscure glazing and opening restrictors are installed in first floor windows in the west facing, rear elevation of the three units at the front of the site, in order to prevent the overlooking of the holiday lets adjacent the west site boundary. Although officers have previously commented that the relationship between the proposed dwellings and the holiday lets would be acceptable, the



applicant has agreed to this request. Officers, do however, feel it would be unreasonable to insist that such a restriction is imposed on all 3 of the units in that block given that only 2 of the units will actually be alongside the holiday lets. The unit nearest the highway (Unit 1) is located further to the south where any views from the rear will be of the neighbours entrance drive, parking space and public highway. It is therefore intended to impose a condition requiring opening restrictors and obscure glazing to be installed in the rear, first floor windows in units 2 and 3 only.

0.12 Five Year Land Supply update:

Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position (as published in an amended Five Year Housing Land Supply Statement on 12/08/14) is that it has identified a housing supply of 5.47 years for Shropshire which is sufficient to address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

0.13 In this respect, the considerations of Section 6.1 of this report are still considered to be valid, in particular, the view that whilst the settlement of Ryton is technically 'open countryside' in policy terms, having regard to the proximity to Dorrington where a basic range of services are available, the site is considered to be situated in a sustainable location which would not involve a heavy reliance on long journeys by private motor car. The principle of the development of the site for a residential use is therefore still considered acceptable.

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