



Shropshire Council  
Legal and Democratic Services  
Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND

Date: Wednesday, 3 December 2014

**Committee:**  
**Central Planning Committee**

**Date:** Thursday, 11 December 2014  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

You are requested to attend the above meeting.  
The Agenda is attached

Claire Porter  
Head of Legal and Democratic Services (Monitoring Officer)

**Members of the Committee**

Vernon Bushell (Chairman)  
Ted Clarke (Vice Chairman)  
Andrew Bannerman  
Tudor Bebb  
Dean Carroll  
Miles Kenny  
Jane MacKenzie  
Pamela Moseley  
Peter Nutting  
Kevin Pardy  
David Roberts

**Substitute Members of the Committee**

Peter Adams  
Tim Barker  
Roger Evans  
John Overall  
Hannah Fraser  
Alan Mosley  
Keith Roberts  
Jon Tandy  
Mansel Williams

Your Committee Officer is:

**Linda Jeavons** Committee Officer  
Tel: 01743 252738  
Email: [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 14)

To confirm the Minutes of the meeting of the Central Planning Committee held on 13 November 2014.

Contact Linda Jeavons on 01743 252738.

## 3 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

## 4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

## 5 Proposed Closure of New College Road at Wenlock Road (Pages 15 - 24)

## 6 Former Shelton Hospital, Somerby Drive, Shrewsbury, Shropshire, SY3 8DN (14/02402/FUL) (Pages 25 - 66)

Conversion of former hospital building(s) and outbuildings into 158 apartments and houses to include some demolition; formation of parking areas, courtyards and community gardens; erection of 82 dwellings with associated garages and parking; provision of new vehicular access and alterations to existing vehicular access; provision of new bowling green, associated works and pavilion; to include the felling of some trees, erection of protective netting adjacent to cricket pitch (Amended description).

## 7 Proposed Residential Development Opposite The Crescent, Nesscliffe, Shrewsbury, Shropshire (14/03357/OUT) (Pages 67 - 84)

Outline application for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access).

## 8 Proposed Residential Development to the NW of Ford, Shrewsbury, Shropshire (14/03451/FUL) (Pages 85 - 106)

Erection of 2 no. dwellings with associated garages; formation of vehicular access.

## 9 Princess House, The Square, Shrewsbury, Shropshire (14/04383/FUL) (Pages 107 - 124)

Conversion of the existing office space and extension to provide 50No residential apartments together with secure storage facilities and restaurant unit at ground level.

**10 Schedule of Appeals and Appeal Decisions (Pages 125 - 140)**

**11 Date of the Next Meeting**

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 15 January 2015 in the Shrewsbury Room, Shirehall.

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## Committee and Date

Central Planning Committee

11 December 2014

## CENTRAL PLANNING COMMITTEE

### Minutes of the meeting held on 13 November 2014

2.00 - 5.30 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

**Responsible Officer:** Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 252738

### Present

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Dean Carroll, Miles Kenny, Pamela Moseley, Peter Nutting, Kevin Parry, Tim Barker (Substitute) (substitute for David Roberts) and Jon Tandy (Substitute) (substitute for Vernon Bushell)

### 62 Apologies for absence

Apologies for absence were received from Councillors Vernon Bushell (Chairman) (substitute: Jon Tandy), Tudor Bebb, Jane MacKenzie and David Roberts (substitute: Tim Barker).

### 63 Minutes

#### RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 16 October 2014 be approved as a correct record and signed by the Chairman, subject to it being noted that the decision at Minute No. 57 should read, ".....transport provision; the success of the small scale facilities is dependent on the entrepreneurialship of the people who run them; the safety....."

### 64 Public Question Time

There were no public questions, statements or petitions received.

### 65 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

With reference to planning application 14/03033/FUL, Councillors Andrew Bannerman and Peter Nutting stated that they were members of the Planning Committee of Shrewsbury Town Council. They indicated that their views on any proposals when considered by the Town Council had been based on the information

presented at that time and they would now be considering all proposals afresh with an open mind and the information as it stood at this time.

With reference to planning applications 14/00335/OUT and 14/03338/OUT, Councillor Tim Barker stated that, for reasons of predetermination, he would make a statement and withdraw from the table and take no part in the consideration of, or voting on, these applications.

**66 Proposed Development Land East of Station Road, Condover, Shrewsbury (14/00335/OUT)**

With reference to Minute No. 57, the Principal Planner introduced the application and explained the risks involved in refusing the applications for the reasons previously given as outlined in the addendum, he also drew Members' attention to the location and layout.

Members had undertaken a site visit on a previous occasion and had viewed the site and assessed the impact of the proposal on the surrounding area.

Mr J Casewell, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- He urged Members to refuse this application for a second time;
- Would be contrary to paragraph 7 of the National Planning Policy Framework (NPPF). A housing estate situated on the side of a small village would lead to distortion of and damage to the communities that had taken many decades to evolve;
- Would be contrary to paragraph 12 of the NPPF. The community had made its intentions clear – new development should be in small pockets distributed throughout the village;
- Paragraph 111 of the NPPF required authorities to encourage the use of brownfield sites and where significant development of agricultural land was demonstrated to be necessary local authorities should seek to use areas of poorer quality land in preference to that of higher quality. Paragraph 112 emphasised this duty and nowhere had the necessity to develop agricultural land been demonstrated and since February 2014 livestock had been grazed and two crops had been grown;
- Concerned by the extra volume of traffic that would be generated alongside the HGVs, farm machinery and the dangerous junctions onto the A49;
- Facilities – No-one would be solely reliant on the two shops and the reference to a plethora of other services was a wild exaggeration;
- There were 18 mainly small businesses on the industrial estate, Farm Friends Nursery employed 16 staff. Raising turkeys and growing potatoes was seasonal and as the latter was not labour intensive any vacancies for employment would be minimal;
- Any need for a double classroom at the school should be addressed by the education authority and not used by the developer as justification to build an estate; and

- Other land had been identified and the community should not be ignored.

Councillor David Lane, representing Condover Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- He drew attention to a recently dismissed appeal for land in Dorrington and pointed out specific similarities to this application:

The site was in open countryside, where new development was strictly controlled under Shropshire Council's Core Strategy Policy CS5 and only limited types of development, such as accommodation for essential countryside workers and other affordable housing was permitted;

The site had not been identified in the emerging Site Allocations and Management Development (SAMDev) Plan;

The Shropshire Five Year Housing Land Supply Statement currently indicated that there was a 5.47 years supply of deliverable housing land in the County as at 31 March 2014;

The proposal would fail to satisfy the three dimensions to sustainable development in the NPPF: the economic, social and environmental roles. Given the five year housing land supply position, the scheme would not be necessary to meet the County's housing development requirements or the community's needs in terms of health, social and cultural well-being. It would also fail to accord with and therefore undermine the strategy for the location of housing. Furthermore, the development would extend into the countryside on the edge of the village and fail to protect or enhance the natural environment; and

The proposal would be contrary to national and local policies regarding sustainable development and the provision of housing;

- The proposal would double the number already included for the village within SAMDev;
- The land in question was a mixture of grade 2 and 3 arable land;
- The site had high archaeological potential;
- European Protected Species had been confirmed to be breeding on this site;
- Three new development sites had been included in the new Condover development boundary and at least one of these sites was brownfield.

Mr S Taylor, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The NPPF was now a prescriptive document;
- The outcome of appeals suggested that local authorities were now obliged to support sustainable development;
- Officers were recommending approval and had confirmed sustainability;
- The proposed footpath link would be traffic free; and
- The proposal would be in accordance with CS4.

In accordance with his declaration at Minute No. 65 and by virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor Tim Barker, as the local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote. During his statement the following points were raised:

- He reiterated his concerns made at the previous meeting and commented that the proposed development would not be sustainable and the community character and nature of Condover would be substantially changed;
- Would result in the loss of good agricultural land;
- The site formed part of a much larger field; and
- Would be contrary to national and local policies.

In response to questions and comments, the Area Planning and Building Control Manager explained that applications should not be refused where an issue could be appropriately dealt with by condition and any reasons for refusal should be clear and capable of being objectively evidenced and justified; and any deferral could result in an appeal against non-determination. With reference to the Dorrington appeal, the Principal Planner explained that this application had some differences from the Dorrington appeal but clearly outlined that the benefits arising from this scheme in Condover would be substantially different and drew Members' attention to the proposed facilities/benefits, namely the provision of affordable housing, highway improvements works and the community facilities including school car park, hall, recreation and play facilities and allotments. He further explained that under delivery of housing could have implications on Shropshire Council's ability to demonstrate a five year land supply.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

**RESOLVED:**

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

- Notwithstanding the community benefits included within the application, the proposal would fail to satisfy the three dimensions to sustainable development defined within the National Planning Policy Framework: the economic, social and environmental roles. Given the Council's current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council's housing development requirements of the community and would therefore undermine the strategy for the location of housing. Furthermore, the development would extend into the countryside, utilising high quality agricultural land and would fail to protect or enhance the natural environment. Accordingly, the proposal would fail to accord with the aims and requirements of saved policy HS3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and CS17, and emerging site allocation and management of development policies MD1 and MD3.



**67 Proposed Development Land South Of Plealey Lane, Longden, Shropshire (14/01704/OUT)**

The Technical Specialist Planning Officer introduced the application and confirmed that Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area. With reference to the drawings displayed, he drew Members' attention to the location.

Members noted the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed further objection comments from members of the public and comments from Shropshire Council's Highway Officers.

Mrs J Ingham, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Longden was a rural community with small scale facilities;
- Because of the nature of the layout of the development (a cul-de-sac) the occupants would be unlikely to interact with the community;
- Concerns with regard to the volume of traffic that would be generated by the development, and because of the limited employment opportunities in the area this would be exacerbated with residents journeying by car to access employment;
- It had not been demonstrated that school traffic would use the proposed access arrangements;
- No adequate drainage proposals had been submitted;
- A number of trees, including trees up to 350 years old would be felled;
- Great Crested Newts had been discovered and this required further investigation;
- Would lead to further applications; and
- Unclear if a proper bat survey had been undertaken.

Councillor P Carter, representing Longden Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The Parish Council welcomed additional housing but only if it was sympathetic to the area;
- The proposal would not meet the needs of the community, would increase the size of the village by 40% and be contrary to Parish Plan;
- No consultation had been undertaken and pre-application discussions would have highlighted concerns;
- The narrow, single track road network was already busy with agricultural and school traffic. No traffic assessment had been carried out to seek the views of users. Residents would have to commute to work;
- Inadequate bat survey undertaken and Great Crested Newts were present;
- The proposed footpath might not be achievable as it crossed private land;
- A significant number of mature trees would be removed;

- Not sustainable;
- If approved, strict control on the ecology was imperative; and
- Any Reserved Matters application should be considered by the Parish Council and this Committee.

Mr M Parrish, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- All comments received from consultees and interested parties had been addressed and he drew Members' attention to the information from Highway Officers as set out in the Schedule of Additional Letters;
- Discussions had been undertaken with the School Head with regard to access and associated facilities. Any works to the school would be funded by the applicant. Car park had been welcomed by the school;
- Footpath linkages would be surfaced and the footpath crossing private land was already a public footpath and used by the public;
- Substantial landscaping would take place;
- The site was not classified as being good agricultural land so would be in accordance with the NPPF; and
- The development would be sustainable and in accordance with the NPPF.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Roger Evans, as local Member, participated in the discussion and spoke against the proposal but did not vote. During which he raised the following points:

- No discussions had been entered into by the applicant with the Parish Councillor or the local Ward Member;
- Would be contrary to Parish Plan;
- This and other proposed applications would exceed the number of units projected for 2026;
- Limited employment in the area;
- Highway network already congested and access to the site would be restricted;
- Other sites had been identified for small developments. The size of this application would overwhelm and change the rural character of the village;
- Oak trees would be felled; and
- He questioned if parents would use the proposed parking at the school.

In response to comments from speakers and Members, the Technical Specialist Planning Officer and Principal Planner confirmed that the Sport England objection had been withdrawn and conditions would be attached to any permission to ensure the continued provision of sports facilities; details of the proposed equipment store would not have to be provided for an outline planning application; and provided clarification on the number of dwellings proposed in Longden.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

**RESOLVED:**

That, contrary to the Officer's recommendation, planning permission be refused for the following reasons:

- The proposal would fail to satisfy the three dimensions to sustainable development defined within the National Planning Policy Framework: the economic, social and environmental roles. Given Shropshire Council's current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council's housing development requirements of the community and would therefore undermine the strategy for the location of housing. Furthermore, the development would extend into the countryside, and would fail to protect or enhance the natural environment. Accordingly the proposal would fail to accord with the aims and requirements of saved policy H3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and CS17, and emerging site allocation and management of development policies MD1 and MD3; and
- The proposed development would result in the loss of a significant number of mature trees with high amenity values. It is not accepted that the replanting scheme proposed would adequately compensate or mitigate for the loss of the mature trees. Accordingly, the proposal would fail to comply with the aims and requirements of adopted Core Strategy policies CS6 and CS17 or the guidance within the NPPF.

**68 Development Land North Of A458 Ford Shrewsbury Shropshire (14/01819/OUT)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, indicative layout, access and indicative elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Councillor R Blythe, representing Ford Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Ford was designated as open countryside and the site fell within the Conservation Area;
- Access would be onto the busy A458;
- Already insufficient parking at school and this would exacerbate the problem;
- Inadequate ecology survey had been undertaken;
- Concerns with regard to surface water run-off. The brook floods and this proposal would exacerbate the problem;
- School was already at its optimum number; and
- This proposal would be disproportionate in scale and size of existing community.

Mr A Sheldon, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The proposal would be sustainable and within walking distance of the village;
- Highways Agency had raised no objections;
- Dwellings would be built to a high standard suitable and in keeping with the Conservation Area;
- £25,000 would be made available to the Parish Council to overcome and mitigate traffic concerns;
- Only two objections had been received and one of these was from Parish Council; and
- This would be a sustainable location.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Roger Evans, as local Member, participated in the discussion and spoke against the proposal but did not vote. During which he raised the following points:

- Following consultation, Ford had been designated as open countryside;
- Shropshire Council now maintained they had a five year land supply;
- Limited employment in the area; and
- Following a survey by the Parish Council a low housing need had been identified and other applications granted in the area had met any identified need.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

**RESOLVED:**

That planning permission be granted as per the Officer's recommendation, subject to:

- A Legal Agreement to secure affordable housing in accordance with the prevailing rate at the time of submission of reserved matters; and
- The conditions set out in Appendix 1 to the report.

**69 Shropshire Ambulance Service Ambulance Station, Abbey Foregate, Shrewsbury, SY2 6LX (14/03303/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout, access, landscaping and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

In the ensuing debate, Members considered the submitted plans. They noted the comments of the Public Protection Officers and noted that appropriate conditions

would be attached to mitigate any noise concerns and highway improvement works would take place at the junction with Sparrow Lane and Abbey Foregate.

**RESOLVED:**

That planning permission be granted as per the Officer's recommendation, subject to:

- A Section 106 Legal Agreement to secure the affordable housing on site; and
- The conditions set out in Appendix 1 to the report.

**70 Land West Of Mulberry House Great Ryton Shrewsbury Shropshire SY5 7LW (14/03338/OUT)**

The Technical Specialist Planning Officer introduced the application and with reference to the drawings displayed, he drew Members' attention to the location.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from the Planning Officer and objection comments from members of the public.

Ms S Mackay, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- During the SAMDev consultation process Ryton had expressed a wish to be designated as countryside;
- Facilities and services would have to be accessed by car;
- This proposal would add to the existing imbalance in Ryton and would offer no community benefit;
- Would be contrary to NPPF, CS5 and SAMDev, be socially unsustainable and encroach into open countryside;
- Significant weight could now be afforded to SAMDev and Shropshire Council could now demonstrate a five year land supply; and
- The proposal failed to satisfy the three dimensions to sustainable development defined within the NPPF, namely the economic, social and environmental roles.

Councillor David Lane, representing Condover Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Condover Parish Council was in favour of development but had been targeted by developers;
- Ryton was designated as countryside, so proposal would be contrary to SAMDev;

- The two four-bedroomed dwellings would not meet the housing needs of the village and he questioned how they could be considered sustainable; and
- He drew attention to the recent dismissed appeal for Dorrington.

Mr D Richards, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The proposal would be in accordance with the NPPF, was in accordance with guidelines and had been assessed by Officers;
- Would result in a visual enhancement of the site;
- Landscaping, design etc. would be addressed at the Reserved Matters stage;
- Highways had raised no objections;
- Sustainable location;
- The only objections had been from the adjacent householder and the Parish Council; and
- Would provide additional housing.

In accordance with his declaration at Minute No. 65 and by virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Full Council held on 27 February 2014, Councillor Tim Barker, as the local Ward Councillor, made a statement and then left the room, took no part in the debate and did not vote. During his statement the following points were raised:

- He reiterated that Shropshire Council could now demonstrate a five years land supply and this would be an "on balance" decision and drew Members' attention to the three dimensions of sustainability as set out in the NPPF.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members held differing views and in acknowledging that Shropshire Council could now demonstrate a five year land supply and this area was designated as open countryside some Members recommended refusal. In response the Solicitor advised that a refusal on the grounds being proposed might not be defensible if challenged. Therefore, in accordance with Part 5, Section 17.4 of the Constitution it should only be a "minded to" decision and would be brought back to the next relevant Planning Committee so further advice could be given on the proposed reasons and legal implications. A motion to defer with minded to refuse was defeated and a motion to approve was then tabled.

**RESOLVED:**

That planning permission be granted as per the Officer's recommendation, subject to:

- A Section 106 Legal Agreement to secure the provision of off-site affordable Dwellings; and
- The conditions set out in Appendix 1 to the report.

**71 Proposed Residential Development to the NW Of Ford, Shrewsbury, Shropshire (14/03451/FUL)**

The Area Planning and Building Control Manager introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations.

Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from the Planning Officer and objection comments from members of the public.

Mrs M Blyth, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- Site fell outside the development boundary on agricultural land so would be contrary to CS5;
- The bridleway was a much valued amenity and well used. No access rights existed along this route;
- 72 residents had signed a petition which demonstrated the local opposition to this proposal;
- There had been no demonstrated need for housing in Ford and the site would be unsustainable;
- The development would seriously impact on residential amenity; and
- All vehicles throughout development and thereafter would pass Clifton Coach House and the noise would have a detrimental impact on family life. As such the proposal would be in contravention of Article 7 of the UN Convention on the Rights of Persons with Disabilities and Article 8 of the Human Rights Act.

Mrs Z Robbins, representing the Nesscliffe Hills & District Bridleway Association, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- There was no vehicular access rights over the bridleway and recently an opening in the fence and hedge line was made to gain access;
- No higher access rights than bridleway had been claimed or proved on this route and it was illegal to drive a motorised vehicle up a public bridleway;
- The surfacing of a bridleway should not be to the detriment of the main users; and
- The bridleway was the only off road through route in Ford, was a safe route and supported the initiative to get people out exercising. It was an important link in the Humphrey Kynaston Way and any detrimental impact on this route would have an impact on tourism and put leisure users at risk and be contrary to CS16.

Councillor R Blyth, representing Ford Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- This was a greenfield site and agricultural land;
- Following consultation, Ford Parish Council had been designated as countryside under SAMDev;
- The entrance to the field had been made just prior to the application being submitted and he questioned if there was a legal right to actually use the access;
- The principle of developing the land had been assessed for possible development but was rejected because of its detached location from the main settlement and would not be sustainable; and
- The impact of agricultural vehicles on the highway had not been assessed by Highway Officers.

With the agreement of the Chairman, Mr S Thomas, the agent, was permitted to speak for up to six minutes and spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- The five year land supply issue had, as yet, been unchallenged and would be the subject of further scrutiny;
- Ford had a range of services and amenities;
- Would make a small but vital contribution to housing and would be in accordance with the NPPF;
- The bridleway was currently used by existing properties and the use would remain unrestricted;
- Construction would have a short-term impact;
- Application could not be refused on issues relating to ownership of bridleway;
- Officers would have had due regard to the Human Rights Act when making their recommendation; and
- This would be a small scale scheme in a sustainable location.

In accordance with Council Procedure Rules (Part 4, Paragraph 6.1) Councillor Roger Evans, as local Member, participated in the discussion and spoke against the proposal but did not vote. During which he raised the following points:

- Pre-application advice had been sought from Planning Officers but no consultation had been undertaken with the Parish Council or the local Ward Member;
- The area was designated as open countryside;
- No employment;
- Social – two large houses would not satisfy any need;
- The site was in a remote location and access would be down a narrow lane;
- Other applications had been granted without any identified need; and
- Proposal would be contrary to CS6 and CS17.



In response to comments from Members, the Area Planning and Building Control Manager explained that the ownership of land was not a reason to refuse an application and the applicant had fulfilled his obligation and had published a notice in the newspaper in an attempt to ascertain ownership; the type of road surface could be imposed by conditions; and the personal circumstances of nearby residents could not be taken into account when determining an application.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers.

**RESOLVED:**

That consideration of this item be deferred, with Members minded to refuse the application for the following reasons:

- The application on the basis that the proposal would be detrimental to the residential amenities of neighbouring residents. In addition, the proposal would fail to satisfy the three dimensions to sustainable development defined within the NPPF: the economic, social and environmental roles. Given the Council’s current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council’s housing development requirements or the community’s needs in terms of health, social and cultural well-being and would therefore undermine the strategy for the location of housing. Accordingly, the proposal would fail to accord with the aims and requirements of saved policy H3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and emerging site allocation and management of development policies MD1 and MD3.

**72 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the central area as at 13 November 2014 be noted.

**73 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the Central Planning Committee would be held at 2.00 p.m. on Thursday, 11 December 2014 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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Committee and date

Central Planning Committee

11 December 2014

## **PROPOSED CLOSURE OF NEW COLLEGE ROAD AT WENLOCK ROAD**

**Responsible Officer** Richard Harman

Email: Richard.harman@shropshire.gov.uk Tel: 01743 255495

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### **1. Summary**

During the consideration of the now consented planning application ref 13/05044/FUL for the expansion of the Shrewsbury College of Arts and Technology London Road campus, concern was expressed over a possible increase in vehicle movements along New College Road so a s106 agreement was made to provide funding to close off one end of New College Road to remove 'through traffic' movements.

A statutory 21 day consultation for the proposed Traffic Regulation Order (TRO) for the closure was advertised on 24/7/14. A total of 18 responses have been received to the consultation made up of four objections, 12 notes of support and two notes of comments. Given that the reasons for objections can be considered of local importance to the affected residents under the Shropshire Council scheme of delegation for TRO's the matter is referred to the Central Planning Committee for a decision.

### **2. Recommendations**

The officer recommendation is to approve the proposed TRO and closure of New College Road for access by all motor vehicles at its junction with Wenlock Road, Shrewsbury.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

We consider that there are no known risks or equal opportunity issues arising for the council or our customers as a result of this proposal.

### 4. Financial Implications

Funding of £5,000.00 has been granted to the local planning authority under a s106 agreement as part of the planning consent for the expansion of Shrewsbury College of Arts and Technology. The funding should be sufficient to construct the proposed scheme in its current form. If the council don't implement the proposal within a two-year time period, this funding will be returned to the college.

### 5. Background

During December 2013 Shrewsbury College of Arts and Technology lodged a planning application to expand their London Road campus to relocate existing courses from their Radbrook Road campus and to provide capacity for new facilities. The application also included a substantial expansion of the on-site parking facilities and was accompanied by a transport statement. During the consideration of this application concern was raised by local residents, the local councillors and by the local highway authority over the possibility of intensified use of New College Road by people travelling to and from the campus by car.

New College Road is not considered to be suitable for through traffic movements due to its narrow width and 'Local Access' road status; a road of this type would normally form a cul-de-sac. Ebnal Road on the other hand is classed as a 'Secondary Distributor' road as it is suitably wide to safely carry traffic travelling between Wenlock Road and London Road (and vice versa), so this is the appropriate route for these movements.



Views looking due west (from London Rd) along New College Road and Ebnal Road.

The local highway authority considered that London Road is an appropriate site for the expansion of the existing campus, so no objection was raised to the planning application subject to a s106 agreement to provide funding to close off New College Road to through traffic movements between the two adjacent 'A' roads. At the time of negotiating the agreement it was proposed that the closure would be implemented at London Road by 'reclaiming' verge running along the main road, so this has been written in to the agreement. However following the signing of the agreement and the granting of planning permission the council was approached by a group of local residents who requested that the closure be implemented at Wenlock Road instead, as this would remove the risk of drivers by-passing the closure at New College Road and instead using the service road access some 100m or so further along London Road. The map below demonstrates this:



Following a site meeting with the local residents and ward members it was agreed that the proposed point of closure should be moved to Wenlock Road and the consultation has been carried out on this basis. Whilst this is strictly not fully in accordance with the s106 agreement, 'the spirit' of the agreement is to close New College Road to through traffic to mitigate against additional traffic movements arising from the expansion of the college. The college are satisfied with the proposed change and have indicated that they have no interest in being involved in the detail of the closure. Only the signatories to the agreement (the college and Shropshire Council as the local planning authority) are able to appeal the agreement, so officers are content that this change does not pose any significant risks to the council.



The image above shows the proposed point of closure at New College Road at its junction with Wenlock Road; if the proposal is approved the existing footway (with a full height kerb) will be extended across the full width of the junction. If required bollards or planters will be provided to prevent unauthorised access. A 'no through road' sign will be erected at the London Road junction. Some minor amendments to the existing 'no waiting' parking restriction were also included in the advertised proposals.

## 6. Consultation

A statutory 21-day public consultation on the proposal commenced on 24/7/14, where notices were erected on New College Road and an advert was placed in the Shrewsbury Chronical on the consultation commencement date. Details of the proposals were published on the council 'Have your say' consultation web pages and the proposals were made available for inspection at the Shirehall and Guildhall. A copy of the plan detailing the proposals can be found in Appendix A of this report.

A total of 18 responses were received to the consultation, which were made up of four (22%) objections, two (11%) responses with comments (neither supporting nor objecting) and 12 (67%) notes of support for the closure. A Summary of the responses can be found in Appendix B of this report.

Of the four objections made three were by the residents of Ebnal Road who object on the grounds of most of the traffic that is using New College Road will be directed on to Ebnal Road, if the closure is implemented. They have concerns that this will

impact safety on Ebnal Road and its junctions and request that a full review of traffic patterns should be carried out before a proposal is implemented. Concern was also raised that they were not directly consulted on the proposals.

Prior to the expansion of the college New College Road carried approximately 600 vehicles per day (7-day 24hr average), so this figure is now likely to be rising as the college expansion continues. Whilst we don't consider this figure to be overly excessive at present, this number of movements is greater than what would be normally expected for a local access road. We estimate that some 150-200 of these movements can be attributed to the local residents of New College Road, so the closure would result in around 400 movements being displaced, with this figure possibly rising by around 5-10% following the completion of the college. Some of these movements will be displaced to Thieves lane and London Rd and the remaining movements are likely to be displaced to Ebnal Road. Whilst no recent traffic figures are available for Ebnal Rd, we consider this route is currently under-utilised as a secondary distributor road and therefore has sufficient capacity for the displaced movements plus future growth as it has been constructed to a sufficient standard to deal with movements travelling between the adjacent A roads and local areas.

Given the potential number of vehicle movements affected is relatively low, we are of the opinion that traffic modelling would not be appropriate for a proposal of this scale.

The consultation for the proposal was conducted in accordance with Shropshire Council's consultation procedures and statutory requirements. As this proposal was campaigned by the New College Road residents we understand that some of the other surrounding residents were under the impression that a letter drop had been carried out, however Shropshire Council does not normally directly canvass on TRO proposals which is the case for this proposal. However we understand that some residents of New College Road have carried out some independent canvassing for this proposal.

The remaining objection was made by a resident who takes their access from the service road at the western end of New College Road, who has a Wenlock Road address. They are concerned that they may experience difficulties in receiving deliveries to their address, with some delivery vehicles choosing to park on Wenlock Road. They feel the original proposed point of closure at London Road is more appropriate and will cause less overall disruption to the residents, they suggest a trial closure here should be made. Another resident from this service road also responded with similar concerns, but did not raise an objection to the proposal. However both of these residents also raised concern over the proposed extension of the existing parking restrictions to cover the turning head that would be formed by the closure.

Whilst we accept that the closure will be of an inconvenience to these residents, they aren't directly affected by the traffic on New College Road which has concerned the local residents here for some time. Most delivery companies now rely upon satellite navigation systems for deliveries which use regularly updated digital maps, so the

closure would eventually appear on these maps. Plus the required detour is short due to other available suitable routes. Due to the number of direct frontages onto Wenlock Road, delivery vehicles being parked on street during the day are commonplace and don't cause traffic issues and if anything contribute to speed management here. We have given further consideration to the proposed changes to parking restrictions and have decided not to proceed with this part of the proposal, as this was intended to prevent parking from the college occurring here but given the level of parking being provided at the college we do not expect this to become a problem.

West Mercia Police Constabulary responded with comments stating they would only support the closure if it's reinforced by physical barriers (I.E. bollards, planters or other street furniture) and signs are provided. The closure is proposed to include a full height kerb and we intended to place planters on site to prevent unauthorised movements. 'No through road' signs will be provided at London Road.

The remaining 12 responses were all notes of support from the residents of New College Road.

## 7. Conclusions

There is a clear level of local support for the proposed closure of New College Road to through traffic and as a narrow 'local access' road this route is not suitable to carry additional traffic movements arising from the expansion of the college. The alternative routes are set out to a suitable standard to deal with these 'cross-route' movements. Officers agree that there is some merit in the argument for implementing the closure at London Road, however there is a risk this won't deal with all of the through movements and the current proposal has support of the local ward members.

Officers therefore recommend that current proposal for a closure of New College Road at Wenlock Road be approved and implemented.

<p><b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b></p>
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N/A
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<p><b>Cabinet Member (Portfolio Holder)</b></p>
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Cllr Claire Wild
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<p><b>Local Members</b></p>
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<p>Cllr Jane Mackenzie Cllr Jon Tandy Cllr Ted Clarke</p>
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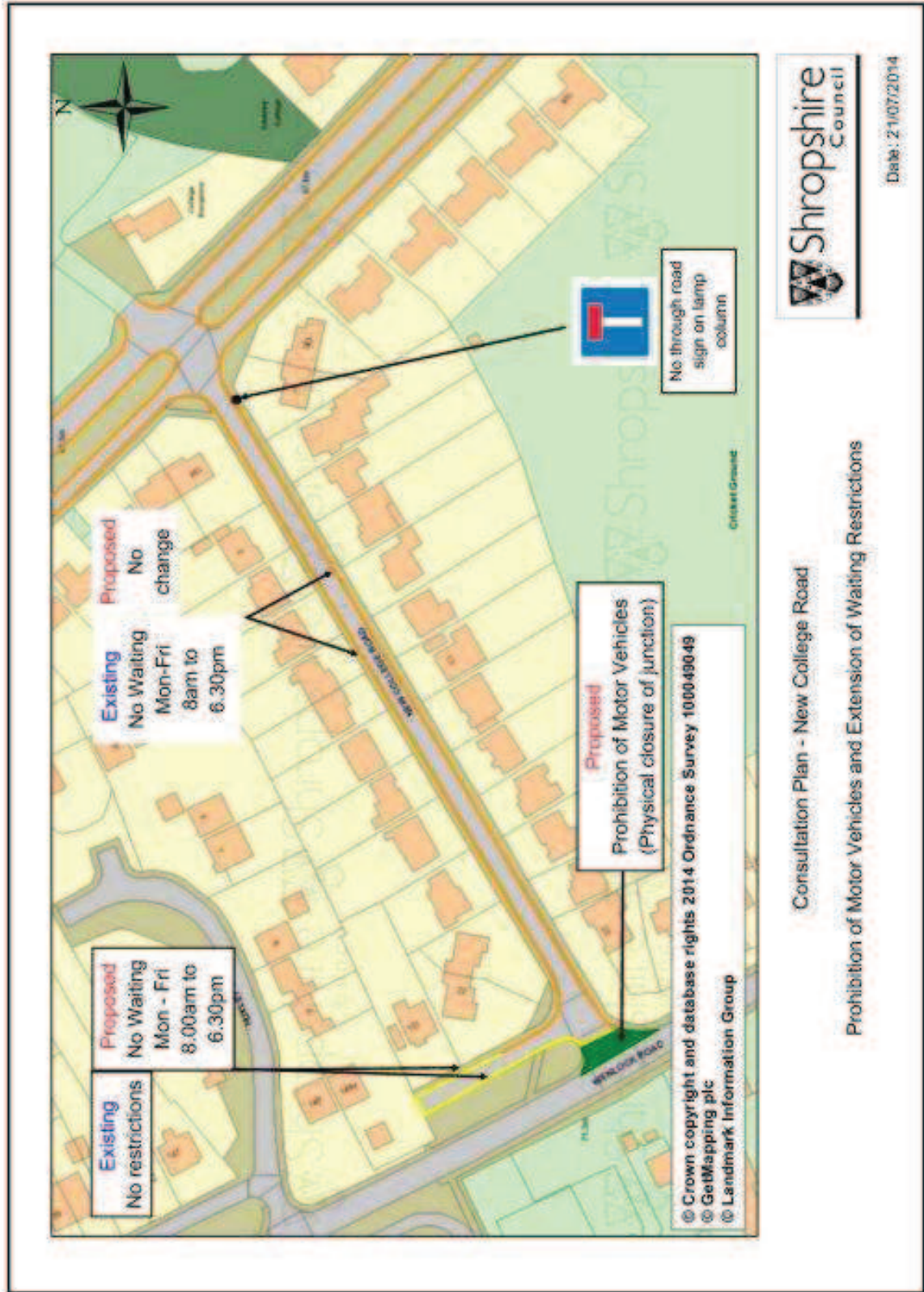
<p><b>Appendices</b></p>
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Appendix A – New College Road Proposed Closure Consultation Plan
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Appendix B – Summary of Consultation Responses

Appendix A – New College Road Proposed Closure Consultation Plan

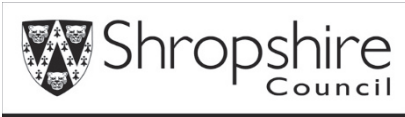


Contact: Richard Harman (01743) 255495

## Appendix B – Summary of Consultation Responses

ref no	Objection, Support, Comment?	Summary of Response
1	Objection	Objects to closure on the grounds of having a Wenlock Rd address and would have no direct access to W-R as this would be an inconvenience for deliveries and would lead to delivery vehicles being parked on WR. Would prefer to have the closure at the original position at London Rd, with this being implemented on a trial basis. Also objects to extension of parking restrictions. Also suggested 'signed only' closure. Believes there should have been an informal consultation involving letter drops to all affected residents.
2	Support	Expresses support for closure.
3	Objection	Asks why Ebnal Rd residents haven't been consulted before. Objects to extra traffic on Ebnal Rd and this may make the road less safe, asks if a one way system has been considered. Feels the work should be postponed until the college closure is complete so the impacts can be assessed.
4	Comment	Feels the closure should be implemented at London Rd as they believe it will be difficult/hazardous to emerge from London Rd if closed at Wenlock Rd. Do not see the need for the parking restrictions due to the extra college parking and ask for residents permits if this is implemented.
5	Objection	Feel the proposal is seriously flawed, will just add extra traffic to Ebnal Rd causing a safety concern. Questions why there is no data or traffic modelling to back up this proposal. Extra traffic will be redirected to the Ebnal Rd/London Rd junction where there are lots of pedestrians. Proposal will lead to extra traffic using the service road due to congestion, this will cause a safety problem on the service road and at the crossing point so the zebra will need to be extended. Will lead to extra traffic travelling past Mereside School. Will cause difficulty for residents at the Wenlock Rd service Rd with a W-R address. No consideration has been given to where the traffic will go if the closure is made, should not be dealt with as a stand-alone proposal. Residents surrounding the college deserve a full review that considers all of the local issues, traffic surveys should be taken and a model produced. Suggests closing both Ebnal Rd and New College Rd at London Rd and provide traffic calming on the service Rd. Consider traffic calming for both roads instead, or a signed only closure with camera enforcement. Both streets need to become residential streets only, not rat-runs. If implemented the council should consider back-up measures should further issues arise.
6	Support	Very much in favour of proposal as volume and speed of traffic disproportionate to its size.
7	Support	Support proposal, as parents have been concerned over traffic here.
8	Comment	Requests vertical features such as bollards to support the closure, also requests it should be sufficiently signed. Assume that consideration has been given to the displacement of traffic.
9	Support	Fully support the closure.
10	Support	Offers support of closure to stop inappropriate through traffic. This will be an inconvenience to them but should be worth it.
11	Support	Registers their support and feels this is the most practical and economic solution.
12	Support	Expresses support for proposals.
13	Support	Fully support the closure and feel it will improve safety for residents.
14	Support	Very much support the closure, fed up with the traffic issues.
15	Support	Support the proposal.
16	Support	Registers their support for the proposal as NCR was built as a service Rd and not a distributor Rd.
17	Support	Registers their support.
18	Objection	Objects to the closure as this will have a direct impact on Ebnal Rd, which has increasing numbers of children so the outcome would be extremely undesirable. Feels the consultation should have included Ebnal Rd also as they're directly affected, so is fundamentally flawed.

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<u>Committee and date</u>
Central Planning Committee
11 December 2014

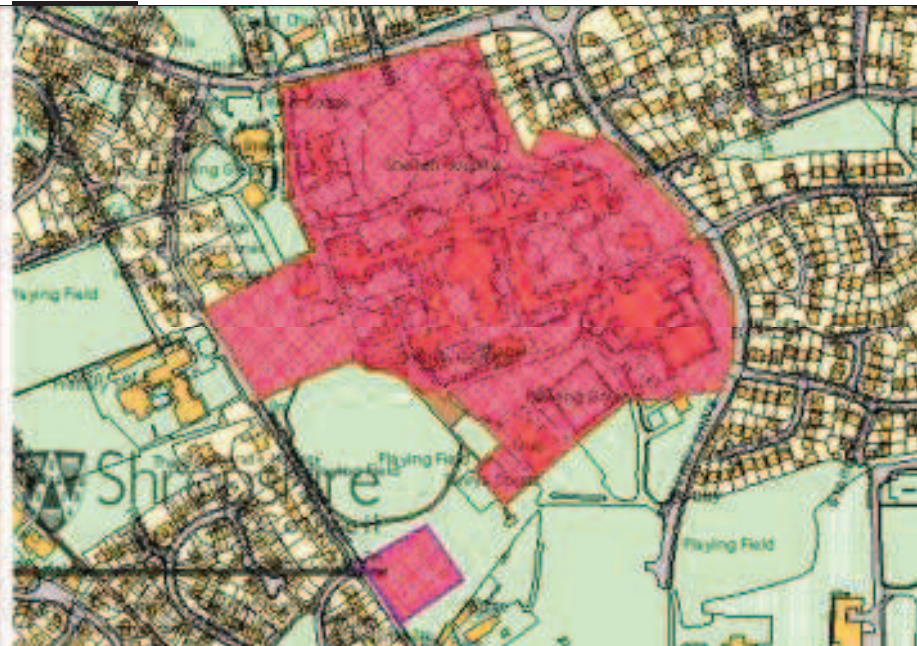
## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/02402/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Conversion of former hospital building(s) and outbuildings into 158 apartments and houses to include some demolition; formation of parking areas, courtyards and community gardens; erection of 82 dwellings with associated garages and parking; provision of new vehicular access and alterations to existing vehicular access; provision of new bowling green, associated works and pavilion; to include the felling of some trees, erection of protective netting adjacent to cricket pitch (Amended description)		
<b>Site Address:</b> Former Shelton Hospital Somerby Drive Shrewsbury Shropshire SY3 8DN		
<b>Applicant:</b> Shropshire Homes Ltd And NHS Foundation Trust		
<b>Case Officer:</b> Andrew Gittins	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 346060 - 313044



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**Recommendation: Grant Officers delegated powers approve planning permission subject to the Conditions set out in Appendix 1 and a Section 106 legal agreement to secure:**

- **Contribution towards education infrastructure.**
- **On-site affordable housing.**
- **Contribution to provide, and agreement with Shropshire Council to let a contract for the construction of the replacement bowling green and lighting on a like-for-like basis prior to commencement of development on existing bowling green or cessation of right to use existing vehicular access and car park.**
- **Contribution to cover cost of relocating the cricket square up to 12 metres further south to mitigate impact of siting new / converted dwellings adjacent to boundary.**
- **Agreement with applicant to provide like-for-like replacement bowling hut with addition of toilet facilities in accordance with the timetable for the replacement bowling green.**
- **Transfer of cricket ground to Shropshire Council, who will in turn transfer this on a long-term lease to Shelton Cricket Club.**

**Subject to the draft decision being forwarded to the National Planning Casework Unit in light of Sport England's objection.**

## REPORT

### 1.0 THE PROPOSAL

1.1 For the conversion of the former hospital buildings and outbuildings into 158 apartments; formation of parking areas, courtyards and community gardens; the erection of 82 dwellings with associated garages and parking; provision for new vehicular access and alterations to existing vehicular access; provision of new bowling green, lighting and hut, to include the felling of selected trees.

1.2 The application is an urban development project with a site area more than 0.5 ha and therefore constitutes Schedule 2 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. However, with regard to Schedule 3 of the Regulations together with the advice set out in the NPPG EIA it is considered that development would not have significant environmental impacts for the purposes of these Regulations and that an EIA is not required. A copy of this determination is available on the planning file.

1.3 The development will consist of 82 new build and 158 conversions consisting of the following house / apartment size and tenure:

#### New Build Open Market

- 4 bed dwellings 39 no.
  - 3 bed dwellings 23 no.
  - 2 bed dwellings 11 no.
  - 1 bed dwelling 1 no.
- Total                      74 no.**

**Conversion Open Market**

- 4 bed conversion 2 no.
  - 3 bed conversion 16 no.
  - 2 bed conversion 74 no.
  - 1 bed conversion 58 no.
- Total                    150 no.**

**Affordable New Build**

- 2 bed dwellings 6 no.
  - 3 bed dwellings 2 no.
- Total                    8 no.**

**Affordable Conversions**

- 1 bed conversion 4 no.
  - 2 bed conversion 4 no.
- Total                    8 no.**

**2.0     SITE LOCATION/DESCRIPTION**

- 2.1**     Shelton Hospital is a Grade II listed building situated adjacent to Welshpool Road, Somerby Way, and Racecourse Lane on the outskirts of Shrewsbury to the west of the Town Centre. The former hospital building is currently and has been vacant for a number of years following relocation to a new purpose built facility at The Redwood Centre situated to the south of the application site. The grounds associated with the former hospital accommodate a bowling green, junior football and cricket pitches leased to Shropshire Council and used by SAHA Bowling and Junior Football Club and Shelton Cricket Club. Access to the informal car park, which is a roughly surfaced former netball / tennis court is via, and gifted by The Redwood Centre.
- 2.2**     For planning policy purposes the site is located within the Shrewsbury Urban Area where the principle of new residential development either through conversion or new build is acceptable.

**3.0     REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1**     The proposal is a complex major application which in the view of the Service Manager with responsibility for Development Management in consultation with the committee chairman and vice chairman considers should be determined by the relevant Planning Committee.

**4.0     Community Representations****4.1     Consultee Comments****4.1.1   English Heritage (2<sup>nd</sup> July 2014): No objection**

Thank you for your letter of 9 June 2014 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

**English Heritage Advice**

English Heritage has been fully involved in pre-application discussion on this major project.

We are in principle content with the proposals, subject to your Council imposing conditions requiring your prior agreement of architectural and landscape details, materials and finishes, and the submission of an archivally appropriate record of the existing buildings to the County Historic Environment Record. Our only major regret is that it has not been possible to retain the original kitchen of the refectory, a potentially impressive space currently obscured.

**Recommendation**

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

**4.1.2 SC Archaeology (26<sup>th</sup> June 2014): No objection**

Background to Recommendation:

The proposed developed includes a mid-19th century asylum building, together with an attendant chapel and the remains of the original ornamental grounds. The core of the main building is of 1843-5 by George Gilbert Scott and WB Moffat, with extensions of 1848 by Thomas Haycock, 1854-6 and 1883-4 (Listed Graded II ' National Heritage List ref. 1270532). The chapel was built c1854-6, again possibly by Thomas Haycock (Listed Graded II ' National Heritage List ref. 1255091). Further additions and new buildings were added to the site between 1890 and the 1990s.

**RECOMMENDATION:**

The Conservation Officer for the central area will comment upon the proposed demolition and conversion of the former hospital buildings, including any need for further building recording. These comments are therefore restricted to matters relating to the archaeological interest of the proposed development site.

A copy of the Conservation Plan of August 2009 by Capita Lovejoy, and a Statement on building recording and historical analysis of May 2014 by Nick Tavener Archaeological Services, have been submitted as part of the application. These provide a satisfactory level of information about the archaeological interest of the site in relation to Paragraph 128 of the NPPF. Capita Lovejoy conclude that there is generally moderate or moderate to high archaeological potential for pre-19th century remains to be present on the proposed development site. However, their analysis is primarily based on the proximity of known heritage assets with archaeological interest that are recorded on the Historic Environment Record and does not take account of the extensive development and landscaping that has occurred across the proposed development site since the mid-19th century. When the latter is taken into consideration, it can be concluded that there is only low ' very low potential for pre-



19th century archaeological features and deposits to be present. As a consequence, I have no further comments to make regarding archaeological matters.

**4.1.3 Highways Agency (30<sup>th</sup> October 2014): No objection following dialogue with the Applicant's Transport Consultant who provided additional information relating to the traffic impact on the Strategic Road Network.**

**4.1.4 SC Trees (31st October 2014): No objection subject to conditions.**

I have undertaken a site visit and considered the revised layout SH-P-01 Rev. N and can confirm that the amended positions of plots 10 & 11 satisfactorily address concerns raised about the proximity of trees to the houses adjacent to racecourse lane.

The removal of trees 324 and 545 is supported by arboricultural assessment and is reasonable and prudent management of the tree stock. The loss of amenity associated with the removal of these 2 additional trees will be mitigated through the extensive replanting scheme proposed.

**4.1.5 SC Ecology (2<sup>nd</sup> Dec 2014): No objection subject to the attachment of conditions / informative(s) and completion of tests 1 and 2 on the European Protected Species 3 test matrix and inclusion of the finished matrix as an addendum to the report.**

I have read the above application and the supporting documents including the;

- Ecological Assessment conducted by Star Ecology (May 2014)
- Bat Survey conducted by Star Ecology (August 2014)
- Bat Mitigation, Compensation and Enhancement conducted by Star Ecology (September 2014)
- Breeding Bird Compensation & Enhancement Scheme conducted by Star Ecology (September 2014)
- Great Crested Newt Survey/Assessment conducted by Star Ecology (August 2014)
- Ecology Newt Habitat Areas and Existing Surface areas for Ecology (October 2014)
- RAMs for Great Crested Newts provided by Star Ecology (19<sup>th</sup> November 2014)
- Works associated with the creation of a new bowling green RAMs provided by Star Ecology (19<sup>th</sup> November 2014)
- Installation of a pedestrian crossing RAMs provided by Star Ecology (19<sup>th</sup> November 2014)

The habitats on site consist of amenity grassland, scattered trees, species poor hedge, fences, walls, buildings, and bare ground/hard-standing. The site has value for gcn, bats, badgers, hedgehogs, and nesting birds.

Star Ecology has conducted a thorough ecological assessment and phase 2 ecological surveys in order to provide sufficient ecological information so that biodiversity can be protected and enhanced if the proposed development was to proceed.

The proposed application is for the demolition/conversion of existing buildings as well as new houses, gardens and parking. Works will occur under an eps license for newts and bats. Providing the conditions and informatives as listed below are considered appropriate, are on the decision notice and are appropriately enforced, then SC Ecology is satisfied that the favourable conservation status of bats and gcn in their natural range will be maintained.

Star Ecology has concluded that work to buildings with evidence of bats will need to occur under an EPS mitigation license from Natural England. Mitigation/enhancements for bats have been included within The Bat Mitigation, Compensation and Enhancement report conducted by Star Ecology 2013. In summary the mitigation will include;

Roost retention/modification. Purpose made openings to/from existing roosting opportunities will be provided within locations of: Building1 roof space 11-32- 40, Building 8 roof space 5-7, and building 13 roof space 3. The modification of the roof space will involve specific bat friendly roof underlining, and installing a purpose built bat roost feature within each roof apace.

New bat roosting opportunity within roof spaces of existing buildings. By creating purpose made openings to/from roosting opportunity within the locations of: Building 1: roof space 9-10-14-34-36-42-50. Furthermore, purpose-made potential bat roosting features will be installed within each of the roof spaces.

New bat roosting features to be installed a total of 11 purpose made bat roosting features, namely 4 bat lofts (5.10m L, 5.00m W, 2.25m H) with hopper style and gable wall-plate crevice access, and 7 schwegler 1fr bat tubes.

Mitigation measures also include; an alternative, species suitable, bat roost being made available prior to works commencing on site, pre commencement check for bats by a licensed ecologist, one way bat excluders to be used where appropriate, suitable roofing membrane, and controlled lighting. From the proposed plans additional hedgerow planting can be seen around the perimeter of the site – currently this is marked as 100% privet and is of low ecological value. An appropriate landscaping condition should be on the decision notice which includes a mix of local, native species, as listed in the ecological assessment report.

I have provided a European Protected Species 3 tests matrix for bats. The planning officer will need to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

### **Great Crested Newts**

Results from the great crested newt assessments are shown in the table below. There is a medium population of great crested newts within 45m of the site.

Dr Sue Swales and Nicola Stone conducted a site visit on 12<sup>th</sup> November 2014 accompanied by Dr Ross Jones and Andrew Marsden.

Following this site meeting Reasonable Avoidance Method Statements have been provided for works within 250m of the proposed development site. The 'Proposed newt surface area plan-whole site' drawing title SH-P-SAECO-I dated 24<sup>th</sup> October, shows areas proposed/retained for newt mitigation. From the site meeting it was agreed that areas close to Racecourse Lane, indicated as newt habitat will not be included within the property boundaries. Newt habitat/mitigation areas as identified in the site plan, 'Proposed Surface Area Plan for Ecology – Area Behind Plas Meddyg' dated 24<sup>th</sup> October, shall not be included within property boundaries.

Drawing number 'SH-P-01 Proposed Site Layout Rev. O - superseded' dated 20<sup>th</sup> November details the proposed landscaping plan. None of the species listed are native/common locally. A 100% privet hedge is indicated on the site plans. The ecological assessment report states that Native species of local variety are preferred and ideally a minimum of 4 species should be planted (example species have been listed within the Star Ecology report). The Planning Case Officer has confirmed that the applicant has agreed to update the landscaping scheme to use native species. In order to enhance the site for biodiversity a species rich, native species (of local variety), shall replace the 100% privet hedge.

The proposed development will occur under an EPS licence for great crested newts and the mitigation will include; newt exclusion fencing, 60 newt trapping nights in suitable trapping temperature, specific newt friendly kerbs/drainage, creation of at least 14 hibernaculas, and post development monitoring of pond 1 (if access permission is granted).

GCN terrestrial habitat will be maintained within close proximity to the Racecourse Lane boundary. A hedgerow shall be planted around the perimeter of the site. Area 1, marked blue on plan dated 19 November 2014 title 'SH-P-RL Retained Land Following Cricket Pitch Transfer' shall be managed for GCN and this should be secured under a planning condition. 14 Hibernaculas will be constructed and maintained for the lifetime of the development. The GCN amended newt fence plan dated 20<sup>th</sup> November 2014, 'SH-P-NF REV B', shows the newt fencing does not include the areas being retained and enhanced for newt mitigation. This is important as it allows newts to use these areas during the time of the development.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

The suggested conditions and informative(s) should be on the decision notice.

**Nesting birds**

The site currently provides habitat suitable for nesting birds. Work to remove bird boxes from trees, if deemed essential, should be in line with Ecological Assessment conducted by Star Ecology (May 2014).

The suggested condition and informative should be on the decision notice.

**Badgers**

No evidence of badger was found within the proposed development site boundary. The suggested informative should be on the decision notice.

**Hedgehogs**

Hedgehogs may forage within the proposed development site boundary. Star Ecology has provided hedgehog reasonable avoidance measures and mitigation within the Ecological Assessment report (May 2014). Recommendations within this report shall be conditioned and adhered to. Habitat creation in the form of hibernation/summer breeding nest boxes should be provided on site, and all gates should be raised a minimum of 100mm to allow for wildlife to pass under them. The suggested condition and informatives should be on the decision notice in order to protect wildlife on site.

**4.1.6 SC Learning and Skills (2<sup>nd</sup> Dec 2014): Contributions to education infrastructure are normally identified through the LA's pupil yield calculator. However, it is recognised that there are specific circumstances affecting this particular application, and the LA therefore accepts the contribution offered based on the developer's own methodology.**

**4.1.7 SC Highways: (29<sup>th</sup> Oct 2014): The highway authority raises no objection to the granting of consent.**

**Background**

The development proposals have been subject to extensive discussions between the local highway authority and the applicant/their agent's in order to deal with highway and access matters throughout the design process. This has led to a number of changes throughout the consideration of the application. Through the consultation process we have made requests for changes to the applicant in response to consultation responses from local residents and interested parties.

Excusing the sports facilities two points of vehicular access are proposed to the site, one taken directly off Welshpool Road and a second access off Somerby Drive with the latter serving the majority of units proposed. The applicant has been required to provide a Transport Assessment which investigates the potential impact of the development on the surrounding road network. The local highway authority accept the submitted assessment, which in our opinion represents a robust appraisal of the potential traffic impact. The findings of the assessment show that on effect of the development on the local road network would not result in any of the junctions tested exceeding their theoretical capacity both in the year of opening (2019) and at the end of the plan period (2026). This means that the traffic from this development should not result in any notable delay or queuing on the local road network.

The developer has not been required by us to test the impact of the development on the proposed changes to the road layout in this locality, which are proposed under the Shrewsbury West SUE as this is not yet committed development (although the Churncote site has recently been resolved by committee, but a decision notice is yet to be issued). However, these changes would substantially reduce traffic flows on Welshpool Road due to the proposed diversion of 'through traffic' to the Oxon Link Road so the traffic situation should improve locally. The main point of impact as a result of these changes on the local road network will be at the Welshpool Road/Holyhead Road traffic signal junction, where the bias of traffic flows will shift from Welshpool Rd to Holyhead Rd. This will be fully explored under as part of the development of the Oxon Link Road scheme, but is expected not to result in any additional congestion.

The proposed 'T' junctions with the existing highway at Welshpool Road (forming a cross-roads with Shelton Gardens) and Somerby Drive are considered to provide appropriate forms of access for the number of units served. Initially the junction at Welshpool Road was proposed to be a mini-roundabout, but this was met with concern from the existing residents of the area so the design reverted to a simple T-junction.

The proposed sports facility car park access has been set out in accordance with our requirements for appropriate visibility splays onto Racecourse Lane. Whilst this should provide a safe form of vehicular access to the sports facilities, as has been expressed to the applicant on a number of occasions we are of the opinion that a more sensible option would be for the access to be taken from the proposed site roads in order to utilise the existing parking hard-standing.

The proposed pedestrian access from the site to Racecourse Lane is an important addition to the site layout as this will provide a convenient link to Oxon Primary School and to the footpath leading to the Pensfold local centre. This link will also provide an opportunity for some residents of Redwood Park to avoid the existing public footpath route across the sports fields, where Racecourse Lane to the north up to the school lacks a footway.

Discussions are currently taking place regarding the impact on Racecourse Lane from the various developments in the west of Shrewsbury, as traffic on the lane is likely to increase if no action is taken. The local highway authority are advocating that the lane is severed to through traffic as this is the only feasible way to remove 'rat-running' traffic. However considering the context of this development in isolation, the impacts to through traffic are likely to only be marginal. A public meeting is currently being planned to discuss the future management of Racecourse Lane.

#### **4.1.8 SC Conservation (30<sup>th</sup> June 2014): No objection subject to conditions**

At the pre-application stage I provided the following short summary of designated and non-designated heritage assets on this extensive property as follows: The former Shelton Hospital, now disused, was designed by George Gilbert Scott and W. B. Moffat and built in 1843 of brick with stone dressings as a county asylum serving both Shropshire and Montgomery, originally built to house 60 persons but extended with side and rear wings in 1848 and 1884. The building is Grade II listed. The

separate Chapel building directly to the south is also Grade II listed and dates from about 1854. Other 19th Century buildings on the site including the former outbuildings and the Medical Superintendent's house would all be considered as curtilage listed. Our circa 1900 Ordnance Survey mapping layer illustrates the attractive original formal layout of the gardens and site access drives to the front of the hospital.

Our Team has been involved in pre-application discussions on this major proposal from an early stage, along with English Heritage, and have commented on the proposal as it has evolved in terms of the overall layout and siting of new buildings on the site, improvements to the formal entrance and landscaping and selective demolition of certain sections of the principle building, with the main aim being to protect the character and setting of the listed and curtilage listed buildings while allowing for their adaptive reuse.

#### Principles of Scheme:

In terms of the historic environment, the proposal needs to be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including the Historic Environment Planning Practice Guide published by English Heritage and the National Planning Policy Framework.

Overall the scheme has evolved so that both our Team and English Heritage are in principle content with the proposal as detailed in this formal application. As we commented at the pre-application stage, the entire scheme is expected to have a high standard of design and excellent quality of materials, and conditions should now be imposed so that all architectural and landscape details and materials and finishes for both the existing buildings and the new buildings will be agreed prior to commencement of any relevant works.

#### Detail:

We have previously noted that it was agreed that the full height of the chimneys to the front elevation of the main building will be reinstated, and further detail on this aspect of the proposal should be provided before commencement of the works.

Original and early windows should be retained and repaired on the listed and curtilage listed buildings where extant, and where required, appropriate new windows to match the originals should be reinstated to an approved detail in traditional materials on all of the listed and curtilage listed buildings on the site.

We have previously reviewed the Conservation Plan completed in 2009 and I have now reviewed the additional Statement on Building Recording and Historical Analysis prepared by Nick Tavener dated May 2014. These documents provide a satisfactory level of information at this stage however additional building recording in terms of survey and photographic record will be required since potentially interesting areas were concealed or locked at the time of the initial May 2014 report (the report notes that these additional areas will be surveyed when conditions permit). An appropriate condition in this regard needs to be included in the decision notice.

The Archaeology half of our Team have provided comments on archaeological assessment submitted as part of this application.

The Grade II listed Chapel is currently left out of the proposal and any proposed works to this building will need to be raised with the Conservation Officer and listed building consent may be required.

Some of the satellite dish locations indicated on the plans could be sited at more concealed locations and I am reluctant to agree to the locations shown on the plans. This element of the proposal should be conditioned for approval at a later date.

**RECOMMENDATION:**

At this formal stage we are in general agreement with the principle of reuse of the listed and curtilage listed buildings and overall redevelopment of the site as detailed in this proposal. The suggested conditions should be applied on the listed and curtilage listed buildings on the site (and new build where noted).

**4.1.9 SC Drainage (20<sup>th</sup> Aug 2014): No objection**

The outline drainage report and design is acceptable. Details in our drainage comments dated 11 June could be conditioned. In addition, the drainage design should take account of exceedance flow from the site via the footpath link to Racecourse Lane which coincides with an area of pluvial flooding on Racecourse Lane.

**4.1.10 SC Affordable Housing: Comments to be provided as Additional Representations.**

**4.1.11 SC Rights of Way (10<sup>th</sup> June 2014): No objection**

A short section of Footpath 39 (as diverted to accommodate the new Redwoods Centre) abuts the south eastern boundary of the site identified as correctly indicated on the block plan. The route will not be affected by the proposals.

**4.1.12 SC Waste Management (1<sup>st</sup> July 2014): No objection.** The development should seek to comply with the Supplementary Planning Guidance for architects and developers relating to domestic refuse and recycling collection and storage requirements.

**4.1.13 SC Public Protection (19<sup>th</sup> June 2014): No objection subject to conditions.**

As the site was previously used as a hospital there is the potential for contamination could have occurred. As a result a contaminated land condition is recommended.

In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged in the garage or driveway. A condition is therefore proposed should this application be granted approval.

No burning shall take place on the site during site clearance and construction in order to protect the amenity of the area and the health of nearby residents.

A dust management plan shall be submitted for approval in writing prior to works commencing on site in order to protect the amenity of the area and the health of nearby residents.

It is recommended that the planning case officer places construction and demolition times of operation as a condition should this application be granted approval.

Any asbestos on site should be removed safely and with appropriately licensed operators and to a licensed waste disposal site.

#### **4.1.14 Sport England (further response following agent correspondence 4<sup>th</sup> July 2014): Maintain objection**

Thank you for the email and attached letter.

As we discussed earlier this week, we did look at all the detail contained with the application and have noted the potential benefits that could arise from improved parking to serve the sporting use of the site. However, we agreed that by relocating the bowling green and increasing parking onto the area of playing field, there would be a net quantitative reduction in the area of playing field and outdoor sport. This provides a conflict with our policy and the guidance contained in the NPPF.

With regard to the area of playing field suffering from dog fouling and issues of drainage, this is not a reason for developing the area. Many pitches suffer issues relating to quality and the identified issues could be rectified. The exception to which you refer covers areas of playing field which may be severely sloping or have other features which prevent a pitch being marked. In this case and notwithstanding the quality issues you have identified, the area has been marked out and used as a pitch and retains this ability so this exception is not applicable.

You have also drawn attention to exception E5 of our policy where the development is for a new sports facility and whereby it can be demonstrated that the sporting benefits outweigh the likely detriment caused by the resulting loss of playing field. The issue here is that there is already the bowling green in place on another part of the site, so no new provision is actually being created.

Regarding other benefits of the scheme of bringing the hospital site back into use and the provision of new homes, these are noted but are not part of our remit to consider.

To reiterate our discussion, the proposed development of the current bowling green and the subsequent relocation of the green onto the existing playing field is a fundamental issue for us. Without significant changes to the scheme as submitted which would retain the quantitative areas of playing field and bowling green, I don't feel we have an alternative to maintaining an objection to the proposals.

**Sport England (initial response 27<sup>th</sup> June 2014): Object**



Thank you for consulting Sport England on the above application.

The site includes an area of playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184). It is understood that the area of the site where it is proposed to construct the relocated Bowling Green incorporates a football pitch for junior teams.

Sport England has therefore considered the application in the light of its playing fields policy and Paragraph 74 of the National Planning Policy Framework (NPPF).

The aim of our policy is to ensure that there is an adequate supply of playing fields and good quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches. The policy states that Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the specific circumstances applies.

These specific circumstances are largely incorporated into the criteria for consideration within Par 74 of the NPPF. For clarity, the exceptions within our policy in brief are as follows;

E1 - A robust assessment of need has demonstrated that the site is surplus to requirements.

E2 - The proposed development affecting playing fields is ancillary to the use fo the site for sport and does not detrimentally impact on the current or future use of the site for sport.

E3 - The area of playing field affected by the development is incapable of being used for part of a pitch or associated run off area (due to significant natural gradient for example)

E4 - The playing field lost to development would be replaced in equivalent terms with regard to quantity, quality and accessibility

E5 - The proposed development is for an alternative sporting use, the benefits of which outweigh the likely sporting detriment caused by the loss of playing field.

Further information and a full copy of our policy are available on our website;

<http://www.sportengland.org/facilities-planning/planning-for-sport/development-management/>

The proposed residential development would lead to the loss of the existing bowling green and ancillary clubhouse. The proposed replacement of this facility would result in the loss of a parcel of playing field. The application does not explore this impact

against the relevant policy considerations and without any further context or associated mitigation, Sport England object to the principle of a net reduction in sporting provision that would result from the development as proposed.

To overcome this concern, we would support the reconsideration of retaining the bowling green in its current position and subsequently avoid the extensive works associated with the construction of a new green. Alternatively, the green could be accommodated elsewhere on the site in a way that ensures the retention of the current quantitative area of external sporting provision. Should an agreed location for a relocated green be reached, it will be important that relevant planning conditions ensure that the phasing of the overall development results in the new facility being developed and fully operational prior to any works commencing on the existing facility.

In addition to addressing the fundamental issue of the net reduction of sporting provision as is currently proposed, we also consider that more detailed consideration needs to be given to the potential of adverse impacts of the development on the adjacent playing field, incorporating the cricket square and outfield. This is not explored within the application but it is important that any impacts which may prejudice the long term use of the playing field are identified and then addressed. We have consulted the National Governing Body for Cricket (ECB) to provide comments. Any received comments will follow this letter.

In addition to the above observations, we also note that the proposed residential use of the former hospital site is likely to generate an increased demand for sport and recreation provision. In addition to the protection of the existing facilities for current users, we therefore consider that the development should result in the betterment of this provision to meet increased need.

In summary, the proposed development would result in the loss of playing field provision. This loss is not considered to be consistent with any of the criteria in relevant policy considerations. We therefore object to the application in its current form.

We would be glad to discuss this and our other observations regarding this development and the relationship with the adjoining playing field.

If you would like any further information or advice please contact the undersigned at the address below.

**4.1.15 Shropshire Fire Service (3<sup>rd</sup> Oct 2014):** As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <http://www.shropshirefire.gov.uk/planning-applications>

## 4.2 Public Comments

33 letters have been received from members of the public objecting on the following grounds:

- Loss of playing fields (SAHA Junior Football Pitch).
- Impact on viability of cricket pitch due to proximity of two new build and three conversions.
- Traffic and highway safety, with particular concern about the proposed mini-island on Welshpool Road (which has since been omitted) and traffic along Racecourse Lane which provides access to Oxon Primary School.
- Inadequate provision for pedestrians and cyclists.
- Existing parking problems in the area, particularly along Somerby Drive on approach to The Redwood Centre.
- Lack of capacity at Oxon Primary School.

**4.2.1 Shrewsbury Town Council (26<sup>th</sup> August 2014): Support general principle but concerns remain over layout and management of sporting and recreational space.**

That in light of the update and discussions the following amendments should be added to the Planning Portal: The Town Council remains supportive of the general principle of development of the Shelton Hospital site and is now satisfied with the amendments/additional information provided in relation to the following: • Replacement of the roundabout proposal with a T-junction • Proposals for pedestrian access including the fencing off of the footpath and materials for construction • Approach to the management of trees including the additional planting of 220 trees on site The Town Council however continues to be un-supportive of the scheme with regards to its approach to the layout and management of sporting and recreational space, particularly the following: • The likely impact of the development on the Cricket Club and its future relationship with new residents • The construction timescale of the Bowling Club. This arrangement should form part of the s106 agreement obliging a party to construct the Bowling Club within a specified timescale • Access/car parking should be paid for by s106 or CIL generated from the site.

**(7<sup>th</sup> July 2014):**

**Shrewsbury Town Council raises no objection to the development of the old Shelton Hospital but does object to the density and siting of the new properties within the grounds. Key issues of concern include:**

- There seems to be confusion as to who has suggested the installation of a roundabout linking the development site to Welshpool Road. Members question the necessity for such a piece of highways infrastructure particularly when there are existing access routes into the development site. Is this more for aesthetic reasons than practicalities for accessing/egressing the site?
- The existing site is regularly used as a safer route to school for children living on the Redwood Estate attending Oxon Primary School; whilst there is some suggestion of a pedestrian route through the site, it is not a direct route and poses other complications and potential compromises on public safety given its circuitous route around a cricket ground.
- There is a presumption that the game of cricket stops at the boundary of the site, but experiences not only on this site but other sites throughout the town suggests that the location of houses so close to the boundary of the site will pose significant

issues for not only the future owners of these properties but also the Cricket Club as well. Unless the developer is proposing high mesh fencing around the boundary area, toughened tiles on those elevations facing the cricket circle and toughened glazing, future neighbour/cricket user harmony will not be achieved.

- Whilst it is welcomed that the developer proposes to relocate the Bowling Green from its current location within the development site to land which is currently owned by the Department for Health and leased to Shropshire Council, the fact there are no plans to provide public accessibility (both vehicular and pedestrian including provision for the disabled) is wholly inappropriate. The issues of both vehicular and pedestrian accessibility also apply to the established cricket club, who have enjoyed the game of cricket on that site for a century. No vehicular access will mean that both clubs sustainability is questionable.

- Members also have concerns about the loss of some mature treestock which during the occupation by the Department for Health was managed and promoted as a tree walk. This also has significant implications for the local flora and fauna many of which thrive/live on such treestock

- Members question the relevance of a wildflower meadow and its adjacency to the Cricket Ground. Who will ultimately be responsible for its future maintenance?

- Given the number and complexity of issues, Members would like to invite both the Planning Authority Case Officer and the Highways Development Control Officer to their next meeting to discuss some of these issues.

#### **4.2.2 Shropshire Playing Fields Association (17<sup>th</sup> November 2014): Additional comments.**

On behalf of Shropshire Playing Fields Association Ideally the preferred option would be to support the reconsideration of retaining the bowling green in its current position and subsequently avoid the extensive works associated with the construction of a new green. Alternatively, the green could be accommodated elsewhere on the development site in a way that ensures the retention of the same quality and quantitative area of current bowling provision, whilst providing easy access for members by foot, cycle, motor vehicle or public transport. Taking account other considerations linked to this application there would seem to be one outstanding option that has not yet been fully considered by all stakeholder groups that might fit best all needs, albeit at the loss of four properties on the application. Option: To relocate the Bowling Green to the north end of the cricket pitch with access to the facility off Racecourse Lane almost opposite the Oxon Primary School Main Gate into an area that is an existing car park. A combined Cricket and Bowling pavilion could be located between the bowling green and cricket pitch allowing easy access to both from this existing Car Park. Advantages 1. The area would meet some of the developer's requirements for green open space as part of their development; the current plan does not provide a sufficient amount at the moment. 2. This area of land has always been used for sport and recreation purposes so should not have been put forward in the original package for residential use. 3. This area provides a natural buffer zone between the new houses and the cricket pitch overcoming the concerns of both the Cricket Club and new residents of injury occurring or structural damage being caused from stray cricket balls. 4. Access to the car park opposite the school will mean minimum disruption to local residents, whilst also providing the opportunity for the school to use the facility as a much needed pick up zone by parents, particularly as a proposed development to the rear of the school at Penfold is likely

to consume a large area of car park from that site. 5. This option would mean there being no need to lose additional open space from the existing sport pitches to provide essential car parking, roads etc 6. Cost to provide access to this site would be minimal as would be the cost of providing a car park surface as it is already in place. 7. The facility would fit well with all aspects of the existing and new development, providing improved amenities and facilities for the expanding area. 8. Due to the suitability of the site for a bowling group, it is likely to be an option that could be put into action very quickly, allowing the developer access to the current Bowling Green site much earlier than any other option so far offers to do. 9. The proposed new footpaths around the Cricket ground fit in well with this option allowing good easy access by foot or cycle and would be fully inclusive for those using wheelchairs and push chairs provided the footpath surface is of a suitable quality. 10. Access by public transport would be less than 150 metres away off the Welshpool Road where there is a bus stop going both into and out of town. 11. Emergency vehicles if required would have good easy access to the site as would any delivery vehicles. Should an agreed location for a relocated green be reached, we believe it is of crucial importance in any agreement that relevant planning conditions ensure that the phasing of the overall development results in the new facility being developed and fully operational prior to any works commencing on the existing facility. We strongly believe that in addition to the protection of the existing facilities for current users, that the development should result in the betterment of provision to meet the increased need that is likely, as a result of cumulative developments within a 2 mile radius of the site bringing some 1500 additional homes to the area. We believe this additional demand for bowls and all sports should be clearly reflected in an updated robust local needs assessment document being prepared specifically for the West side of Shrewsbury as required by national planning policy guidelines. We hope you will consider fully the thoughts and options we have put forward so that a satisfactory outcome can be derived for all stakeholders involved.

**(20<sup>th</sup> June 2014): Object on the following grounds:**

Open space, sport and recreation facilities.

The site under threat from new development is a piece of land to the South of the main ex-hospital site which forms part of the old hospital's sports grounds. The part of the site being considered for development has historically housed a traditional bowling green and small club house, a large social club with indoor recreational facilities, a large car park area with access from Somerby Drive and a large area of open space used by local rail enthusiasts to house a miniature railway track, with medium sized store shed in the corner of the site.

In recent years some of this open space has been allowed to become run down by the owners, the social club removed, leaving open space accessible to in the main residents of the Bowbrook and Redwood area, staff and patients of the new Redwood hospital, recreational dog walkers, children walking to school and members of the bowling club, whilst providing an access route to the adjacent cricket pitch, sport pitches, cricket nets and community youth meeting point.

In addition a separate area of open space forming an extension to the nearby Cricket pitch is also being put forward for development, formerly a bowling green this land has more recently been used to train young footballers from the local neighbourhood

who are members of the locally run SAHA Junior Football Club of which Joe Hart current England goalkeeper was a player in his junior days.

Significant to this development is the adjacent open space that is not being put forward for development. This is currently being sub-leased by Shelton Cricket Club from Shropshire Council, who are currently leasing it from the landowners South Staffordshire and Shrewsbury NHS Foundation trust, but who may become freehold owners as part of the deal in the near future which in addition to the cricket pitch also includes a small cricket pavilion, grounds store, hard court sports surface, originally purpose built to provide a separate tennis and a separate netball court, now used for cricket nets and a community youth shelter. In addition an adjoining piece of land to this one is already owned by Shropshire Council and is used predominantly as a soccer pitch and training pitch, but is also well used by the local community for walking dogs and other informal recreational activities.

Shropshire Council and Shrewsbury Town Council in collaboration with Shelton PFA have discussed with the developers where best the Bowling Green should be relocated with the suggested option being where previously there was a junior football pitch, with a sports club pavilion being provided next to the bowling club with access being proposed from Racecourse Lane, this option does not however sit well with many residents and users of Racecourse Lane.

This vehicular and pedestrian access is a key issue and at present the option being proposed is that access to these sport pitches will be from Racecourse lane close to the point where the current footpath comes out, in addition, a car-park would be needed, our concern is that this would require further loss to the sports pitch area, and dependant on what is agreed with regard provision of a driveway may result in further loss of sport pitch area.

Suggestions to access the sports pitches from the Redwood side through the new proposed development by residents would offer an obvious solution to the problem of unnecessary loss of sport pitch space. So far no arrangement or proposals have been put forward to compensate the community for the loss of the remaining open space as outlined in figure 1 amounting to a minimum loss of approximately 6,180 square metres as shown in figure 1. We believe that this should have been agreed jointly and collaboratively between community, developers and the local planning authority by this stage in a transparent and accountable manner, in line with NPPF: Para 71 which says;

Local planning authorities should take a positive and collaborative approach to enable development to be brought forward under a Community Right to Build Order, including working with communities to identify and resolve key issues before applications are submitted.

We also believe that in line with NPPF; Paragraph 73 needs to be adhered to as this development affords considerable opportunity to introduce new sports and activities to this site through careful design and planning: Para 73 states:

existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or (no evidence of this being done yet)
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or (no evidence of this being done yet)
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

It would seem reasonable that paragraph 75 of NPPF should be scrutinised more, given the strategic location of the open space in linking up key parts of the community for employment, education and social benefits, making every effort not to conflict unnecessarily with the needs of the sports ground users.

NPPF 75. Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

In our opinion more attention needs to be given to connecting footpaths and cycleways linking the local school and hospitals with the residential area, the present footpath cuts through the middle of the sports pitches and would have a considerable detrimental effect on the new bowling green if the current option is agreed.

It is our belief that this footpath needs to be re-directed around all four sides of the cricket pitch, with developers providing a high quality, off road footpath suitable for off road cycling and pedestrian walking which will provide considerable benefits to the local community, improving linkages between all existing and new proposed residential areas and hospital facilities enabling young children and adults to access school and work safely. As well as providing direct access to the sports ground itself.

The most suitable vehicular access would be from the redwood side of the site following the existing road past the Chapel to where the existing Cricket pavilion stands, enabling additional car parking opportunities to be provided without additional loss to the existing grass pitch area, whilst appeasing the considerable concerns of local residents already anxious about the serious threat to safety that currently exists along Racecourse Lane.

#### Sports pitch protection

Shropshire Playing Fields Association note the proposed transfer of land from the department of health to Shropshire Council and would recommend that when this transfer occurs that the whole of the sports pitch area becomes a designated World War I commemorative field protected site, so that the site is protected for generations to come from any possibility of development.

#### Community right to bid.

Additional consideration could at some point be given in the near future of Shropshire Council and Shelton PFA considering the advantages of Shelton PFA under the localism act bidding for the right to buy the grounds, which would pass the responsibility for maintenance and management to them but afford them greater

opportunities of accessing grants and having greater control of design and programming aspects of the area.

The views given in this report are solely the views of Shropshire Playing Fields Association an independent charity with the principle purpose of protecting playing fields and promoting play and sports activities, the report is prepared in good faith to help advise local stakeholders on possible ways forward but SPFA take no responsibility for final decisions taken on this matter which at the end of the day will rest with the local planning authority, Shropshire Council.

#### 4.2.3 Racecourse Lane Residents Association (2<sup>nd</sup> Dec 2014): Object on the following grounds:

- Density and Layout / Effect on Listed Building and its Setting  
Large number of houses proposed in grounds is overbearing by means of density, layout and appearance, detrimental to the listed building, is in excess of what is required to constitute enabling development and the number and type are not fit well with the type of housing suggested in SMHA.
- Biodiversity / Tree Loss / Hedgerow removal  
The proposal will result in the felling of 90 trees, some of which are TPO'd and there is little information about the proposed replacement trees.
- Biodiversity – wildlife  
The site supports a variety of wildlife including Protected Species such as bats and newts and there is no evidence of surveys of the numerous mature trees. The site supports more wildlife than the recorded in the surveys such as hedgehogs and foxes, which should be protected during construction and hedgerow removal. The site also supports birdlife and the proposed mitigation for both birds and newts is inadequate.
- Layout and density / Loss of open space and recreation areas  
The development will have a detrimental impact on the health and well being of the local community, will change the scenery and setting of the listed building and result in loss of open / recreation space and additional traffic along Racecourse Lane.
- Access to sports pitches  
The development will remove access to the sports pitches leaving them landlocked. The developers unwillingness to provide access from within their site has led to the financial cost to the local authority.
- Duty of Council to pass a safe site / health and safety concerns  
The erection of two dwellings on the old bowling green, and conversion of former estate buildings, both adjacent to the cricket pitch is not considered to provide appropriate mitigation to ensure the safety of residents and prevent any conflict with the use of the cricket ground. The protective fencing is out of keeping with the character of the listed building and maintains the institutional feel.
- Traffic issues  
Development will bring additional traffic and result in several new access points, including one off Racecourse Lane which will change the character of the lane through removal of mature hedgerow which has ecological value.



There are concerns about pedestrian safety due to the proximity of the location of the pedestrian crossing to the lay-by.

**4.2.4 Head of Strategy for Club & Community Programmes for Shropshire Cricket Board (9<sup>th</sup> Sept 2014):** I am objecting to the plans as it will affect access to Shelton CCs playing facilities dramatically with no vehicle access direct to their changing provision. I am even more concerned that the plans show 4 houses to be built on what was to my knowledge the old bowling green directly behind the bowlers arm from the old hospital end of the site. Each and every week the ball is hit in this area often for 6 and also during practice evenings when more of the ground around the site is used for practice. My concerns are that young people and property will get hurt and or damaged and future interests of both potential residents and the future of the cricket club will be at risk due to the points I raise. There are possible solutions on site that could be pursued which could reduce this risk, such as the slight relocation of the cricket square away from the principle dwellings and also the development of the current pavilion/changing area which is not really suitable for sustainable use for modern families and will become if less so with access reduced. The property developer should develop this with the club as both will be valuable assets to the area and increase the opportunities for sales as the facility would be an asset to residents enhancing the environment and not a concern.

**4.2.5 Head Teacher Oxon C of E Primary School (22<sup>nd</sup> Oct 2014):** would like the planners to be aware that a significant number of children currently travel to school from the Redwood Park Estate making use of the public right of way adjacent to the cricket pitch. We understand that the right of way will remain open and will continue to be used by many of these families. We also note that some are likely to make use of the new proposed path that ends close to the front of school. Those families will presumably be joined by some of the children living in the houses on the new development in the Shelton Hospital grounds. All of these children will need to cross Racecourse Lane. With this in mind, we would request that a high quality, safe, crossing be put in place. A zebra crossing would seem appropriate with a high quality waiting area cut into the bank; consideration of a pelican crossing has also been suggested. We would wish to have further discussions with officers about final plans that provide a high quality and safe crossing point for the children.

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of new dwellings / Conversion of listed building
- Vehicular and Pedestrian Access / Impact on surrounding highway network
- Impact on long term use of adjacent cricket ground
- Net reduction in playing fields (as a result of relocation of bowling green onto junior football pitch)
- Developer Contributions (Education Infrastructure)

### Others matters

- Ecology
- Trees
- Drainage

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

**6.1.1** Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight.

**6.1.2** In Policy CS1, The Core Strategy indicates a strategic approach to the provision of residential development in Shropshire, with Shrewsbury as the focus for approximately 25% of Shropshire's residential development over the plan period 2006 to 2026. Market towns and other key centres will be the focus for approximately 40% of residential development during this period and rural areas will accommodate the remaining 35% primarily in settlements identified as Community Hubs and Community Clusters. Outside of these areas, development will primarily be for economic diversification and to meet the needs of local communities for affordable housing.

**6.1.3** The site is located in the Shrewsbury urban area where the principle of new residential development is considered acceptable under Core Strategy Policy CS2 (Shrewsbury Development Strategy). CS2 states that Shrewsbury will provide the primary focus for development for Shropshire providing approximately 25% of its additional housing for the period 2000 – 2026 (approximately 6,500 dwellings or 325 dwellings per annum).

**6.1.4** The application site is within the Shelton / Bicton Heath area of Shrewsbury, on the outskirts of the town centre with good transport links and local facilities. It is considered a sustainable location for new residential development and therefore the development of the site for residential use would be acceptable in principle under Policy CS2 of the Core Strategy.

**6.1.5** The principle of residential development on the site is therefore considered acceptable, however, any development must also be subject to wide range of considerations, as part of which, the suitability of the site for development and any potential effects or impacts upon adjacent land users and the wider community will be considered.

**6.1.6** This application will also be considered against Policies CS6, CS9, CS11, CS17 and CS18 of the Core Strategy and other material consideration contained within the NPPF.

**6.1.7** Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, be safe and accessible to all and involve sustainable design and construction principles.

- 6.1.8** Policy CS9 'Infrastructure Contributions' requires development that provides additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location. This development will make appropriate contributions towards education infrastructure secured by a s106 legal agreement in addition to a separate Community Infrastructure Levy payment.
- 6.1.9** Policy CS11 requires all new open market housing to provide an appropriate contribution towards the provision of local needs affordable housing. This development will provide on-site affordable units as outlined in the Section 1.3 above which will be secured through an s106 legal agreement.
- 6.1.10** The existing building is Grade II listed and the proposal will need to meet policy CS17: Environmental Networks, which seeks to protect and enhance the historic environment.
- 6.1.11** Policy CS18 requires all developments to integrate sustainable water management measures to reduce flood risk.
- 6.2 Siting, scale and design of new dwellings / Conversion of listed building**
- 6.2.1** Shelton Hospital and the Chapel are both within the application site boundary and are to be retained for residential conversion and future possible community use respectively. Local Authorities have a statutory duty under S66 and S72 of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that development preserves the setting of listed buildings. Paragraphs 131-134 of the NPPF requires the decision-taker to consider whether there is "less than substantial harm". If there has been less than substantial harm then that harm should be weighed against the public benefits of the proposal, which include the re-use and long term retention of a grade II listed building, a significant boost to local housing supply, contributions towards local infrastructure and the transfer of the cricket pitch to Shelton Cricket Club to enable grant applications for replacement, fit-for-purpose club house and other facilities.
- 6.2.2** The scheme was subject to a pre-application enquiry which involved consultation with Shropshire Council's Historic Environment Officer and English Heritage who have both been consulted on the full and listed building applications. Both acknowledge that there is less than significant harm by confirming that they have no objection subject to the attachment of conditions requiring the submission of details. This response is on the basis that the conversion is considered capable of protecting the fabric of the listed building whilst the new build dwellings will protect the setting of the listed building in accordance with the requirements of CS6, CS17 and the Historic Environment Planning Practice Guide published by English Heritage and the National Planning Policy Framework.
- 6.3 Vehicular and Pedestrian Access / Impact on surrounding highway network**
- 6.3.1** The application proposes three separate access points onto the surrounding highway network, with the residential element of the scheme accessed off Welshpool Road to the north and Somerby Drive to the east, with the bowling green, hut and cricket club car park accessed off Racecourse Lane to the west.

**6.3.2** The application has been accompanied by a Transport Assessment (TA) together with off-site improvement works to the surrounding highway including a priority junction off Welshpool Road to the north, together with widening works and provision of footpath to Racecourse Lane to the west as outlined by the Shropshire Council Highways Development Control Officer's comments. Following consideration of the TA and the proposed off-site works neither the HA or Shropshire Council's Highways Officer have any objection to the scheme subject to the attachment of conditions.

**6.4 - Net reduction of recreation space (as a result of relocation of bowling green onto junior football pitch)**

**- Impact on long term use of adjacent cricket ground**

**6.4.1** The scheme involves the relocation of SAHA Bowling Green which is located on land owned by the NHS Foundation Trust and leased to Shropshire Council to an area owned by Shropshire Council and used by SAHA Football Club as a junior football pitch. This has led to an objection from Sport England who are a statutory consultee whose comments should be given considerable weight in the decision-making process, with any departure from these views requiring compelling reasons. Officers acknowledge that whilst there is a net loss of playing fields, the scheme provides improved facilities in terms of a like-for-like replacement bowling green, hut, lighting and circulation space with the addition of a dedicated access and car park. Shropshire Council will effectively lose some land for recreational purposes as a consequence of siting the bowling green on land within their ownership from additional land previously leased to them. However, there will be a net gain in Council managed recreation land as the Foundation will transfer ownership of the cricket ground to SC which will in turn be transferred to Shelton Cricket Club. This will enable the cricket club to apply for funding for improved changing room, club house and netting facilities and this should be weighted positively in the consideration. Officers do therefore give consideration weight to Sport England's objection but consider that the transfer of the cricket pitch to the Council and in turn the Cricket Club, with the associated potential benefits, when considered alongside the other material benefits of the scheme, which include bringing a vacant listed building back into an alternative viable use and significantly boosting housing supply, outweigh the harm caused by the re-siting of the bowling green and the loss of part of the junior football pitch.

The Town Council has expressed concerns about accessing the existing bowling green during construction of the proposed development and accessing the replacement bowling for maintenance purposes. However the s106 agreement will retain access to the existing green until the replacement green is available for use for the 2017 season, which will be accessed via an access and car park off Racecourse Lane which Shropshire Council will provide. As such the s106 is considered capable of overcoming part of the Town Council's concerns.

**6.5.1** The Town Council's other concern, which is shared with other parties including Sport England, Shelton Cricket Club and Shropshire Cricket Board relates to the approach to the layout and management of sporting and recreational space, particularly the likely impact of the development on the Cricket Club and its future relationship with new residents. Officers are aware of a High Court judgement which overturned a decision by a local authority to grant permission for alterations and additions to a residential property which was only 36 metres from the cricket square which would be further reduced following the extension. As outlined below it is considered that

there are significant material differences between the two applications, namely the distance between the cricket square and the adjoining properties.

**6.5.2** The frontages of the proposed two new build houses (Plots 15 and 16) will be sited 5 metres from the north-western boundary of the cricket pitch, separated by the private driveway and protected by a hoop top fence to a minimum height of 3 metres on top of the embankment or a new boundary wall creating a minimum overall height of 5 metres. Meanwhile the private domestic curtilages of converted properties (E36, 49 – 56) will be sited immediately adjacent to the northern boundary edge and will include windows in previously blank elevations; which the developer has confirmed will be formed with toughened glass. This protective fencing in front of the two new build dwellings, which will also have toughened glass, will be sited a minimum of 60 metres from the centre of the pitch. It should be noted that there is no minimum pitch size even for 1<sup>st</sup> Class (County) cricket only Test pitches, which is 64 metres from the straight boundary at both ends of the pitch (measured from the centre which means that in this respect the distance is only 4 metres short of Test pitch size. Meanwhile the Test pitch requirements for the shortest square leg boundary is 59.4 metres, with this development preserving a 57 metre separation. The s106 will also seek a contribution to cover the cost of moving the square a further 12 metres south further increasing the distances. Officers therefore consider that the distances, together with the proposed fencing and embankment are sufficient to prevent a potential conflict between the use of the cricket pitch and the dwellings and Officers consider that the development will not have a significant or demonstrable adverse impact on the long-term viable use of the cricket pitch. Furthermore, the benefit of the land transfer to the cricket club must be taken into consideration in the overall planning balance.

## **6.6 Developer Contributions (Education Infrastructure)**

**6.6.1** A Cabinet Paper dated 30<sup>th</sup> July 2014 agreed that essential infrastructure requirements identified during the Development Management process can be allocated CIL monies in view of the importance of addressing direct impacts from the development. Information provided by the Local Education Authority indicates that the provision of additional educational infrastructure in south-western Shrewsbury is a priority going forward as developments take place. In this instance the use of CIL money for education provision would be in accordance with the cabinet resolution which will supplement the contribution towards local school places sought by Shropshire Council. These contributions will be secured by a Section 106 Legal Agreement.

## **6.7 Other Matters**

### **6.7.1 Ecology**

The application has been submitted with Ecology Surveys which have been assessed by the Council's Ecologist. The report confirms that there is a medium population of great crested newts within 45m of the site. The proposed development will occur under an EPS mitigation licence for great crested newts and the mitigation will include; newt exclusion fencing, 60 newt trapping nights in suitable trapping temperature, specific newt friendly kerbs/drainage, creation of at least 8 hibernaculas, and post development monitoring of pond 1 a architectural plan has been submitted detailing areas retained for GCN enhancement, which shows a net

increase of GCN habitat and the creation of a new pond within the development boundary. Accordingly the Planning Ecologist has no objection subject to the attachment of conditions and informative(s). As such it is considered that the development will protect statutory protected species whilst offering enhancement opportunities in the form of bat and bird nests in accordance with the requirements of CS6 and CS17.

### **6.7.2 Trees**

The application has been considered by the Council's Natural Environment (Trees) Officer whose comments have been provided in full above. The Tree Officer has concluded that the proposed development will impact on some existing site trees, the most significant specimens are preserved and the contribution to the amenity of the site that the trees provide will be enhanced through the protection of the most significant arboricultural features and assets and through new landscape planting, which in turn will bring age diversity. Accordingly the Tree Officer has no objection in principle following a modification to the layout of Plots 9-12 to provide better separation between the trees and the dwellings and associated amenity space and has suggested conditions in respect of tree protection and landscaping. As such it is considered that the development will retain and protect natural features which contribute towards the environmental and visual amenity of the area in accordance with the requirements of CS6 and CS17.

### **6.7.3 Drainage**

The application proposes connection to the mains foul water sewer and the use of oversized pipes for surface water drainage. Additional plans and details were submitted on the 19<sup>th</sup> August 2014, which have been assessed by the Council's Drainage Engineer who has no objection subject to the attachment of a condition requiring the submission of details of surface water drainage prior to the commencement of any work to ensure that the development integrates the measures for sustainable water management to reduce flood risk in accordance with the requirements of CS18.

## **7.0 CONCLUSION**

**7.1** The principle of residential development by new build and conversion in this location within the Shrewsbury Urban Area is supported by Core Strategy Policies C1 and CS2. The proposal is considered to protect, restore, conserve and enhance the natural, built and historic environment taking into account the local context and character of the listed building and the surrounding area. The development includes the requisite amenity open space and recreation space and the benefits of bringing a large, vacant listed building back into use, the provision of affordable housing and land transfer of the cricket pitch allowing the cricket club to apply for grants to improve their facilities are considered to outweigh the harm caused by the net loss of playing field. Notwithstanding this any resolution to approve will be subject to referral to the National Planning Casework Unit. Furthermore, the proposed protective fencing along the northern boundary of the cricket pitch together with a contribution to cover the cost of moving the cricket square 12 metres further south and away from the proposed dwellings is considered to sufficiently mitigate any impact from the siting of the residential dwellings either by new build or conversion adjacent to this boundary.

As such the proposal is considered to comply with Core Strategy Policies CS6, CS9, CS11, CS18 and the other planning considerations contained within 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 and NPPG

Core Strategy and Saved Policies:

**CORE STRATEGY**

CS1 – Strategic Approach

CS2 – Shrewsbury Development Strategy

CS6 – Sustainable Design and Development Principles

CS9 – Infrastructure Contributions

CS11 – Type and Affordability of Housing

CS17 – Environmental Networks

CS18 – Sustainable Water Management

**SUPPLEMENTARY PLANNING DOCUMENTS**

Type and Affordability of Housing

Sustainable Design (Part 1)

RELEVANT PLANNING HISTORY:

<b>List of Background Papers</b> (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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<b>Cabinet Member (Portfolio Holder)</b>
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Cllr M. Price
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<b>Local Member</b>
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Cllr Peter Adams
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<b>Appendices</b>
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APPENDIX 1 – Conditions
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APPENDIX 2 – European Protected Species Test Matrix
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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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.

3. No burning shall take place on the site during site clearance and construction.

Reason: to protect the amenity of the area and the health of nearby residents.

4. Work shall be carried out strictly in accordance with the Bat Mitigation, Compensation and Enhancement Report Document conducted by Star Ecology (September 2014) and as shown on the bat mitigation plan dated 15th September 2014 attached as an appendix to this planning permission.

Reason: To mitigate and enhance the development site for the protection of Bats, a European Protected Species.

5. All works within 250m of 'Pond 1' shall be carried out strictly in accordance with the Reasonable Avoidance Measures for Great Crested Newts provided by Star Ecology (19th November 2014) attached as an appendix to this planning permission. Works associated with the creation of the new bowling green shall be carried out strictly in accordance with Works associated with the creation of a new bowling green RAMs provided by Star Ecology (19th November 2014). Works associated with the Installation of a pedestrian crossing shall be carried out strictly in accordance with the RAMs for the Installation of a pedestrian crossing RAMs provided by Star Ecology (19th November 2014).

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

6. Works within 250m of pond 1, as identified within Great Crested Newt Survey/Assessment conducted by Star Ecology (August 2014) shall not in any circumstances commence unless the local planning authority has been provided with either:

a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or

b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

7. Demolition or construction works shall not take place outside 7.30am - 6pm Monday to Friday and 8am - 1pm on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area.

### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

8. A dust management plan shall be submitted for approval in writing prior to works commencing on site.

Reason: to protect the amenity of the area and the health of nearby residents.

9. No development, modification, demolition or site clearance procedures that effect building 1, building 8, and building 13, as listed within Bat Mitigation, Compensation and Enhancement conducted by Star Ecology (September 2014), shall commence until a European Protected Species (EPS) Mitigation Licence with respect to Bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

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

10. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.

d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the

requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

11. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

12. No built development of the new houses shall commence until samples 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. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority.

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

13. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

14. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities
- Measures to control the emission of dust and dirt during construction

- A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

15. Visibility Splays of a depth of 2.4 metres and a length of 43 metres from the centre point of the junction of the access roads with the public highway shall be provided before the commencement of the development, and these splays shall thereafter be kept free of any obstacles or obstructions.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

16. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens shall be submitted to and approved by the local planning authority prior to the occupation of the first dwelling. The landscape plan shall be carried out as approved and retained thereafter.

Reason: To ensure the long term maintenance of the amenity greenspace.

17. Prior to occupation, a 'lighting design strategy for biodiversity' for the proposed development site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To protect bats which are a European protected species.

18. There shall be no work to, or immediately adjacent to the existing bowling green which prevents its use or prevents access prior to the submission to and approval in writing by the Local Planning Authority confirmation from the appointed contractor and the National Crown Green Bowling Association that the works to provide the replacement bowling have been undertaken to the agreed specification.

Reason: To ensure that the replacement bowling green is of a like-for-like standard to the existing.

19. A scheme of landscaping shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the first dwelling. These works shall be carried out as approved. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
  - b) Hard surfacing materials
  - c) Minor artefacts and structures (e.g. lighting)
  - d) Planting plans, including wildlife habitat and features (e.g. newt hibernacula, newt terrestrial habitat, hedgehog nest boxes, bird boxes, bat boxes)
  - 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

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

20. The proposed pedestrian access and associated raised table crossing on Racecourse Lane shall be implemented in accordance with the approved design prior to the first occupation of the dwellings located in the adjacent phase of the development.

Reason: To ensure the development is provided with a safe and convenient means of walking access to the nearby local amenities.

21. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The habitat management shall include the proposed newt habitat retention/mitigation zones as shown on site plan - 'Ecology: proposed surface area plan-whole site' drawing title SH-P-SAECO-I dated 24th October. Newt habitat/mitigation as identified in the site plan, 'Proposed Surface Area Plan for Ecology - Area Behind Plas Meddyg' dated 24th October, shall not be included within property boundaries. The management plan for these zones shall include:
- a) Description and evaluation of the features to be managed;
  - b) Ecological trends and constraints on site that may influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
  - g) Personnel responsible for implementation of the plan;
  - h) Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.

Reason: To protect features of recognised nature conservation importance.

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

22. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until the expiration of 5 years from the date of completion of the last of the new build dwellings.
- a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.
- b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement has been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.
- c) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a detailed method statement providing details of tree protection measures to be implemented during the installation of the no dig roadways has been submitted and approved by the Local Planning Authority. This method statement must make provision for supervision of these works by the applicant's arboriculturist or other competent person, as agreed in writing by the Local Planning Authority.
- d) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.
- e) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision

of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

## APPENDIX 2

### EUROPEAN PROTECTED SPECIES – Consideration of the three tests

Application name and reference number:

14/02402/FUL

Former Shelton Hospital

Somerby Drive

Shrewsbury

Shropshire

SY3 8DN

Conversion of former hospital building(s) and outbuildings into 158 apartments and houses to include some demolition; formation of parking areas, courtyards and community gardens; erection of 82 dwellings with associated garages and parking; provision of new vehicular access and alterations to existing vehicular access; provision of new bowling green, associated works and pavilion; to include the felling of some trees, erection of protective netting adjacent to cricket pitch (Amended description)

Date of consideration of three tests:

2<sup>nd</sup> December 2014

Consideration of three tests carried out by:

Nicola Stone – Assistant Biodiversity Officer

[Nicola.stone@shropshire.gov.uk](mailto:Nicola.stone@shropshire.gov.uk)

01743-252556

**1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?**

The development will include the renovation and alternative viable reuse of a vacant listed building and will therefore secure the future of this heritage asset. The development will also boost local housing supply to the effect of 240 units and represents a sustainable form of development reusing an existing building, in a highly sustainable location.

**2 Is there ‘no satisfactory alternative’?**

The application includes the conversion of an existing building therefore there is no satisfactory alternative or sequentially preferable site.

**3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?**

A medium population of great crested newts (Max count 45) has been recorded within 45m of the proposed development site.



A detailed method statement and mitigation has been submitted in support of this application. Development will need to be conducted under a gcn eps derogation license form Natural England. The following mitigation/enhancements have been recommended; amphibian fencing, appropriate trapping and newt translocation, creation of 14 hibernacula, creation and retention of good quality terrestrial habitat for gcn outside of domestic gardens, creation of a native species hedge.

The proposed development will not be detrimental to the maintenance of the population of Great Crested Newts at a favourable conservation status within their natural range provided that the conditions detailed in the response from Nicola Stone to Andrew Gittins (dated 2<sup>nd</sup> November 2014) are on the decision notice and are appropriately enforced.

The following conditions and informatives should be on the decision notice.

1. All works within 250m of 'Pond 1' shall be carried out strictly in accordance with the *Reasonable Avoidance Measures for Great Crested Newts provided by Star Ecology (19<sup>th</sup> November 2014)* attached as an appendix to this planning permission. Works associated with the creation of the new bowling green shall be carried out strictly in accordance with *Works associated with the creation of a new bowling green RAMs provided by Star Ecology (19<sup>th</sup> November 2014)*. Works associated with the Installation of a pedestrian crossing shall be carried out strictly in accordance with the *RAMs for the Installation of a pedestrian crossing RAMs provided by Star Ecology (19<sup>th</sup> November 2014)*.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

2. Works within 250m of pond 1, as identified within Great Crested Newt Survey/Assessment conducted by Star Ecology (August 2014) shall not in any circumstances commence unless the local planning authority has been provided with either:
  - a) A licence by Natural England pursuant to regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorising the specified activity/development to go ahead; or
  - b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specific activity/development will require a license.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

3. A habitat management plan shall be submitted to and approved by the local planning authority prior to the occupation of the development. The habitat management shall include the proposed newt habitat retention/mitigation zones as shown on site plan – 'Ecology: proposed surface area plan-whole site' drawing title SH-P-SAEKO-I dated 24<sup>th</sup> October. Newt habitat/mitigation as identified in the site plan, 'Proposed Surface Area Plan for Ecology – Area Behind Plas Meddyg' dated 24<sup>th</sup> October, shall not be included within property boundaries. The management plan for these zones shall include:

- a) Description and evaluation of the features to be managed;
  - b) Ecological trends and constraints on site that may influence management;
  - c) Aims and objectives of management;
  - d) Appropriate management options for achieving aims and objectives;
  - e) Prescriptions for management actions;
  - f) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
  - g) Personnel responsible for implementation of the plan;
  - h) Monitoring and remedial/contingencies measures triggered by monitoring.
- The plan shall be carried out as approved, unless otherwise approved in writing by the local planning authority, for the lifetime of the development.  
Reason: To protect features of recognised nature conservation importance.

1. A scheme of landscaping shall be submitted to and approved in writing by the local planning authority. These works shall be carried out as approved. The submitted scheme shall include:

- a) Means of enclosure, including all security and other fencing
- b) Hard surfacing materials
- c) Minor artefacts and structures (e.g. lighting)
- d) Planting plans, including wildlife habitat and features (e.g. newt hibernacula, newt terrestrial habitat, hedgehog nest boxes, bird boxes, bat boxes)
- 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

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

### **Informative**

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

### **Bats**

Roosting Brown Long-eared, Common Pipistrelle, and Soprano Pipistrelle have been recorded using buildings on site.

Detailed mitigation measures have been provided in support of this application which include; an alternative, species suitable, bat roost being

made available prior to works commencing on site, pre commencement check for bats by a licensed ecologist, one way bat excluders to be used where appropriate, suitable roofing membrane, and controlled lighting.

The proposed development will not be detrimental to the maintenance of the population of Bats at a favourable conservation status within their natural range provided that the conditions detailed in the response from Nicola Stone to Andrew Gittins (dated 2<sup>nd</sup> December 2014) are on the decision notice and are appropriately enforced.

The following conditions should be on the decision notice:

1. No development, modification, demolition or site clearance procedures that effect building 1, building 8, and building 13, as listed within Bat Mitigation, Compensation and Enhancement conducted by Star Ecology (September 2014), shall commence until a European Protected Species (EPS) Mitigation Licence with respect to Bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

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

2. Work shall be carried out strictly in accordance with the Bat Mitigation, Compensation and Enhancement Report Document conducted by Star Ecology (September 2014) and as shown on the bat mitigation plan dated 15<sup>th</sup> September 2014 attached as an appendix to this planning permission.
- Reason: To mitigate and enhance the development site for the protection of Bats, a European Protected Species.

3. Prior to occupation, a 'lighting design strategy for biodiversity' for the proposed development site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
  - a) Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

#### **Informative**

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

### **Guidance for filling in the EPS form**

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

**1 Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?**

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure ( e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

**2 Is there no satisfactory alternative?**

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

**3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?**

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

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Committee and date

Central Planning Committee

11 December 2014

## Development Management Report

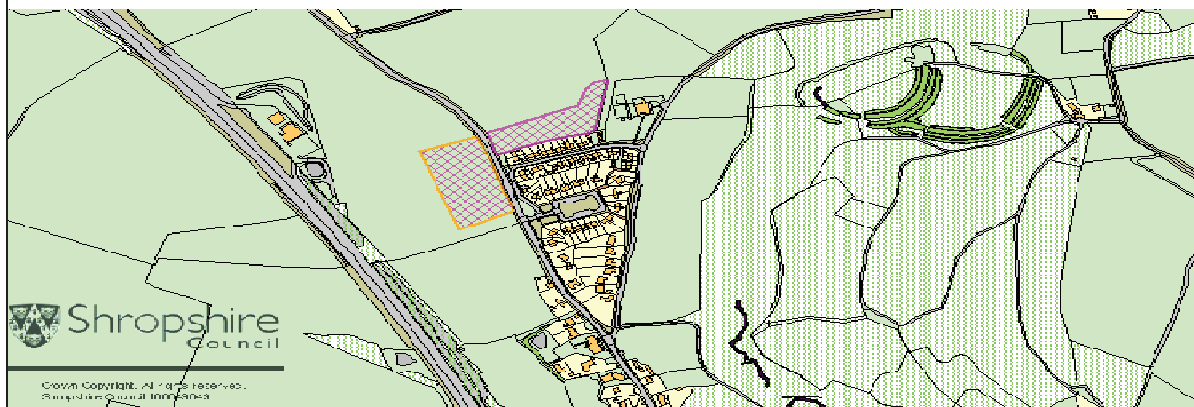
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/03357/OUT	<b>Parish:</b>	Great Ness
<b>Proposal:</b> Outline application for the erection of up to 39 residential dwellings; change of use of land for Community development serviced site; School drop-off / pick-up facility; with open space landscaping buffer (to include access)		
<b>Site Address:</b> Proposed Residential Development Opposite The Crescent Nesscliffe Shrewsbury Shropshire		
<b>Applicant:</b> JC & MW Suckley		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 338127 - 319532



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a Section 106 Agreement to secure affordable housing in accordance with the prevailing rate current at the time of submission of Reserved Matters.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for the erection of up to 39 houses the details of which are to include access with all other matters (layout, appearance, landscaping and scale) reserved for later consideration. The application site is split into two areas, with both being accessed separately off the main, Holyhead Road, that leads in and out of the village from the A5.

The application also seeks permission for change of use of land for Community development (0.687hectares) to the west of Holyhead Road and the submitted plans also show a school drop-off / pick-up facility accessed from the end of the proposed housing estate road as well as an open space landscaping buffer.

1.2 An illustrative master plan has been submitted with the application that shows how it is envisaged the development will be set out. Plans submitted also show how the accesses to both parts of the site will be provided.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located to the north side of Nesscliffe and is split either side of the main road, Holyhead Road, that runs through the village. To the east of the road the application site forms part of an agricultural field that is set to the north of the existing properties at The Crescent. These properties on The Crescent are orientated so that their rear elevations face northwards. The greater and remaining part of the application site is located to the west of the existing road extending out into another agricultural field. This part of the site is set to the north of a site that has been identified as a preferred site for housing under the SAMDev DPD and has received a resolution for approval subject to a s106 under planning reference 13/04757/OUT. The SAMDev DPD is currently under Planning Inspectors Examination.

2.2 Services and facilities already existing in Nesscliffe include a primary school, a village hall, petrol station with shop and post office, a pub and a restaurant at the former hotel. The Nesscliffe by-pass links the village with Shrewsbury and Oswestry, opening up more extensive services, facilities and employment opportunities for the village.

The number 70 bus service runs Monday to Saturday from Shrewsbury to Oswestry. There are 3 stops within the village, 2 of these are directly opposite and immediately in front of the site.



### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 Great Ness and Little Ness Parish Council have submitted a view contrary to officers recommendation for approval based on material planning reasons that cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

### **4.0 Community Representations**

#### **4.1 Consultee Comments**

##### **4.1.1 SC Affordable Houses: No objection**

If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current target rate for this area is 15% and providing 8 affordable homes on site would be an over provision. The size, type and tenure of the affordable homes will need to be agreed in writing with the Housing Enabling Team and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

##### **4.1.2 SC Parks and Recreation: Comments**

Under Shropshire Councils current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30sqm of public open space per bed space. The proposed development should therefore provide a minimum 6300 m<sup>2</sup> of useable public open space as part of the site design.

It is not clear what the area marked 'Site for Future Community Use' is for and whether this is to include additional public open space. The public open recreational space is currently all allocated on the northern side of the main road at St Andrews Fields. Also in this locality, close to the school grounds is the village's main play and recreational area. This means that young children and families on the proposed sites of Crossley's Croft & Nesscliffe Green will have to cross the main road to access the play and recreational facilities, which is not an acceptable situation.

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

**4.1.3 SC Public Protection – Specialist: No objections**

In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided.

The following condition is therefore proposed should this application be granted approval:

An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external sockets will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

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.

**4.1.4 SC Drainage: No objection**

The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

The FRA is acceptable therefore a drainage strategy should be developed using the parameters stated in the FRA.

1. The use of soakaways should be investigated in the first instance for surface water disposal. The SuDs applicability for the area is Infiltration PLUS treatment as the development lies within a groundwater Source Protection Zone. Surface water run-off must be treated through a filtration unit prior to entering the soakaway and also pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Percolation tests and the sizing of the soakaways 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. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval.

As identified in the FRA the site is identified as being at risk of groundwater flooding. The level of water table should be determined if the use of infiltration techniques are being proposed.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

2. A contoured plan of the finished ground levels should be provided 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.

Reason: To ensure that any such flows are managed on site.

3. The 'Management Train Approach' should be central to the surface water drainage strategy of the proposed site. The main objective is treatment and control of runoff as near to the source as possible protecting downstream habitats and further enhancing the amenity value of the site aiming to incrementally reduce pollution, flow rates and volumes of storm water discharging from the site. SuDS should link with the individuals plot structure, planting, public open space requirements and amenity areas, gaining multiple benefits from a limited area of land.

The use of large diameter pipes and crate storage together with a large number of chambers is likely to prove to be an expensive solution in terms of both construction and maintenance. The site's topography lends itself well to the use of true SuDS. Opportunities for permeable paving, attenuation basins and filter strips exist within the development site which could be explored to make the drainage system more sustainable

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

4. Please provide information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility.

Reason: To ensure that the drainage system remains in good working order throughout its lifetime.

Informative: The applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new driveway, parking area/ paved area
- ' Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

Informative ' Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.

#### 4.1.5 **SC Highways DC – No objections**

The highway authority raises no objection to the granting of consent to the development.

Conditions:

Prior to the commencement of the development full engineering details of the new access roads, existing highway/road works, structures, foot/cycle ways, 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/open to trading.

Reason: To ensure the construction is to an adequate standard in the interests of road safety.

Informatives:

The proposed site access and highway improvement works will require a s278 agreement with the local highway authority prior to these works commencing on site.

Background:

Note that this application effectively forms an extension to the existing adjacent permission with an additional site to the east of the old A5. The applicant has provided a thorough transport statement which details the proposed access arrangements for the development, which includes the required visibility splays on to the local road and good provision for pedestrians.

Consider that as a by-passed village the local highway network has sufficient capacity to safely accommodate the development.

**4.1.6 Great Ness and Little Ness Parish Council - Objection**

Great Ness and Little Ness Parish Council object to this planning application on the grounds that numbers are way over what is stipulated in the Parish Plan and the number of houses on each plot should be no more than 10.

**4.2 Public Comments**

**4.2.1** Thirteen objections have been received from 9 addresses and are summarised as follows:

**Community**

It will spoil the existing rural character of Nesscliffe; Nesscliffe is increasing in size at too fast a rate; too many houses proposed for the site; will lead to the area becoming overcrowded and new residents will not be able to enjoy the `space` that should come with rural living; Nesscliffe does not have the infrastructure to cope with the development; locals will not be able to afford the new houses; any increase in traffic will lead to both noise and air pollution, exacerbated by the fact that many new residents will have to commute to work; The application is a cynical attempt from the developers to actually develop over 90 houses by distributing the entire development over a number of applications; The applicant claims to have public support for their application but this claim is false; this scheme does not comply with the Parish Plan

**Landscape**

The proposed development site is partly prime agricultural land; high density housing is not in keeping with the village; open character of the area will be lost

**Residential Amenity**

It infringes on the privacy of neighbouring residents, particularly those living on The Crescent who currently overlook the proposed development site; there are a number of trees and a hedgerow that offer residents of The Crescent `a buffer` from the main road, if these must be removed then reassurance of an equivalent replacement is needed.

**Archaeological**

The proposed development site is potentially of archaeological significance and the development would mean that the site will never be excavated or investigated.

**Highway Safety**

The main village road, from where access to the development is proposed, would become considerably more dangerous as a result of an increase in vehicular usage; Furthermore, schoolchildren have to cross the aforementioned road to access a local school, placing themselves in danger; the proposed access point to the new development is on a blind bend and close to the brow of a hill. This will create a traffic safety hazard; there are lots of horse riders in the area; Horse riding will become increasingly difficult as a result of the increase in traffic; if the development goes ahead there needs to be greater provision for traffic safety on the main road, the 30mph speed limit that is currently in place is commonly ignored and this needs to be tackled through a number of methods, such as speed cameras

and speed bumps; there should also be a provision for street lighting on The Crescent.

Drainage

Concerns raised over adequacy of drainage proposed.

## **5.0 THE MAIN ISSUES**

**Principle of Development**

**Sustainability**

**Affordable Housing**

**Other Proposed Uses/Community Benefits**

**Access**

**Open Space**

**Drainage**

**Landscape/Visual impact**

**Other Matters**

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'

6.1.2 With regards to housing development paragraph 49 of the NPPF states that:

'Housing applications should be considered in the context of the presumption in favour of sustainable development'

and 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.'

6.1.3 Shropshire Council has an adopted Core Strategy. Policy CS4 replaces the former Shrewsbury & Atcham Borough Local Plan policy HS4 that identified Nesscliffe as a village that could accommodate small scale development). Policy CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the 'Submission' stage and is currently being publicly examined and paragraph 216 of the NPPF states

that decision-takers should give weight to the relevant policies in emerging plans according to:

- ....the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- ....the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- ....the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone substantial public consultation and having reached the point of being examined by independent Examiners/Inspectors, where some degree of weight can be attached to its contents.

- 6.1.4 Further to Core Strategy Policy CS4, Nesscliffe is proposed to be identified as a Community Hub, with no proposed boundary under Policy MD1 of the emerging SAMDev Plan. The adjacent site to the south of the application site on the western side of the main road, opposite The Crescent has been identified as a preferred housing allocation in SAMDev named 'Land west of Holyhead Road'. This site was identified for approximately 15 dwellings but currently has a Central Planning Committee resolution to approve (decision taken at the Central Planning Committee meeting on 16<sup>th</sup> October 2014 reference 13/04757/OUT) an outline planning application for up to 26 dwellings on the site subject to completion of a s106 legal agreement to secure the appropriate level of affordable housing provision under policy requirements. SAMDev also identifies a housing guideline for the village of Nesscliffe of around 30 new dwellings over the period to 2026 (which will include the numbers that have already been resolved to approve). Reference is made in the guidelines for development in the village to the Nesses Parish Plan (2004) and subsequent Housing Needs and Development Survey (2011), and the Parish Council's view that developments in the village should be of a maximum of 10 houses on any one site and include predominantly 2 and 3 bedrooms. The SAMDev Plan is currently under examination by the Inspectors to the Secretary of State and Shropshire Council has confirmed that it considers that a 5 year land supply has been identified. Paragraph 216 of the National Planning Policy Framework explains that weight can be given to relevant policies in emerging plans, with the weight according to the stage of preparation, the extent that there are unresolved objections, and the degree of consistency with the NPPF policies and so it is considered that some weight can be given to the requirements and details set out in the SAMDev DPD. However, whilst Shropshire Council considers that a five year land supply is in place and that the details contained within SAMDev can be given weight the key factor remains in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Nesscliffe.

## 6.2 Sustainability

6.2.1 Nesscliffe is a relatively large village situated within the Great Ness & Little Ness Parish located 9 miles from both Oswestry and Shrewsbury with a half hourly bus service running six days a week. The settlement has a primary school, village hall, public house, and restaurant and petrol garage with shop and post office. Secondary school aged children are likely to attend The Corbet School at Baschurch approximately 4 miles away. The Parish Church is located in Little Ness. Recreational facilities are available on Nesscliffe Hill Country Park and on a village playing field located adjacent to the school. The proposed application site is located adjacent to existing housing and the primary school and playing field as well as the identified preferred housing site in SAMDev and is therefore considered to be situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance on the private motor car.

6.2.2 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it as '*about positive growth – making economic, environmental and social progress for this and future generations*'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- ② *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- ② *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- ② *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

6.2.3 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development potentially supporting local builders and building suppliers. The provision of more houses will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment and this will provide financial contributions towards community needs and priorities identified in the Parish Plan which include:

- Childcare facilities
- Adult classes



- A youth club
- Additional use of the village hall for events and services
- Traffic on unsuitable roads
- Public transport
- Need for small family homes
- Conversion of redundant villages for housing
- Wildlife conservation in Nesscliffe Country Park

- 6.2.4 Social role – Nesscliffe is a village with a good range of services. Rural villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding villages. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities in other settlements, thereby retaining services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. The residential development would provide affordable housing at the rate prevailing at the time of the submission of the reserved matters. The current prevailing rate for this area is 15%. However the information provided on the application form states that the scheme would provide 8 affordable units which equates to 20%. The application form has also noted that the scheme would deliver a mixture of three-bed and a small number of four-bed open market units which will help maintain the balance of housing stock within Nesscliffe resulting in a more balanced community. However, house type and design would be considered at reserved matters.
- 6.2.5 Environmental role – The application site forms part of a large arable field. The Council's Ecologist has noted that the Ecology Survey by JW Ecological (2013) covered a wider area than just the application site. It concluded that the mature hedgerows and the plantation woodland adjacent to the Nesscliffe Bypass have value as habitats and wildlife corridors. This current application does not affect these features and proposes new planting around the site boundaries. The Ecologist has no objection to the scheme subject to the attachment of conditions and informative(s) in respect of badgers, bats and nesting birds. As the application site is arable land no Risk Avoidance Measures are deemed necessary for Great Crested Newts and Reptiles.
- 6.2.6 Accordingly it is considered that the proposal would have no adverse impact on wildlife and the ecological value of the site. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot and by cycle to the services in Nesscliffe and by public transport and by a short car journey to the array of services, facilities and employment opportunities just over 9 a miles away in Shrewsbury and Oswestry.
- 6.2.7 It is therefore considered that Nesscliffe is a sustainable location having regard to the three dimensions of sustainable development.
- 6.2.8 Policy MD3 of SAMDev addresses the issue of matching and exceeding the settlement guideline figure that has been identified in conjunction with Parish Council's. This policy has been discussed at the current examination hearing and

has unresolved objections, with a new draft wording now being considered by the inspector. The new draft wording gives a presumption in favour of sustainable development and notes that the settlement housing guidelines are not a maximum. Whilst SAMDev identified a guidance figure of 30 new dwellings in Nesscliffe over the development plan period, a proportion of this will be taken up by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by those other smaller sites that have also been recently resolved/granted for approval in the village, totalling 12 dwellings (refs: 13/02901/REM and 14/00412/FUL). Whilst this application, stating up to 39 dwellings when added to those above will clearly exceed the guidance figure identified by the parish, the village is a sustainable settlement and is in a position where additional housing development could be accommodated. This application also offers community benefits including improved access to the school and a new site for community.

6.2.9 Although Great Ness and Little Ness Parish Council have not supported the application on the basis that the total number for the site exceeds their wish to see no more than 10 dwellings on any one site it is considered that the site can accommodate a number of additional dwellings and subject to a satisfactory scale and design, a development appropriate and proportionate to the size and character of the village could be produced.

6.2.10 In this respect the proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for higher housing numbers would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

### **6.3 Affordable Housing**

6.3.2 The residential development would provide affordable housing at the rate prevailing at the time of the submission of the reserved matters. The current prevailing rate for this area is 15%. However the information provided on the application form states that the scheme would provide 8 affordable units which equates to 20% and the supporting planning statement submitted with the planning application confirms that the applicants are happy to provide this level of over provision in order to benefit the local community.

### **6.4 Other Proposed Uses/Community Benefits**

6.4.1 The application details include an area of approximately 0.687 hectares that is shown to be allocated for community use/development. The supporting documentation with the application sets out that this area could be utilised for a serviced community facility, for example a medical clinic. The scheme also provides for a vehicle and pedestrian access route along the access road to the houses to the east of the main road, with a turning/drop off area, set to the rear of the school site. New pedestrian crossings and connections are also shown crossing Holyhead Road.

### **6.5 Access**

6.5.1 The illustrative site plan shows the access to the western part of the site shared with the adjacent preferred housing site in SAMDev. A new vehicular access would

be created on the eastern side of Holyhead Road to provide access to the new housing as well as access to a turning/drop off area to be used by the school and parents that would be sited close to the western school boundary. Highway Officers have raised no objections to this arrangement and consider that the required visibility splays for each access could be provided. Highway Officers have also confirmed that as a by-passed village the local highway network has sufficient capacity to safely accommodate the development.

## **6.6 Open Space**

6.6.1 Under Shropshire Councils current planning policy regulations, the Open Space Interim Planning Guidance adopted 11th January 2012, all development should provide 30sqm of public open space per bed space. The agent has confirmed that the illustrative scheme would provide 125 bed spaces which would equate to a requirement for a minimum of 3,750sqm of useable public open space as part of the site design. The agent for the application has confirmed that 4,690sqm of open space can be provided and is shown in the submitted illustrated drawings in order to demonstrate that this is possible, although it is acknowledged that if the land to be gifted to the community where to be developed for community uses the area of open space would be reduced. However, given the inclusion of a play area on the eastern application site and the proximity of the existing play area to the north of the school on-site provision on the western application site is not essential. Furthermore, open space provision would be considered in more detail at the reserved matters stage where the layout of the site would be addressed and considered.

6.6.2 No specific details of the area marked 'Site for Future Community Use' have been supplied as this application and it is understood that the applicants wish for the local community to have some input and choice as to how this land is utilised. Again this issue would be addressed in more detail at reserved matters stages.

6.6.3 Concern has been raised by Parks & Recreation Officers that the open space and potential play provision areas for the site in the illustrative plans are shown located on the eastern side of the main road close to the existing school grounds and the village's main play and recreational area. This means that young children and families on the proposed sites to the west of the main road will have to cross the main road to access the play and recreational facilities, which Parks and Recreation Officers consider is not an acceptable situation. However, the application does take this into account and proposes two pedestrian crossings to aid safe pedestrian access.

## **6.7 Drainage**

6.7.1 A Flood Risk Assessment has been submitted with the application. Shropshire Council Drainage Officers are satisfied that the FRA is acceptable and that drainage details, plans and calculations could be conditioned for approval at reserved matters stage.

## **6.8 Landscape/Visual impact**

6.8.1 The proposed site extends out into existing open fields, which to the west of Holyhead Road provide an open area and visual buffer between the village and the nearby A5 dual carriageway. However, it is noted that the housing proposed to the west of Holyhead Road would be set adjacent to the preferred housing site identified in SAMDev, which already introduces built development to this end of the field, at the northern end of the existing houses within the village. This appears to be the area/side of Nesscliffe that has been identified as the side of Nesscliffe to accommodate new development and it is considered that on balance the extension of this development would not have any significant detrimental impact in terms of landscape value in this area. To the east of Holyhead Road the illustrative plans show a row of housing that would back onto the existing houses at The Crescent with an additional open area adjacent to the internal access road on site that could be used to provide additional and improved landscaping for this part of the approach to the village.

## **6.9 Other Matters**

6.9.1 On sites that are not identified in the SAMDev plan but are considered to be sustainable the local planning authority are currently restricting the granting of outline planning permission to one year for the submission of reserved matters details. The agent for this application has requested that as a result of the due process involved in marketing the development (which can take up to 15 months) it is not feasible to require submission of reserved matters within 12 months and is therefore requesting 2 years. Members have already considered and agreed to an identical request for the adjacent site at their meeting of 16<sup>th</sup> October 2014, which involves the same agent and applicant (planning ref 13/04757/OUT). In light of this previous resolution it is proposed that the time limit for submitting the reserved matters application is extended to 2 years in this instance.

## **7.0 CONCLUSION**

7.1 The application site is currently 'countryside' in planning policy terms. However Nesscliffe is proposed to be identified as a Community Hub under the provisions of the emerging SAMDev Plan and adopted Core Strategy Policy CS4. Paragraph 216 of the National Planning Policy Framework explains that weight can be given to relevant policies in emerging plans, with the weight according to the stage of preparation, the extent that there are unresolved objections, and the degree of consistency with the NPPF policies. Whilst it is acknowledged that the application form and indicative site plan illustrate a scheme of up to 39 dwellings, which when considered with other housing applications that are resolved for approval within Nesscliffe clearly exceeds the indicative figure included in SAMDev and the Parish Council's aspirations, Nesscliffe is considered to be a sustainable settlement which could accommodate this level of additional housing. The proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for higher housing numbers would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

- ② 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.
- ② 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,CS9,CS11,CS17  
SAMDev  
Housing Types and Affordability SPD

RELEVANT PLANNING HISTORY:

13/04757/OUT Application for Outline Planning Permission (access for approval) for residential development and associated works PDE

11. Additional Information

View details online:

<b>List of Background Papers</b> (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Planning File 14/03357/OUT
<b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price
<b>Local Member</b> Cllr David Roberts
<b>Appendices</b> 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 two 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 BEFORE THE DEVELOPMENT COMMENCES

4. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

5. No building and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no badger setts are present within 30 metres of the development site to which this consent applies immediately prior to work commencing. The site should be inspected within 3 months prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of badgers

6. Prior to the commencement of the development full engineering details of the new access roads, 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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with Appendix 7 of the Ecological Survey Report by JW Ecological Ltd dated June 2013.

Reason: To ensure the protection of reptiles. The adder, common lizard, grass snake and slow worm are protected against intentional killing or injury under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

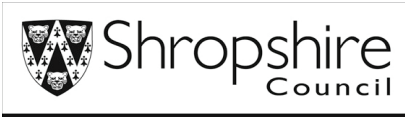
8. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 18:00, Saturday 08:00 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area

9. Prior to the erection of any external lighting above 150W on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

Reason: To minimise disturbance to bats, a European Protected Species.





Committee and date  
 Central Planning Committee  
 11th December 2014

## Development Management Report

Responsible Officer: Tim Rogers  
 email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/03451/FUL	<b>Parish:</b>	Ford
<b>Proposal:</b> Erection of 2 no. dwellings with associated garages; formation of vehicular access		
<b>Site Address:</b> Proposed Residential Development To The NW Of Ford Shrewsbury Shropshire		
<b>Applicant:</b> Mrs M Jones		
<b>Case Officer:</b> Joe Crook	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 340989 - 313769



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## ADDENDUM

The application was presented at Committee on the 13<sup>th</sup> November 2014 where Members gave the following resolution:

“Consideration DEFERRED to the next meeting, with MEMBERS MINDED TO REFUSE the application on the basis that the proposal would be detrimental to the residential amenities of neighbouring residents. In addition, the proposal would fail to satisfy the three dimensions to sustainable development defined within the National Planning Policy Framework: the economic, social and environmental roles. Given the Council’s current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council’s housing development requirements or the community’s needs in terms of health, social and cultural well-being and would therefore undermine the strategy for the location of housing. Accordingly, the proposal would fail to accord with the aims and requirements of saved policy H3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and emerging site allocation and management of development policies MD1 and MD3.”

The agent provided the following response in a letter received on Monday 1<sup>st</sup> December 2014:

*‘I refer to the above application, which was considered by Central Planning Committee on the 13th November 2014. The minutes of this meeting have not yet been published however my understanding is that Members were minded to refuse the application for the following reasons:*

- *Loss of good quality agricultural land*
- *Impact on the amenities of neighbouring properties*

*In accordance with the Council's Constitution the application will be reconsidered by committee on 11th December.*

*In response to the issues raised I will respond as follows:*

### **Agricultural Land**

*You will be aware that agricultural land is classified into grades 1 — 5, according to its quality, in the Agricultural Land Classification (ALC) system devised and introduced in the 1980's by the Ministry of Agriculture, Fisheries and Food (MAFF).*

*Attached is an extract from the Agricultural Land Classification Map which clearly identifies the site as being Grade 3 (Good to Moderate) Land. It is accepted that protection of good quality agricultural land from development is a material consideration; however Government policy advises that only the best and most versatile agricultural land should be protected as a national resource for future generations, and this usually defined as land in grades 1 and 2.*

*In addition to the above the site only occupies a site area of 0.13 hectares. The total field area would extend to 1.38 hectares. Consequently 90% of the field would remain in agricultural use.*

*Finally a significant proportion of sites allocated and approved for housing development in Shropshire are on grade 2 and 3 agricultural land. Accordingly refusal of this application for*

*these reasons would therefore have implications for the Council's approach to housing allocations.*

### ***Impact on Amenities***

*The nearest property to the site would be Clifton Coach House. At the nearest point the side elevation of plot 2 would be 18 metres from the rear elevation of the Coach House. There would be no windows on this elevation and consequently no overlooking or overshadowing would take place.*

*In addition to the above the proposed boundary to the site is 7 metres from Clifton Coach House. If deemed necessary additional tree planting and/or fencing could take place along this boundary to provide a buffer between the two properties. Members will also be aware there is no private "right to a view" and accordingly this cannot be advanced as a reason for refusal.*

*The proposed dwellings would have private garden and parking areas with rear gardens facing south. Consequently the use of these garden areas would have no direct impact on the amenities of neighbouring properties.*

*Finally, the existing bridleway will remain unobstructed by the development. There is sufficient space within the site to accommodate a compound during the construction phase and when built the properties would benefit from a minimum of two off-site parking spaces per dwelling excluding garages.*

### ***Sustainability of Site***

*We would endorse the comments in your report and in particular paragraphs 6.1 onwards "Principle of Development". The site adjoining a significant number of existing dwellings in this part of Ford and is within comfortable walking distance of the range of community services and facilities available in the village.*

*Paragraph 55 of the NPPF also makes it clear that housing should be located where it will enhance and maintain the vitality of rural communities and the overarching aim is to significantly boost housing supply.*

*To conclude we would respectfully request that the planning committee reconsider their decision in light of this additional information.'*

### **Officer comment.**

The drafted reason for refusal does not specifically reference the loss of agricultural land as an issue. Members should consider the above comments made on behalf of the applicants and determine whether its inclusion is justified. Based on the amount of agricultural land to be lost and the fact that it is not classed as Grade 1 or 2, officers are not supportive of its specific inclusion in a reason for refusal though it could potentially be given some limited weight in the overall planning balance and assessment of sustainability.

The reason for refusal as drafted does not identify the specific detrimental impact to the amenity of neighbouring occupiers and this does need to be clear. Lack of clarity could

potentially lead to a successful claim for costs with regard to this issue should the decision be appealed.

The agent for the application has referenced the original report to Committee (attached) which was written prior to the 'Dorrington' appeal decision which Members clearly had regard to in forming their opinion. Officer's advice is that the Dorrington decision is not well balanced, is not aligned with other appeal decisions, and should therefore be treated with some caution. Clearly every application is different and should be considered on its own merits.

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's 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. The site is outside any settlement boundary identified in either adopted or emerging policies and is therefore contrary to policy. It should accordingly be determined on its sustainable credentials.

Members were clearly of the opinion at the last meeting that the site is not sustainable. Taking into account all the three strands of sustainability as set out in the NPPF i.e. the economic environmental and social roles. Members must clearly identify any benefits and adverse impacts in coming to a balanced decision. Since the last meeting part of the social benefit i.e. contribution to affordable housing, may have been removed (further advice to be provided at the meeting) and may therefore add weight towards a refusal.

### Recommendation

Members were clearly minded to refuse this application when previously considered. The proposal does not accord with adopted or emerging policy. Therefore refusal of the application can be justified provided the balance of considerations in terms of its sustainability is in the negative. Any reason for refusal must clearly identify the negative impacts arising from the proposal and reference the positives against which they have been balanced.

**APPENDIX 1 (Original report to Committee) - Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a Section 106 Agreement to ensure the affordable housing contribution is made.**

## REPORT

### 1.0 THE PROPOSAL

1.1 The proposed development is for the erection of 2 no. dwellings with associated garages and the formation of a vehicular access

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located to the north west of Ford, and is a section of agricultural land adjacent to Clifton Coach House. The site is located within the Ford Conservation Area.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Following detailed objections being received from the Parish Council, the Local Member confirmed his objections to the scheme and requested the scheme be considered for determination by the Central Planning Committee. The Committee Chair and Principal Planning Officer are due to consider this report and confirm whether the application merits a committee determination.

### 4.0 Community Representations

#### - Consultee Comments

Ford Parish Council - Ford Parish Council strongly objects to this planning application on a number of material planning grounds.

Following extensive consultation via a Rural Toolkit event and Parish Plan review, including a Housing Needs Survey, the Parish has confirmed its desire to be treated as Open Countryside under the emerging SAMDev Local Development Plan. This plan has been submitted to the Planning Inspectorate for scrutiny and demonstrates in excess of 5 years housing supply, so must be given appropriate weight as a material planning consideration. The principles of Core Strategies CS5 and CS6 should therefore be applied to this application.

The site fails to comply with CS5 as the proposed development is for open market housing which fails to improve economic diversity in the rural economy. The housing fails to meet any identified local need for agricultural, forestry or other essential countryside workers.

The proposal fails to comply with CS6, Sustainable Design and Development Principles on the grounds of poor connectivity to the amenities of the community. The site was assessed under SHLAA as site Ford 014 in 2010. The site was rejected due to its 'detached location from the settlement centre'.

The Council noted that a number of other objections raised by residents were pertinent. The Council noted the submission of a petition signed by 72 residents and the online comments of objectors, which together with the personal representations at the Parish Council meeting demonstrated the strength of local opposition to the application. In particular they are concerned that the site has no apparent right of access for vehicles and that access is proposed over a narrow bridleway, used regularly by horses and pedestrians as of right. The safety of pedestrians and riders both on the bridleway itself and on the narrow highway approach up Jackson's Bank is a matter of great concern.

The Parish Council urges that the officer recommends refusal, however should the officer be minded to recommend approval the Parish Council would wish the matter to be referred to the Planning Committee for a decision.

SC Conservation - Generally no objection in principle to the proposal subject to the inclusion of conditions to ensure the external appearance of the development is satisfactory.

SC Drainage – Recommend conditions/informatives relating to drainage.

SC Affordable Housing - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing

SC Archaeology – No comments to make.

SC Rights of Way - Bridleway 7 Ford runs along the proposed access to the development site. The developer must be able to show that private access rights exist along this route to enable it to be used as access to the proposed housing. If any changes to the surface of the public right of way are intended permission must be sought from the Rights of Way department.

The applicant should also be aware of the following

' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

' 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.

' 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.

SC Public Protection – Recommend condition relating to details of the means of construction which safeguards the development from possible landfill gas.

SC Highways – No objections to the scheme subject to works to upgrade the surface of the bridleway. Confirm that the provision of a suitable and safe vehicular access between the development and the public highway is a matter for consideration under the planning process, contrary to the details submitted by the agent with regard to this matter. Recommend that this is conditioned.

SC Ecology – No objections to the scheme following receipt of an ecology report, subject to conditions and informatives.

SC Trees – Requested further information relating to trees. This has been provided though the works to the bridleway for the access could still have a detrimental impact on the prominent and attractive trees on the opposite side of the bridleway to the development. As such if a condition is added to protect these trees it will need to ensure a suitable method of constructing the access road that would minimise damage to the trees and comply with the recommendations of BS5837:2012.

#### - Public Comments

The following comments were received from the Local Member:

The application is in effect in open countryside with no adopted road immediately adjacent to it. A housing needs survey was recently carried out in the area and it was identified that no more houses were needed. The Parish wishes and have asked for its area to be declared as open countryside. Notwithstanding this wish there have been a number of recent applications to build houses granted. These were prior to the declaration that there was now a five year land supply of housing in Shropshire.

The site is in what can be called with justification a detached location and far from the main settlement. Access is via a Bridle Way and along a path much walked along by local residents wanting to enjoy the open countryside nature of the area. Where this proposed new access eventually joins the public road network it does so where there are no safe paths to walk along and where many motor vehicles drive along. The bridleway which it is identified as giving access to the site is very narrow and often overgrown. Access I understand to the field by vehicles and tractors has normally been via other adjacent fields and very rarely if ever down that now proposed. Photographs have been supplied to me showing the state of this proposed access which shows it as being very much open countryside.

As is shown a petition signed by 72 local residents has been submitted objecting to this application. This is the first petition sent in, in response to a housing application in the Ford area, even though there have been other applications that have been objected to. Residents are so much against this application to build in open countryside that they wanted to show their opposition to it. This was also demonstrated when the application was discussed at the appropriate Parish council. The room was packed and everyone present objected to the application.

This application though small in comparison to many others is of such an intrusive nature it needs to be seen by members who will see why it needs to be rejected. This site is in an unsustainable location with very little if any connectivity with village amenities. I also urge the objections made by the Parish Council and others be read.

Roger Evans  
Shropshire Councillor for the Ford Area.

12 objections have also been received which raise the following issues:

- Ford has been designated as open countryside in the SAMDev plan following extensive community consultation. Houses currently for sale in Ford have not sold for a number of years.
- The site is unsustainable given its distance to the community core of Ford. This was considered within the SAMDev evaluation and deemed unsustainable. Under the Shropshire Strategic Housing Availability Assessment, the site was considered to perform poorly in sustainability terms and was rejected due to its detachment from the settlement centre.
- If there is no private right of access, the planning department cannot grant planning permission.
- The block plan fails to show the full extent of Clifton Coach House. The distance between this and the proposed dwelling would be closer than is shown on the block plan and would be 13 metres.
- A tree survey should be submitted.
- The development is within Conservation Area for the village of Ford, and outside the Ford development boundary.
- Along with other approved applications this development would increase the overall level of residential development within this area of Ford by 25%. This will in turn increase the level of vehicular movements which will pose a danger to pedestrians as there is no footpath in this area.
- The development would severely impact on the use of Bridleway No.7 which is used by pedestrians and horse riders for the purpose of recreation.
- The proposal contravenes policy CS5 as the development is located within open countryside and this policy restricts residential development in open countryside.
- The development will create a serious impact on residential amenity in terms of an overbearing impact, overshadowing and loss of light.
- The development makes a mockery of the details required to match existing etc when the barn conversion was approved at Clifton Coach House.
- There is no historically recorded vehicular use of the bridleway.
- There is a lack of parking space proposed, for only two spaces per dwelling.
- There is no provision for lighting, pathways, disabled access, rubbish and recycling and also excessive distance to fire hydrant.
- The development contravenes the right to quiet enjoyment of homes through the development phase and once completed with all the necessary service vehicles and associated car movements travelling up and down the bridleway



- There is no natural gas in Ford, and therefore the oil or gas for heating etc would be provided by tankers which would be unable to turn round and therefore would need to reverse down the lane.
- The development will have a detrimental impact on the wildlife in particular the birds within the hedgerow.
- The development would be incongruous with this part of the village.
- The development represents a harmful intrusion into open countryside and will have a detrimental impact on the sensitively converted Clifton Coach House.
- The adverse impact of the development outweighs any benefits to the village.
- The bridleway is too narrow and would be damaged by large vehicles accessing the site.
- The development would destroy the rural nature of the bridleway.
- Hedgerows have already been removed to the detriment of the wildlife and nesting birds etc
- Rainwater harvesting and reuse are more sustainable and concerns are raised relating to potential groundwater pollution in the groundwater protection zone.

Nesscliffe Hills and District Bridleway Association – Object to the scheme as there are no vehicular access rights over the bridleway. These have not been acquired by usage given that the access to the field was only cut open in May this year. Concerns relate to the lack of turning area, delivery vehicles and visitors blocking the track for users, and vehicles damaging the surface. It is one of the few routes for horse riders and will be detrimental to their use of this route. The bridleway must remain clear and useable at all times. Bridleway 7 forms an important off road link in the Humphrey Kynaston Way long distance bridleway. This is a leisure route promoted by Shropshire Council, which was put in with volunteer help from our Association, and other local volunteers. It was funded by Natural England as part of its 'Paths for Communities' project to connect rural communities and promote tourism.

A petition signed by 71 residents was also submitted which raised the above issues and added that the use of the bridleway for vehicular access is illegal, and raised concerns that it will be utilised for parking associated with the dwellings.

Full objections to the scheme are available on the Council's public access system.

## 5.0 THE MAIN ISSUES

Principle of development

Design, scale and impact on the character of the Conservation Area

Impact on residential amenity

Highways

Bridleway

Ecology

Drainage

Trees

Contributions

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The National Planning Policy Framework (NPPF) constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Development Plan: In relation to the current application, the site is located outside of the development boundary of Ford, as identified within the Shrewsbury and Atcham Borough Local Plan. The area is therefore defined as 'countryside' for the purposes of planning policy. Core Strategy Policy CS5 is therefore applicable. Policy CS5 controls new development in the countryside, and seeks to restrict open market dwellings from such areas.

6.1.3 Core Strategy Policy CS4 (Community Hubs and Clusters) states that developments outside of the Community Hubs and Community Cluster settlements will not be allowed unless it meets Policy CS5. The Pre-Submission Draft of the SAMDEV does not propose to identify Ford as a Community Hub or Community Cluster. Saved Policy HS3 of the Shrewsbury and Atcham Borough Local Plan restricts residential development which is located outside of the development boundary of the settlement. Therefore the proposed open market dwellings do not comply with Policies CS4 or CS5 of the adopted Core Strategy, or saved Policy HS3.

6.1.4 National Planning Policy Framework: The National Planning Policy Framework (NPPF) constitutes guidance for local planning authorities which is a material consideration to be given significant weight in the decision making process. The NPPF imposes a presumption in favour of sustainable development, and states that this should be seen as a golden thread running through plan-making and decision-taking. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

6.1.5 The NPPF aims to boost significantly the supply of housing, and this is a material consideration in determining this application.

6.1.6 The village of Ford benefits from a range of community services and facilities, and these are within walking distance of the application site. These include a primary school, local convenience store, village hall, church, public house, and restaurant. It is considered that these services and facilities contribute to enhancing the sustainability of this location for the proposed dwelling. The site also lies approximately 3 miles from the edge of Shrewsbury, which provide a large and wide range of facilities

- 6.1.7 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
  - a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
  - an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.1.8 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide opportunity for local employment for the construction phase of the development supporting local builders and building suppliers. The provision of the proposed dwellings would be expected to support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

- 6.1.9 Social role – Settlements need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the settlement and surrounding area. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities, will benefit both the existing and future residents and help meet the needs of present and future generations.

- 6.1.10 Environmental role – The site forms part of an agricultural field adjacent to the built up area of Ford, and is not located within or in the vicinity of any area with specific land-use designation in respect of landscape or ecological value. The impact of the proposal on the Conservation Area is considered below, however there is no reason in principle to prevent additional residential development within such an area. Whilst a small section of hedgerow would be lost in order to form vehicle access, additional landscape planting is proposed within the development site which would compensate for this. In terms of assessing the proposal in relation to the three dimensions of

sustainable development it is therefore considered that in principle the proposed site represents a sustainable location for open market dwellings.

6.1.11 It is recognised that the site lies outside of the development boundary and would not comply with Development Plan policies which seek to restrict open market dwellings from such locations. Nevertheless it is considered that the proposal is consistent with the aims and objectives of the NPPF in respect of the presumption in favour of sustainable development and the need to boost significantly the supply of housing. It is considered that these are material considerations which can be given significant weight. On balance therefore it is considered that this location can be supported in principle.

6.2 Design, scale and impact on character of the Conservation Area

6.2.1 Objections have referred to the proposed scheme having a detrimental impact on the surrounding Conservation Area, and being out of keeping with the adjacent Clifton Coach House. However, following consultation with the Conservation department they have not objected to the scheme in principle and commented they did not consider that the scheme was detrimental to the character or setting of the Conservation Area and the scale, proportion and design were generally acceptable provided that they are completed to a high standard with appropriate materials. These can be conditioned for approval prior to development. The scheme includes a variety of architectural detailing on the dwellings in keeping with other properties close by including external chimney breasts, brick plinths, exposed rafter feet, timber storm porches, bay window and timber joinery. It is acknowledged that these are 4 bedroom properties but they are not excessive in scale and will be located within relatively generous plots, fronting the adjacent lane. The proposal incorporates garages for the properties and allows for requisite turning areas within the site. On balance it is considered that the design, scale and character of the proposed development are acceptable and the scheme will preserve the character and setting of the Conservation Area. The scheme is therefore considered to accord with policies CS6 and CS17 of the Shropshire Core Strategy.

6.2.2 An objector to the scheme has commented that the block plan does not accurately depict Clifton Coach House and the distance between the Coach House and the proposed dwelling would be closer than is shown on the proposed drawing. However, the Coach House position shown on the plan matches that on the Councils computer mapping system and in any case the distance of 13 metres referenced within the objection is considered to be acceptable when taking into consideration the impact on the adjacent dwelling which will be assessed further below.

6.3 Impact on residential amenity

6.3.1 The proposed site for the dwellings will be to the west of Clifton Coach House, and will be approximately 15 metres from the existing property. This is considered to be appropriate and it is noted that there is a gap between the two sites. Whilst the objector has raised the issue of this distance being closer than shown, the distance between the proposal and the existing property to the east is considered acceptable given the gap left between the two sites and the overall distances involved. The objector from the neighbouring property has raised the issue of overshadowing from the proposed dwellings but given that these will be located

directly to the west, it is considered that overshadowing will be minimal as the sun will be setting and very low in the sky when it faces the side of the dwellings and the adjacent Clifton Coach House. In addition, there will be no windows on the facing elevation to the east towards Clifton Coach House and therefore no adverse impact in privacy terms. On balance it is considered that the impact on residential amenity will be minimal and therefore the scheme is acceptable in this regard.

#### 6.4 Highways

6.4.1 The Highways Officer has confirmed that the highways department has no objection to the granting of consent. They also confirmed that the surfacing of the bridleway between the site and the entrance to the adjacent property would require upgrading as part of the scheme and details of this is requested as a condition to ensure it is carried out appropriately.

#### 6.5 Bridleway

6.5.1 A number of the issues have been raised by the objectors, Rights of Way team and Bridleway association and these largely relate to the use of the bridleway for vehicular access to the site, mainly with regard to restricted (or illegal) access rights and the potential for a detrimental impact on the safety of the users of the bridleway including pedestrians and horse riders.

6.5.2 The planning application cannot be refused on the basis of the bridleway being utilised for a vehicular access as this is outside the remit of the planning authority. In terms of the consideration of this application, it is considered that an access to the site is in place and whilst the application does not provide evidence that vehicle rights to access the site currently exist, this is a private matter for the applicant and it is considered that the granting of planning permission would not imply the existence of any such right for the applicant. An informative can be imposed to ensure that the applicant is aware of this.

6.5.3 Whilst the owner of the bridleway has not been confirmed, and all reasonable steps taken to find the owner including an advertisement in the Shropshire Star paper, the Council as the Highways Authority has the right to maintain the surface of the public right of way, and it is considered that this should not be an obstacle to securing the re-surfacing via condition. In addition to this, the future maintenance of the right of way can be undertaken by the Highways Authority for the purposes of access by horse and on foot, but it has been confirmed that the responsibility for maintaining the condition of the bridleway for vehicular uses would fall to the owners of the dwellings, and this is not a concern given that it will be in their interests to ensure it is suitable for passing vehicles. In addition to this, it is anticipated that the re-surfacing will allow for an improved surface over that existing for a significant period of time in any case.

6.5.4 The natural speed of a vehicle in this location given the nature of the bridleway means it is not considered to be dangerous to users of the right of way and the level of vehicular use created by the two dwellings is not considered to be excessive. An informative will be included outlining the applicant's responsibilities. Overall it is considered that the access via the Bridleway is sufficient for planning purposes and conditions and informatives will be attached.

## 6.6 Ecology

6.6.1 Whilst concerns have been raised relating to the impact of the development on wildlife and protected species, following the submission of an ecological assessment the Council's Planning Ecologist has confirmed that there are no objections to the scheme subject to conditions and informatives.

## 6.7 Drainage

6.7.1 The drainage engineer has not objected to the scheme subject to full soakaway details being submitted for approval via condition.

## 6.8 Trees

6.8.1 Following the trees officer requesting further details in the form of an Arboricultural Impact Assessment, a revised block plan identifying the trees in and around the site and confirmation that these will be unaffected other than those on the opposite side of the bridleway, and that the track surfacing required will be done using a hand dig procedure to avoid any damage. The Trees Officer responded to the detail by confirming that these were prominent and attractive trees and as if a condition is added to protect these trees it will need to ensure demonstration of a suitable method of constructing the access road that would minimise damage to the trees and comply with the recommendations of BS5837:2012 to be provided prior to the commencement of development.

## 6.9 Contributions

6.9.1 The scheme will be liable for both the affordable housing contribution and community infrastructure levy and the appropriate forms have been submitted in this regard. Any permission granted will be subject to a Section 106 agreement to ensure the affordable housing contribution is paid.

## 7.0 CONCLUSION

The planning application relates to the provision of open market dwellings in open countryside and would be contrary to Development Plan policies CS4 and CS5 and saved Local Plan Policy HS3 restricting such development. The village of Ford is not being promoted as a Community Hub or Cluster under the emerging SAMDev plan where residential development would be considered acceptable. However, the proposed site is located adjacent to the built up area of Ford, which has a number of local facilities and services, and as such the proposal would represent sustainable development for which there is strong support in the NPPF. On balance it is considered that this location can be supported in principle.

The proposed development is of an acceptable design and scale, and can be provided without adverse impact upon residential and local amenity or upon the character of the Conservation Area. Whilst there is uncertainty over the public rights that exist to use a vehicle on the track which would form the access to the site, it is considered that in principle this access track is satisfactory for such use with no objections from the Highway Officer in this regard. The grant of planning permission does not grant such use rights or imply that such use rights exist. A financial contribution will be provided in relation to the provision of affordable housing. It is not considered that there are other material considerations which would indicate that planning permission should not be granted. On this basis the scheme is considered to be acceptable in accordance with policies CS6, CS11 and CS17 of the Shropshire

Core Strategy as well as the National Planning Policy Framework. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## 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 - Community Hubs and Community Clusters
- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS11 - Type and Affordability of housing
- CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

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 Roger Evans
Appendices APPENDIX 1 - Conditions



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

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 deposited and amended 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.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. No built development shall commence until samples 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.

4. No windows or doors shall be installed on the development without details plans and sections at a scale of 1:20 having been first submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To protect and enhance the appearance of the building and the area.

5. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. 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

Implementation timetables

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

6. Prior to the occupation of any buildings on site details of all walls, fences and hedges shall have been submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

7. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

8. No development shall take place until details for the improvement of the bridleway surface in a suitable free-draining stone material have been submitted to and approved by the Local Planning Authority. The submitted details should be of a suitable method of construction that would minimise damage to the adjacent trees and comply with the recommendations of BS5837: 2012 in this regard. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: In the interests of highway safety and local amenity.

9. Before the development commences, details of the means of construction which safeguards the development from possible landfill gas shall be submitted to and approved by the Local Planning Authority, unless the Local Planning Authority are satisfied following the submission of results of investigations and tests for landfill gas, that such safeguards are unnecessary.

The development shall be carried out in strict accordance with any details submitted and approved under the foregoing condition.

Reason: The site lies within 250 metres of a landfill site and the Local Planning Authority wishes to ensure that the site can be developed and occupied with adequate regard to environment and public safety.

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

10. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Turnstone Ecology (October 2014) attached as an appendix to this planning permission.

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

11. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

Reason: To minimise disturbance to bats, a European Protected Species.

### **Informatives**

1. The application proposes access over a route that is recorded as a public footpath and does not appear to carry public vehicular rights. The applicant is very strongly advised to satisfy themselves that they are able to demonstrate a sufficient vehicular right of access before committing further resources to the proposal. Neither the granting of planning permission, nor any associated obligations relating to the proposed access, either grant or imply the existence of any right for the benefit of the applicant to use that way with vehicles. It is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority and a property that is not able to demonstrate a lawful right of access with vehicles may be unsaleable. No works must be carried out that might affect the footpath without prior approval of the Rights of Way Officer.
2. The SuDs applicability for the area is Infiltration PLUS treatment as the development lies within a groundwater Source Protection Zone.

Surface water run-off must be treated through a filtration unit prior to entering the soakaway and also pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

Percolation tests and the sizing of the soakaways 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, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit 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. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval as part of the discharge of conditions.

3. Confirmation is required 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.

4. 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
5. The applicant should consider employing measures such as the following:
  - ' Water Butts
  - ' Rainwater harvesting system
  - ' Permeable surfacing on any new driveway, parking area/ paved area
  - ' Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

6. Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.
7.
  - ' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
  - ' 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.
  - ' 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.
8. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

9. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

An experienced ecologist should assess whether any badger setts are present within the proximity of the proposed development site. If any work is proposed within 30m of the

sett then it may be necessary to apply for a Licence to interfere with a Badger Sett for the Purpose of Development from Natural England.

The applicant should follow the advice of their experienced ecologist throughout the works. If the applicant does not follow the procedure advised above then they may find themselves vulnerable to prosecution for an offence under the Protection of Badgers Act 1992.

10. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

11. If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.

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Committee and date

Central Planning Committee

11 December 2014

## Development Management Report

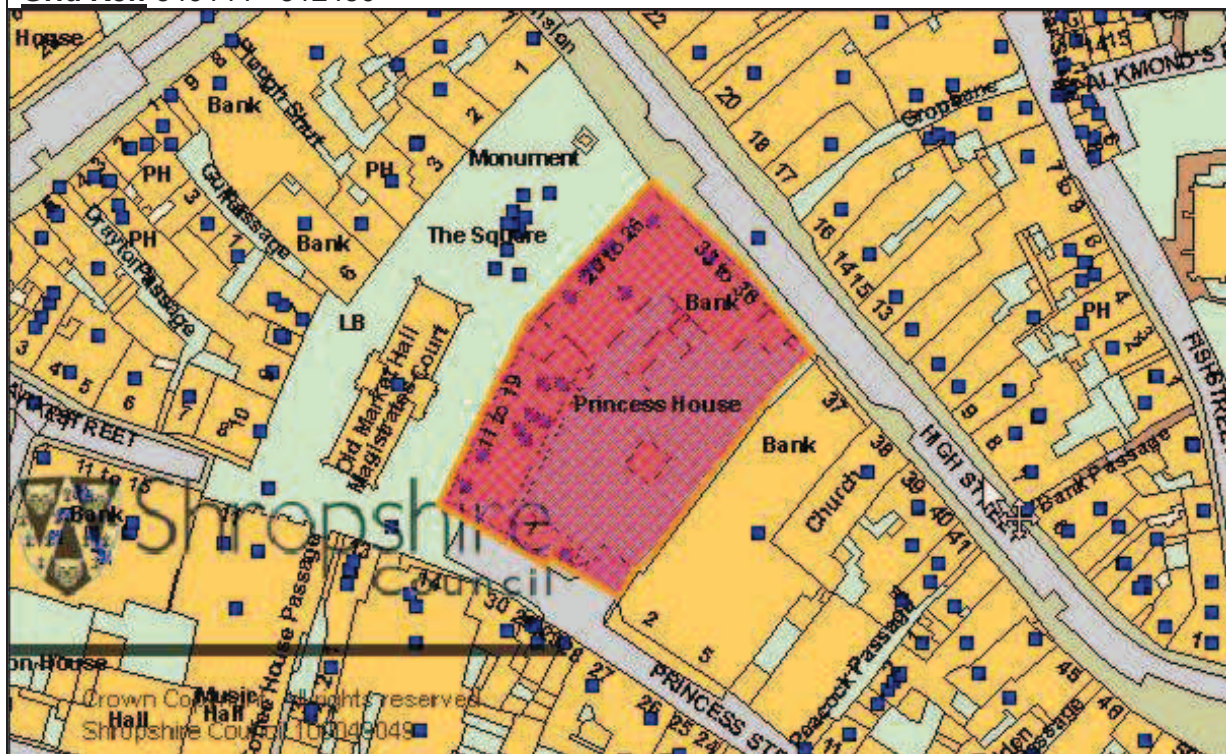
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/04383/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Conversion of the existing office space and extension to provide 50No residential apartments together with secure storage facilities and restaurant unit at ground level		
<b>Site Address:</b> Princess House The Square Shrewsbury Shropshire		
<b>Applicant:</b> The Retail Plus Property Partnership		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 349144 - 312450



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure 2 affordable units.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application relates to external alterations and re-cladding of Princess House in association with conversion of the existing office space to dwellings and erection of a roof extension and extension over the existing car park entrance at first, second and third floor level to provide a total of 50 residential apartments (34 conversions and 16 new build) together with retention of the existing parking at first floor level, change of use of part of the ground floor to restaurant and the provision of secure storage facilities in the basement.

### **2.0 SITE LOCATION/DESCRIPTION**

2.1 Princess House is a large three storey 1970s building situated within the historic core of Shrewsbury Town Centre on the South East side of the Square. It faces the Old Market Hall which is a scheduled ancient monument and Grade 1 listed and there are a number of Grade 2\* and Grade 2 listed buildings surrounding the Square. Alterations have already been made to the fronts of the ground floor retail units under planning permission reference 11/04717/FUL.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager/Principal Planning Officer in consultation with the Committee Chairman agrees that the application should be determined by committee.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 SC Conservation (Historic Environment) -**

Background to Recommendation:

A full planning application has now been submitted following several meetings and extensive discussions at the pre-application stage involving our Team, the Planning Case Officer, English Heritage and the applicant and his architect. The application affects Princess House, an extensive modern building which dominates the east side of the Shrewsbury Town Centre's historic Town Square. Princess House is immediately across from The Old Market Hall, a Scheduled Monument and Grade I listed building within this key important public town centre space, and is sited within the mix of many notable designated and non-designated heritage assets within the Square, along the High Street and running along Princess Street to the south. The area is located within the 'Town Centre Special Character Area' which makes up part of the larger Shrewsbury Conservation Area.



**Principles of Scheme:**

We had recommended at the pre-application stage of this proposal that early advice from English Heritage would be vital and key to ensuring that any increase in building height and external façade modifications are sensitive to the setting of the heritage assets nearby, visually appropriate within the Conservation Area and would strive to improve as much as possible what most would agree is overall an unattractive building within the historic Town Square. We concur with the position of English Heritage and have no objection in principle to this proposal, which will also bring additional residential accommodation to the area, and which follows extensive ground floor shop front improvements that have been completed to date involving most of the retail units.

**Detail:**

The intent of the application is to upgrade the building for residential use and we welcome efforts to re-order the building's existing elevations to improve the overall appearance of this building in this sensitive and key location within The Square. While we are generally content with the contemporary external enhancements proposed to the building, one aspect of the proposal we have questioned are the rotating photovoltaic panels mounted on glass, and the impact these could have on the area. This element, among other aspects of the proposal, can now be more fully deliberated as part of this full planning application. Specific conditions need to be applied that ensure all external materials, elevational detail, decorative finishes and colour schemes are submitted for review and approval at the pre-commencement stage and we agree that further advice from English Heritage on these detailed matters is desirable.

**Recommendation:**

No objection in principle subject to strict review and approval of elevational details, external materials, decorative finishes and colour schemes prior to work commencing on this proposal.

- 4.1.2 **SC Archaeology (Historic Environment)** - The proposed development site is situated in a key focal location in the historic core of Shrewsbury, within the centre of the Shrewsbury Conservation Area and within the settings of a large number of Listed Buildings. The latter include the Old Market Hall, which is designated as both a Scheduled Monument and a Grade I Listed Building (National Heritage List Refs 1003707 & 1254925). The advice of both English Heritage and the Conservation Officer for the Central Area on the design, form, materials and detailing of the proposed development must therefore be followed in full. It is also noted that at present the application is not accompanied by a Heritage Statement which justifies the design philosophy of the proposed development in relation to the policies set out in Section 12 of the NPPF. From the plans submitted with the application it is, however, noted that the proposed development will be entirely contained within the existing footprint of Princess House. As a consequence there will be negligible, if any, ground disturbance. We therefore have no comments to make on the proposed development with respect to archaeological matters.
- 4.1.3 **English Heritage** - We have no objection in principle to this proposal, but a high quality of detail design, materials and finishes will be absolutely vital if this project is to be worthy of its setting.

Princess House is in a key position in one of England's best historic towns, a vital component of the Conservation Area, and a major influence on the settings of several outstanding historic buildings. It must be said that in its present form it is not worthy of its location.

There is, therefore, the potential for a substantial improvement. We consider the present proposal acceptable in principle, although with some regret that it has not proved possible to relocate the car parking on the first floor so as to give more animated elevations around its northern corner. We also consider that the western corner would benefit from some redesign so as to give a simpler junction of elevations, without the re-entrant.

Detail, materials, and finishes will be the key to success here, and it may be that such a prestigious location cannot be entirely served by catalogue items. The facing materials, textures and colours should be within the present - quite wide - range of elevations in the town centre.

#### Recommendation

Conditional planning permission may be granted for this application, with stringent conditions requiring prior approval of elevational details, materials and finishes. In this case we would be prepared to advise on the discharge of these conditions.

- 4.1.4 **SC Highways DC** - The local highway authority makes no objection to the granting of consent to this application. We note that the developer proposes to retain the existing private parking contained on the first floor of the building, with one parking space per dwelling provided. This provision accords with the saved policy on parking provision contained in Appendix 2 of the SABC Local Plan 2001. Given the local transport options, services and employment available within the river loop the area can be considered as being highly sustainable for residential development and many people choose to live in the town centre who don't own a car. However we haven't been able to find any details with the application regarding the provision of cycle parking within the building, so this should be addressed by the applicant; the development should provide a sensible level of secure and convenient cycle parking contained within the building using 'Sheffield' stands or similar. Please note that cycle parking systems that attach to a single wheel of the bike are not permitted as they do not offer an acceptable level of security. Given the central location of this site within the town centre ownership of bicycles by the residents is likely to be high so should be accommodated within the design. Public cycle parking within the Square has become a premium so we are keen not to see this taken up by future residents of the building. Parking is controlled on the streets surrounding Princess House and long term permits are available for the town centre long-stay car parks, so we are of the opinion that the development should not give rise to parking problems should the demand for parking outstrip supply. Given that the current level of parking is being retained and considering the location, the development should not give rise to any notable increases to the number of trips from the main access. There is likely to be a rise in deliveries being made to the building, but these can be served from the existing loading bay on Princess Street. There have been some recent complaints of traffic issues on Princess Street and Market Street (a pedestrianised route), but we are currently looking at options to address this and to reduce 'through' trips along this route.

- 4.1.5 **SC Affordable Houses** - The Affordable Housing Statement accompanying the application reflects preliminary discussions that took place prior to the submission in relation to affordable housing. As noted, the applicant could change the use of existing offices into residential apartments subject to the Government's Prior Approval Process, without the need for a detailed planning application. Under this process, there would be no requirement for affordable housing provision. As the proposed change of use of offices is integral to the wider alterations/extensions, it was appropriate that a detailed planning application be submitted for scheme as a whole. The 34 proposed apartments within the original office building will not be subject to the requirement to provide a percentage as 'affordable', on the basis that the building could be converted into residential without the need for a formal planning application. The 16 additional units proposed by way of an extension will be subject to Council Policy, requiring all new residential development to contribute to the provision of affordable housing. The application site falls within an area where the contribution rate is 10% and therefore an extension comprising 16 dwellings, would generate a provision of 1.6 (one apartment and a financial contribution for the remaining fraction). The application notes that two, two bed units will be provided at first floor level. The floor area indicated for the affordable units is compliant with the minimum space standards used by the Homes and Communities Agency and therefore considered to be acceptable. It is agreed that the units will be discounted rent tenure. Any planning permission should be subject to a S106 Agreement and the affordable dwellings a local letting plan.
- 4.1.6 **SC Drainage** – Recommends measures to ensure that surface water drainage is undertaken in a sustainable manner.
- 4.1.7 **West Mercia Constabulary (Crime Prevention Design Advisor)** – There are opportunities to design out crime and /or the fear of crime and to promote community safety and gives advice regarding secured by Design.
- 4.2 - **Public Comments**
- 4.2.1 10 letters have been received (9 objections and 1 representation) including one from the STCRA, one from the Civic society and one on behalf of Trillium who provide Job Centre Plus (JCP) summarised as follows:

#### **Change of Use of Building**

- ☐ Supports the conversion of redundant office space above shops to dwellings in the town centre and the application should be welcomed for finding new use for a tired building by injecting capital for its regeneration.
- ☐ The proposal includes too many flats with inadequate space that would be contrary to the DCLG recently published 'Nationally Described Space Standard' document.
- ☐ Apartments on the first floor will have bedrooms that face directly into the covered parking area and these rooms might not satisfy the BRE standards for sunlight and daylight.

- ❑ The high density will result in increased traffic and congestion in the surrounding narrow streets and there is no indication of areas for covered cycle parking.
- ❑ There is no need for another restaurant in the town which is already overprovided with eating houses and coffee shops.
- ❑ The Department for Work and Pensions objects to the application as it affects the Job Centre Plus (JCP) facilities in Shrewsbury that it has a statutory obligation to fulfil.
- ❑ The services offered by the JCP need to be combined within, and operated from, one unit to ensure that all relevant services are available to job seekers, to maximise the opportunities available to them.
- ❑ The JCP requires a town centre location and a sizeable unit that can accommodate a dual Class A2 and B1a use, accessible to visiting members of the public and a separate access for staff and there are currently no suitable alternative premises within Shrewsbury Town Centre that could accommodate JCP.
- ❑ The existing location of the JCP is ideal and has been operating successfully from Princess House since 1999 and benefits from a Lease until 2017, but would wish to continue to do so beyond this period.
- ❑ The application will result in the loss of offices and the JCP in this location if the ground floor is converted to a restaurant and the upper floors to offices.
- ❑ MD9 of the emerging SAMDev seeks to protect employment land from alternative uses.
- ❑ The application fails to properly address the loss of offices, and existing employment and the proposal will result in the loss of an important community service within Shrewsbury.

### **Scale, design and appearance**

- ❑ Princess House does little to augment or enhance its surroundings and this application will probably be the only opportunity in the next 100 years to improve the look of this hideous building.
- ❑ Princess house is one of the most important sites in Shrewsbury and whilst the proposal is marginally better than existing it is not good enough and deserves better.
- ❑ The proposals do not offer any improvement or make any positive contribution to the existing building or townscape.

- ❑ The extensions and the extra height and volume proposed only serves to increase the overall scale, height and massing of Princess House and will increase and not deplete the overpowering and overbearing appearance and add significantly to its bulk, increasing its dominance in the area.
- ❑ The roof could be set back further to reduce its prominence.
- ❑ The proposed roof is not in keeping with the roof line of other buildings in the vicinity.
- ❑ The design, materials, and colours make no attempt to reference its context and ignore the historic setting.
- ❑ The design is too massive, over-bearing, uniform and boring and not in keeping with the micro medieval architecture of The Square.
- ❑ The large unbroken featureless façade with no articulation or design features is not complimentary to the street scene and other buildings facing the Square which have regular vertical divisions and varied roof lines.
- ❑ The outer cladding particularly overlooking the square is grey, bland and unimaginative.
- ❑ Strengthening the colour and textural differences between the vertical sections would at least give a semblance of articulation along the facade and lessen its apparent bulk.
- ❑ The main block on the corner of High Street and the Square is dull, grey and unimaginative. The addition of wooden gables at the ends of the main block - on High Street and on the corner of Princess Street are, on the other hand , too fussy and like its precursor plays the same trick trying to hint at Shrewsbury's Tudor past.
- ❑ The solar panels would be more appropriate and effective if they were out of sight on the roof and would generate more power without impacting on the appearance of the building.
- ❑ Well designed display panels could be used instead of the solar panels to break up the first floor garage level 'finning'

4.2.2. Cllr Bannerman: If minded to approve requests that it goes to committee for the following reasons:

- ❑ This building has been the subject of a previous highly contentious application.
- ❑ Its position in the heart of the historic town centre and beside the Old Market Hall makes it crucial that the design is as sensitive and complementary as is possible.
- ❑ The proposed use of solar panels on the front elevation is extraordinary
- ❑ Although the change from office to residential accommodation is generally

welcomed in the town centre, this is a very busy location, where there are already traffic problems.

- ☐ The size of some of the flats is below that nationally recommended.

- 4.2.3 Shrewsbury Town Council – Members do not object to the principal of developing Princess House but are not happy with the proposed design and material choices. Members have requested a sample of the cladding to be temporarily put up on the building and would like to receive more information about the proposed materials. Being in such a prominent and sensitive position in the town, members feel more thought into the external design is needed. The wrap around cladding currently proposed makes the building look imposing and larger than life and members request that more colours of cladding/other materials are used to break up the mass of the building. They feel the current plans are not in keeping with or complimentary to the historic setting in which Princess House sits.

## 5.0 THE MAIN ISSUES

Principle of development  
Design, appearance and visual impact  
Parking/Highways  
Residential amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 This proposal includes conversion of the upper floors and the erection of a roof top extension and extension over the existing car park entrance to provide a total of 50 residential apartments and change of use of part of the ground floor to a restaurant. The proposal accords with the principles of the NPPF representing sustainable development on a previously developed site in this Town Centre location. It also complies with Core Strategy Policies CS2 that identifies Shrewsbury as the primary location for residential development and also retail, office and commercial uses whilst protecting the vitality and viability of the Town Centre. The proposed change of use is therefore acceptable in principle.
- 6.1.2 Trillium that provide Job Centre Plus facilities that occupy the ground floor in addition to the first, second, and third floors of the Southern half of Princess House has however objected to the application as the proposal if approved and implemented would result in the loss of a suitable location for them to continue to operate from. The agent was contacted to provide comment on the Job Centres desire to remain in the building and they have confirmed that all of the existing occupiers of the office accommodation were offered the opportunity of taking a 15 year renewal of their agreements but that all of these were refused, including Trillium. The applicant has confirmed that their contract to provide the Job Centre Plus service expires at the beginning of 2018 and they will withdraw their objection if they could stay to that point. The agent has also confirmed that the building lends itself to a conversion from the High Street end to Princess Street, so it is quite possible that the Job Centre could perhaps, operate for an extended period up until early 2018. However their current lease does end in 2017 and the current owners are not obliged to renew the lease which the LPA also has no control over.

- 6.1.3 **Restaurant use** – The proposal includes conversion of part of the existing ground floor to a restaurant (A3 use). The application site is within the heart of the town centre and is considered to be a suitable location for an A3 use that would increase the vibrancy of the town, especially during the evening, and should be a positive addition to the town centre economy. The proposal would therefore accord with Core Strategy Policy CS2 that supports development which promotes, protects and enhances the vitality and viability of Shrewsbury town centre and also policy CS13 (Economic Development, Enterprise and Employment) which promotes Shropshire as a business investment location.
- 6.1.4 However this aspect of the proposal does not need planning permission as the revisions to the current GPDO by the current government allow for change of use to Class A3 (restaurants and cafes) from a use falling within Classes A1 (shops), A2 (financial and professional services) and B1 (business) for a single continuous period of up to two years. Therefore this application cannot be resisted even though some protection is afforded to B1 and sui generis uses under SAMDev Policy MD9 (Protected Employment Areas).
- 6.1.5 **Residential use** – The offices on the upper floors could be converted to apartments without the need for planning permission under the present Government's introduction of permitted development rights for conversion of offices to dwellings under Class J of Part 3 of the GPDO. The only matters that can be considered when considering such applications are highway impacts and contamination and flooding risks. The loss of offices currently used by the Job Centre and the loss of this valuable facility in this town centre location is unfortunately not a material consideration due to the Government changes to the GPDO.
- 6.1.6 Similarly the comments regarding the floor area of some of the units being below 'Nationally Described Space Standards' (NDSS) is also not a material consideration in relation to the proposed apartments on the existing first, second and third floor as the building can be converted to dwellings without planning permission. However the Homes and Communities Agency criteria suggests between 30 and 35sqm for one bedroom, 45 to 50 for 2 bedroom and 57 to 67sqm for three bedroom and all of the units (new build and conversions) fall within this recommended guideline.
- 6.1.7 The 'NDSS' is only a consultation draft document dated Sept 14 and is not National or Local Policy. It is not intended as a statutory regulation but can be referenced in planning policies where justified by need and subject to viability but would only be applicable if it is referred to in a local plan.
- 6.1.8 The accommodation proposed for the new top floor and second and third floor extension consists of 3 one bedroom apartments, 12 two bedroom apartments and 1 three bedroom apartment. The 'NDSS' requires that the minimum gross internal floor area for single storey dwellings is 50sqm for one bedroom, 61sqm for 2 bedroom and 74sqm for 3 bedroom. All of the new build apartments are above the 'NDSS' except for the 3 one bedroom apartments and 1 of the two bedroom apartments which are only just below this suggested standard. Shropshire Council does not have a specific policy relating to space standards but the Housing SPD

does refer to space standards within paragraph 2 which states that it is '*important to maintain acceptable living standards for the occupants of dwellings, in terms of the internal size of living accommodation*' and that '*Developments must not provide cramped accommodation*'. It is considered that the amount of floor area of accommodation to be provided for each unit is not cramped and provides an acceptable level of living accommodation. In addition each unit of accommodation is provided with a secure storage area in the basement.

- 6.1.9 **Affordable housing** – Only the new build element of the proposal is liable for an AHC under Policy CS11 and the applicant is willing to enter into a S106 to secure two affordable units on site that has been agreed with the Housing enabling officer. This is an over provision that is welcomed over one unit on site and the balance of 0.6 as an AHC. The housing enabling officer has also confirmed that the floor area indicated for the affordable units is compliant with the minimum space standards used by the Homes and Communities Agency and is therefore considered to be acceptable.

## 6.2 **Design, appearance and visual impact**

- 6.2.1 The proposed alterations to the building include a roof extension, second and third floor extension above the existing vehicle entrance and cladding of the exterior and a new articulation of the façade with revised fenestration and the addition of solar panels. Considering the prominence of the building within the town centre and the publicity given by a full page article on the front of the Shropshire Star this application has received very little objection (9 letters in total). Of those letters received there is generally support for this opportunity to upgrade and improve the exterior of the building but that improvements could be made to what is proposed. However design and appearance and what is acceptable are subjective and opinion is divided even between the minimal numbers of public comments received. The LPA can not dictate what an applicant proposes but can obviously refuse any proposal if it is considered that the proposal would have an adverse impact on the character and appearance of the building and the area in which its is situated.
- 6.2.2 The applicants have undertaken pre-application consultation and sought the advice of the Conservation and Design Officer and John Yates of English Heritage. The application as submitted has regard to this pre-application consultation and includes revisions and alterations suggested by English Heritage and Conservation which includes the grey colour as seen in the initial 'artist impression' of the main block that faces The Square and High Street. This is one area where there is consensus of opinion in that this creates a bland, dull and uniform block that does nothing to reduce the bulk and prominence of the building. Due to objections to this colour it was suggested to the applicant that samples are brought to site to be reviewed and that a revised artist impression is submitted to show a more 'buff' colour that is more akin to the Old Market Hall and other stone used in the locality. A variety of samples have not been provided on site but officers inspected a sample of the proposed 'rainscreen' terracotta tile system at the pre-application stage and consider this material to be an acceptable quality cladding system. These terracotta tiles come in a variety of sizes, textures and colours that can be agreed upon at a later date (subject to condition), however it is considered that the buff colour in the latest artists impression is more appropriate than the grey colour



originally indicated in this application.

- 6.2.3 Comments have also been received that the main block on the corner of The Square and High Street has no articulation or design features and that textural differences between the vertical sections would give a semblance of articulation. However this is what is proposed and indicated on the drawings of the proposed elevations which show vertical sections of different width, with some set back and some set in and clad in contrasting shades of materials. The proposed cladding of terracotta tiles can be in different sizes and textures and in different colours and can be subject to condition and approved later as agreed by English Heritage. It is considered and agreed by the Conservation Officer and English Heritage that this aspect of the proposal is acceptable subject to appropriate conditions regarding materials.
- 6.2.4 With regards to the facades facing Princess Street and High Street it was agreed that a different approach should be applied to make them distinct from the main block discussed above and to add some variety and interest to this part of the building and to give the appearance of a separate building on each street frontage, and it is considered that this objective has been achieved. Some commentators have suggested that this is an attempt to replicate the design of Tudor buildings in the locality whilst others have commented that the design is not in keeping with the medieval architecture in the Square. Again opinion is divided but it was agreed at the pre-application stage that a 'pastiche' design would not be successful and a fresh more modern design that had some regard to the surrounding Tudor architecture was more appropriate and it is considered that this part of the proposal is successful in this respect. Again the detail of the colours and textures of the materials proposed can be subject to condition.
- 6.2.5 The proposal includes a roof extension which is set back from the edge and a cornice has been added to the edge of the existing building. The roof extension has gables above the elevations facing High Street and the corner of The Square and Princess Street but there are no gables proposed above the main block on the corner of High Street and The Square. This is again deliberate in an attempt to break up the huge bulk of Princess House and to give the appearance of three separate buildings. It is considered that this approach is acceptable and officers do not consider that the roof extension adds to the overall mass of Princess House. It is considered that the different treatments of the facades and the introduction of a roof extension with variety in the roof-scape actually diminish the overall scale, massing and dominance of the building.
- 6.2.6 A final point of contention is the proposed solar PV panels on the first floor elevation of the main block on the elevations facing The Square and High Street. The applicant was advised at the pre-application stage that this part of the proposal might not be successful in either providing a satisfactory appearance or their efficiency in this location on a North West and North East facing elevation. This part of the proposal needs reviewing and it is suggested that if approved a condition is imposed requiring full details to be submitted for approval of the solar PV panels, or an alternative solution to the ventilation apertures that are required to the first floor elevation where the existing car park (to be retained) is located.

6.2.7 It is accepted that this proposal is not going to be acceptable to all tastes and opinions and can always continue to be tweaked and revised. However the applicant has engaged in the pre-application service and has taken on board the advice given by English Heritage and the Council's specialist Conservation and Design Officer to arrive at the proposal submitted. English Heritage and Conservation have no objection to the proposal subject to details of the external materials and their colour being submitted for approval and Officers consider that the proposed alterations to the building including the roof extension are an improvement on the existing building and will improve its character and appearance and its setting within the Square.

### 6.3 Highways/parking

6.3.1 Each unit is provided with one parking space which is considered acceptable in this sustainable town centre location. The proposal does not provide new parking but makes use of an existing parking area on the first floor that is accessed off Princess Street. Highways have no objection to the proposal which should not result in a significant increase in traffic and congestion in the Town Centre as the parking provision for existing occupiers of the building already exists. Each apartment is provide with secure storage in the basement that can be used for the storage of cycles which would help promote sustainable and alternative modes of travel other than by car.

### 6.4 Residential amenity

6.4.1 The amount of internal floor area and living space for the proposed apartments has already been referred to above and is considered acceptable. However comments have also been received regarding adequate ventilation and daylight to the bedrooms within the first floor apartments that will face the first floor parking area that will be underneath the landscaped deck area proposed to be provided at second floor level. Reference has been made to the BRE '*Site layout planning for daylight and sunlight; a guide to good practice*' but this only provides non-mandatory guidelines on daylight and sunlight provision in new buildings. The size and location of windows and ventilation and light is a matter for consideration at the Building Regulation stage. The agent has however been contacted to ensure that the proposal meets with current Building regulation standards and has confirmed that the proposed second floor decked area has openings above each of the first floor windows to ensure that they would not suffer from a lack of daylight. If the windows cannot be opened and need to be of special glass to help sound proof them from vehicular noise then mechanical ventilation can always be installed to provide adequate ventilation that meets Building Regulation standards.

6.4.2 The proposed landscaped deck area at level two will provide some outdoor amenity space for residents and the top floor apartments also have the benefit of a front balcony/roof terrace. The level of outdoor amenity space is considered acceptable in this Town Centre location with the Quarry Park and all the facilities and services that the Town Centre has to offer and is considered acceptable and compatible with town centre apartment living.

6.4.3 The site is situated within the heart of the Town Centre where there are a significant number of late opening premises where A3 uses would be expected and encouraged. There are also a high proportion of residential properties within the

town centre and residential apartments are proposed on the upper floors of the building. However, this is a common scenario within the town centre and would not automatically preclude an A3 use providing adequate measures can be put in place to protect adjoining properties from excessive noise and disturbance.

- 6.4.4 The proposed opening hours for the restaurant have not been indicated on the application form and unrestricted late night opening hours whilst acceptable in other locations within the Town Centre might not be appropriate in Princess Street and The Square which are a quieter area of town. However a late refreshments licence would be required for any opening hours after 11:00 pm and this would take into account the potential impact on surrounding amenity. For this reason it is not proposed that there is any additional need to impose a condition to restrict opening hours as part of any approval.
- 6.4.5 Extraction equipment is usually required with any A3 use which can have adverse impact on residential amenity through excess noise and odour. A condition is therefore recommended to state that details of this must be provided for prior approval prior to first use of the site and when there is any change in occupier or type of food to be provided.
- 6.4.6 The general noise and activity from kitchens and restaurants also has the potential to impact on the residential apartments directly above. However, the Applicant would need to make an application under Building Regulations for the internal fit-out of the restaurant and as part of this application the sound insulation would be assessed and a determination made on whether it is adequate to protect the residents above.

## 7.0 CONCLUSION

- 7.1 The proposed conversion of the existing offices to dwellings and part of the ground floor to restaurant and erection of a roof top extension to provide additional residential accommodation is acceptable in principle in this sustainable Town Centre Location. In addition the change of use of existing space could all be undertaken without the need for planning permission. It is acknowledged that revisions could continue to be made to the proposed re-recladding and alterations to the facades of the building and the proposed extension but it is considered that subject to the suggested conditions the proposal would improve the overall character and appearance of the building and its setting within the historic centre of Shrewsbury. It is considered that the proposal provides adequate living accommodation and satisfactory parking space and that it is acceptable to have limited private outdoor amenity space in this Town Centre location. Officers therefore recommend that this application is approved subject to the conditions set out in Appendix 1.

## 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: CS2, CS6, CS11, CS13 and CS17

11. Additional Information

[View details online:](#)

<b>List of Background Papers:</b> File14/04383/FUL
<b>Cabinet Member (Portfolio Holder):</b> Cllr M. Price
<b>Local Member:</b> Cllr Andrew Bannerman

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

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.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. Prior to the commencement of development (other than the conversion of ground floor to restaurant) full details and samples of all external materials and their colour shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval details prior to the first occupation of any of the residential apartments hereby approved.

Reason: In order to ensure the external appearance of the development is satisfactory and to enhance the character of the existing building and the surrounding area.

4. Prior to the commencement of development (other than the conversion of ground floor to restaurant) detailed plans and sections at a scale of 1:20 of the proposed doors and windows and samples to indicate their colour shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approval details prior to the first occupation of any of the residential apartments hereby approved.

Reason: In order to ensure the external appearance of the development is satisfactory and to enhance the character of the existing building and the surrounding area.

**CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

5. The alterations and exterior cladding of the building hereby approved shall be commenced prior to the commencement of the roof extension and shall be completed prior to the first occupation of any of the apartments hereby approved.

Reason: The erection of the first floor extension in isolation would not be acceptable as it would not result in a satisfactory external appearance.

6. This permission does not purport to grant consent for the Solar PV panels indicated on the drawings of the elevations herby approved. Prior to their installation full details of the Solar PV panels (or alternative ventilation grills or Louvre panels for the first floor apertures to the car parking area) shall be submitted to and agreed in writing with the LPA. The approved details shall be implemented prior to the first occupation of the residential apartments herby approved.

Reason: In order to ensure the external appearance of the development is satisfactory and to enhance the character of the existing building and the surrounding area.

7. Prior to first use of the ground floor as a restaurant details of the proposed extraction system shall be submitted to and agreed in writing with the Local Planning Authority. The agreed system shall be fully installed prior to the A3 use granted under this permission first commencing and shall be maintained thereafter to the manufacturer's recommendations.

When any new food operation or new food operator moves into the premises details of the proposed extraction system shall be again submitted and approved in writing prior to starting operations, in order that it can be assessed for suitability against the food preparation to be carried out.

Reason: to protect the amenity of the area and nearby residents from noise and odour.

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<u>Committee and date</u>
Central Planning Committee
11 December 2014

## Development Management Report

<b>LPA reference</b>	12/04425/OUT
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Mr & Mrs Neil Fardoe
<b>Proposal</b>	Outline application (all matters reserved) for residential development to include affordable housing (resubmission).
<b>Location</b>	Proposed Residential Development Land West Of The Gables, Nesscliffe, Shrewsbury.
<b>Date of application</b>	23.10.2012
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	03.06.2013
<b>Date of appeal</b>	16.11.2013
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	07.10.2014
<b>Date of appeal decision</b>	10.11.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED – COSTS REFUSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01037/OUT
<b>Appeal against</b>	Non Determination
<b>Appellant</b>	Messrs. Davies
<b>Proposal</b>	Outline planning application (all matters reserved) for mixed residential development.
<b>Location</b>	Development Land North Side Of Station Road, Dorrington, Shrewsbury.
<b>Date of application</b>	10.03.2014
<b>Officer recommendation</b>	
<b>Committee decision (delegated)</b>	
<b>Date of decision</b>	No decision – appeal against Non Determination.
<b>Date of appeal</b>	24.07.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	07.10.2014
<b>Date of appeal decision</b>	10.11.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01992/OUT
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Ms Lisa Bateman
<b>Proposal</b>	Outline application for the erection of 4 no. bungalows (all matters reserved).
<b>Location</b>	Land At The Gorstings, Bings Heath, Shrewsbury.
<b>Date of application</b>	01.05.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	18.07.2014
<b>Date of appeal</b>	31.10.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	13/02708/OUT
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Mr Gareth Leese
<b>Proposal</b>	Outline application for the erection of a hotel, spa and restaurant to include access, appearance, layout and scale following demolition of existing building.
<b>Location</b>	The Stew, Frankwell, Shrewsbury.
<b>Date of application</b>	09.07.2013
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	08.05.2014
<b>Date of appeal</b>	07.10.2014
<b>Appeal method</b>	Public Inquiry
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/01036/OUT
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Oak Street Properties Ltd
<b>Proposal</b>	Outline application for residential development (up to 30 dwellings) to include access.
<b>Location</b>	Development Land South Of Brook Cottages, Ford, Shrewsbury.
<b>Date of application</b>	10.03.2014
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	29.08.2014
<b>Date of appeal</b>	03.11.2014
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/00267/FUL
<b>Appeal against</b>	Non Determination
<b>Appellant</b>	Mr D. Davies
<b>Proposal</b>	Erection of two detached dwellings; formation of driveway.
<b>Location</b>	Proposed Residential Development Adjacent 38 Longden Road, Shrewsbury.
<b>Date of application</b>	22.01.2014
<b>Officer recommendation</b>	
<b>Committee decision (delegated)</b>	
<b>Date of decision</b>	No decision – Appeal against Non Determination
<b>Date of appeal</b>	04.11.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/01214/FUL
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Mr I. Richards-Anderson
<b>Proposal</b>	Erection of a dwelling.
<b>Location</b>	Land To Rear Of 25 Longner Street, Shrewsbury.
<b>Date of application</b>	19.03.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	13.05.2014
<b>Date of appeal</b>	18.11.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/02834/OUT
<b>Appeal against</b>	Refusal
<b>Appellant</b>	Mr & Mrs Quinn
<b>Proposal</b>	Outline planning application for the erection of a dwelling to include access and layout.
<b>Location</b>	Land To East Of The Clamp, Mytton, Shrewsbury.
<b>Date of application</b>	24.06.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	21.10.2014
<b>Date of appeal</b>	10.11.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

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## Appeal Decision

Site visit made on 7 October 2014

**by Michael R Moffoot DipTP MRTPI DipMgt MCI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 November 2014**

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**Appeal Ref: APP/L3245/A/13/2208947**

**The Gables, Nesscliffe, Shrewsbury SY4 1DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Neil Fardoe against the decision of Shropshire Council.
  - The application Ref: 12/04425/OUT, dated 23 October 2012, was refused by notice dated 3 June 2013.
  - The development proposed is outline application (all matters reserved) for residential development to include affordable housing (resubmission).
- 

### Decision

1. The appeal is dismissed.

### Applications for Costs

2. Applications for costs were made by Mr & Mrs Neil Fardoe against Shropshire Council and Great Ness and Little Ness Parish Council. These applications are the subject of separate Decisions.

### Procedural Matters

3. The application was made in outline with all matters reserved for further approval. A plan was submitted with the application showing 'indicative access', but the appellants have made it clear that the drawing is for illustrative purposes only. I have considered the appeal on this basis.
4. Although the appellants submit that the second reason for refusal does not reflect the resolution and formal decision of the Central Planning Committee, I am required to confine my considerations to the reasons as they appear on the decision notice.

### Main Issues

5. The main issues in this case are, firstly, whether adequate provision would be made for affordable housing; and secondly, the effect of the proposed development on the living conditions of neighbouring occupiers.

### Reasons

#### *Affordable housing*

6. Meeting housing needs, and particularly the need for affordable housing, is a strategic objective of the Sustainable Community Strategy in Shropshire and informs the *Shropshire Local Development Framework: Adopted Core Strategy*

- (2011). Policy CS11 of the Core Strategy sets out criteria for the type and mix of housing and includes an overall target for the first five years of the plan period of 33% of total annual provision in the form of local needs affordable housing. The explanatory text acknowledges that this is an extremely demanding target but one that reflects the evidence of need and the high aspirations of the Shropshire Partnership to tackle the issue. This objective reflects the Government's commitment to housing provision and affordable housing in the *National Planning Policy Framework* ('the Framework').
7. The Council requires the appellants to enter into a Section 106 Agreement for the provision of an appropriate amount of affordable housing on the site and/or a financial contribution towards off-site provision in accordance with policy CS11. The appellants do not dispute the appropriateness or need for a contribution, in the absence of which the development would not accord with the adopted policy. In spite of this, no obligation has been submitted; the appellants advise that one would be drawn up in the event the appeal is allowed. However, the matter cannot be dealt with by the imposition of a condition. Indeed, the *Planning Practice Guidance* states that planning permission should not be granted subject to a positively worded condition that requires the applicant to enter into a planning obligation under Section 106 or an agreement under other powers. Such a condition is unlikely to pass the test of enforceability.
  8. In the absence of the necessary obligation to secure provision of affordable housing the proposed development would conflict with Policy CS11 of the Core Strategy, and for this reason the appeal should fail.

#### *Living conditions*

9. Drawing no AP12016-Sk 3 Rev B shows an indicative access running between The Gables and Pinecroft to serve the proposed development, and involves demolition of two outbuildings and part of the appellant's bungalow to provide a gap of about 15 metres between the two dwellings. Whilst the drawing is illustrative it represents an obvious location for the access given that the site is otherwise land-locked, and it therefore provides a reasonable basis for assessing the implications of the development for neighbours' living conditions.
10. The coming and going of vehicles along this route would inevitably have some impact on the adjoining dwellings and their associated gardens. In terms of noise, the garage to Pinecroft would adjoin the access with ground and first floor windows to habitable rooms in the property set further back, so that the impact of vehicular activity on the enjoyment of these rooms would be minimal. The impact on The Gables in its truncated form would be similarly negligible, with details of the alterations to the bungalow capable of control by planning condition to safeguard the occupiers' living conditions.
11. The rear gardens to both properties have well-established vegetation on the boundaries and this could be supplemented by additional landscaping which could extend to the road frontage to reduce headlight intrusion and provide greater privacy for adjoining residents. The same considerations apply to the boundaries with Kynaston House and Breidden House, and the proximity of new dwellings to these properties could be considered in detail at the reserved matters stage in terms of safeguarding the neighbouring residents' living

conditions. Vehicles using the access would be most unlikely to generate significant pollution.

12. For these reasons, I conclude that the proposed development would not materially harm the living conditions of surrounding residents, and as such there would be no conflict with relevant objectives in policy CS6 of the Core Strategy which seek to safeguard residential and local amenity.

*Other considerations*

13. The Council and other parties also argue that the appeal site is outside any settlement currently identified as suitable for housing, and is therefore in the countryside where new housing is strictly controlled. The appellants contend that, in the absence of a five year housing land supply as required by paragraph 47 of the Framework, the relevant housing policies in the Core Strategy are not up-to-date, and as the proposal would make a contribution to meeting the shortfall permission should be granted.
14. In its consideration of the planning application the Council acknowledged that it could not demonstrate a five year supply of deliverable housing land at the time. Paragraph 14 of the Framework advises that development proposals should be granted where, amongst other things, development plan policies are out-of-date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
15. However, since the lodging of the appeal the Council has released a revised *Shropshire Five Year Housing Land Supply Statement*<sup>1</sup> (HLSS) which shows there is 5.47 years' supply of deliverable housing land in the County. Amongst other things, the appellants submit that the figure relies on 2590 dwellings that are proposed allocations in the Council's SAMDev Plan<sup>2</sup>, and cannot be considered deliverable before the document has been subjected to formal examination and subsequent adoption. It is also argued that the 5.47 years' supply includes sites which have had planning permission refused, including the appeal site.
16. Paragraph 47 of the Framework requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. The assessment therefore relies upon accuracy, robustness and validity.
17. Despite the appellants' submissions regarding the veracity of the housing land supply figures in the HLSS, I have seen no substantive evidence to dispute the assessment. In any case, even if there is not a five year housing land supply as the appellants assert, I have found that the proposal fails to make provision for affordable housing for which there is a clear national and local imperative in relevant planning policies. The presumption in favour of granting planning permission in paragraph 14 of the Framework would not therefore apply in that case as the proposal would not be sustainable development.

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<sup>1</sup> Amended Version 12 August 2014

<sup>2</sup> *Site Allocations and Management of Development Plan Pre-Submission Draft (Final Plan)*

### **Other Matters**

18. The width and alignment of the access would be resolved at the reserved matters stage, and no technical evidence has been provided to demonstrate that the development would be hazardous for road users or pedestrians. In this respect, I note that the Council's Highway Officer offered no objections in principle to the proposal subject to conditions. Similarly, the Drainage Engineer did not object to the proposal and I see no reason to take a contrary view.
19. Although the pattern of development in Nesscliffe is largely linear, I observed development in depth at The Crescent and to the rear of Glasands, and in this context the proposed development would not be out of keeping. The density of housing on the site and its integration with existing built development would be an issue to be addressed at the reserved matters stage.
20. Concern has been expressed regarding loss of wildlife habitat, but the site is not subject to any special protection and this does not constitute a valid reason for dismissing the appeal.

### **Conclusion**

21. Although I have found that the proposed development would not be detrimental to surrounding residents' living conditions and there are no technical objections to this outline proposal, no formal provision is made for affordable housing. I consider this to be a compelling objection, and for this reason the appeal should not succeed.

Michael R Moffoot

Inspector





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## Costs Decision

Site visit made on 7 October 2014

**by Michael R Moffoot DipTP MRTPI DipMgt MCMi**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 November 2014**

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### **Costs application in relation to Appeal Ref: APP/L3245/A/13/2208947 The Gables, Nesscliffe, Shrewsbury SY4 1DB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr & Mrs Neil Fardoe for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for outline application (all matters reserved) for residential development to include affordable housing (resubmission).
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The *Planning Practice Guidance* ('the PPG') advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal or prevent or delay development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. It also advises that although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. A decision on the planning application was deferred at the Central Planning Committee meeting on 7 March 2013 to enable Officers to discuss with the Parish Council concerns it had raised regarding the SAMDev Plan<sup>1</sup> in relation to the proposed development and 'preferred sites' in the document. Whilst this led to a delay in the determination of the application, which had been submitted some 12 months earlier, I consider it reasonable for these matters to be clarified so that the Council could make an informed decision at the subsequent Committee meeting. Moreover, it was open to the applicants to

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<sup>1</sup> *Site Allocations and Management of Development Plan Pre-Submission Draft (Final Plan)*

- lodge an appeal on the grounds of non-determination at the time should they wish. The deferral does not therefore amount to unreasonable behaviour.
5. The application was refused contrary to the Officer's recommendation. Planning authorities are not bound to accept the advice of their officers, but if such advice is not followed, authorities will need to show reasonable grounds for taking a contrary decision and produce evidence to substantiate each reason for refusal on appeal. I see no reason to doubt that that the Committee judged the proposal properly in this case and reached its decision against the background of a detailed officer's report which included numerous consultation responses and a site visit by Members. Although the Committee may have been erroneously advised that access was not a reserved matter, it was not unreasonable for the Members to express reservations regarding the impact of the 'indicative access' on existing properties and their proximity to proposed development, notwithstanding the Planning and Highway Officers' support for the proposal.
  6. In these circumstances and with this information before them, it is not unreasonable for the Members to take a different view to officers, and it is backed up by relevant evidence to support the decision.
  7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael R Moffoot

Inspector



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## Costs Decision

Site visit made on 7 October 2014

**by Michael R Moffoot DipTP MRTPI DipMgt MCMi**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 November 2014**

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### **Costs application in relation to Appeal Ref: APP/L3245/A/13/2208947 The Gables, Nesscliffe, Shrewsbury SY4 1DB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr & Mrs Neil Fardoe for a full award of costs against Great and Little Ness Parish Council.
  - The appeal was against the refusal of planning permission for outline application (all matters reserved) for residential development to include affordable housing (resubmission).
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The *Planning Practice Guidance* ('the PPG') advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that whilst Parish Councils are not statutory consultees, they do have a role as a consultee in the planning application process provided they have notified the local planning authority that they wish to be consulted<sup>1</sup>. The PPG also advises that 'interested parties' who have taken part in the process may apply for costs or have costs awarded against them, although in cases dealt with by written representations it is not envisaged that awards of costs involving interested parties will arise. I regard the Parish Council as an interested party in this case.
4. Although the appeal proposal may accord with the Parish Council's 'Housing Needs Survey', it is a background document of limited weight in the planning process and the Parish Council is not duty bound to follow it or the Council's SAMDev Plan<sup>2</sup>. The proposed development attracted a good deal of local interest both at the pre-application and application stages, and it was open to the Parish Council to revise its views during these processes if it wished. Indeed, such actions are not unusual where the role of the Parish Council includes consideration of residents' views, and I have no reason to believe that

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<sup>1</sup> The Town and Country Planning (Development Management Procedure) (England) Order 2010 as amended

<sup>2</sup> *Site Allocations and Management of Development Plan Pre-Submission Draft (Final Plan)*

“local politics” unduly influenced the Parish Council in this case. These actions do not therefore amount to unreasonable behaviour.

5. Furthermore, I have seen no evidence to show that the Parish Council influenced the applicant’s decision to withdraw the original planning application, or that it misunderstood the subsequent application and failed to make its formal observations clear.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Michael R Moffoot

Inspector

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## Appeal Decision

Site visit made on 7 October 2014

**by Michael R Moffoot DipTP MRTPI DipMgt MCMi**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 November 2014**

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**Appeal Ref: APP/L3245/A/14/2222742**

**Land to north side of Station Road, Dorrington, Shrewsbury SY5 7LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr James and Mr Edward Davies against the decision of Shropshire Council.
  - The application Ref: 14/01037/OUT is dated 7 March 2014.
  - The development proposed is outline planning application (all matters reserved) for 24 dwellings.
- 

### Decision

1. The appeal is dismissed and outline planning permission is refused.

### Procedural Matters

2. The application was made in outline form with all matters reserved for future approval. A block plan submitted with the application is entitled 'illustrative proposal' and does not therefore form part of the formal application. I shall consider the appeal on this basis.
3. The Council failed to reach a decision on the planning application within the statutory time limit but has since formally resolved that it would have been minded to grant planning permission for the proposed development subject to a s106 Agreement to secure an off-site affordable housing contribution. There is a completed s106 Agreement which covers this matter.

### Main Issue

4. The main issue is whether the proposed development would accord with national and local planning policy regarding sustainable development and the provision of housing.

### Reasons

5. The appeal site forms part of a large open field adjacent to Station Road on the north-eastern edge of the village with residential development to the south and west and arable land to the other sides. The site lies outside the development boundary for Dorrington. As such it is in open countryside, where new development is strictly controlled under policy CS5 of the Core Strategy<sup>1</sup> and only limited types of development, such as accommodation for essential

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<sup>1</sup> *Shropshire Local Development Framework: Adopted Core Strategy* (2011)

countryside workers and other affordable housing, is permitted. In order to encourage more sustainable communities in the rural area, policy CS4 focuses private and public investment in 'Community Hubs' and 'Community Clusters' where, amongst other things, housing for local needs within settlements is allowed provided it is of a scale appropriate to the settlement. It is no part of the appellants' case that their proposal accords with the exceptions and provisions set out in these policies.

6. Community Hubs and Clusters are identified in the *Site Allocations and Management of Development Plan* (SAMDev), which sets out proposals for the use of land and policies to guide future development in order to help deliver the Vision and Objectives of the Core Strategy. The SAMDev Plan has undergone public consultation with the responses used to inform the preparation of the Final Plan version, which was submitted to the Planning Inspectorate in July 2014. It has not therefore been subject to formal examination and as such can only be accorded very limited weight. Whilst Dorrington is identified as one of the Community Cluster settlements for the Shrewsbury Area in the document, the appeal site lies just outside the proposed Development Boundary for the village and is not identified for housing. As such the appeal proposal would not accord with the emerging SAMDev Plan or with the Core Strategy.
7. However, the *National Planning Policy Framework* (the NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development, and 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. It goes on to say that in identifying their five year supply of housing land, local planning authorities should provide an additional buffer of 5%. Where there has been a record of persistent under delivery of housing, they should increase the buffer to 20% in order to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
8. The *Shropshire Five Year Housing Land Supply Statement*<sup>2</sup> (HLSS) indicates that there was a 5.47 years' supply of deliverable housing land in the County as at 31 March 2014. The appellants submit that the Council has consistently and significantly under delivered a 5 year housing land supply and "*their [the Council's] calculation, which has identified sufficient land to now address the NPPF requirement to have a continuous 5 year housing land supply, has not yet been examined as sound by the Planning Inspectorate and therefore cannot be given full weight when determining planning applications*".
9. However, the purpose of the HLSS is to update the supply of specific deliverable sites sufficient to provide five years' worth of housing against the Council's housing requirements as required by the NPPF, and the document is not subject to formal examination. The appellants do not dispute the 5.47 years' supply and I see no reason to doubt its veracity in portraying the latest position. Accordingly, the Council can at present meet the NPPF requirement to provide five years' worth of housing against its housing requirements, and the contribution that the appeal proposal would make is not required to meet a shortfall.

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<sup>2</sup> Amended Version 12<sup>th</sup> August 2014

10. I acknowledge that full weight cannot be accorded to the housing policies in the SAMDev pending its examination and appreciate that the five year housing land supply is a minimum requirement. I am also mindful of the Government's commitment to significantly boosting the country's supply of housing land. Furthermore, the appeal site is in an accessible location with good access to local services, facilities and public transport.
11. However, the proposal would fail to satisfy the three dimensions to sustainable development in the NPPF: the economic, social and environmental roles. Given the five year housing land supply position, the scheme is not necessary to meet the County's housing development requirements or the community's needs in terms of health, social and cultural well-being. It would also fail to accord with and therefore undermine the strategy for the location of housing. Furthermore, the development would extend into the countryside on the edge of the village and fail to protect or enhance the natural environment.
12. For these reasons, I conclude on the main issue that the proposal does not comprise sustainable development and therefore conflicts with relevant objectives in national and local policies regarding sustainable development and the provision of housing.

### **Other Matters**

13. Concerns have been raised regarding the impact of the proposed development on the local highway network, and in particular at the junction of Station Road and the A49. The junction is restricted and the section of Station Road between the A49 and The Bank is narrow and without footways. However, in the absence of any technical evidence to the contrary I see no reason to question the views of the Council's highway officer or the Highways Agency, who had no objections to the proposal. A footway along the site frontage could be provided at the reserved matters stage, when an access point with satisfactory visibility could also be established.
14. As the site area is less than 1 hectare a Flood Risk Assessment is not required, and the Council's drainage engineer offered no technical objections to the proposal subject to conditions. Given the proximity of the site to a landfill site, a condition could be imposed to ensure that any landfill gas issues are adequately addressed.
15. I see no reason why the development would result in the loss of village cohesion or fail to integrate with the existing community; indeed, it would bring about some social and economic benefits to the area.
16. Although other concerns have been raised in connection with residents' living conditions, out-commuting and water and gas infrastructure, there is no specific evidence before me to substantiate those matters, and they have not been decisive in my findings.

### **Conclusion**

17. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

Michael R Moffoot

Inspector

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