

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

Date: Wednesday, 4 February 2015

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

**Date:** Thursday, 12 February 2015  
**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 - 10)

To confirm the Minutes of the meeting of the Central Planning Committee held on 11 December 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 Former Shelton Hospital, Somerby Drive, Shrewsbury, Shropshire, SY3 8DN (14/02402/FUL) (Pages 11 - 56)

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 78 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 conversion of existing Estates Building to pavilion; to include the felling of some trees (Amended description following receipt of amended plans on the 16<sup>th</sup> January 2015).

## 6 The Charles Darwin, Sutton Road, Shrewsbury, SY2 6HN (14/05115/FUL) (Pages 57 - 68)

Erection of Class A1 convenience store including ATM with dedicated external servicing, refuse and plant area, associated car parking and landscaping.

## 7 Land At Longden, Shrewsbury, Shropshire (14/00467/OUT) (Pages 69 - 88)

Outline application (access for approval) for mixed residential development (access for approval) for mixed residential development.

## 8 Proposed Residential Development East Of Wilcot Lane, Nesscliffe, Shrewsbury, Shropshire (14/03259/OUT) (Pages 89 - 106)

Outline application for proposed housing development (all matters reserved).

## 9 Mardol House, Shoplatch, Shrewsbury, Shropshire, SY1 1HS (15/00090/FUL) (Pages 107 - 114)

Change of use from office space to student halls of residence to provide 85 units (large

HMO Sui Generis use).

**10 Hargreaves Farm, Halfway House, Shrewsbury, Shropshire, SY5 9DH  
(14/01802/FUL) (Pages 115 - 138)**

Installation of a 30m high wind turbine with control box and associated works.

**11 Schedule of Appeals and Appeal Decisions (Pages 139 - 182)**

**12 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, 12 March 2015 in the Shrewsbury Room, Shirehall.

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## Committee and Date

Central Planning Committee

15 January 2015

## **CENTRAL PLANNING COMMITTEE**

### **Minutes of the meeting held on 11 December 2014**

**2.00 - 5.10 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Michelle Dulson

Email: michelle.dulson@shropshire.gov.uk Tel: 01743 252738

### **Present**

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Tudor Bebb, Dean Carroll, Miles Kenny, Jane MacKenzie, Pamela Moseley, Peter Nutting and Kevin Pardy

### **74 Apologies for absence**

An apology for absence was received from Councillor David Roberts.

### **75 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Central Planning Committee held on 13<sup>th</sup> November 2014 be approved as a correct record and signed by the Chairman.

### **76 Public Question Time**

There were no public questions, statements or petitions received.

### **77 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 applications to be considered at this meeting, 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.

Councillors Pamela Moseley and Kevin Pardy declared that they were Town Council representatives on Shropshire Playing Fields Association.

**78 Princess House, The Square, Shrewsbury, Shropshire (14/04383/FUL)**

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, she drew members' attention to the location, layout, access and elevations.

Members noted the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed a further comment from a member of the public in relation to materials to be used given the historic setting.

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 Andrew Bannerman, as the local Ward Councillor, made a statement and then left the table, took no part in the debate and did not vote. During his statement the following points were raised:

- He had no dispute with the principle of conversion as the proposal could make a good living space;
- He felt that the recommendation as it stood was unsatisfactory as it was a sensitive site in the heart of an historic town and it was important to create something of architectural merit;
- Design was key, but was something that the Committee rarely considered, although training on this issue had been requested;
- It was not good enough to say that the design was subjective, officers should consider the views of experts;
- He felt that more weight should be given to the opinion of English Heritage in relation to the elevational details, materials and finishes;
- He drew attention to paragraph 6.2.4 in relation to the facades facing Princess Street and High Street, and paragraph 6.2.6 in relation to proposed solar PV Panels on the first floor elevation;
- Led into accepting the proposal without the proper guidance and requested that a Design Review Service (eg MADE) be consulted in order to provide independent, objective, expert feedback on the design of the proposed development; and
- He urged the Committee to defer its decision until the proposal had been submitted to a design review panel.

In response to concerns about the proposed solar pv panels on the first floor elevation of the main block, the Technical Specialist Planning Officer explained that the solar panels were included to add interest as the developer was required to retain the current ventilation apertures and that if approved a condition would be imposed requiring full details to be submitted for approval.

Concern was raised about an appeal against non-determination if the matter were to be deferred.

It was suggested that an appropriate way forward would be to form a small consensus group with the Chairman, Councillor Bannerman, English Heritage and the Planning Officers in order to oversee the discharge of Conditions.

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:

- Officers resolving the issues contained in Condition No's. 3, 4 and 6, namely materials, doors and windows and solar PV Panels, in consultation with Councillor Bannerman;
- The conditions as set out in Appendix 1 to the report; and
- A Section 106 Agreement to secure two affordable units.

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

With reference to Minute No. 71, the Principal Planning Officer introduced the application and explained the risks involved in refusing the application for the reasons previously given as outlined in the addendum, he also drew Members' attention to the location, layout and elevations.

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.

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.

Mrs M Blythe, 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 in open countryside so would be contrary to CS5;
- The bridleway was a much valued amenity and well used. No access rights existed along this route which was too narrow to allow turning;
- The development would cause a nuisance and a hazard to residents and would have a negative impact on residential amenity;
- The site was unsustainable and too remote; it was a 40 minute round trip to the shop on foot; and
- The development would damage the natural environment and would not satisfy the three strands of sustainable development set out in the NPPF.

Mr R Blythe, on behalf of 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:

- Only vehicular farm access existed over the very narrow bridleway;
- Access to the field had, until recently, been via a different entrance;
- The development would impact on the surface of the bridleway, the trees and the wildlife, as well as the nearby properties;
- Concern for the safety of riders and walkers etc;
- Delivery vehicles would block the road; and
- It was illegal to drive a motorised vehicle up a public bridleway.

Mr B Clyne, 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:

- The local community were opposed to this proposal;
- The proposal would fail the three dimensions of sustainable development contained within the NPPF, namely, economic, social and environmental roles;
- There would be a net detrimental effect as agricultural land would be lost;
- The site was remote and so transport was required in order to access local amenities;
- Concern for the surface of the bridleway;
- Impact on local residents of traffic associated with the development; and
- The proposal did not comply with adopted or emerging policies nor the NPPF.

Mr S Thomas, 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:

- Agricultural land was classified into grades according to quality with the site being Grade 3 Good to Moderate Land. Government policy advised that only the best and most versatile agricultural land should be protected, and this was usually defined as Grades 1 and 2;
- The site only occupied 0.13 hectares with 90% of the field remaining unaffected;
- Clifton Coach House would be some 18 metres away from the side elevation of one of the plots so no overlooking would occur;
- The proposed boundary of the site was 7 metres away from Clifton Coach House and, if deemed necessary, some additional tree planting and/or fencing could take place;
- There was no private right to a view;
- The bridleway would be unobstructed and agricultural access already existed;
- The site would benefit from two off-site parking spaces;
- Endorse officers comments in the report and in particular paragraph 6.1 onwards;
- It was a sustainable location for development and a Section 106 contribution would be made; and



- The Committee had approved a similar, much larger scheme in the Ford area and created a precedent.

Mr G Smith, on behalf of Mrs N Qureshi, 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:

- Mrs Qureshi's late husband had lived at Penybryn, Ford;
- She did not wish to cause any detriment to neighbouring properties;
- Believed there would be no direct impact on Clifton Coach House as the two dwellings would be 18 metres away; and
- Only a small proportion of the field was taken, the quality of which was limited and for which she received only a nominal rent.

In response to a query, the Area Highways Development Control Manager (Central) explained the implications for the Council in relation to ownership of the bridleway however this was not a planning consideration and could not be taken into account.

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:

- The wish to refuse this application had been unanimous at the previous meeting
- It was a step too far when local residents wished Ford to remain open countryside;
- Approval for 30 dwellings had already been approved;
- Did not contribute to the economic viability;
- Not sure it satisfies the NPPF;
- The proposed site was way out of the village where there was a history of flooding; and
- People would not walk to do their shopping.

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

Members were still minded to refuse the application as nothing had been put forward to alter their view; it was one of only a few bridleways supported by Shropshire Council; the proposal was contrary to the SAMDev; and further vehicular access would have an impact on existing properties.

**RESOLVED:**

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

- The Local Planning Authority considers that the proposal would represent an unacceptable encroachment into open countryside, isolated from essential services and facilities along an unlit and unpaved highway leading to reliance on private motor vehicle. Accordingly 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.

## 80 Proposed Closure of New College Road at Wenlock Road

The Area Highways Development Control Manager (Central) introduced this application for a Traffic Regulation Order and closure of New College Road for access by all motor vehicles at its junction with Wenlock Road, Shrewsbury.

He 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 of the proposed closure.

He drew attention to the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed further objection comments from a member of the public together with two letters from local residents.

Mr P Marston, 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:

- Informal consultation was unfair;
- The original decision was to close New College Road at London Road;
- Requested a temporary closure to allow the impact of closure to be assessed;
- His request for a separate access to his property had not been seriously considered;
- He felt that this proposal overturned previous decisions; and
- The road should be restored to when the original development had been allowed in the 1950s, with a service road and access directly onto Wenlock Road.

In response, the Area Highways Development Control Manager (Central) did not think that a signed only closure would work. He explained that whilst not strictly in accordance with the Section 106 Agreement the proposed closure at Wenlock Road had been requested by local residents and had been discussed with the College who had no interest in where the closure was carried out. He confirmed that the Section 106 Agreement could only be disputed by the parties involved and there was only a slight risk that the College might, in future, say it was not carried out in accordance with the Agreement.

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 Jane MacKenzie, as the local Ward Councillor, made a statement and then took no part in the debate and did not vote. During her statement the following points were raised:

- Aware it was a very sensitive issue;
- New College Road was very narrow with vehicles traveling at speeds of up to 50mph;
- Ebnal Road was wider and better able to cope with the additional traffic;
- Only 3 objections had been received from residents of Ebnal Road; and
- Although she appreciated the difficulties raised for a number of local residents she felt that the proposal represented the views of the majority of residents.

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 Ted Clarke, as the local Ward Councillor, made a statement and then took no part in the debate and did not vote. During his statement the following points were raised:

- Pleased local Councillors had been involved;
- Concerned why it was any better to close New College Road at Wenlock Road rather than London Road however residents were obviously in favour of it; and
- He was happy to propose a temporary closure in order for the impact to be assessed.

The Area Highways Development Control Manager (Central) explained that a trial could be done by some temporary measure however the current Traffic Order consultation would have to be abandoned.

**RESOLVED:**

That the proposed Traffic Regulation Order and permanent closure of New College Road for access by all motor vehicles at its junction with Wenlock Road, Shrewsbury shall not proceed and the committee request that an experimental Traffic Regulation Order and closure be implemented instead, which includes a six-month consultation period and will allow the impacts of the closure to be assessed.

**81 Former Shelton Hospital, Somerby Drive, Shrewsbury, Shropshire, SY3 8DN (14/02402/FUL)**

The Principal Planning Officer introduced this 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, layout, access and elevations.

Members noted the additional information as detailed in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from members of the public, a petition objecting to the scheme and further objection comments from Sport England.

Mrs K Pearce, representing Racecourse Lane Residents 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:

- Concern about the density and layout of the proposal;
- Wished to see a revised layout protecting existing facilities;
- The proposal would lead to the loss of the junior football pitch, which, coupled with cuts to the Shropshire Youth Service, was a double blow for the children who used the facilities;
- The proposal raised equality / deprivation issues;
- A petition had been signed by 1060 local residents objecting to the proposal;
- There were safety issues in relation to the proximity of the cricket pitch to proposed housing;
- Traffic levels would become unacceptable; and
- It would not be in the public interest to approve this application.

Mrs J Griffiths, representing the Cricket Club, 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 Cricket Club had a long standing history of some 130 years and have had to fight for the survival of the Club;
- Access to the ground had always been through the site; concern that access had not been decided;
- Concern that emergency vehicles would not be able to get to the ground;
- Fencing would not reduce the impact on properties; there would be potential for injuries;
- The long term costs to the Club were unknown; and
- The Club had not been engaged in the process.

With the agreement of the Chairman, Mr H Thorne, 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:

- It was easy to lose sight of what the application was for, which was 240 houses whilst retaining the biggest listed building in Shropshire;
- The applicants had consulted widely on the application and had held meetings with officers, the Town Council, the School and Church, had held public meetings and met individual objectors and had done its best to address any concerns;
- Changes to footpaths and access had been made as a result;
- The recreational facilities had been discussed with officers; a new bowling club house and car park was being proposed in a better location; the applicant had met with the Football Club who said they were going to abandon the pitch; there was scope to relocate the football pitch onto the old boiler house site;
- In response to Sport England concerns, Mr Thorne explained that the proposal only took away 6% of the playing field;

- It was felt that the benefits outweighed these concerns;
- The bowling green could not be left on the existing site;
- Following meetings with the Cricket Club, a 5 metre high permanent boundary fence would be erected to prevent balls reaching the houses;
- The applicant would pay for the repositioning of the cricket square; and the houses would be fitted with toughened glass;
- The Council will take ownership of the Cricket Ground via a Section 106 Agreement; and
- The proposal would provide 240 homes on a sustainable, brownfield site and had the support of officers and English Heritage.

In response to a query, the Area Highways Development Control Manager (Central) discussed access through the site including crossing points and pedestrian access. He explained that the raised crossing on Racecourse Lane would not be a controlled crossing but was hoped to address some traffic issues by reducing speeds.

Although Members welcomed plans for reuse of the old hospital building they were concerned about the negative impact on the current sports facilities and open space.

In response to a query, the Principal Planning Officer explained that in light of Sport England's objections, if members resolved to approve the application, the report and decision would have to be sent to the National Planning Casework Unit to make a decision or it may decide that officers can make a decision, however this could delay determination of the application by up to four weeks. He reminded Members that the National Planning Policy Framework advocated working with developers in order to obtain an acceptable proposal.

In response to a query it was confirmed that in order to mitigate the loss of a large number of mature trees, 200 replacement trees would be planted.

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

**RESOLVED:**

That this application be deferred to allow the applicant to produce revised plans to address aspects of Sports England's objection.

**82 Proposed Residential Development Opposite The Crescent, Nesscliffe, Shrewsbury, Shropshire (14/03357/OUT)**

The Principal 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, layout, access and elevations.

In response to a query the Principal Planning Officer confirmed that if approved it would be ensured that the lane leading to the school drop-off / pick-up facility was sufficiently wide to allow for turning and passing vehicles.

Concern was raised that the application was contrary to the SAMDev and Parish Plan and that young children would have to cross the main road in order to access the play and recreational facilities. In response, the Principal Planning Officer explained that the location of play facilities was indicative and that the developer would enter into an agreement with the Parish Council to either maintain the existing provision or to use land put aside by the developers. It was for the Parish Council to determine the most appropriate location for play provision.

**RESOLVED:**

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

- The conditions as set out in Appendix 1 to the report; and
- A Section 106 Agreement to secure affordable housing in accordance with the prevailing rate current at the time of submission of Reserved Matters.
- The developer being requested to discuss the preferred location for play provision with the Parish Council prior to the submission of any Reserved Matters application.

**83 Schedule of Appeals and Appeal Decisions**

Members requested a list of all ongoing appeals and the Principal Planning Officer updated the Committee on recent appeal decisions.

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the Central area as at 11 December 2014 be noted.

**84 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 15th January 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....



Committee and date

Central Planning Committee

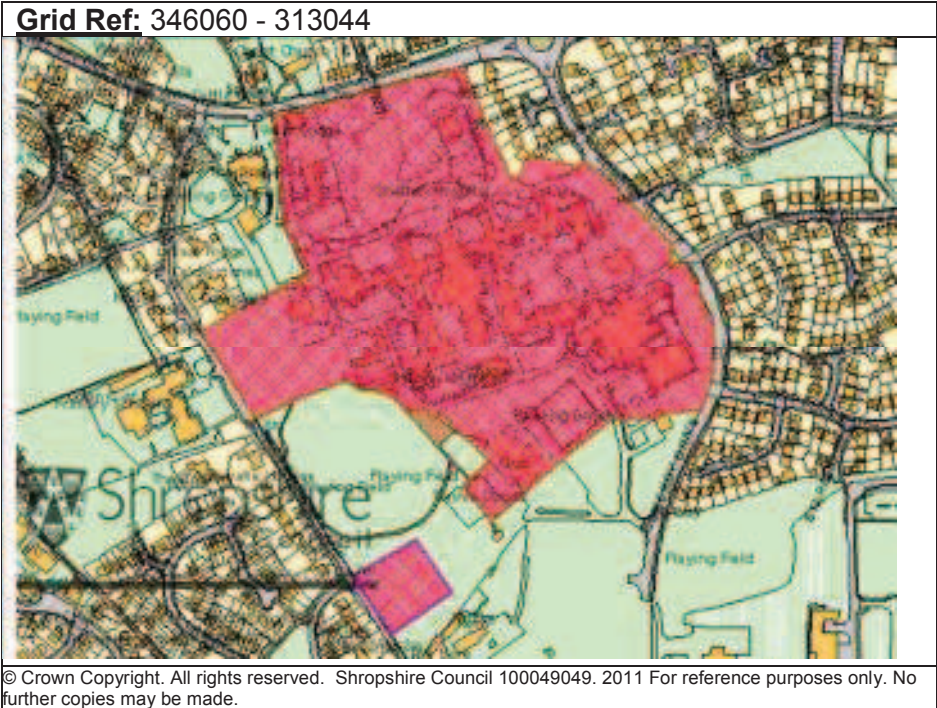
12 February 2015

## 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
<p><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 78 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 conversion of existing Estates Building to pavilion; to include the felling of some trees (Amended description following receipt of amended plans on the 16<sup>th</sup> January 2015)</p>		
<p><b>Site Address:</b> Former Shelton Hospital Somerby Drive Shrewsbury Shropshire SY3 8DN</p>		
<p><b>Applicant:</b> Shropshire Homes Ltd And NHS Foundation Trust</p>		
<p><b>Case Officer:</b> Andrew Gittins</p>	<p><b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a></p>	



**ADDENDUM TO 11<sup>TH</sup> DECEMBER 2014 REPORT**

Members deferred consideration to allow the applicant to produce revised plans to address aspects of Sports England's objection.

Accordingly amended plans were submitted on the 18<sup>th</sup> December 2014 which included:

- The removal of Plots 13-16 to allow the relocation of the existing bowling green to the area north of the cricket field, where it is understood that a former bowling green was situated. It is also proposed to remove two proposed converted dwellings, Plots 51 and 52. The building previously identified as Plot 51 will be converted into a Clubhouse for the Bowling Club as an enhanced replacement for the existing hut. Meanwhile former Plot 52 will be offered to the Cricket Club as a Pavilion; however this would not be converted or furnished by the developer as the scheme does not involve the loss of the existing cricket pavilion.
- This amendment no longer results in the net loss of any 'playing field' which has overcome the Sport England objection.
- The Bowling Club will be provided with a larger more robust club house than the existing hut, with a dedicated WC.
- The Cricket Club will be offered a lease on a peppercorn rent to coincide with the lease term granted by Shropshire Council for the cricket ground.
- A new car park will be created to serve both the Bowling and Cricket Clubs with access through the proposed development. The car park will provide 20 spaces before the removal of the existing cricket pavilion and if the Cricket Club accept the developers offer to relocate into the Estates Building the car park will then provide 38 spaces; the proposed wildflower meadow has also been omitted.
- The removal of four new build dwellings and conversions (51 and 52) will obviate the need to reposition the cricket square or provide high fencing and toughened glass to protect from cricket balls reducing a potential conflict.
- The proposed vehicular access and car park off Racecourse Lane have been omitted and the existing junior football pitch will not be affected.
- The revised proposals lead to the loss of four, four-bed family dwellings so contributions towards education and CIL have been reduced pro-rata, and the number of on-site affordable dwellings has been reduced from 16 to 15 and are proposed to be provided in the following format (although this is subject to agreement by the Council's Housing Enabling Team):



**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.**

The following re-consultation responses have been received:

**SC Conservation: Background to Recommendation:**

We have been re-consulted to assess modifications to the traditional outbuildings known as the 'Estate Buildings' on the proposed plan as it is now proposed to use the southerly most outbuilding range to accommodate the new Cricket and Bowling Pavilion, given its position on the site.

Several new openings are now proposed and others modified however in comparing the current elevation drawings with the earlier version the revised plans are generally acceptable for the new use. As we have previously commented the entire scheme is expected to have a high standard of design and excellent quality of materials, including the work proposed to these traditional outbuildings which were given a moderate to high heritage value in the Conservation Plan submitted with the original application. The conditions recommended in our earlier comments should be included in any approval of the proposal 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.

We would reiterate that original and early windows should be retained and repaired on the listed and curtilage listed buildings where extant, which includes the Estate Buildings, and where required, appropriate new windows to match the originals should be reinstated to an approved detail in traditional materials.

We had also previously commented that some of the satellite dish locations indicated on the plans could be sited at more concealed locations ' the location indicated on the elevation drawings for a satellite dish to the Estate Building would need to be repositioned to be less visible.

**RECOMMENDATION:**

Overall no objection to the modified plans for the Estate Buildings subject to our comments above and our earlier comments and recommended conditions previously supplied in our June comments.

**Sport England: The revised plans are considered acceptable and Sport England withdraws its objection to this proposal subject to conditions. *Officer note: Full comments are available on the Online Planning Register.***

**Consequently the revised recommendation is to grant Officers delegated powers to 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.**
- **Agreement with applicant to convert the existing Estates Building to provide a replacement Bowling Pavilion 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.**

## REPORT TO 11<sup>TH</sup> DECEMBER 2014 COMMITTEE

**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 space.

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 in appropriate. 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 hospitals 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:

11. Additional Information

[View details online:](#)

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 Peter Adams

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – European Protected Species Test Matrix

## 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.

16. No development shall commence until a scheme to ensure the continuity of the existing bowling and cricket clubs during construction works is submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme shall ensure that the existing and replacement sports facilities remain at least as accessible and at least equivalent in terms of size, usefulness, attractiveness and quality to the existing facilities and shall include a timetable for implementation. The approved scheme shall be implemented and complied with in full throughout the carrying out of the development.

Reason: To protect playing fields from damage, loss or availability of use.

17. The existing bowling green (as shown on Drawing No. SH-P-00) shall not be taken out of use as a bowling green until the area shown as a bowling green on Drawing No. SH-P-01 Rev. S has been cleared and laid out so that it is available for use as a bowling green. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order amending, revoking or re-enacting that order) that area shall not thereafter be used for any purpose other than as a bowling green.

Reason: To secure the provision and use of the replacement bowling green before the existing bowling green is taken out of use.

18. (a) No development shall commence until the following documents have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England:
- (i) A detailed assessment of ground conditions (including drainage and topography) of the land proposed for the bowling green which identifies constraints which could affect the quality of the playing surface; and
  - (ii) Based on the results of the assessment to be carried out pursuant to (i) above, a detailed scheme which ensures that the bowling green will be provided to an acceptable quality. The scheme shall include a written specification of soils structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and a programme of implementation.
- (b) The approved scheme shall be carried out in full and in accordance with a timeframe agreed with the Local Planning Authority after consultation with Sport England *or other specified time frame*. The land shall thereafter be maintained in accordance with the scheme and made available for bowling green use in accordance with the scheme.

Reason: To ensure that the playing field is prepared to an adequate standard and is fit for purpose.

19. No development shall commence until a schedule of bowling green maintenance including a programme for implementation for a minimum period of five years starting from the commencement of use of the development or other specified time period has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. Following the commencement of use of the development the approved schedule shall be complied with in full.

Reason: To ensure that the bowling green is first established as a functional bowling green to an adequate standard and is fit for purpose.

20. (a) No development shall commence until a detailed Risk Assessment has been submitted and approved in writing by the Local Planning Authority after consultation with Sport England. This risk assessment should be written by a competent person and identify the risks to the proposed bowling green, proposed clubhouse and proposed car park (as shown on Drawing No.SH-P-01 Rev. S) from cricket being played on the existing cricket pitch. The Risk Assessment should also make recommendations for the type and height of protective barriers necessary to reduce the risks to the users of the proposed bowling green, the proposed clubhouse and the proposed car park.

Reason: To ensure that the safety of future users of the proposed bowling green, the proposed clubhouse and the proposed car park

21. Notwithstanding the plans submitted no development shall commence until details (including location, height, type and materials) of protective fencing to be erected around the proposed bowling green, the proposed clubhouse and the proposed car park have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The fencing shall be erected in accordance with the approved details before the proposed bowling green, clubhouse and car park are first brought into use and thereafter the fencing shall be maintained in accordance with the approved details.

Reason: To ensure the safe and efficient use of the proposed bowling green, clubhouse and car park and to ensure the fence does not have an unacceptable visual impact.

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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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 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.

27. The existing car park shall not be taken out of use until provision has been made for replacement car parking to serve the sports clubs using the site.

Reason: To secure the provision and use of the replacement car park before the existing car park is taken out of use.

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

28. 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-SAECO-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.



Committee and date

Central Planning Committee

12 February 2015

## 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> 14/05115/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erection of Class A1 convenience store including ATM with dedicated external servicing, refuse and plant area, associated car parking and landscaping		
<b>Site Address:</b> The Charles Darwin Sutton Road Shrewsbury SY2 6HN		
<b>Applicant:</b> New River Retail Property Unit Trust, No.4		
<b>Case Officer:</b> Andrew Gittins	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 350544 - 310733



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**Recommendation:- Grant permission subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1** The application is for the erection of a local convenience store which falls under Class A1 of the Use Classes Order. The building includes the provision of an ATM on the north facing front gable adjacent to the store entrance. The existing vehicle access at the rear of the public house off Tilstock Crescent will be retained for deliveries to service both the public house and the convenience store, whilst the existing vehicular access off Tilstock Crescent to the front will be retained as a customer access. New pedestrian accesses will be created on the junction of Tilstock Crescent and off Tilstock Crescent to the side of the proposed store where a bicycle store will be sited. The scheme proposes the provision of 11 food store car parking spaces to include one disabled space and one parent and child space to the front, with 24 spaces retained for the public house. The proposal would result in the net loss of 8 parking spaces.
- 1.2** The store will have a rectangular footprint measuring 326 square metres. The building will measure 3.5 metres to eaves and a maximum ridge height of 6.79 metres with a lower (5.82m) hipped roof to the rear elevation adjacent to 165 Tilstock Crescent and will be enclosed by a 2.7 metre high acoustic fence to protect the amenities of the neighbouring property. The building will have a triple gable on the front and two side elevations with the plans showing the indicative location of signage; however this would be subject to a separate application for advertisement consent. The store would be constructed in plain concrete roof tiles, off-white smooth self-coloured render, facing brick to match the local vernacular, clear glazed aluminium shop front, with a powder coated external security shutter brought down over the entrance door out-of-hours. The plant will be located on the concealed flat roof behind the 40 degree mono-pitch roof.
- 1.3** The application form indicates that 6 full-time and 14 part-time jobs would be created and that the store would be open between 7am and 11pm, Monday to Sunday including Bank Holidays.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1** The site is located within the large residential suburb of Sutton Farm, within the car park of 'The Charles Darwin' public house. The plans propose the siting of the convenience store to the east of the public house adjacent to Tilstock Crescent. The site is located within the Shrewsbury Urban Area where the principle of new build commercial floorspace is acceptable subject to compliance with the development plan and any other material considerations. The public house and application site are surrounded on three sides by the public highway with a parade of local centre A1 retail units and private residential dwellings situated adjacent.

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

**3.1** Shrewsbury Town Council have submitted a view contrary to officers recommendation for approval based on material planning which cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager or Principal Planning Officer in consultation with the committee chairman, vice chairman and the Local Member agrees that the Town 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 Shrewsbury Town Council: Object**

Members felt that the plans would increase the amount of traffic in this residential area and questioned the parking arrangements on the proposed site. Members would also like to see the plans incorporate designs to reduce the risk of anti-social behaviour in and around the development.

##### **4.1.2 SC Highways DC: No objection**

The local highway authority makes no objection to the granting of consent.

We have reviewed the transport statement provided with the application which includes a survey of the car park usage for the pub during a normal weekend, we understand that there were no fixtures at Shrewsbury Town FC on the dates surveyed. The statement also includes predicted parking demands for the proposed convenience store. We would comment that the figures provided appear to be reasonable and from our observations the existing pub car park is generally under-utilised and there is capacity for some development on the site. The proposed level of parking for both the pub and the convenience store exceed local saved policy requirements (SABC Local Plan 2001 – Appendix 2, maximum requirements no longer enforced) and the locally surveyed requirements.

The Charles Darwin pub does offer match-day parking for the nearby stadium, for which they make a small charge and undoubtedly this service does assist the viability of the pub. Local observations suggest that the car park can be full on match days, so clearly a reduction in available car parking spaces will limit or possibly remove this service offer which could impact the viability of the pub. We would expect that discussions have taken place between the site owners and prospective operators for the convenience store, as clearly there will be a need to protect the 11 parking spaces linked to the store as on street parking is not permitted on the surrounding streets on match days due to the residents parking scheme in force, with exception to those residents displaying a valid permit. Whilst a local convenience store like this will attract many trips on foot, we would expect an operator to seek to protect the availability of parking at the site during opening hours.

There is the possibility that during some events at the pub the demand for parking could exceed the 24 spaces allocated and in which case people are likely to park in

the convenience store bays, at the local centre and in Tilstock Crescent. We would expect such events to be the exception, so we don't anticipate any significant highway issues to arise; the adjacent junctions are already protected by 'at any time' parking restrictions so any safety implications from (legally) parked vehicles on the highway are unlikely.

The proposal looks to utilise the existing access onto Tilstock Crescent opposite the local centre and we are of the opinion that this access is of a suitable standard to accommodate both site uses. The existing 'rear' access is to be utilised for deliveries to the proposed convenience store and track plots have been provided to demonstrate how service vehicles will access this. Whilst we understand this access has not been used for some time, the fabric of the access remains intact and therefore a new licence for its use will not be required unless engineering works are required in the adjacent public highway. From a highway perspective, this access is considered to be appropriate for the proposed use.

A trip rate assessment has been provided in the transport statement, however we would not expect there to be a notable increase to the number of trips made to Tilstock Road resulting from the development, due to the location of the existing Co-op store at the local centre opposite. So any vehicular trips to the new convenience store are likely to be transferred from Rowley Court, as people may consider the new site to be more convenient to access.

The existing site benefits from a good level of pedestrian 'permeability' and the applicant proposes to enhance this by providing additional pedestrian accesses near the store entrance. Cycle parking is also proposed for the convenience store and we would clarify that our local requirements are for the 'Sheffield' type parking stands.

- 4.1.3 SC Drainage: No objection as the drainage details, plan and calculations could be conditioned if planning permission were to be granted.**
- 4.1.4 SC Public Protection (27<sup>th</sup> January 2015): No objection subject to conditions.**

I do not anticipate any noise to be generated at the proposed development that would cause a significant detrimental effect at nearby residential receptors. In order to ensure that deliveries do not have a negative impact in this predominantly residential area a condition could be proposed to ensure that no deliveries take place before 7am Monday through to Saturdays with no deliveries before 8am on Sundays.

**17<sup>th</sup> December 2014:**

I have considered the application and the only reason for comment is noise. I have noted the innovative design on the roof where a recess screens the plant and equipment from the surrounding area. I have also noted the 2.7m acoustic fence proposed around the external ground level plant. In theory this may be suitable however without details of the actual noise levels expected and details of the acoustic fence I cannot make any conclusions. Please can the applicant provide noise output for all of the externally located equipment and details of the acoustic



fence. I will then be able to get a cumulative noise level for noise inside the acoustic fencing and calculate how much noise is expected at nearest residential premises.

## **4.2 Public Comments**

**4.2.1** 196 letters of objection have been received in response to the Neighbour Notification letters sent on the 11<sup>th</sup> December 2014 and Site Notice posted on the 16<sup>th</sup> December 2014. The objections can be summarised under the following categories:

- Highway safety, traffic and parking
- Impact on local and residential amenities
- Design, scale and external appearance of building

Objections have also been made on the following non-material planning grounds:

- Viability and unsustainability
- Loss of view

**4.2.2 Cllr Jon Tandy:** The proposed new building is in front of the building line, and is overlooked on all sides by residential properties. The outer wall of the proposed building is approximately within a yard of the Charles Darwin pub's property boundary wall. It is directly opposite a group of residential houses in Tilstock Crescent. The rear entrance of the proposed building is referred to as an existing vehicle access. This highlighted entrance has NEVER been used by commercial traffic and has been permanently locked. Lorries turning into this new entrance will be disturbing houses less than 10 yards away, usually very early in the morning. The proposed building will be out of keeping with the area. The existing shopping area opposite the pub, is designed as a shopping area, and should be kept as such. The car park is used on a daily basis by people using the existing pub and on football match days, it is full of supporters. If this proposal is accepted, these cars will be parking in residential areas and causing obstructions to residents daily life. The proposal is to have half the car park kept as use for the Charles Darwin's customers and the other half for the proposed Co-operative store's customers. This is unrealistic and obviously cars will be parking within residential streets. The proposed store will also be in direct competition with another Co-operative store as they are different franchises of the same company. Obviously both stores would not be sustainable and so this will not be creating new employment within the local area. This is a bad application and has caused a lot of concern from residents within the area. As such, I would recommend that this application goes to committee.

## **5.0 THE MAIN ISSUES**

### **Principle of development**

### **Design, scale and external appearance**

### **Highway safety, traffic and parking**

### **Impact on local and residential amenity**

## **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 indicated otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. Given the stage of advancement of this Plan, it is considered that some weight can be given to the proposed policies within it.

**6.1.2** The site is located within the Shrewsbury urban area and is therefore within both the SABC adopted urban development boundary and the proposed SAMDev development boundary. The development of this site accords with CS2 which identifies that Shrewsbury will provide a primary focus for development in Shropshire and development of its role as Shropshire's primary retail, office and commercial provider, with the vitality and viability of the town centre to be promoted, protected and enhanced.

**6.1.3** Policy CS15 identifies that in accordance with national planning policy preference will usually be given to town centre retail and office development along with other town centre uses, taking into account sequential and impact assessments. Relevant policies contained within the emerging SAMDev document include Policy MD10 that also relates to Town Centre Impact Assessments. This policy identifies that proposals for new retail development will require a retail impact assessment for developments that have a gross floorspace of over 500 sqm. As this proposal is for a retail unit with a gross floorspace of 326 sqm sequential and retail impact assessments are not required in this instance. Policy CS15 also states that the provision of neighbourhood based shopping and other community facilities will be supported where this will help consolidate and improve existing provision or will serve significant new developments. Whilst the application site is not located directly within a significant new residential development, it is within 1 mile of the Shrewsbury South Sustainable Urban Extension which will deliver up to 900 new homes, although it is noted that this will be served by its own local centre adjacent to Percy Throwers and Waitrose. The proposed site is situated within an established residential area, which whilst benefiting from existing neighbourhood shopping and services including convenience store, it is considered that the provision of an additional retail unit will improve the existing provision on offer in the area. The proposal is therefore considered acceptable in this respect and as it would have no adverse impact on the vitality and viability of Shrewsbury Town Centre.

**6.1.4** With regards to the specific retail use at the site Policy MD10 advises that where retail proposals on the edge of or outside town centres are permitted, restrictive conditions will normally be applied to the percentage of floor space dedicated to the sale of comparison retail items in order to protect the primacy of town centres as the preferred retail destination. Convenience goods relate to food and non-alcoholic beverages, tobacco, alcoholic beverages, newspapers and non-durable household goods whereas comparison goods relate to any other goods, including clothing, shoes, furniture, household appliances, tools, medical goods, games and toys,

books and stationery, jewellery and other personal effects. This proposal is for a local convenience store and a condition has been attached restricting the use to convenience goods. It is therefore considered that the proposal will promote economic growth in accordance with the NPPF without a negative impact on the Town Centre.

## **6.2 Design, scale and external appearance**

**6.2.1** 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, ensure sustainable design and construction principles are incorporated within the new development.

**6.2.2** Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

**6.2.3** The store will have a rectangular footprint measuring 326 square metres. The building will measure 3.5 metres to eaves and a maximum ridge height of 6.79 metres with a lower (5.82m) hipped roof to the rear elevation adjacent to 165 Tilstock Crescent and will be enclosed by a 2.7 metre high acoustic fence to protect the amenities of the neighbouring property. The building will have a triple gable on the front and two side elevations with the plans showing the indicative location of signage; however the signage would be subject to a separate application for advertisement consent. The building includes the provision of an including ATM on the north facing front gable end adjacent to the store entrance. The store would be constructed in plain concrete roof tiles, off-white smooth self-coloured render, facing brick to match the local vernacular, clear glazed aluminium shop front, with a powder coated external security shutter brought down over the entrance door out-of-hours. The site benefits from excellent natural surveillance which will limit opportunities for unobserved anti-social behaviour which as been cited as a concern by the Town Council. The plant will be located on the concealed flat roof behind the 40 degree mono-pitch roof. The design, scale and external appearance of the building is considered to protect the character of the local area in accordance with the requirements of CS6 and the NPPF.

## **6.3 Highway safety, traffic and parking**

**6.3.1** The existing vehicle access at the rear of the public house off Tilstock Crescent will be retained for deliveries to service both the public house and the convenience store, with the existing vehicular access off Tilstock Crescent to the front retained as a customer access. New pedestrian accesses will be created on the junction of Tilstock Crescent and off Tilstock Crescent to the side of the proposed store where a bicycle store will be sited. The scheme proposes the provision of 11 food store car parking spaces to include one disabled space and one parent and child space to the front, with 24 spaces retained for the public house. The proposal would result in the net loss of 8 parking spaces. The application has been subject to substantive objection on highways grounds principally to the loss of car parking for the public house on Shrewsbury Town Football Club match days. However the application has been thoroughly assessed by the Council's Highways DC Manager whose full

comments are provided at 4.1.2 of this report. Therefore whilst the concerns of local residents are acknowledged, the very nature of the local convenience means that it will serve the local community with a large proportion of these utilising the excellent pedestrian and cycle links. Nonetheless, the existing site has an over provision of car parking and the proposed level of parking for both the pub and the convenience store exceed local saved policy requirements (SABC Local Plan 2001 – Appendix 2, maximum requirements no longer enforced) and the locally surveyed requirements. The offer of chargeable match day parking is an open market service and not a material planning consideration, which would have to be withdrawn if there is no additional capacity, with on-street parking restrictions preventing any highway issues. Accordingly Officers do not consider that the proposal will result in any highway safety or local amenity issues and there is no objection to the proposed development from a highways perspective.

#### **6.4 Impact on local and residential amenity**

**6.4.1** The store is proposed to be sited adjacent to 165 Tilstock Crescent but as noted will be enclosed by a 2.7 metre high acoustic fence, which together with the retention of two existing trees will protect the amenities of the neighbouring property. The application has been assessed by the Council's Public Protection Specialists who following the submission of details pertaining to the noise output for all of the externally located equipment and details of the acoustic fence do not anticipate any noise to be generated at the proposed development would cause a significant detrimental effect at nearby residential receptors. In order to ensure that deliveries do not have a negative impact in this predominantly residential area conditions have been recommended to ensure that no deliveries take place before 7am Monday through to Saturdays with no deliveries before 8am on Sundays and restricting the opening hours to customers to between 7am and 11pm. Accordingly it is considered that the development is capable of protecting local and residential amenities in accordance with the requirements of CS6.

#### **7.0 CONCLUSION**

**7.1** The erection of the local convenience store is acceptable in principle and in accordance with adopted and emerging policy. The proposed building would have no adverse impact on the character and appearance of the locality. The proposal will provide adequate car parking for the public house and convenience store, with no highway safety implications. The proposal therefore accords with the NPPF and Core Strategy policies CS2, CS6, CS11, CS15 and CS17.

#### **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 six weeks 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 PPG

Core Strategy and Saved Policies:  
CS2, CS6, CS11, CS15 and CS17.

RELEVANT PLANNING HISTORY:

- 11/04010/FUL Erection of entrance porch (amended description) GRANT 9th November 2011
- SA/97/0108 Construction of a play area and provision of play equipment. REFUSE 12th March 1997
- SA/96/0904 Creation of grassed beer garden to replace part of existing tarmaced car park. WDN 18th December 1996
- SA/96/0153 Provision of childrens play equipment. REFUSE 3rd April 1996

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 Jon Tandy Cllr Ted Clarke Cllr Jane Mackenzie
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 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. The external materials and their colour shall be as shown on the deposited plan number RF10-0305.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

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

4. No development shall take place until a scheme of foul drainage, and 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.

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

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

5. The premises shall be used as a Local Convenience Store within the A1 Retail Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: In order to restrict the use of the premises in the interest of the amenities of the area.

6. The premises shall not be open for customers outside of the following hours:

0700 - 2300 Monday - Sunday, including Bank Holidays.

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

7. Deliveries to the proposed retail units shall not occur outside of the following times:  
Monday to Saturday 07:00-19:00, Sunday 08:00-13:00.

Reason: to protect the amenity of the area.

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. No burning shall take place on site including during clearance of the site.

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





Committee and date

Central Planning Committee

12 February 2015

## 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> 14/00467/OUT	<b>Parish:</b>	Longden
<b>Proposal:</b> Outline application (access for approval) for mixed residential development		
<b>Site Address:</b> Land At Longden Shrewsbury Shropshire		
<b>Applicant:</b> Mrs M Hardwick		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 344273 – 306650

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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 planning application seeks outline planning permission for residential development on land at Longden, Shropshire. The application is for access only with all other matters reserved for later consideration.
- 1.2 The proposed application includes an illustrative plan that shows the provision of 14 dwellings, comprising a mixture of 2 and 3 bedroom detached and semi-detached houses.
- 1.3 Vehicular access to the site will be gained off the Shrewsbury Road, at the eastern site boundary. The application shows a replanted native hedgerow along this site boundary and across part of the eastern field boundary to the north of the proposed access in order to provide a visibility splay for users of the access. The proposed scheme has been amended in order to provide improved pedestrian links for the site into the village, with two footpaths proposed, one leading westwards from the site across the adjacent field to the rear of the existing houses located along Plealey Lane and then linking onto Plealey Lane and a second pedestrian access shown leading through existing Severnside Housing maintained garages to the south of the site, also onto Plealey Lane.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 Longden is located approximately 3 miles east of Pontesbury and approximately 6 miles south west of Shrewsbury. The application site is located adjacent to the properties set at the northern end of the village, to the west of Shrewsbury Road, the main road that leads into the village. The site is roughly rectangular in shape and surrounded by mature trees and hedgerows on the north, east and west boundaries. Shrewsbury Road runs along the entire length of the eastern boundary with this boundary currently defined by a mature hedgerow.
- 2.2 To the south east of the site lie residential properties that are located to either side of Shrewsbury Road. A small number of residential properties are also located to the north east of the site on the opposite side of Shrewsbury Road. The majority of properties that lie immediately adjacent to the application site boundaries are situated fronting Plealey Lane, with their rear gardens and boundaries facing north and abutting the application site.
- 2.3 As Shrewsbury Road approaches Longden from the north the road rises uphill and into the village. Currently many of the properties situated along Plealey Lane, which form the northern boundary of the village, are fairly well screened from view by existing mature trees and planting along their own boundaries and by existing field boundaries to the surrounding fields.

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

3.1 In accordance with Part 8 of the Shropshire Councils Scheme of Delegation, a request to consider the application at Central Planning Committee has been received from the local member for the Longden ward, based on material planning considerations following an objection from Longden Parish Council.

### **4.0 Community Representations**

#### **4.1 Consultee Comments**

##### **SC Public Protection – Specialist – No objection**

###### **Electric Charging Points Condition**

In order to make the properties ready for EV charging point installation isolation switches must be connected so that a vehicle may be charged in the garage or driveway. 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 socket 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."

##### **SC Highways DC – No objection**

###### **Recommendation**

The local highway authority withdraws the previous objection made to the proposed development following the additional details provided by the applicant regarding the proposed walking link to Plealey Lane and revised visibility splays at the proposed site access.

###### **Conditions**

###### **E2. Road Design**

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 highway 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.

###### **Walking Link to Plealey Lane**

The proposed walking link between the development site and Plealey Lane through the adjacent housing association garages site shall be established and surfaced in a suitable bound material prior to the first use or occupation of the development.

Reason: To ensure the development site is served by a satisfactory and safe walking link to the village.

### Informatives

The proposed highway works will require an appropriate agreement with the local highway authority before work can commence on site.

### Background

An objection was previously raised to this application by the local highway authority on 12/3/14. Since the objection was made the applicant has now withdrawn the proposal to narrow Shrewsbury Road to provide a substandard footway and has instead negotiated a walking link to the site through the adjacent Severnside Housing garage site, which therefore provides a walking route to the footway on Plealey Lane. They have also provided a revised access plan which shows that they are able to provide the requested 2.4m x 79m visibility splays in either direction onto Shrewsbury Road. Consequently the applicant has dealt with the objections raised to the application.

The proposed walking link will need to be established before the first occupation of the development to ensure a safe and convenient link is provided to the village services. It is understood that an easement will be granted by Severnside Housing for people walking through their land and it is also noted that the applicant also proposes to provide another footpath link to the west of Little Barnyard Lane. It is assumed that this is intended more for leisure walking trips from the site.

### **SC Ecologist - No objection**

Recommendation:

Include the conditions and informatives below on the decision notice.

Additional information is required at reserved matters stage;

Great Crested Newt method statement

Landscaping plan

### Bats

The site location plan, SA14640/01, shows that the trees which were noted in the ecology survey report as having bat roost potential are being retained. The layout plan shows no development close to these trees. If the site plan was to change, and development was proposed within close proximity to these trees, further bat survey work will be required. The following conditions and informative should be on the decision notice.

1. A total of 8 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 permitted as shown on a site plan. 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

2. 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.

#### 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). 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.

#### Nesting Birds

The site has the potential to support nesting birds. The following condition and informative should be on the decision notice.

1. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

#### Informative

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.

#### Great Crested Newts

There are three ponds within 500m of the development site. The pond on site (P1) is defunct – not holding water in January 2014, and not considered to have the potential to support breeding great crested newts. The second and third pond (P2, P3) are 150m away from the development site, on the opposite side of a minor road within Longden Primary School. Greenscape Environmental Ltd does not consider the road or domestic gardens to be a barrier to newt dispersal.

A historic record of GCN has been recorded at Longden Primary School. Full GCN surveys have been conducted and presence was not recorded.

In order to ensure the protection of great crested newts a method statement for great crested newts should be submitted to and approved in writing by the local planning authority at Reserved Matters Stage. The development shall be carried out in accordance with the approved details.

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

1. The first submission of reserved matters shall include a great crested newt mitigation scheme. Works shall be carried out as approved.  
Reason: To ensure the protection of great crested newts, a European Protected Species.

#### 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.

#### Informative

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

#### Informative

On the site to which this consent applies the storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.

#### Landscaping Plan

The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- a) Means of enclosure, including all security and other fencing
- b) Planting plans, including wildlife habitat and features (e.g. bird, bat box, hedge planting)
- c) 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).
- d) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works

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

### Badgers

To ensure the protection of badgers on site the following informative should be on the decision notice.

#### Informative

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 in the hedgerows. If any hedgerow removals are planned 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.

### **SC Drainage – no objection**

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

1. The application form states that the surface water drainage from the proposed development(0.91 Ha.) is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been supplied. SuDS Applicability for the site is Attenuation. 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. A catchpit should be provided on the upstream side of the proposed soakaways.

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 the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

2. If non permeable surfacing is used on the new access road, driveway and parking area and/or the new access road slopes toward the highway, the applicant should submit for approval a drainage system.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

3. A contoured plan of the finished road levels should be provided together with confirmation 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.

4. Informative ' Consent is required from the service provider to connect into the foul main sewer.

### **SC Affordable Houses – No objection**

If this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of 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 a full or Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 15%. The assumed tenure split of the affordable homes would be 70% for affordable rent and 30% for low cost home ownership and would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme.

The number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before an application is submitted.

### **Longden Parish Council - Objects**

After discussion it was agreed that the Parish Council do not support this application as this development is outside the boundaries designated by the residents as raised by the Village Design Statement in February 2013, It was highlighted that the residents wanted developments of 4-6 properties within the curtilage of the village.

The Parish Council also have concerns on the access to the development , the number and size of the dwellings and the ability of the local services to cope with the extra demands this would make on it.

And, following receipt of the amended plans:

After discussion it was agreed that the Parish Council does not support this amendment to the application as this development is outside the boundaries designated by the residents as raised by the Village Design Statement in February 2013, it was highlighted that the residents wanted developments of 4-6 properties within the curtilage of the village.

The Parish Council also have concerns on the access to the development , the number and size of the dwellings and the ability of the local services to cope with the extra demands this would make on it.

Further comments 19/1/15:



After discussion the Parish Council agreed to add the following comments to their original comments :

This development would be visually intrusive on the approach to the village. Access to the main road is deemed to be dangerous due to speeding vehicles. The Quota for Longden Parish for 2026 of 50 has already been reached. It was clearly stated in the Village Design Statement that Zone 1 development was to be *behind* the Little Barnyard site.

The Parish Council does not believe it is in compliance with the SAMDev the Parish Council was consulted on. Also the Parish Council wanted family homes and affordable homes. It is in an area within the village which was highlighted as not for development when the residents were consulted in 2012 on where development was to be within the village.

The Parish Council specifically requested developments of between 6 and 10 properties and not large scale developments which will change the character of the village. There are also many access issues with this development.

#### 4.2 Public Comments

35 letters of objection have been received from 20 addresses and the points raised are summarised below:

##### Visual Impact:

Rural sprawl outside of village; loss of view/outlook to adjacent neighbours; development would be out of character with the surrounding buildings and bungalows; approaches to the village should be protected and this has been raised by the parish council; the development is on elevated land and will dominate the skyline completely against the Parish wishes.

##### Highways:

Additional traffic would have detrimental impact on local road network; vehicles using Shrewsbury Road do not stick to the 30mph limit into the village; more than the identified 14 vehicles would be created by the development; the road at this point is on an incline in a rural setting that is often covered in mud adding to potential dangers; no safe pedestrian link along Shrewsbury Road possible; busy road with use by large vehicles already a danger; proposed pedestrian route through the garage site is of concern as this access is too narrow to provide an additional footpath, putting them at risk of oncoming vehicles.

##### Residential Amenity:

Potential loss of privacy for existing occupants of adjacent properties; the footpath crossing through the field will lead to a loss of security for properties fronting Plealey Lane.

##### Other matters:

No local employment will mean people will have to travel away from the village; local services/infrastructure cannot cope with the added pressures of this development including sewers and drainage; low cost housing not wanted in village, existing low cost housing does not sell; loss of agricultural land.

## 5.0 THE MAIN ISSUES

**Principle of development**  
**Access & Highway Issues**  
**Visual impact and landscaping**  
**Residential Amenity**  
**Ecology**  
**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.

6.1.2 At paragraph 12 the National Planning Policy Framework (NPPF) states that proposed development that accords with an up-to-date Local Plan should be approved, and development that conflicts should be refused unless other material considerations indicate otherwise. There is a presumption in favour of sustainable development and at paragraph 14 the NPPF it explains that for decision taking this means that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted for development unless:

- 1) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- 2) Specific policies in the NPPF indicate that development should be restricted.

6.1.3 With regards to housing development paragraph 49 of the NPPF is relevant and 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.’

6.1.4 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council’s position (as published in an amended Five Year Housing Land Supply Statement on 12/08/14) is that it has identified a housing supply of 5.47 years for Shropshire which is sufficient to address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years’ supply, the

Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

- 6.1.5 The starting point for consideration of housing proposals is therefore the Development Plan but as this can only be given limited weight, applications should still be determined in the context of the NPPF's presumption in favour of sustainable development and its aim of boosting housing supply.
- 6.1.6 When assessed against saved SABC Local Plan Policy H3: Housing in Villages with Development Boundaries, the site is located outside but immediately adjoining the northern boundary of the Longden Village Development Boundary. Therefore under the existing development plan the site would be considered to be located within countryside. Policy CS5 of the Shropshire LDF Core Strategy does not generally support the provision of new open market residential development in the countryside.
- 6.1.7 Shropshire Council has an adopted Core Strategy which contains Policy CS4: Community Hubs and Community Clusters which outlines that 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.
- 6.1.8 Within the SAMDev Pre-Submission Draft submitted to the Secretary of State for examination on the 31st July 2014 the village of Longden has been included as a Community Cluster under Core Strategy Policy CS4 along with settlements of Hook-a-gate, Annscroft, Longden Common and Lower Common/Exfords Green. Emerging policy S16.2 (xi) Community Hub and Cluster Settlements outlines that development by infilling, groups of houses and conversions may be acceptable on suitable sites within the development boundary identified on the Policies Map, with housing guidelines of around 25-30 in Longden. The Longden Parish Development Statement (2013) advises that no individual site should be of more than 10-15 houses and indicates a preference for lower cost, 2-3 bedroom properties for development in Longden. There are no allocated housing sites within the village. However these consultations have identified areas not suitable for development and also some areas of the village where small scale development could be located. The application site is located in Zone 1 which the Village Design Statement states:

"Provides opportunities for limited development as long as the visual impacts to neighbouring properties are limited, and suitable access to the site is developed.

Development in this area should also consider improvements to footpaths along the B4383. To minimise impact on current dwellings the preferred option would be to site potential dwellings at the west end of the site along Plealey Lane (near the “Little Barnyard” development”).

In addition to the SAMDev Plan submission Longden Parish Council have stated that they now wish that no proposed development should contain more than 6-10 dwellings and should consist of family homes and affordable homes.

- 6.1.9 The application site is not located at the west side of Plealey Lane as preferred by the Parish Council. The application site is however located to the north side of the village, extending up to the rear boundaries of existing properties situated along Plealey Lane. These properties consist of a mix of two and single storey properties with rear gardens of around 20 metres in length. It is considered that any housing built on this site could be arranged so as not to have any significant visual impact on the occupants of existing neighbouring dwellings through loss of privacy or over-dominance. Access to the site has also been amended to provide adequate visibility for the vehicular access proposed onto Shrewsbury Road, and a pedestrian route into the village via adjacent garages onto Plealey Road. Matters of the proposed access arrangements and residential amenity are further discussed in the sections below.
- 6.1.10 Notwithstanding the above, weight must be given to the requirements of the NPPF and the presumption in favour of sustainable development. Longden is a village comprising approximately 129 dwellings and 331 residents which is located approximately 7 miles south west of Shrewsbury. The village benefits from a range of essential services and facilities including a Primary School, post office and village shop and public house. It also has a church and a village hall. The nearest Secondary Schools are at Pontesbury, Meole Brace, Shrewsbury or Church Stretton. The village is also served by the 546 Pulverbatch to Shrewsbury bus service which runs 7 services per day Monday to Friday and on Saturdays.
- 6.1.11 The site is located immediately adjoining the northern boundary of the village and it is considered that the above services are all within an easy walking distance of the application site following receipt of the amended plans that confirm pedestrian access will be provided through the existing garages that lie to the south of the site and out onto Plealey Lane. Furthermore, the proposal includes provision of a second footpath link to the village linking further west along Plealey Lane, thus further improving overall pedestrian connectivity from the site. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance or long journeys by private motor car.
- 6.1.12 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.

6.1.13 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of 14 additional 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 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.

6.1.14 Social role – 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 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 and will benefit both the existing and future residents and help meet the needs of present and future generations. It is considered that the additional 14 dwellings now proposed would not provide any significant additional pressure on services that would render them unable to sustain services for residents.

6.1.15 Environmental role – The site comprises Grade 3 Agricultural land and has no official heritage, cultural or ecological designation. The proposal will not have any detrimental impact upon local wildlife and any loss of significant trees or hedging can be mitigated through a suitable landscaping scheme. A consideration in detail of the likely visual impact upon the surrounding area will take place at the reserved matters stage although this matter will be discussed further in the following section of this report.

## **6.2 Access & Highway Issues**

6.2.1 Following receipt of amended plans the original objection to the application from Highways officers has now been withdrawn. The amended plans no longer show

any proposal to narrow Shrewsbury Road to provide a substandard footway and instead propose a walking link to the site through the adjacent Severnside Housing garage site, which therefore provides a walking route to the footway on Plealey Lane. Highways officers have noted that the amended plans also provide a revised access plan which showing the requested 2.4m x 79m visibility splays in either direction onto Shrewsbury Road. Consequently highways officers consider that the applicant has dealt with their original objections raised to the application.

- 6.2.2 It is considered that the proposed walking link will need to be established before the first occupation of the development in order to ensure that a safe and convenient link is provided to access to village services and it is understood that an easement will be granted by Severnside Housing for people walking through their land. It is also noted that the amended plans show the provision of another footpath link leading west to access Plealey Lane just west of Little Barnyard Lane and highway officers assume that this is intended more for leisure walking trips from the site.
- 6.2.3 Whilst objections from third parties and the Parish Council still raise concerns over highway safety with regards to the proposed vehicular access to the site and the sharing of the garage access with pedestrians and vehicles accessing the garages, officers are satisfied that the proposed scheme is acceptable in terms of required standards and subject to conditions will not have any detrimental impact on highway safety.

### **6.3 Visual impact and landscaping**

- 6.3.1 The application site is located to the west of the Shrewsbury Road, at the entrance to the village. Many of the objections raised by third parties express strong concerns that the proposed housing would be out of character with the appearance of this side of the village, especially when approaching the village from a northerly direction. They consider that the development of the site for housing would appear as an incongruous addition that that would be an over dominant addition to the skyline in this rural location. Longden Parish Council also object on the grounds that the site is located outside of the village boundary as identified in the local parish plan and Longden Village Design Statement.
- 6.3.2 In response to these objections raised a landscape and Visual Impact Assessment has been submitted in support of the application. This report identifies the site as being within open countryside that is not located within any designated landscape area or any area of outstanding natural beauty (AONB). The existing Shropshire Landscape Character Assessment identifies this part of the county as Principal Settled Farmland which has key characteristics of which are mixed farming land use with a varied pattern of sub-regular hedged fields. Together with the landscape form and shape this results in predominately filtered views of differing locations.
- 6.3.3 The submitted report includes photographs and descriptions of existing views that can be taken from the public highway and footpaths in the surrounding area and notes that direct views are limited by the topography of the surrounding landscape and by existing tree and hedgerow planting along existing field boundaries The report concludes that only limited views of the proposed development site are available only from a northerly direction and assesses the direct impact on the landscape and landscape to be slight. Any views taken of the site when

approached from the north are broken by existing land features which could be enhanced as part of development. As such the report then concludes that the proposed development would not result in any significant negative visual impact.

6.3.4 Officers note that the site is relatively well screened in long distance views taken from the existing local road and footpath network. These views are broken by existing mature tree and hedgerow planting that is a feature of the local landscape. This landscape whilst consisting of open countryside does not have any designation as any special landscape character or AONB.

6.3.5 Officers also consider that whilst the application site is located outside of the existing development boundary for the village it is situated adjacent to the boundary and next to existing housing along Plealey Lane and Shrewsbury Road. Any development of the site would have some visual impact on the area and it would be seen from some views on approach along Shrewsbury Road, however it is considered that on balance any residential development of the site would also be viewed in context with the existing edge of the village and the adjacent and nearby residential properties. Officers therefore consider that the overall visual impact of the development of this site would not have any significant negative impact enough to justify a refusal of planning permission.

#### **6.4 Residential Amenity**

6.4.1 Objections to the application have been made on the grounds of potential detrimental impact on the residential amenity of neighbours to the site, in particular to the occupants of residential properties situated immediately adjacent to the site along Plealey Lane and Shrewsbury Road. These properties consist of a mixture of two and single storey properties, with the majority of properties along Plealey Lane being bungalows, with rear gardens over 20 metres in length. Specific concerns/objections raised include loss of privacy between the new and existing properties and over-dominance issues.

6.4.2 The illustrative site layout plan shows a potential arrangement of two-storey properties on the site which would allow for adequate distances to exist between new and existing dwellings and that would not result in any significant levels of loss of privacy. The application site is also situated on a slope that falls away from the properties along Plealey Lane which would help mitigate any impact. The details relating to specific plot/building arrangements would be subject to further discussion at a reserved matters stage but it is considered that the submitted illustrative layout plan demonstrates that these concerns/issues could be addressed.

#### **6.5 Ecology**

6.5.1 No objections to the application have been raised by SC Ecologists, who request that relevant conditions and informatives be added to any planning permission granted. SC Ecologists have noted that Great Crested newts (GCN) have been historically identified in the area at Longden Primary School and therefore recommend that any first reserved matters application should include a GCN mitigation scheme.

## 6.6 Other Matters

- 6.6.1 **Drainage:** The site is not located within Flood Zones 2 or 3 and is not within an area known to be at risk of flooding. The application has been referred to the Council's Flood and Surface Water Management Team who have confirmed that 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.
- 6.6.2 **Affordable Housing:** Policy CS11 of the Core Strategy requires an appropriate contribution to made local needs affordable housing, either in the form of on-site provision or a financial contribution towards off site provision. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing housing target rate at the time of Reserved Matters application. The applicants have agreed to make the necessary contribution in accordance with the requirements of the Type and Affordability of housing SPD and in this respect the application is considered to accord with Policy CS11.

## 7.0 CONCLUSION

- 7.1 The planning application relates to the provision of a residential development comprising of up to 14 dwellings on land outside of the Longden Development Boundary as shown in saved Policy HS3 of the SABC local plan and is therefore located in open countryside and contrary to Core Strategy Policies CS4 and CS5. Limited weight can be given to the SAMDev Plan in which Longden is being promoted as a Community Cluster with an aspiration for 25-30 dwellings over the plan period to 2026, with no individual site consisting of more than 10-15 houses. Notwithstanding this point, the application must also be considered in accordance with the NPPF which has a presumption in favour of sustainable development. Longden is a village which has a number of local facilities and services, and as such the site is considered to represent a sustainable site for residential development in principle.
- 7.2 It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development immediately adjacent to the village in visual terms within the local landscape. The proposal would have no adverse environmental or ecological implications and would not impact on highway safety or the amenity of nearby residents.
- 7.3 It is considered that Longden is a sustainable location for the 14 dwellings due to its range of essential services and facilities and access to public transport reducing reliance on long journeys by private motor car. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'.
- 7.4 It is therefore recommended that this application be granted planning permission in line with the clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with the Councils adopted policy.



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

### **8.1 Risk Management**

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### **8.2 Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## **9.0 Financial Implications**

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of

defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and Saved Policies:  
CS4, CS5, CS6, CS9, CS11, CS17, HS3

RELEVANT PLANNING HISTORY:

-

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

Planning File 14/00467/OUT

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Roger Evans

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the appearance, landscaping, layout and scale of the development (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 one year 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.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The number of units  
The means of enclosure of the site  
The levels of the site  
The drainage of the site  
The finished floor levels  
Great Crested Newt mitigation scheme

Reason: To ensure that the development is of an appropriate standard and to ensure that the protection of great crested newts, a European Protected Species.

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

5. 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 highway 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.

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

6. Prior to the first occupation of the residential development hereby approved, the proposed footway link between the development site and Plealey Lane through the adjacent housing association garage site shall be established and surfaced in a suitable bound material prior and shall thereafter permanently be retained as such.

Reason: To ensure the development site is served by a satisfactory and safe walking link to the village.

7. A total of 8 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the residential development hereby permitted. 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

8. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

Reason: To ensure the provision of nesting opportunities for wild birds

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

9. Prior to the erection of any external street 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.

10. 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

11. 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.



Committee and date

Central Planning Committee

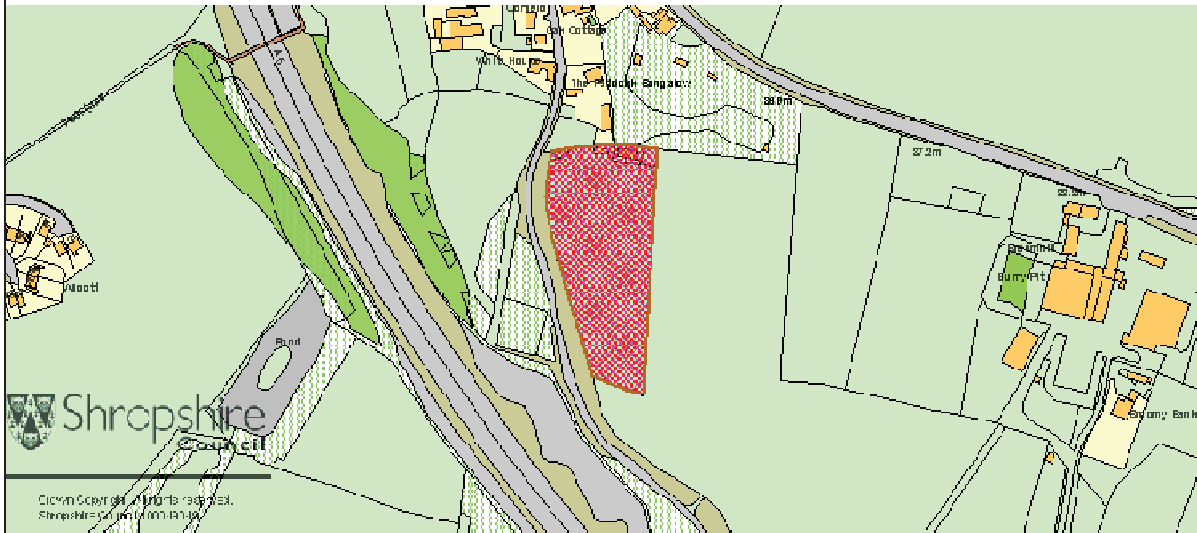
12 February 2015

## 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> 14/03259/OUT	<b>Parish:</b>	Great Ness
<b>Proposal:</b> Outline application for proposed housing development (all matters reserved)		
<b>Site Address:</b> Proposed Residential Development East Of Wilcot Lane Nesscliffe Shrewsbury Shropshire		
<b>Applicant:</b> Midland Groundworks Ltd		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 338384 – 318890		



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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 consent for residential development on land adjacent to Wilcott Lane, Nesscliffe with all matters reserved for later consideration.

The amended illustrative site layout proposal shows the provision of 9 dwellings; a mixture of 5 bungalows, one pair of semi-detached properties and two detached houses.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 Nesscliffe is located approximately 4 miles south east of Kinnerley and approximately 9 miles north west of Shrewsbury.

The development site is set to the east of the adjacent road and comprises a parcel of agricultural land set to pasture. The site is set to the south of existing residential properties set to the northern boundary of the site.

2.2 Services and facilities in Nesscliffe include a school, post office, shop, a village hall, petrol station, a pub and a 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 approximately half a mile from the development site.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with Part 8 of the Shropshire Councils Scheme of Delegation, a request to consider the application at Central Planning Committee has been received from the local member for the Nesscliffe ward, based on material planning considerations following an objection from the local Parish Council.

### 4.0 Community Representations

#### 4.1 Consultee Comments

##### 4.1.1 SC Drainage: No objections

No objection(s), subject to conditions

##### 4.1.2 SC Affordable Housing: No objections

Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would

need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

#### 4.1.3 **SC Ecology: No objection**

Supporting documents including the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

##### Bats

The site has the potential to support foraging and commuting bats. The following condition and Informatives should be on the decision notice.

1. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 permitted as shown on a site plan. 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.
2. 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.
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) Planting plans, including wildlife habitat and features (e.g. bird boxes, bat boxes)
  - b) 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).
  - c) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction worksReason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

##### Badgers

No evidence/field signs of badgers were noted on site during the ecological survey. No further survey is deemed necessary. Due the close proximity of a known badger sett (20m) a pre-commencement survey should be undertaken prior to vegetation clearance/construction works and the method statement provided by Pearce Environment should be conditioned and adhered to. The following condition should be on the decision notice.

1. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of Badgers, protected under the Protection of Badgers Act (1992).

Informative

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.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

Great Crested Newts

Pearce Environment recommends that the current grazing regime continues to ensure the site does not inadvertently increase in its potential to support herptiles. Ponds within 250m of the proposed development have been assessed and no further survey work has been recommended. The following condition and informative should be on the decision notice.

3. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) attached as an appendix to this planning permission.

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

Nesting Birds

The site has the potential to support nesting birds. The buildings on site should be checked prior to demolition. The following condition and informative should be on the decision notice.

1. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days 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 nesting Barn Owls

Informative

Barn Owls are protected under the Wildlife & Countryside Act 1981 (as amended). It is an offence to disturb the active nests of Barn Owls, this includes when they are making a nest, occupying a nest or have chicks still dependent on the nest for survival. Barn Owls can breed at any time of the year in the UK. Any offence under the Wildlife & Countryside Act 1981 (as amended) is punishable by up to a £5000 fine per individual animal impacted and up to 6 months in prison.

Informative



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.

#### 4.1.4 **SC Public Protection: 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 socket 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."

Recommend that construction times are conditioned.

#### 4.1.5 **Great Ness & Little Ness Parish Council: Objection**

Great Ness and Little Ness Parish Council object to this planning application on the grounds that the roads are too narrow and the location.

#### 4.1.6 **SC Highways: No objection**

Recommendation

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

Conditions

New Access

No development shall take place until details of the means of access, including the layout, construction and sightlines 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 means of access to the highway.

#### Informatives

We understand that the proposed access road would remain private and therefore a s38 won't be required. We must therefore clarify to the applicant that unless they enter into a s38 agreement with the LHA and the construction works are inspected, we won't consider them for adoption in future. If the access roads do remain private, the street name plates should state 'PRIVATE ROAD' or 'UNADOPTED ROAD' below the street name. This is to ensure the LHA aren't contacted regarding their upkeep in the future.

A licence will be required with the local highway authority for the proposed access before work can commence on site. Details of the process for obtaining a licence can be found on the following web page: [http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-\(dropped-kerb\)/](http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-(dropped-kerb)/)

#### Background

The local highway authority raised some concern over the scale of the scheme originally submitted by the applicant due to the site's position on the outside of the village and the lack of a footway connection along Wilcott Lane. However have now carried out a site visit and the scale of the development has been reduced we are less concerned at the site and hence we make no objection to the development.

Wilcott Lane is narrow between the site and its junction with the Old A5, but the narrow width and poor visibility at the Wilcott Lane/Old A5 junction should deter people from using this route. Instead to the south of the site Wilcott Lane has been improved with passing places and the route to the Old A5 via the Pentre Road is of a suitable standard to accommodate additional traffic from the development. As Wilcott Lane carries low volumes of traffic and travelled speeds are considered to be low we are of the opinion that for the scale of development proposed it forms an appropriate 'shared surface' route for walking between the site and the footway along the Old A5.

We have confirmed with the applicant that the required 2.4m x 43m visibility splays would be provided in the highway verge fronting the site.

## 4.2 Public Comments

4.2.1 **14 letters of objection have been received from 9 addresses** and have been summarised as follows:

#### Highway Safety

Development will increase traffic on narrow lanes; no pedestrian access available to the site the amended plans do not help those pedestrians walking from the site to the village; pedestrians will have to use the carriageway, not a suitable shared surface; danger to all who use the lane, those passing each other have to rely on other residences driveways to pass in; lane does not have a 30mph speed limit;

**Drainage**

Increase risk of flooding to neighbouring properties land on a slope with neighbours at the bottom; fail to see how development of the site would make things better; sewerage outflow needs to be addressed, no mains connection

**Wildlife**

Badgers present/adjacent to the site

**Amenity**

Loss of privacy to neighbouring properties; loss of view of open fields;

**Impact on village**

Development not in keeping with the design of the village; disproportionate growth added to other proposals will vastly change its character; not in keeping with the street pattern; not a preferred site; no provision for additional school facilities

**Nesscliffe Hills & District Bridleway Association - Objection**

Wilcott Lane forms part of the route for the Humphrey Kynaston Way long distance bridleway promoted by Shropshire Council, and funded by Natural England as part of its 'Paths for Communities' project, to connect rural communities, and to promote tourism. There is no off road or alternative route for horse riders to get to Nesscliffe from the south and west, to link to the popular routes in the Nesscliffe Countryside Heritage Park, and onward routes, so they have to use this lane.

Wilcott Lane is single track with passing places, with a short two way funnel on the exit to the Pentre Road. The lane from the proposed site up to the main road in Nesscliffe goes up a long bank and is very narrow, with no footway. There is no room on this section on the public highway to pass another vehicle, or to pass non motorised users, who have to use private house entrances in order to get out of the way to enable traffic to pass.

The plans, give the impression that visibility from the access to the proposed housing site is good. In fact there are unsighted bends in both directions towards Nesscliffe and towards Pentre. Also the proposed site access is shown to exit on a wide section of the road, but this is one of the few vehicle passing places on the lane. Vehicles turning in and out of the proposed new site entrance would impede those on the road attempting to pass other vehicles, or passing non motorised users such as horse riders.

For non motorised users travelling north along Wilcott Lane, the west side of the lane to the south of the proposed site has a metal barrier alongside a long section of the carriageway. The lane is narrow here, and there is no way for equestrians and other non-motorised users to get out of the way of traffic when travelling towards Nesscliffe, and they have to walk or ride along the narrow carriageway between the traffic and the metal barrier. Shropshire Council Highways are aware of problems with overrunning on the lane near to the proposed site entrance. Bollards have been erected in the past to try and prevent the overrunning damage but many of these were driven over, with the resulting broken bollards providing

extra hazards on the verge. The verge there is usually unusable by non motorised users due to it being overgrown.

Extra traffic generated by all these proposed 17 properties will make the situation on this narrow lane much worse.

Vehicles from and to the properties are unlikely to use Wilcot Lane, then Pentre Lane to the Great Ness Cross Roads, and then left on the old A5 to Nesscliffe, and vice versa, to visit, make deliveries etc and to reach the services, school and other facilities in Nesscliffe: they will use the shortest route up the very narrow section of Wilcot lane to the main road in Nesscliffe. Children will also have to use the roadway of this narrow section of the lane if they walk to school as there is no footway there, along with cyclists and horse riders.

There is no direct access from Wilcot Lane down onto the A5 Nesscliffe Bypass. Vehicles to and from the north are unlikely to travel all the way down the Nesscliffe Bypass to the south roundabout and then come back up the old A5. They are more likely to come off at the northern Wolfs Head roundabout and come down through Nesscliffe, and then turn down the narrow section of Wilcot Lane to access the proposed housing site. The extra vehicles that this proposed housing site will generate on this narrow lane will put equestrian and other non-motorised users at risk.

## **5.0 THE MAIN ISSUES**

**Principle of development**

**Sustainability**

**Affordable Housing**

**Access**

**Landscape/Visual Impact**

**Drainage**

**Ecology**

**Residential Amenity**

## **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. 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 daily 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 is 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%. The amended illustrative plans show that two of the proposed dwellings would be affordable dwellings and that the development would consist of 5 no. bungalows, 2 no. detached house and one pair of semi detached dwellings, this mix would help to 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 consists of an agricultural field. The Council's Ecologist has noted that the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) identifies that the field is in agricultural use for grazing and concludes that they have no objection to the scheme subject to the attachment of conditions and informative(s) in respect of badgers, bats and nesting birds.
- 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, this has been 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 51 dwellings (refs: 13/02901/REM, 14/00412/FUL and 14/03357/OUT). Whilst this application, stating up to 9 dwellings when added to those above will clearly further exceed the guidance figure the additional 9 dwellings now proposed would have little proportional cumulative impact on the settlement. Nesscliffe village as previously discussed is a sustainable settlement and is in a position where additional housing development could be accommodated.

- 6.2.9 Although Great Ness and Little Ness Parish Council have not supported the application, their concerns stated relate to the location of the site and the narrowness of the roads that lead to the site. The amendments to the application include reducing the proposed numbers of dwellings to 9 complies with the Parish Council's wishes as stated within SAMDev for sites to accommodate no more than 10 dwellings on any one site. It is considered that the site can accommodate the number of dwellings specified 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**

- 6.3.1 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 amended plans indicates that the scheme would provide 2 affordable units on site which would exceed this current required provision.

### **6.4 Access**

- 6.4.1 The amended illustrative plans show the access to the site created off Wilcott Lane that abuts the western side of the application site. The access would be sited approximately half way along the sites western boundary. The illustrative plans also show a pedestrian link provided within the site at its northern end granting pedestrian access out onto Wilcott Lane. Concerns relating to highway safety for pedestrian and vehicle users along Wilcott Lane have been raised by both local residents and the Parish Council.
- 6.4.2 Highways Officers have not raised any objections to the application noting that visibility splays of 2.4m x 43m can be proved for the new vehicular access and that whilst Wilcott Lane is narrow between the site and its junction with the old A5 it is of a suitable standard to accommodate additional traffic from the proposed development. They also consider that the existing low volumes of traffic using Wilcott Lane and speeds travelled as the road narrows forms an appropriate shared surface route for walking between the site and the footway along the old A5.



**6.5 Landscape/Visual Impact**

6.5.1 The proposed site forms an existing field that is currently used for grazing and extends to the east of Wilcott Lane, to the south of the existing residential properties that front onto the lane. The development of this site would extend the built form of the village along the lane utilising the next available field and would be contained within the existing field boundaries. 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.

**6.6 Drainage**

6.6.1 Council Drainage Officers have raised no objections to the application subject to conditions requiring details of surface water drainage to be submitted before development commences.

**6.7 Ecology**

6.7.1 No objections to the application have been raised by the Council's Ecologist following the submission of additional survey reports. The Ecologist notes that the site has the potential to support foraging and commuting bats and has recommended appropriate conditions relating to the provision of bat boxes, external landscaping and landscaping.

**6.8 Residential Amenity**

6.8.1 The immediate neighbours to the site have raised objections to the application on the grounds of potential overlooking and loss of privacy. The application site is located to the south of existing residential properties. The submitted illustrative site layout plans indicate how the site may be developed should outline planning permission be granted with a footpath link to the roadway sited at the north end of the site, closest to the village. This would result in any built dwellings being sited further away from the boundary to accommodate the footpath. It is considered by officers that the illustrative site layout plan demonstrates that sufficient distance could be provided to ensure that no significant detrimental impact would occur to the residential amenity of immediate neighbours through loss of privacy.

**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 9 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:

- ☐ 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, CS5, CS5, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

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

Planning File 14/03259/OUT

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

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 one year 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 details of the means of access, including the layout, construction and sightlines 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 means of access to the highway.

5. 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.

6. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days 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 nesting Barn Owls

7. Prior to the erection of any external street 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.

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

8. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 permitted as shown on a site plan. 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.

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

9. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

Reason: To ensure the protection of Badgers, protected under the Protection of Badgers Act (1992).

10. 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.

11. No burning shall take place on site including during clearance of the site.

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

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Committee and date

Central Planning Committee

12 February 2015

## Development Management Report

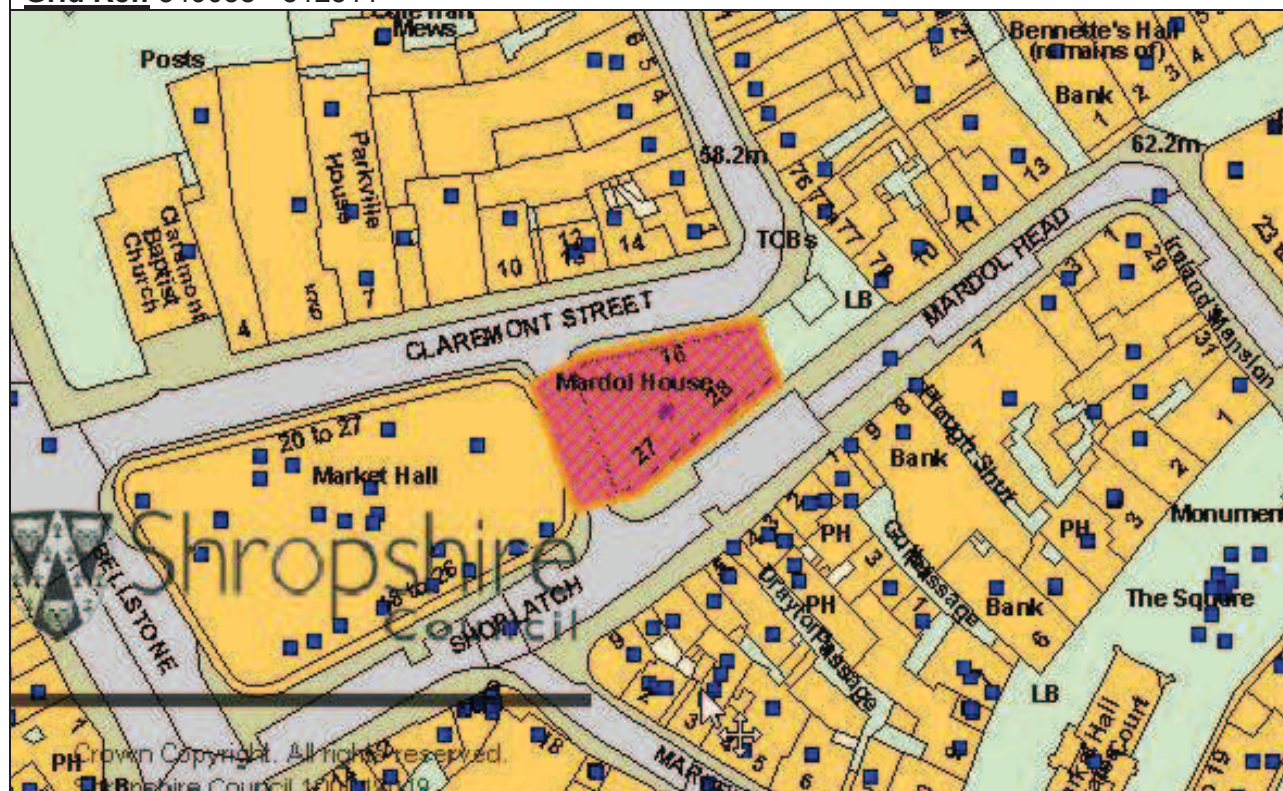
Responsible Officer: Tim Rogers

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> 15/00090/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Change of use from office space to student halls of residence to provide 85 units (large HMO Sui Generis use)		
<b>Site Address:</b> Mardol House Shoplatch Shrewsbury Shropshire SY1 1HS		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 349058 - 312511



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application relates to change of use of the upper floors of Mardol House from office space to student halls of residence to provide 85 units (large HMO Sui Generis use). Access to accommodation will be through the Managerial Suite adjacent to the Timpson shop and not the indoor market entrance. No external alterations are proposed other than a Gas Meter Housing Unit.

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

2.1 Mardol House is a large modern building sited in a highly visually prominent position adjacent to the Market Hall within the 'Town Centre Special Character Area' which makes up part of the larger Shrewsbury Conservation Area. The application affects all of the floors above the ground floor commercial shops currently occupied by Blacks.

### **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 it relates to an application made by the Council on land owned by the Council where the development is not in line with statutory functions.

### **4.0 Community Representations**

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

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

###### **Principles of Scheme:**

There is no objection in principle to the proposed new use of this centrally located building for student accommodation. It is not clear from the application however what if any modifications would be made externally to the building and this is of course important to assess given the building's prominent location within the Town Centre and the Conservation Area. Additional details in this regard are required. We would also recommend that all windows to student rooms are kept free of decoration/banners/flags etc. to ensure that the appearance of the building is maintained as such decoration could have a detrimental impact on the character and appearance of the area and the historic street scene.

###### **RECOMMENDATION:**

No objection in principle subject to further information regarding any external modifications proposed or required.



#### 4.1.2 **SC Public Protection - Specialist**

Having considered the proposal I have no comment on this application at this time. I can confirm that the property is exempt from requiring a licence as an HMO under housing legislation having discussed this aspect with housing specialists within public protection.

#### 4.1.3 **SC Drainage**

We have no comment from the drainage and flood risk perspective, regarding this proposal as there are no proposed changes to the footprint of the building.

#### 4.1.4 **Shropshire Fire And Rescue Service**

No comment

### 4.2 **- Public Comments**

#### 4.2.1 One letter received from a Town Centre resident summarised as follows:

- ☐ Commends the proposal to convert the unused office space in Mardol House to a hall of residence for students and that appropriate clauses to manage student behaviour are to be included in any tenancy agreements.
- ☐ Access to the Market Hall and its stalls via the staircase on the first mezzanine needs to be closed off so that all access to the Market Hall is denied when the market is closed.
- ☐ The plans for each of the floors show partitions between several rooms going across the windows which cannot be appropriate and will hazard the privacy and safety of the students and would also spoil the uniform appearance of the exterior.
- ☐ There is no mention of where refuse will be stored and how it would be collected.

#### 4.2.2 Shrewsbury Town Council: No objection

### 5.0 **THE MAIN ISSUES**

Principle of the proposed change of use  
Impact on the appearance of the building  
Impact on local and residential amenity

### 6.0 **OFFICER APPRAISAL**

#### 6.1 **Principle of development**

##### 6.1.1 This application relates to change of use of the upper floors of Mardol House from office space to student halls of residence to provide 85 units which is classed as a large HMO. Although this is a Sui Generis use it is a change of use to residential

accommodation. The residential accommodation is proposed in association with the arrival of 'University Centre Shrewsbury' in September 2015, a division of Chester University which will be based in Shrewsbury.

6.1.2 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 identifying Shrewsbury as the primary location for residential development. CS2 also supports development which promotes, protects and enhances the vitality and viability of Shrewsbury town centre. The university is expected to bring significant economic benefits to Shrewsbury and in particular the town centre economy.

6.1.3 The site is situated within a busy part of the Town Centre where there are predominantly retail or bar/restaurant premises. It will be within easy walking distance of the main teaching areas which are proposed to be located in the Guildhall at Frankwell. It is therefore considered that the proposed new use for this building is acceptable in principle.

## 6.2 Impact on the appearance of the building

6.2.1 No external alterations are proposed apart from a proposed Gas Meter Housing Unit. In dividing up the external space some partitions will abut existing windows but it is considered that this would not have any significant impact on the appearance of the building. The Conservation officer has commented that the student rooms are kept free of decoration/banners/flags etc. to ensure that the appearance of the building is maintained. However what students put up inside their rooms cannot be controlled but the display of banners, flags, posters or adverts on the exterior of the building would need permission.

## 6.3 Impact on local and residential amenity

6.3.1 There may be concern that the use of the building by students would result in noise and disturbance that might affect other occupiers of the building or local amenity. However this building is situated in a busy part of town and it is not considered that its use as a HMO would result in unacceptable noise and activity that would be discernible in this locality. In addition it cannot be presumed that the use of the building as a HMO would result in noise and activity any different to any other residential use of the building. There will also be clauses included in tenancy agreements to manage student behaviour. Students will also not have direct access to the Market Hall as access to the accommodation will be through the Managerial Suite adjacent to the Timpson shop, which will negate the need for use of the indoor market entrance. Consequently, access from Mardol House to the market via the first floor would be blocked avoiding any issues of security.

## 6.4 Other Matters

6.4.1 The proposal includes no parking provision and this is consistent with saved local plan policy T13, which discourages the provision of new parking within the Shrewsbury 'river loop', and is acceptable in this town centre location with good public transport. It is also noted that students are unlikely to own cars.

6.4.2 The proposed conversion will be subject to Building Regulations and also the Management of HMO Regulations 2006 legislation and this will ensure that the standard and maintenance of the accommodation is acceptable. Building Regulations approval would be required for the conversion works to cover the installation of additional plumbing and electrical works and to satisfy the requisite fire safety and acoustic standards. The Management of HMO Regulations sets out various responsibilities which landlords should comply with, including the provision of safety measures (e.g fire escapes, fire fighting equipment), a duty to provide waste disposal facilities and essential services such as water, gas and electricity and a general duty to maintain the living accommodation to an adequate standard.

## 7.0 CONCLUSION

7.1 It is considered that the proposed use of the upper floors of Mardol House as a house of multiple occupation is acceptable in principle in this sustainable location within Shrewsbury Town Centre. The site and building are deemed to be appropriate for the proposed use and adequate legislation is in place to ensure that the quality of accommodation provided is of an acceptable standard. The proposal would have no adverse impact on the appearance of the building or local amenity. The proposal therefore accords with the NPPF and Shropshire LDF policies CS2 and CS6.

## 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 six weeks 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 : Shrewsbury – Development Strategy

CS6 : Sustainable Design and Development Principles

Shrewsbury & Atcham Borough Local Plan (June 2001) Policies : Appendix 2 Car and Cycle Parking Standards.

### RELEVANT PLANNING HISTORY:

11/03031/FUL Removal and replacement of existing windows with double glazed units to match existing GRANT 19th August 2011

List of Background Papers: File 15/00090/FUL

Cabinet Member (Portfolio Holder): Cllr M. Price

Local Member: Cllr Andrew Bannerman

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 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.



Committee and date

Central Planning Committee

12 February 2015

## 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> 14/01802/FUL	<b>Parish:</b>	Westbury
<b>Proposal:</b> Installation of a 30m high wind turbine with control box and associated works		
<b>Site Address:</b> Hargreaves Farm Halfway House Shrewsbury Shropshire SY5 9DH		
<b>Applicant:</b> P And P Hughes		
<b>Case Officer:</b> Kelvin Hall	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 331935 - 310372



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 The application seeks permission for the erection of a 225kW wind turbine with control box and associated works. The turbine would have a three bladed rotor attached to the nacelle, on a monopole steel tower. The swept diameter of the rotor blades would be 29 metres. The tower would be 30 metres from ground to the hub, and the maximum height of the turbine from ground to tip of blade would be 45 metres.

1.2 A control unit would be sited alongside the turbine, and have dimensions 3 metres x 2.5 metres x 2.5 metres high. It is proposed that the colour of the turbine would be RAL 7035 (Light Grey), however the applicant has confirmed that the colour can be as agreed with the local planning authority. The turbine would generate electricity during wind speeds of 4 – 25 m/s. The application states that the useful life of the turbine is expected to be around 30 years.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 Hargreaves Farm is an arable and pasture farm extending to 68 hectares, and includes large areas of hillside above the main farmstead. The application site is located in the centre of a pasture field, at an elevation of around 225 metres AOD. An area of woodland, parts of which are designated as ancient woodland, is located approximately 70 metres to the north. The height of the trees within this area is estimated to be 22-23 metres.

2.2 The nearest property is Hargreaves Cottage, approximately 530 metres to the west. The nearest public right of way runs in a generally northwest to southeast direction, approximately 380 metres to the southwest of the application site. Listed Buildings in the area include the Grade II\* Listed Hargreaves Farmhouse (approximately 600 metres to the west), Grade II Listed Buildings at Hall Mill (approximately 790 metres to the northwest), and the Grade II Listed dovecote at Marche Manor (approximately 880 metres to the east). The boundary of the Shropshire Hills Area of Outstanding Natural Beauty is approximately 6.6km to the southeast.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Local Member has requested that the application is decided by Planning Committee, and this request has been agreed with the Committee Chair and the Development Manager.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

4.1.1 **Westbury Parish Council** The Parish Council neither object nor support the application. The Parish Council voted 3 for and 3 against this proposal. There was worry that granting this turbine would create a precedent for others to be erected on the Long Mountain, subject of course to the radar signature from RAF Shawbury



not being affected. It was recognised that the applicants had moved the turbine site down the mountain, and that for the future sustainability of the farm, there were limited income generation possibilities for the farmers. It was thought that if this were to go ahead, at £300k or similar it represented a significant local infrastructure development, and therefore the applicants should be encouraged to follow the spirit of the Localism Act and make a suitable contribution to the local community.

4.1.2 **Trewern Community Council (adjacent council in Powys, representing Middletown, Trewern, Buttington, Cefn and Hope)** No response received.

4.1.3 **English Heritage** Does not object. The proposed development would have an impact on the setting of a number of heritage assets, including nationally important scheduled monuments.

The proposed wind turbine will have an impact on the setting of a number of nationally important heritage assets, by the introduction of an industrial element to an otherwise fairly rural context. It is acknowledged that the rail line and roads run between some of the assets and the proposed location of the turbine but in general these are screened by vegetation and do not markedly detract from the rural setting of the assets. The distance between the assets and the proposed location reduces the impact but it will still introduce a change into the setting of the assets.

English Heritage would not object to the proposed turbine but we would recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4.1.4 **CADW** No response received.

4.1.5 **MOD** No objections. The application is for 1 turbine at 45.07 metres to blade tip. The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Further comments from the MOD are as contained in the informative in Appendix 1.

4.1.6 **Shropshire Hills AONB Office** No response received.

4.1.7 **Powys County Council** No response received.

4.1.8 **SC Public Protection** No objections. The information provided in the Design and Access statement and subsequent manufacturer data has been considered in making this response. The noise data predicts that the nearest residential property is 640m away from the proposed location of the turbine. It is predicted that noise levels would be 31.1 dB(A) at a distance of 650m from the base of the turbine when the wind speed is 10m/s. As a result noise at the nearest residential receptor is predicted to be below the 35dB(A) level which would trigger the need for further assessment including background surveys on site according to the document "A good practice guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise" written by the Institute of Acoustics. As a result it is not

considered that any further assessment is required. It should be stressed that the noise data put forward is not general in respect that no noise data has been collected on the ground in the location proposed however it is specific to the wind turbine and I have no reason to question the noise levels put forward. As a result I have no objection in principal to the proposed development subject to the fact that a specific wind turbine has been specified and found to be suitable. Therefore should this application be granted permission I would recommend that a condition is imposed to require that the turbine is installed with the dimensions as proposed (see Appendix 1).

Given the turbine type, location and predicted noise emissions, I do not consider that significant noise disturbance is likely to arise from the installation. I therefore have no objection to the proposals. However, it is recommended that conditions are attached to cover the following: restricting noise emissions to 35db LAeqT; a requirement to maintain the turbine in accordance with the manufacturer's specifications; a requirement to measure and assess noise emissions if a justified complaint is received, and to cease operation if the specified level is confirmed as being exceeded (see Appendix 1).

With regards to shadow flicker I have consulted guidance and due to the position of the turbine it is not likely that any residential property in the vicinity will be affected by shadow flicker to a point which would be considered reasonable as stated in guidance on this matter.

4.1.9 **SC Drainage** No comments.

4.1.10 **SC Highways** No objections. The proposed wind turbine will be located a sufficient distance from any public highway not to present a danger if it should collapse. It is not clear if the installation will be visible from any public highway but in its proposed position I do not consider that it will cause an undue distraction to passing drivers. The construction of the turbine will require the delivery of large component elements and mass concrete. There are no details provided in the application as to how these will be delivered, but it would appear that they will be taken onto site via the existing main farm entrance. Should this not be the case and a temporary access arrangement be required, I would recommend that a construction management plan should be provided by the developer prior to any works commencing and once approved, implemented during the construction phase. I do not consider that there will be any vehicular access needed afterwards, other than for an occasional light maintenance vehicle.

4.1.11 **SC Rights of Way** No objections.

4.1.12 **SC Trees** No objections.

4.1.13 **SC Ecologist** No objections.

Bats: To avoid the danger of accidental collision with bats, it is advised that turbines of 30m or more to hub height are sited over 50m from the nearest hedge or tree. From the submitted plans it appears that this is the case and in this circumstance no bat activity or breeding bird surveys are required.

Nesting birds: No hedge or tree removal is indicated in the plans and with the existing gaps in hedgerows this should not be required.

#### 4.1.14 **SC Historic Environment team (Archaeology and Conservation)**

The proposed development comprises the erection of a 30m to hub height at c650m east of Hargreaves Farm.

The revised Heritage Assessment and associated additional photomontages and other visuals now meet the requirements set out in Paragraph 128 of the NPPF, thus enabling the impacts of the proposed development on the significance of the heritage assets affected to be determined.

It is noted from their consultation response, provided on 8 January 2015, that English Heritage does not object to the proposed development. However, they do indicate that the proposed development would impact on the settings of a number of designated heritage assets. Whilst acknowledging that the corridors of the A458 and the railway runs between some of these assets and the proposed development site, they indicate that in their opinion that, since they are at least partially screened by mature vegetation, they do not overly detract from the rural character of their settings.

On balance the Historic Environment team is in agreement with English Heritage's advice. It is observed, however, that the greatest impacts will be to the settings of the Scheduled Monuments of ringwork 540m north of Lane Farm and the motte castle 200m south west of Bretchel, together with the Grade II\* Listed Building at Hargreaves Farmhouse. With regard to the two Scheduled earthwork castle sites, the photomontages from Viewpoints 04 and 02 respectively illustrate that the full height of the turbine would be fully visible and largely unscreened from both locations, breaking the skyline on the higher ground to the south. This would introduce an incongruous modern element into the strategically significant views southwards from these monuments that would detract to some extent from their appreciation. It is, however, acknowledged that the turbine would be located at distances of over 1.5km from both assets, and would therefore represent one point in a wider panoramic view. In the case of Hargreaves Farmhouse, the Heritage Statement and the wireframe provided for Viewpoint 2 indicate that the upper section of the proposed turbine, including the full sweep of the rotor, would be visible from the building and its immediate environs. The setting of this building has a strong rural character and what modern buildings there are either agricultural or of a temporary nature, and do not therefore overly detract from one's ability to appreciate its significance.

Given the above, it is considered that the proposed turbine would impact on significance of these heritage assets as a consequence of development of their settings, but that in each instance this would amount to less than substantial harm. It is therefore advised in relation to Paragraph 134 of the NPPF that the decision taker needs to weigh this harm against the public benefits the proposed development would deliver. In the case of Hargreaves Farmhouse, when undertaking this balancing exercise the decision taker also needs to be mindful of the requirement, under Section 66(1) of the Planning (Listed Building and

Conservation Areas) Act 1990, to have 'special regard' to protecting the setting of the Grade II\* Listed Building.

With regard to direct impacts, it is advised that the archaeological potential of the proposed development site is considered to be low. In this respect, no further archaeological mitigation will be required as a condition of any planning consent.

If the decision taker is minded to approve the proposed development, it is advised that the turbine should be of an appropriately muted colour to reduce, in so far as is possible, its wider visibility in the landscape. Further, that some additional off-site tree planting with appropriate deciduous native species might, over time, reduce the visibility of the turbine from Hargreaves Farmhouse.

The applicant has indicated that they are willing to undertaking some tree planting to achieve screen the proposed turbine. If the decision taker is minded to approve the proposed development it is therefore advised that a standard landscaping condition is included on an planning permission.

## 4.2 Public Comments

4.2.1 There have been 206 letters of objection received and 55 letters of support.

Reasons for objection can be summarised into the following points:

- Visual impact, both locally and at distances further than 15km away
- Visual impact on Long Mountain, and on Stiperstones within the AONB
- motivation behind the application is not to benefit a local business but to make the farm more valuable, allowing the owner to sell the farm for more money.
- Adverse impact on quality of life due to noise
- Loss of property value
- Adverse effects on tourism
- Will impact financially on tourism businesses, such as caravan parks and holidays lodges
- Concern over precedent and possibility of further similar developments
- Impact on wildlife, such as Red Kites, Buzzards (both protected), Bats, Swallows and Larks
- No benefits to the community, only to the landowner
- acoustic assessor is no independent
- turbine would damage the environment due to materials used and short lifespan
- misleading photographs in visual impact assessment
- Government has advised that Britain already has enough wind turbines to meet wind generated energy targets
- Impact on aviation safety
- Solar panels or bio fuels should be used instead
- Revised application has not altered the height of the turbine and has increased output from 50kw to 250kw

- developments of this sort can interfere with other electronic and telecommunications equipment (radio, wi-fi, mobile phones etc.)
- query why Cardeston turbine is not included in cumulative visual assessment

#### 4.2.2 Reasons for support can be summarised into the following key points:

- visual impact would not be significant and turbine would barely be noticeable
- objectors have greatly overestimated the noise impact
- environmental benefits (e.g. reduction in greenhouse emissions) albeit on a small scale and there is a general feeling of support for green energy
- large pylons are far more of an eyesore, as are power plants
- two holidays parks have been created nearby after the erection of 2 nearby wind turbines
- questionable that tourism would be affected
- diversification should be supported, as should the sustainability of two young farmers' business

### 5.0 THE MAIN ISSUES

- Policy and principle of development
- Pre-application community consultation
- Siting, scale and design; impact on landscape character
- Local amenity and safety considerations
- Ecological considerations
- Community benefits; economic considerations
- Historic environment considerations

### 6.0 OFFICER APPRAISAL

#### 6.1 Pre-application community consultation

6.1.1 Under an Order which took effect in 2013 there is a statutory requirement that applicants undertake pre-application consultation on proposals for wind turbines.

6.1.2 The current application follows on from an earlier application for a wind turbine at land on land approximately 600 metres to the southwest that was submitted in 2013 and then subsequently withdrawn (ref. 13/04228/FUL). As a result of local concerns raised by that application, the current application proposes that the turbine would be located on a lower elevation than previously proposed. The applicant's agent has advised that account has been taken of the concerns of local residents. In particular the new proposal is for a smaller turbine (to the hub) and being located much lower down in altitude on the farm in order to reduce any concerns relating to visual, and to make every effort to mitigate the concerns expressed. The applicant's agent has advised that the applicant also attended the Westbury Parish Council to provide details on the proposal and to answer any questions.

6.1.3 On the basis of the above, it is considered that the steps taken by the applicant can be generally accepted as meeting the requirements of the 2013 Order.

## 6.2 Policy and principle of development

- 6.2.1 At the heart of the NPPF is a presumption in favour of sustainable development. Para. 93 states that planning plays a key role in supporting the delivery of renewable energy, and that this is central to the economic, social and environmental dimensions of sustainable development. One of the core planning principles set out in the National Planning Policy Framework (NPPF) is to support the transition to a low carbon future. This includes encouraging the use of renewable resources. The Planning practice guidance on renewable and low carbon energy reiterates the benefits of increasing the amount of energy from renewable and low carbon technologies by helping to make sure the UK has a secure energy supply, reduce greenhouse gas emissions and stimulate investment in new jobs and businesses.
- 6.2.2 The Shropshire Core Strategy provides similar support by stating that the generation of energy from renewable sources should be promoted (Strategic Objective 1), and that renewable energy generation is improved where possible (Policy CS6). Further, Policy CS8 positively encourages infrastructure that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, where this has no significant adverse impact on recognised environmental assets.
- 6.2.3 In relation to economic considerations, one of the core planning principles of the NPPF is to proactively drive and support sustainable economic development. Core Strategy Policy CS5 allows for small-scale new economic development that diversifies the rural economy, including farm diversification schemes (although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts). In addition Policy CS13 supports rural enterprise and diversification of the economy.
- 6.2.4 The proposed development comprising the installation of a wind turbine would produce renewable energy. It is estimated that the turbine would produce in the region of 442,000 kwh at a wind speed of 6.0m/s (the estimated average wind speed at the site is 6.0m/s), which would provide enough electricity to power around 90 average UK homes. This would reduce reliance on non-renewable energy sources and thereby contribute to a reduction in carbon emissions and increase the security of energy supply. The NPPF states that planning authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (para.98).
- 6.2.5 In relation to farm diversification, the application states that the generation of renewable energy as proposed would benefit the applicant by reducing reliance on imported electricity, and it would create an income stream through guaranteed payments for exported power under the Feed-in-Tariff. The Parish Council recognises that for the future sustainability of the farm, there are limited income generation possibilities for the farmers. The proposal would therefore provide a financial benefit to the farming enterprise, thereby improving the economic viability of the farm business and contributing to securing the future of the farm. In this respect the proposal would have notable economic benefits.

6.2.6 On the basis of the above, it is considered that there is significant national and local planning policy support in principle for the proposal.

6.3 **Siting, scale and design; impact on landscape character**

6.3.1 Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the natural environment and be appropriate in scale and design taking into account the local context and character, having regard to landscape character assessments.

6.3.2 Siting: The application states that the proposed location of the turbine seeks to achieve a balance between maximising its output whilst protecting environmental and residential receptors. It states that the distance of the turbine from residential properties has been maximised in order to provide certainty that noise and shadow flicker effects to nearby residences would be acceptable. These matters are discussed further below.

6.3.3 Landscape typology:

6.3.4 The site lies within an area defined as Pasture Hills in the Shropshire Landscape Typology document published by the former Shropshire County Council. Key characteristics are described as prominent sloping topography; hedge fields with mainly ancient origins; pastoral land use; dispersed settlement pattern; medium to large scale landscape with filtered views.

6.3.5 The application is accompanied by Landscape and Visual Impact Assessments (LVIA). The applicant states that the most recent photos were produced using a 50mm lens and camera format recommended by Scottish Natural Heritage (SNH) as one of the most suitable and appropriate to use in photomontage production of wind turbines and wind farms. High the eye would see in the field.

6.3.6 The LVIA recognises that there is no right to a view. It states that the presence of buildings would reduce the visibility of the turbine from the village of Westbury, and from the main road through Halfway House. It states that a small number of residential properties within 3km would have an open aspect towards the turbine. For these residents, the LVIA evaluates their sensitivity to change as medium and the magnitude of change as slight. The LVIA considers that topography and the abundance of vegetation would help to screen the turbine from public rights of way. However it does recognise that from public rights of way, such as those within approximately 1km from the site, where clear views of the proposal would be available, a significant change in the view of these receptors would occur.

6.3.7 The LVIA has assessed impacts on visual amenity with reference to a number of public viewpoints, principally from public roads, from a range of distances, altitudes and directions. It considers that the impact on visual amenity from these viewpoints would be moderate/minor, and in some cases, minor. It considers that the proposal would not be detrimental to the existing landscape character or quality, and that the majority of public views would be from relatively long distances of 1km or more. In conclusion the LVIA concludes that the proposed turbine would have a limited effect on the baseline conditions in terms of both landscape character and visual amenity.

- 6.3.8 It is accepted that views of the site are frequently restricted due to intervening hedgerow, mature trees and the surrounding topography. In addition it is accepted that there are existing agricultural buildings, residential properties, and other man-made structures such as public highways in the general area. Nevertheless the proposed turbine and control unit would be sited at an elevated position (around 225m AOD), and on a relatively exposed part of the hillside. The turbine would introduce a feature not currently seen in the immediate area of this rural location (albeit that there are other turbines within the wider landscape), and would be taller than the trees in the nearby woodland. As such, where it is visible the turbine would have a degree of local impact. It is considered that the topography of the area and the existing woodland blocks in the vicinity would serve to limit unrestricted views of the turbine, nevertheless it would still be clearly visible from some public viewpoints. It is considered that the findings of the LVIA that there would only be a small number of properties within 3km with an open aspect of the turbine can be accepted. It is considered that the existence of the turbine may reduce the enjoyment of users of public rights of way in the area, where the turbine is visible. However it is accepted that users of these paths would be passing through the landscape and the turbine would only occupy a small part of the overall view.
- 6.3.9 The significant level of local opposition that has been received to the proposal is acknowledged, albeit that the amount of support for the scheme should also be noted. Nevertheless, whilst the site is within an attractive landscape, it is noted that it is not located within an Area of Outstanding Natural Beauty (AONB). Land within the AONB is visible from the application site. However, at a minimum distance of 6.6km away it is not considered that views of the turbine and control unit from the AONB would be significant and as such it is not considered that the visual qualities of the AONB would be adversely affected. The efforts made by the applicant to address local concerns by re-siting the turbine at a lower elevation and closer to an area of woodland which can provide some screening are acknowledged.
- 6.3.10 The turbine and control unit would have some impact on the local landscape and on visual amenity, and the magnitude of this is subjective. However on balance it is not considered that the level of impact would override the significant policy support for renewable energy developments of this nature. Furthermore, a condition can be imposed to require the removal of the turbine and control unit once it is no longer required or has passed its useful life.
- 6.3.11 Cumulative landscape impact and cumulative visual impact:  
Following advice from Officers, an additional Landscape and Visual Impact Assessment (LVIA) was submitted to further investigate the potential cumulative landscape and visual impact of the proposal, in respect of other turbines in the area. The LVIA has focussed specifically on the existing turbines at Braggington Hall (3.2km away), Hole Farm (2.9km away) and Wattlesborough Hall (3.6km away). The existing operational turbine at Cardeston has not been included in this further assessment but it should be noted that this is approximately 8km from the site, and therefore some considerable distance away.



- 6.3.11 Cumulative landscape impact: In relation to cumulative landscape impacts, planning policy guidance for renewable energy states that these are the effects of a proposed development on the fabric, character and quality of the landscape. It states that it is concerned with the degree to which a proposed renewable energy development will become a defining characteristic of the landscape, when seen in the context of other similar forms of development.
- 6.3.12 The additional LVIA states that fieldwork was unable to find visibility of all three of the closest operational turbines from any of the eight original viewpoints used in the visual assessment work. It states that at most, there would be cumulative visibility with one of these turbines from four of these viewpoints, with the remaining four viewpoints gaining no visibility of any of these operational turbines. It states that where there was visibility of existing turbines, this was consistently as part of a detailed view where the operational turbine would be a distant and discernible but not prominent element.
- 6.3.13 The additional LVIA has also assessed cumulative visibility from more elevated locations. It states that, from viewpoints B and C, all three of the operational turbines are discernible elements of the existing character of the landscape from these vantage points but that these viewpoints also indicate the extremely limited proportion of the overall view that the proposed turbine would occupy. It states that the addition of the proposed turbine within the current landscape context would result in a negligible change in landscape character.
- 6.3.14 On the potential for cumulative impacts on landscape character, the additional LVIA concludes that cumulative visibility of the Hargreaves turbine with other operational turbines would be very occasional, from a distance and generally (where available) of only one other turbine, with the result that cumulative impacts on landscape character would be extremely limited and not significant.
- 6.3.15 It is accepted that the character of the landscape in which the proposed site is located is well vegetated and undulating. This restricts the extent to which the existing operational turbines are, and the proposed turbine would be, visible beyond their respective local areas. It is noted that there are a small number of existing operational turbines in the area of the application site, and this in itself restricts the degree to which this type of development could be described as becoming a defining characteristic of the landscape. Overall, it is considered that the findings of the additional LVIA regarding cumulative impact on landscape character can be generally supported. As such it is not considered that the proposal would result in adverse cumulative impact on the landscape character of the area when considered in relation to existing turbines.
- 6.3.16 Cumulative visual impact: The renewable energy guidance states that cumulative visual impact concerns the degree to which the proposal will become a feature in particular views, and the impact this has upon the people experiencing those views. It states that cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. It states that it should not therefore be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts.

- 6.3.17 The additional LVIA assesses combined visibility, successive visibility and sequential visibility in relation to cumulative visual impacts. In terms of combined visibility, it recognises that from some viewpoints it would be possible to view the proposed turbine with one other operational turbine within the same 90 degree angle of view, i.e. without turning one's head. However it considers that such viewpoints do not represent consistent or recurrent views, and states that it is rare within the general landscape that more than one wind turbine would be clearly visible within a single view due to the well vegetated nature of the local landscape. In terms of successive visibility the LVIA also recognises that from some viewpoints it would be possible to see more than one turbine in a wider field of view, i.e. by turning one's head.
- 6.3.18 Whilst it would be possible to see more than one turbine from the same point, it is considered that this would only be the case for a limited number of viewpoints in the general area. Where this is possible it is considered that the view one or both turbines would be relatively distant, and would not be significant in the overall view.
- 6.3.19 In terms of sequential visibility, i.e. that experienced during a journey through the area, the LVIA considers that visibility of the other turbines in the area is intermittent and often partial.
- 6.3.20 The principal road route through the area is the A458. Whilst it is accepted that views of individual turbines are possible along different sections of this road, these views are generally short lived and partial due to existing vegetation and topography, rather than being open and clear views. It is accepted that views of individual turbines are variable when passing through the landscape, and that widespread visibility of each turbine is not possible. Overall it is considered that the visibility of the proposed turbine in combination with existing turbines would be minimal, and that any cumulative visual impact would not be unacceptable.
- 6.4 **Local amenity and safety considerations**
- 6.4.1 Core Strategy Policy CS6 (Sustainable Design and Development Principles) states that development should safeguard residential and local amenity.
- 6.4.2 Noise impact considerations:  
The planning application includes a prediction of noise levels at the nearest dwellings, based upon the sound power level of the turbine. This indicates that noise at the nearest properties would be less than 35db(A). The noise assessment concludes that the noise levels associated with the turbine would be low and that under most operating conditions it is likely that turbine noise would be completely masked by the background noise from the wind blowing through the trees and buildings and the shear distance from the turbine. It states that there would therefore be no noise disturbance to the neighbouring properties.
- 6.4.3 Based upon the details provided of noise levels the Public Protection Officer has confirmed that no further assessment is required. However the Officer has advised that planning conditions should be imposed on any permission granted to ensure that noise levels do not exceed the specified limit, and that noise monitoring is undertaken if complaints are received in order to provide reassurance of ongoing

compliance with the noise limits. The recommended conditions are set out in Appendix 1 below.

6.4.4 Shadow flicker and reflected light:

The application recognises that shadow flicker can cause a problem to nearby properties early in the morning or late in the evening, due to the rotating blades interrupting the light from the sun when the turbine is between the property and the sun. Based upon the dimensions of the proposed turbine the application states that care should be taken to ensure that any house within 291 metres (i.e. 10 rotor diameters) at a direction from 120 degrees west to 120 degrees east of the turbine location does not have a light sensitive outlook towards the turbine. The application states that as there are no properties within this range it is highly unlikely that any property would be affected by shadow flicker.

6.4.5 Based upon consideration of published guidance the Public Protection Officer has advised that it is not likely that any residential property in the vicinity of the turbine would be adversely affected by shadow flicker, due to the position of the turbine. On the basis of current guidance it is not therefore anticipated that that shadow flicker issues would arise.

6.4.6 Impact on air traffic safety

The application recognises that wind turbines can have an effect on aviation with rotating blades having the potential to impact on certain aviation operations, particularly those involving radar. The Ministry of Defence has advised that the principal safeguarding concern with respect to wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installation. Based upon the dimensions and location of the proposed turbine the MOD has raised no objections to the proposal on these grounds.

6.4.7 The applicant has used an assessment tool to indicate the potential for the proposed turbine to interfere with TV and radio reception, and has advised that this indicates that the development would not affect any properties.

6.4.8 General public safety considerations:

Surrounding land is in the private ownership of the applicant, and the nearest publicly accessible area is the public right of way approximately 380 metres from the site. No objections have been raised by the Rights of Way Officer. It is considered that the turbine would be sited a sufficient distance away from this footpath to avoid safety hazards, and any deterrent to users of the path. On this basis it is therefore considered that the proposal is acceptable in relation to Core Strategy Policies 7, 16 and 17 regarding the protection of the rights of way network.

6.4.9 Private health considerations:

Representation have been made by a local resident in respect of concerns that the proposed turbine may directly affect an existing health condition affecting member of the family, through flickering of the turbine blades. This matter has been discussed with the resident, who has requested that a copse of trees is planted on land between the property and the turbine in order to provide screening of the turbine. The applicant has confirmed that this can be undertaken, and has

confirmed that the land is within their control. Whilst it is not the function of the planning system to protect private views per se, it is considered that these are specific circumstances that justify the provision of mitigation measures to address an identified health issue. It is understood that the resident is satisfied with this approach. This planting, or alternative measures if deemed appropriate, can be secured through a planning condition (see Appendix 1).

6.4.10 Based upon the above assessment it is not considered that the proposal would result in adverse impact on residential or local amenity, subject to the imposition of the recommended conditions, and is therefore in line with Core Strategy Policy CS6.

## 6.5 **Ecological considerations**

6.5.1 Core Strategy Policy CS17 (Environmental Networks) seeks to protect and enhance the diversity, high quality and local character of the natural environment, and to avoid significant adverse impact on environmental assets. Policy CS6 (Sustainable Design and Development Principles) requires that all development protects, restores, conserves or enhances the natural environment.

6.5.2 The proposed turbine would be sited on pasture land and as such it is not anticipated that its construction would result in the loss of land of particular ecological value. The Council's Ecologist has advised that, as the turbine would be located in excess of 50 metres from the nearest tree or hedgerow, no bat activity or breeding bird survey is required. On the basis of available information it is not considered that the proposal raises specific ecological issues. It can therefore be accepted in relation to Core Strategy Policies CS6 and CS17 regarding the protection of natural resource and environmental assets.

## 6.6 **Community benefits; economic considerations**

6.6.1 The Parish Council considers that the applicants should be encouraged to make a suitable contribution to the local community. Renewable UK, the renewable energy trade association, has published a Community Benefit Protocol, which sets out commitments for renewable energy developers to provide community benefits based upon the capacity of the proposal. However this only covers those wind farms of 5MW and above installed capacity. The current proposal for Hargreaves Farm would provide significantly less than this (224kw), and is therefore not covered by the Protocol. In any event, any community benefits by way of financial or similar contributions, would need to be negotiated independently of this planning application.

6.6.2 Core Strategy Policy CS16 gives support to sustainable tourism, and seeks to promote connections between visitors and the natural, cultural and historic environment. There is significant local concern that the proposed turbine would adversely affect tourism in the area, and therefore have a detrimental impact on local businesses. These concerns are acknowledged, and the importance of avoiding adverse impacts on rural tourism businesses is recognised. Nevertheless it is considered that there is insufficient evidence that the installation of the turbine would have a significant impact on local tourism.

**6.7 Historic environment considerations**

6.7.1 Core Strategy Policies CS6 and CS17 require that development proposals protect and conserve the built and historic environment, and do not adversely affect the heritage values of these assets. Planning practice guidance states that a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting.

6.7.2 Following advice received by English Heritage and the Council's Historic Environment team a further Heritage Report has been submitted. The Council's Historic Environment Officers confirm that this meets the requirements of para. 128 of the NPPF to provide an assessment to enable an understanding of the potential impact of the proposal on the significance of heritage assets. The updated Heritage Report has assessed the impact of the proposal on Scheduled Monuments, Listed Buildings and the Westbury Conservation Area.

**6.7.3 Scheduled Monuments:**

The Heritage Report states that the turbine would not be visible from Caus Castle or Hawcocks Mount due to intervening topography. It states that the turbine would be at least partially visible from eight Scheduled Monuments. However it considers that due to a number of factors including the distance from these heritage assets, the limited size of the proposal and the partial visibility of the proposed turbine, no material impacts on the significance, setting or appreciation of these Scheduled Monuments would occur. In the assessment of the level of impact on each asset, the Report states that the proposed turbine would have a minor adverse impact on one Scheduled Monument, and a moderate/minor adverse impact on three Scheduled Monuments. It considers that due to factors such as intervening distance, location and partial views, there Heritage Report states that the proposed turbine would have no effect on either the setting or the significance of the remaining four Monuments.

**6.7.4 Listed Buildings:**

The proposed turbine would be located approximately 600 metres from the Grade II\* Listed Hargreaves Farmhouse. The Heritage Report acknowledges that the full rotor sweep of the turbine would be visible from the property. The Heritage Report considers that, given the medium sensitivity of the asset, the turbine would have a moderate/minor adverse impact on the setting of the Listed Building. It states that the turbine would be partially visible from Vennington Farmhouse (approximately 1.6km to the southeast), and assesses this as a moderate/minor adverse impact.

6.7.5 The Heritage Report has also assessed the impact of the proposal on the setting of other Listed Buildings in the wider area, including two at Hall Mill (approximately 790 metres away), Marche Manor (approximately 880 metres away), Winnington Hall (approximately 1.4km away), Lower Trefnant Farmhouse (approximately 1.6km away), and The Porch House (approximately 1.5km away). It concludes that the

impact of the proposal on these Listed Buildings would be no greater than minor adverse. The Heritage Report concludes that whilst there would be partial visibility of the turbine from Listed Buildings, there would be no material impacts on their significance, setting or special interest.

- 6.7.6 In the case of Hargreaves Farmhouse, the Heritage Statement and the wireframe provided for Viewpoint 2 indicate that the upper section of the proposed turbine, including the full sweep of the rotor, would be visible from the building and its immediate environs. The setting of this building has a strong rural character and what modern buildings there are either agricultural or of a temporary nature, and do not therefore overly detract from one's ability to appreciate its significance.
- 6.7.7 Conservation Area: The Heritage Report states that there would be no effect upon the special interest of Westbury Conservation Area, or upon its character or appearance. It is noted that Westbury Conservation Area is located approximately 2.8km from the application site. It is accepted that views of the turbine from central parts of the Conservation Area would be unlikely to be possible due to the built up nature of the village. In any event it is considered that any views of the turbine from the Conservation Area would be at such distance that adverse impact on the character of the area would be avoided.
- 6.7.8 Whilst not objecting to the proposal, English Heritage has advised that the turbine would have an impact on the setting of a number of nationally important heritage assets, by the introduction of an industrial element to an otherwise fairly rural context. The Historic Environment Officer considers that the proposed turbine would introduce an incongruous modern element into the strategically significant views southwards from the Scheduled Monument ringwork (approximately 1.56km to the north) and motte castle (approximately 1.7km to the northeast), and that this would detract to some extent from their appreciation. The Officer does acknowledge however that the turbine would be located at a distance of over 1.5km from both assets, and would therefore represent one point in a wider panoramic view. The Officer considers that, whilst the proposed turbine would impact on significance of these heritage assets as a consequence of development of their settings, in each instance this would amount to less than substantial harm. Therefore in relation to para. 134 of the NPPF it is necessary to weigh this harm against the public benefits of the proposed development. There is also a need, under Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, to have 'special regard' to protecting the setting of the Grade II\* Listed Building.
- 6.7.9 In relation to the comments of the Historic Environment team regarding the need for landscaping, the applicant has confirmed that the applicant owns the land between Hargreaves Farmhouse and the application site, and has identified an area of land where tree planting could be undertaken. This area is at a relatively elevated position, and it is considered that the planting of a copse of trees would in time reduce the extent to which the turbine would be visible from the Listed Building. It is considered that details of species, numbers and location of this planting can be agreed by an appropriate planning condition. However in principle it is considered that the provision of tree planting in this area would be an appropriate means of reducing the impact of the turbine on the setting of the Listed Building to acceptable

levels.

- 6.7.10 In relation to the proposed development the public benefits relate to the generation of renewable energy, and are as set out in section 6.2 above. The proposal would also help to improve the economic viability of the farmholding, as also discussed in section 6.2 above. The identified harm that the proposal would have on heritage assets is fully acknowledged, however on balance it is considered that the benefits of the proposal outweigh this level of harm.

## 7.0 **CONCLUSION**

- 7.1 The proposal for the generation of renewable energy is supported in principle by the NPPF and planning policies and guidance. The significant number of local objections to the proposal are recognised. However it is not considered that the impacts of the proposed turbine on residential amenity would be unacceptable or cannot be satisfactorily mitigated through conditions. The impacts of the proposed wind turbine on landscape character, visual amenity and on the setting of heritage assets including Listed Buildings need to be given careful consideration. However on balance, it is not considered that the identified harm to these natural and heritage assets is sufficient to outweigh the benefits of the proposal in terms of the generation of renewable energy and through farm diversification. As such it is considered that the proposal can be accepted in relation to Development Plan and national planning policy and guidance, and that planning permission can be granted subject to the conditions set out in Appendix 1 below.

## 8. **Risk Assessment and Opportunities Appraisal**

### 8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks 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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

## 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9. Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### 10.1 Relevant Planning Policies

#### 10.1.1 Shropshire Core Strategy

This promotes a low carbon Shropshire by promoting the generation of energy from renewable sources (Strategic Objective 1)

- Policy CS5 (Countryside and Green Belt) – new development will be strictly controlled in accordance with national planning policies protecting the countryside; development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to:
  - Small-scale new economic development diversifying the rural economy, including farm diversification schemes, although proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts;



- Policy CS6 (Sustainable Design and Development Principles) – requiring designs of a high quality to respect and enhance local distinctiveness, mitigating and adapting to climate change; improving renewable energy generation where possible; ensuring that all development: protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character; contributes to the health and wellbeing of communities, including safeguarding residential and local amenity; makes the most effective use of land and safeguards natural resources;
- Policy CS8 (Facilities, Services and Infrastructure Provision) which positively encourages infrastructure that mitigates and adapts to climate change, including decentralised, low carbon and renewable energy generation, where this has no significant adverse impact on recognised environmental assets
- Policy CS13 (Economic Development, Enterprise and Employment) to develop and diversify the Shropshire economy, and seek to deliver sustainable economic growth. Emphasis to include: supporting rural enterprise
- Policy CS17 (Environmental Networks) – to identify, protect, enhance, expand and connect Shropshire’s environmental assets

## 10.2 Central Government Guidance:

10.2.1 National Planning Policy Framework (NPPF): Amongst other matters, the NPPF: encourages the use of renewable resources (para. 17 - Core Planning Principles); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); advises that lpa’s recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve applications if its impacts are (or can be made) acceptable (Chapter 10); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11).

10.2.2 Planning practice guidance for renewable and low carbon energy (March 2014), states that the particular planning considerations relating to wind turbines include: noise impacts; safety; interference with electromagnetic transmissions; ecology; heritage; shadow flicker and reflected light; energy output; cumulative landscape and visual impact; decommissioning.

## 10.3 Emerging policy:

10.3.1 Site Allocations and Development Management (SAMDev) document: The SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. The site and surrounding area are not subject to any specific allocations in the SAMDev.

10.3.2 Draft Development Management policies: Relevant draft Development Management policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD8 (Infrastructure Provision)
- MD12 (Natural Environment)
- MD13 (Historic Environment)

**10.4 Relevant Planning History:**

- 13/04228/FUL Installation of a 50Kw 36.7m high wind turbine (46.3m blade height) with control box and all associated works, Hargreaves Farm, withdrawn 19<sup>th</sup> December 2013

**11. Additional Information**

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

The application ref. 14/01802/FUL and supporting information and consultation responses.

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts (Loton)

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 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. No development shall take place until details of the external colour and finish of the turbine hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and permanently retained as such.

Reason: To ensure a satisfactory colour in order to protect the local landscape character.

4. No development shall take place until details of the control unit, including detailed siting, external materials and colour, have been submitted to and approved in writing by the local planning authority.

Reason: To ensure a satisfactory design and appearance in order to protect the local landscape character.

5. No development approved by this permission shall commence until a mitigation scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:
  - (i) details of landscape planting to reduce the visibility of the turbine from Hargreaves Farmhouse, and
  - (ii) details of landscape planting or other mitigation works to reduce the visibility of the turbine blades from The Butts.

The submitted details shall include: location and specification of species; method of maintenance; provision for replacement of any failures; timetable for implementation.

The approved scheme shall be implemented as approved, and in accordance with the approved timetable.

Reason: To ensure the protection of residential amenity in recognition of the health concerns of the resident of The Butts, and to protect the setting of the Listed Building.

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

6. The specification of the turbine shall be as specified in the revised Design and Access statement received on 22nd August 2014.

Reason: To protect the amenity of the area.

7. The noise emissions from the wind turbine (including the application of any tonal penalty) shall not exceed a sound pressure level of 35dB LAeqT at 8m/s hub height wind speed free field at the curtilage of any dwelling (including garden areas) lawfully existing at the time of this consent (excluding that in the ownership or control of the applicant extant at the time that planning permission was granted).  $T = (4 \times \text{Turbine blade diameter})$  seconds.

Reason: In order to protect the amenities of the occupiers of nearby properties and the area in general.

8. The wind turbine hereby permitted shall be maintained to operate and perform in accordance with the manufacturers specifications/recommendations.

Reason: In order to protect the amenities of the occupiers of nearby properties and the area in general.

9. Following notification from the Local Planning Authority (LPA) that a justified complaint has been received, the wind turbine operator shall, at their own expense, employ a suitably competent and qualified person to measure and assess, by a method to be approved in writing by the LPA, whether noise from the turbine meets the specified level. The assessment shall be commenced within 21 days of the notification, or such longer time as approved by the LPA. A copy of the assessment report, together with all recorded data and audio files obtained as part of the assessment, shall be provided to the LPA (in electronic form) within 60 days of the notification. The operation of the turbine shall cease if the specified level is confirmed as being exceeded.

Reason: In order to protect the amenities of the occupiers of nearby properties and the area in general.

10. Within 6 months of the wind turbine ceasing to be used for the generation of electricity, it shall be permanently removed from the site and the site restored in accordance with details to be submitted to and approved in writing by the local planning authority prior to these works being carried out.

Reason: To avoid the unnecessary accumulation of redundant structures in the open countryside.

11. All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the

occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

### **Informative(s)**

1. 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.
2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework  
National Planning Practice Guidance

Shropshire Core Strategy policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS8 Facilities, Services and Infrastructure Provision  
CS13 Economic Development, Enterprise and Employment  
CS17 Environmental Networks

3. Defence Infrastructure Organisation Safeguarding (DIOS) has requested that they are advised of the following:
  - the date construction starts and ends;
  - the maximum height of construction equipment;
  - the latitude and longitude of every turbine.

DIOS has advised that this information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

The contact details are: Kalie Jagpal, Assistant Safeguarding Officer, Ministry of Defence, Safeguarding - Wind Energy, Kingston Road. Sutton Coldfield, West Midlands B75 7RL E-mail: DIOODC-IPSSG2a2@mod.uk

4. 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 vegetation clearance 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.



<u>Committee and date</u>
Central Planning Committee
12 February 2015

## Schedule of Appeals and Appeal Decisions

<b>LPA reference</b>	13/03709/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs J Kwaterski
<b>Proposal</b>	Erection of six bedroom dwelling following demolition of existing dwelling and garage.
<b>Location</b>	Spring Cottage, Lyth Hill, Lyth Bank, Shrewsbury.
<b>Date of application</b>	13.09.2013
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	01.07.2014
<b>Date of appeal</b>	21.08.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	11.11.2014
<b>Date of appeal decision</b>	05.12.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/00518/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Morris Property
<b>Proposal</b>	Outline application (access, layout for approval) for mixed residential development; formation of a vehicular access and associated infrastructure.
<b>Location</b>	Development Land Adj Oaklands, Holyhead Road, Montford Bridge, Shrewsbury.
<b>Date of application</b>	05.02.2014
<b>Officer recommendation</b>	Approval
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	16.06.2014
<b>Date of appeal</b>	09.09.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	18.11.2014
<b>Date of appeal decision</b>	19.12.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01328/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr R. G. Hinds
<b>Proposal</b>	Erection of a pair of semi detached dwellings following demolition of existing building and workshop.
<b>Location</b>	Land At Green Lane, Shrewsbury.
<b>Date of application</b>	26.03.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	19.08.2014
<b>Date of appeal</b>	10.09.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	18.11.2014
<b>Date of appeal decision</b>	17.12.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/02495/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr C Aston
<b>Proposal</b>	Erection of 1 .No dwelling
<b>Location</b>	16 The Moors, Cressage, Shrewsbury.
<b>Date of application</b>	05.06.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	05.08.2014
<b>Date of appeal</b>	17.09.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	25.11.2014
<b>Date of appeal decision</b>	19.12.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	



<b>LPA reference</b>	14/00743/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Shropshire Homes Ltd
<b>Proposal</b>	Outline application for residential development (to include access).
<b>Location</b>	Development Land West Of Bryn Road, The Mount, Shrewsbury.
<b>Date of application</b>	19.02.2014
<b>Officer recommendation</b>	Approval
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	06.05.2014
<b>Date of appeal</b>	22.09.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	25.11.2014
<b>Date of appeal decision</b>	08.12.2014
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>
<b>Details</b>	

<b>LPA reference</b>	14/03064/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs M Jones
<b>Proposal</b>	Outline application for the erection of a dwelling to include access.
<b>Location</b>	Land Adjacent To The Magnolias, Merrington, Bomere Heath, Shropshire.
<b>Date of application</b>	09.07.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	26.08.2014
<b>Date of appeal</b>	14.10.2014
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	15.12.2014
<b>Date of appeal decision</b>	05.01.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/03111/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr And Mrs Wheeler
<b>Proposal</b>	Outline application for the erection of a detached bungalow and garage to replace the existing cafe/shop.
<b>Location</b>	Jessamine Cottage, Kenley, Shrewsbury.
<b>Date of application</b>	10.07.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	22.09.2014
<b>Date of appeal</b>	12.12.2014
<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>	14/02223/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Ms T Wood
<b>Proposal</b>	Outline application (access for approval) for the development of one (open market) dwelling.
<b>Location</b>	Proposed Dwelling Rear Of Home Farm Barns, Pulverbatch, Shrewsbury.
<b>Date of application</b>	19.05.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	21.08.2014
<b>Date of appeal</b>	12.12.2014
<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 11 November 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 5 December 2014**

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**Appeal Ref: APP/L3245/A/14/2224294**

**Spring Cottage, Lyth Hill, Lyth Bank, Shrewsbury, SY3 0BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs J. Kwaterski against the decision of Shropshire Council.
  - The application Ref 13/03709/FUL, dated 12 September 2013, was refused by notice dated 1 July 2014.
  - The development proposed is new build six bedroom house following the demolition of an existing dwelling and garage.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development proposed on:
  - The character and appearance of the area; and
  - The living conditions of neighbouring occupants, with particular regard to outlook and privacy.

### Reasons

#### *Character and appearance*

3. The appeal site is situated within Lyth Hill, which is a rural settlement approximately 6 miles from Shrewsbury. The site is accessed via an unclassified road and set within a small group of dwellings. There is an existing dwelling on the appeal site, Spring Cottage, which is a bungalow. There is also a detached garage situated towards the front of the appeal site.
4. The Cottage's external surfaces are rendered and painted white and there is some timber detailing around the eaves which adds some visual interest. Overall, its appearance is that of a modest cottage which is simple in form. Whilst there is some diversity in the streetscene in the surrounding area and some properties may have been extended, close to the appeal site the majority of dwellings are either bungalows or two storey dwellings with a simple cottage appearance.
5. Spring Cottage is set within a large plot with mature gardens and this gives the appeal site a spacious feel. Neighbouring dwellings are also set within relatively spacious grounds. The existing dwelling and the neighbouring

properties are situated in an elevated position and from the rear garden area of the property, there are commanding views of the surrounding countryside. This adds to the open and spacious feel of the area and enhances its rural setting. The character of the area is therefore defined by a small collection of simple, cottage style houses and bungalows set within spacious plots in a predominantly rural setting.

6. I understand that Spring Cottage itself has an association with the Shropshire author, Mary Webb, in that she built the property with her husband sometime after 1900 and wrote several pieces of work there. As such, many local residents and the Mary Webb Society value the cottage for its connections with her. Although an application was made to English Heritage to consider whether the property should be listed in recognition of this connection, they decided not to list the property at that time. This was because the cottage was extensively altered in the 1950s and as such only a small part of the original cottage can now be seen. Spring Cottage is therefore not statutorily listed and is not within a Conservation Area. Therefore, whilst I acknowledge the value which many people place on the historical and literary connections of the original dwelling to Mary Webb, based on the information before me, there is no specific policy or planning designation which would prevent the proposal to demolish Spring Cottage in principle. I also note that the appellant's would be willing to erect a plaque commemorating Mary Webb's connection with the site, were the appeal to succeed.
7. The appeal proposal would see the demolition of the existing cottage and garage at the appeal site and the construction of a new dwelling. The dwelling proposed would include a cinema in the basement. The proposed ground floor area would include a utility room, kitchen, family room, dining room, lounge, study, orangery, swimming pool and guest accommodation (including a bedroom, lounge and shower room) and a triple garage. The proposed first floor accommodation would include a master bedroom, a gym, storage rooms and a studio. There is also a proposed second floor element which would include a home office and loft space. The proposed dwelling would be situated more centrally within the appeal site and would form a 'U' shape around a central courtyard area.
8. For the purposes of the development plan, the appeal site is within the open countryside. The Council's 'Type and Affordability of Housing' Supplementary Planning Document (SPD) (Adopted September 2012) outlines the Council's approach to proposals for replacement dwellings in the countryside. These include several considerations which require the size of replacement dwellings in the countryside to be controlled for reasons which include which, the visual impact of large buildings in rural areas and the need to ensure the development is sympathetic to the character and appearance of the original building. The SPD goes on to specify that the bulk, height and external appearance of the resultant dwelling will be taken account of. There is also a requirement to be sympathetic to the size, mass, character and appearance of the original building.
9. The Council accepts that for the purposes of local policy, the existing dwelling on the appeal site is neither small nor low cost. However, in so far as it is relevant to this appeal proposal, the main thrust of the Council's approach is to seek to control the size of dwellings in the countryside in order to ensure that the visual impact of such dwellings is sympathetic to its context.

10. The existing floor area of Spring Cottage is approximately 220 metres<sup>2</sup>. There is some dispute between the parties as to the floor area of the proposed dwelling. This is because, the appellant's position is that some of the areas of the proposed dwelling including the basement, swimming pool and orangery would be ancillary accommodation and should not therefore be considered as part of the habitable area of the dwelling.
11. There is no specific reference in the local policies before me or indeed national policy (specifically the National Planning Policy Framework) which states that when assessing the effect of a proposal on the character and appearance of the area, that only the 'habitable' part of a dwelling should be taken account of. The submitted plans show that the 'ancillary' accommodation proposed would be an integral and indivisible part of the proposed dwelling. As such, I consider that regard must be had to the proposal in its entirety which includes both the 'habitable' and 'ancillary' parts of the dwelling proposed as part of my consideration of the main issue which I have identified above. I shall therefore determine this appeal on that basis.
12. Amended plans were submitted during the Council's consideration of the proposal which reduced the floor area proposed by approximately 60 metres<sup>2</sup>. However, even taking that into account, the total floor area proposed would be approximately 890 metres<sup>2</sup>. In the interests of clarity, this figure takes account of both the 'habitable' and 'ancillary' accommodation for the reasons given above. This would represent an increase of approximately 335% when compared with the size of the existing dwelling on the appeal site.
13. The appeal proposal would therefore result in a significant and substantial increase in the scale of built development on the appeal site when compared with the existing situation. The maximum ridge height of the dwelling proposed would also be increased to approximately 9.8 metres which would be substantially higher than the 5.2 metres approximate ridge height of the existing cottage. The plans also show that the width and depth of the proposed dwelling would appear much larger in scale and mass when compared with the more modest proportions of the existing dwelling.
14. The proposed dwelling would therefore be significantly larger in scale, height and mass when compared with the existing dwelling on the appeal site. The proposal would also not reflect the predominant scale of built form in the area. It would also appear much grander in scale and design than the simple cottage style appearance of neighbouring properties. For these reasons, I consider that the development proposed would be seen as an incongruous feature that would neither relate to nor reflect the local context within which it would be situated.
15. Although there may be some diversity in the streetscene, I was not able to observe any dwellings in close proximity to the appeal site of a similar scale, design or mass as the development proposed. The appeal site may be of a large plot size such that sufficient space about the proposal could be retained. I also note that the proposal would be constructed using sustainable design principles. However, these matters do not outweigh the harm that I have identified.
16. The appeal site does benefit from screening along its boundaries. However, the site is visible from an access tracks to the south and west of the appeal site. As such, the appeal proposal would be seen from public viewpoints in the

highway by users of those tracks, including local residents accessing their properties and also passing pedestrians.

17. I appreciate that the appeal proposal has been designed to maximise views of the South Shropshire Hills from the site. However, this consideration does not outweigh the harm which I have identified above.
18. Accordingly, I conclude that the appeal proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy CS6 of the Council's CS which seeks to ensure, among other things, that all development is appropriate in scale and design, taking account of the local context and character; and the Council's SPD (as set out above). The proposal would also conflict with paragraph 64 of the Framework which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

*Living conditions*

19. There are two neighbouring properties situated close to Spring Cottage, known as Middlemarch and Furze Cottage. Middlemarch shares an access with Spring Cottage and is located next to the existing dwelling at the front of the site. Furze Cottage is situated next to the back garden area of the site, towards the rear.
20. Spring Cottage is situated approximately 62 metres from the rear elevation of Furze Cottage and approximately 44 metres from the boundary of its rear garden area. The appeal proposal would be situated approximately 49 metres from the rear elevation of Furze Cottage and approximately 24 metres from the boundary of its rear garden area.
21. There is a difference in land levels between the two sites, with the appeal site being situated slightly higher than Furze Cottage. The submitted plans indicate that the proposed ridge height would be approximately 3.43 metres higher than Furze Cottage. However, the finished floor levels of the proposal would be approximately 1.1 metres lower than the existing appeal dwelling. This would have the effect of reducing the overall height of the proposed dwelling. However, it would still be taller than both Furze Cottage and Spring Cottage itself.
22. The appeal proposal would therefore be located closer to and higher than Furze Cottage when compared with the existing situation. There is a window in the rear elevation of Furze Cottage which serves a bedroom which looks directly towards the appeal site. From this window Spring Cottage is visible. However due to its modest scale, positioning within the site and the separation distance involved, it is not an obtrusive feature when viewed from this position. The outlook from this window is defined by the rear garden areas of both dwellings and has an open, spacious outlook with limited views of neighbouring dwellings in close proximity.
23. The proposed dwelling would be situated further to the west on the appeal site and therefore more centrally situated when viewed from the rear bedroom window of Furze Cottage. Taking into account the scale, mass, height and siting of the development proposed in combination with the difference in land levels; I consider that the appeal proposal would have a harmful overbearing

- effect on the living conditions of the occupants of Furze Cottage. This is because the appeal proposal would dominate the outlook when viewed from the rear bedroom window and this would substantially detract from the open and spacious outlook which the occupants of Furze Cottage currently enjoy.
24. I acknowledge that the separation distance proposed would still exceed the good practise distance of 21 metres between habitable room windows and 7 metres between first floor windows and boundaries. However, separation distances which may be appropriate in areas such as established housing estate may not always be appropriate in every situation. For these reasons, I have assessed this appeal proposal in relation to the particular circumstances of the site and its immediate surroundings. This includes the more spacious, rural setting within which the dwellings are situated.
  25. The submitted plans show that a first floor level balcony is proposed on the south elevation of the dwelling which would serve a master bedroom. There is also a Juliette Balcony proposed at second floor level on the south elevation which would serve a home office.
  26. These balconies would face towards the rear elevation of Furze Cottage and its rear garden area. The cottage has a sitting out area and the garden is well maintained with an area that appeared to be in use as a vegetable plot. Spring Cottage is currently largely screened from view by the existing boundary treatment in place and the garden area of Furze Cottage has a private, secluded feel as a result.
  27. Whilst I acknowledge the separation distances proposed, I also have concerns that both the proposed first floor balcony and second floor Juliet balcony would increase opportunities for overlooking to occur. This is because future occupants of the dwelling proposed would be in an elevated position when compared with Furze Cottage and they would be situated substantially closer when compared with the existing situation. As such, I am not satisfied that the existing vegetation would effectively screen the proposal when viewed from Furze Cottage.
  28. For these reasons, I consider that the proposal would lead to a loss of privacy for the occupants of Furze Cottage when using their garden area to sit out in and relax or to grow and cultivate plants. I also have concerns that the proposal would lead to a loss of privacy for the occupants when using their rear bedroom.
  29. The appeal proposal would be positioned slightly further into the plot when compared with the footprint of the existing dwelling on the site. As a result, the submitted plans show that the separation distance between the proposal and the neighbouring dwelling, Middlemarch, would increase from approximately 12 metres to 16 metres. This proposed increase in the separation distance between the two dwellings would be an improvement when compared with the existing situation.
  30. Spring Cottage has no first floor windows which face towards Middlemarch. The plans show a proposed balcony at first floor level which would serve a studio. The balcony would be approximately 16 metres from the side elevation of Middlemarch at its closest point and would have a finished floor level of approximately 3 metres.

31. The proposed balcony would therefore be in close proximity to Middlemarch and would be in an elevated position when compared with that dwelling. There is some dispute between the appellants and the neighbouring occupants as to the use of the curtilage around Middlemarch. However, based on the information before me, I understand that the occupants use that area for parking, an occasional seating area and for entertaining visiting relatives, including young children. As a result of the balcony proposed, I consider that opportunities for overlooking of this outdoor area would increase significantly when compared with the existing situation. This would lead to a loss of privacy which would be harmful to the living conditions of the occupants of Middlemarch when using their outdoor area to sit out in and relax or to entertain visitors.
32. Although the appellants have indicated that the proposed dwelling would be no higher than Spring Cottage, the submitted plans indicate that the element closest to Middlemarch would have a ridge height of approximately 7.5 metres. Based on the information before me, this would be higher than the existing ridge height of Spring Cottage at this point.
33. Whilst the proposed dwelling would be situated slightly further away than Middlemarch, it would be higher when compared with the existing situation. Taking the proposed scale, height and massing of the proposal, I consider that the development proposed would be seen as an overbearing feature that would be harmful to the living conditions of the occupants of Middlemarch when using their outdoor area.
34. I acknowledge that there is some mature vegetation in place along the shared boundary between Spring Cottage and Middlemarch. However, the majority of it is no higher than the existing boundary fence. Although there are some trees in place, these are deciduous birch trees and would not therefore effectively screen the development proposed during the entire year. Whilst there are also some conifer type trees, these are situated further to the side and would not therefore sufficiently screen the proposal when seen from viewpoints within the curtilage of Middlemarch. For these reasons, I consider that the existing boundary treatment in place would not overcome the harm that I have identified.
35. I note that the appellants have indicated that they would be willing to accept a condition to control any additional planting considered necessary along this shared boundary. However, this may increase shading to the curtilage area of Middlemarch, particularly given the height of the balcony proposed. This would in itself be harmful to the living conditions of its occupants, with regard to light and outlook.
36. Accordingly, the development proposed would be harmful to the living conditions of neighbouring occupants at Furze Cottage and Middlemarch, with particular regard to outlook and privacy. The proposal would therefore conflict with policy CS6 of the Council's CS which states, among other things, that all development should safeguard residential amenity. The proposal would also conflict with one of the core planning principles of the Framework which state, among other things, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings (paragraph 17).



## Other Matters

37. In my decision, I have had regard to paragraph 49 of the Framework which states that housing applications should be considered in the context of the presumption in favour of sustainable development. Although not specified as a reason for refusal in their decision notice, the Council officer's report does raise concerns that the appeal site is not a sustainable location for the construction of a dwelling due to limited access to services and facilities via sustainable transport modes.
38. Whilst future occupants of the dwelling proposed may be likely to choose to rely on a private car in order to access services and facilities, I must take account of the existing situation. Specifically, there is an existing dwelling on the site which this appeal proposal intends to replace. As such, existing occupants of the dwelling are likely to be reliant on the private car for the reasons described. Overall, there would therefore be likely to be no net increase in the amount of car journeys as a result of the appeal proposal. There are also neighbouring properties close by and so the appeal site is not within an isolated location. Given the circumstances I have described, I consider that the likely use of the private car by future occupants to access services and facilities is therefore a neutral consideration overall.
39. I acknowledge that the proposal would create jobs during its construction phase. However this would only be for a short duration and any economic benefit would therefore be limited as a result. The proposal would provide space for an extended family or elderly relative to stay in, which would be of limited social benefit. A large part of the existing garden would be retained and re-landscaped and designed with the intention of improving biodiversity which would be of limited environmental benefit, given the scale of the proposal.
40. However, the Framework does not adopt a narrow definition of sustainability, with paragraph 9 advising that pursuing sustainable development involves seeking positive improvements to the quality of the built and natural environment. In this case, the limited sustainability benefits which I have identified do not outweigh the harm that I have found would be a consequence of the development proposed. This is because the development proposed would be likely to have a detrimental effect on both the character and appearance of the area and the living conditions of neighbouring occupants.
41. I note the appellant's reference<sup>1</sup> to examples of schemes for replacement dwellings which have been allowed. However, there is little specific information before me as to the reasons why those schemes were granted permission on each occasion. Additionally, the main issues which I have identified in this case relate to the particular circumstances of the appeal site and its close context. I have therefore assessed this appeal proposal on that basis and on its own merits.
42. The occupants of Furze Cottage have submitted some additional measurements and calculations which seek to assess the effect of the proposal. However, I note that the appellants dispute some of these calculations. Therefore, whilst I have had regard to the relevant representations, in the interests of clarity, I

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<sup>1</sup> 'Planning and Development Appraisal' submitted with the original application

have referred to the measurements and the calculations which the Council and appellants have used in the documents submitted with this appeal.

43. I note the concerns raised by a neighbouring occupant regarding use of an access which is shared with Spring Cottage. However, these are private matters and not planning considerations which would be relevant to my determination of this appeal.

**Conclusion**

44. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR



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## Appeal Decision

Site visit made on 18 November 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 19 December 2014**

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**Appeal Ref: APP/L3245/A/14/2225192**

**Oaklands, Holyhead Road, Montford Bridge, Shrewsbury, SY4 1EE**

- 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 Morris Property against the decision of Shropshire Council.
  - The application Ref 14/00518/OUT, dated 3 February 2014, was refused by notice dated 16 June 2014.
  - The development proposed is 'Outline application (access, layout for approval) for mixed residential development; formation of a vehicular access and associated infrastructure.'
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all other matters except access and layout reserved for determination at a later stage.
3. The description of development set out in the original application referred to the proposed erection of 35 dwellings. However, a revised layout plan was submitted during the Council's consideration of the application which shows 34 proposed dwellings. The Council determined the proposal on that basis and so shall I. Taking account of this, the description of development in the banner heading above is that which both parties have referred to and which the appellants have used in the appeal form.
4. Although the Council officer's report does identify some policies from the Council's Core Strategy (Adopted March 2011), the Council principally determined the application with regard to the National Planning Policy Framework (the 'Framework'). Indeed, the Council's decision notice does not identify any local development plan policies and refers only to the Framework. Therefore, whilst I have had regard to the policies submitted by the Council, I have determined this appeal principally in relation to the Framework.

### Main Issues

5. The main issues are:
  - The effect of the development proposed on the local economy, with regard to the supply of agricultural land in the area;

- The principle of the development proposed with regard to the principle of sustainable development;
- Whether the proposal would make adequate provision for local needs affordable housing.

## Reasons

### *The local economy and the supply of agricultural land*

6. The appeal site is currently an arable field, approximately 2.99 hectares (ha) in size and is in the settlement of Montford Bridge. It is located between the A5 bypass the Holyhead Road (the B4380). Part of the appeal site has been actively farmed and has been identified as grade 3 agricultural land. In addition, part of the site has been used for the historic extraction of sand and gravel.
7. The Council have referred to concerns as to the adverse impact on the economic viability of the local area by taking high grade agricultural land out of production as a result of the development proposed. In calculating the amount of agricultural land that would be lost as a result of the appeal proposal, I must take account of the existing situation. An outline planning permission (Ref 13/00464/OUT) has previously been granted for the erection of five detached dwellings with garages on part of the appeal site. This area is approximately 0.5 ha. The part of the site which was a former quarry is not in active agricultural use is approximately 0.6 ha.
8. Therefore, taking these factors into account, the actual amount of land on the appeal site which is actively farmed and that would be lost as a result of the appeal proposal would be approximately 1.89 ha.
9. Paragraph 112 of the Framework states, among other things, that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
10. There is little specific information before me as to the supply of agricultural land in the local area. It is therefore uncertain as to whether there is a specific shortfall. However, based on the information before me, I am satisfied that the loss of 1.89 ha would be unlikely to result in the significant development of agricultural land as described in the Framework.
11. Paragraph 112 of the Framework also states that account should be taken of the economic and other benefits of the best and most versatile agricultural land. The appellants have referred to some figures provided by their agricultural land agent which state that the profit margin of the land is approximately £1200 per hectare per annum. Taking into account that 1.89 ha of agricultural land on the appeal site would be lost as a result of the development proposed, this equates to an annual income of approximately £2268 as a result of the site being actively farmed. This amount would therefore be lost to the local economy as a result of the development proposed.
12. However, there are additional economic factors associated with the development proposed which must also be considered. If the appeal were to succeed, this would create approximately 51 construction jobs. Although I acknowledge these jobs would be of limited duration, this is a benefit

- nonetheless. I also note that the appellants are a local developer and would therefore seek to employ local construction workers from the Shrewsbury area.
13. Were the appeal to succeed, the proposal would also result in a New Homes Bonus being payable (equating to approximately £298,000) and a Community Infrastructure levy (CIL) charge which would be approximately £348,000 of which 15% (approximately £52,2000) would be payable direct to the Parish Council.
  14. The appellants have also referred to some general economic data relating to the economic contribution of the average household to the local economy and also average household expenditure. Although future residents of the appeal proposal may not choose to work or do all of their shopping in the local area, future occupants would nevertheless be likely to make a positive contribution overall to the local economy in this regard.
  15. Therefore whilst there would be a small loss to the local economy as a result of the appeal site no longer being actively farmed, I consider that this amount would be outweighed by the additional economic benefits associated with the proposal, were the appeal to succeed.
  16. Accordingly, I conclude that the proposal would not have an adverse effect upon the economic viability of the local area by taking high grade agricultural land out of production. The proposal would therefore not conflict with paragraph 112 of the Framework in this respect.

*The principle of sustainable development*

17. The Parish Council and local residents have raised concerns that there are limited services within the village and that future occupants of the development proposed would need to rely on services outside of the area, traveling extensively to do so.
18. Montford Bridge is a rural settlement. In terms of existing services and facilities, there is a public house. A church and a village hall are also located to the south of the A5 bypass. The village of Bicton is situated approximately one mile away and there is a church, school, village hall and recreation area there.
19. There is also a bus service in the village which provides connections to the towns of Shrewsbury and Oswestry, where a wide range of services and facilities are available. The highway authority provided comments during the Council's determination of the application which noted the inclusion of walking route connections with the village so that future occupants would be able to gain access to the nearby bus stops and public house. They also noted that a continuous footway connection is available to Shrewsbury, which is approximately 4km from the site.
20. Based on the information before me, I am therefore satisfied that there are a range of services and facilities within the local area that future occupants could access via sustainable transport modes should they choose to do so. These considerations amount to sustainable benefits which weigh in favour of the proposal. I acknowledge that future occupants would need to travel to different settlements in order to access some of these. However, the Framework is clear that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller

settlements, development in one village may support services in a village nearby (paragraph 55).

21. Both parties have referred to a local shop, which I understand has now closed and has been converted to a dwelling. The appellants have stated that they intend to submit a revised application which would include a proposed new local shop adjacent to the site entrance. The provision of a new local shop may be of social and economic benefit to future occupants and residents of the wider village. However, that does not form part of the appeal proposal before me. Given the circumstances I have described above, I am satisfied that the lack of a local shop in close proximity to the appeal site would not in itself result in a lack of access for future occupants to a wide range of services and facilities sufficient to meet their day to day needs.
22. I note the appellant's reference to one of my previous appeal decisions<sup>1</sup>. Whilst I did state that being likely to be reliant on the private car would not be an unusual situation in rural areas; that comment was made in the context of the particular circumstances of that case. That appeal scheme related to the removal of a holiday let occupancy restriction and the subsequent creation of two open market dwellings. Essentially, the appeal turned on Green Belt policy and whether the appeal building was suitable for conversion to open market dwellings. As such, the principle and scale of the development proposed was different to this appeal proposal before me. I have therefore determined this appeal on its own merits and with regard to the particular circumstances of the case before me.
23. The Council and local residents have also expressed concern as to the number of houses proposed as part of the appeal scheme. Policy CS4 of the Council's Core Strategy (Adopted March 2011) refers to the identification of Community Hubs and Clusters that will be identified in the 'SAMDev DPD'. The purpose of these Hubs and Clusters is essentially to contribute to the sustainability of rural communities through allowing development that helps rebalance rural communities by providing, among other things, housing for local needs.
24. The Council's emerging 'SAMDev DPD' does identify Montford Bridge as a proposed Community Cluster Settlement. It also proposes ten additional dwellings for the village during the plan period (2011-2026). However, the 'SAMDev DPD' has not yet been subject to an independent Examination. Based on the information before me, the level of housing provision proposed is a matter where there are a significant number of outstanding objections. Therefore, in accordance with paragraph 216 of the Framework, I attach limited weight to the 'SAMDev DPD' policy referred to.
25. I note that reference has been made to the Montford Parish Plan which states that the number of houses proposed for the village should be no more than five houses. However, there is nothing in the Framework which suggests that the level of housing provision in a local area should be considered to be a maximum figure. I must therefore attach limited weight to this consideration.
26. I appreciate the concerns expressed by local residents and the Parish Council as to the number of dwellings proposed as part of this appeal scheme. However, given the circumstances I have described above, there is little specific information before me to suggest that an additional thirty four

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<sup>1</sup> APP/L3245/A/13/2210381 Decision date: 18 September 2014

dwelling would have a significant adverse effect on the village in terms of increasing its size or the ability of the services within it to provide for existing residents. Indeed, the provision of additional dwellings may well help to retain services and enhance the vitality of rural communities in the local area.

27. Additionally, the appellant has referred to the housing land supply situation in the Council area. In my determination of this appeal, I must have regard to paragraph 49 of the Framework, which states that housing applications should be considered in the context of the presumption in favour of sustainable development. The appeal proposal would result in an additional thirty four dwellings. This is therefore a matter which weighs significantly in favour of the appeal proposal.
28. Drawing matters together, there are a number of sustainable development factors which I have identified which weigh in favour of the appeal proposal. Specifically, there are a range of services and facilities available in the village and the wider area which future occupants may choose to access via sustainable transport modes. The appeal proposal would also see the provision of thirty four additional dwellings which would be a social and economic benefit to the local area.
29. In the first part of my decision, I concluded that whilst the proposal would lead to an economic loss in terms of the site no longer being actively farmed, this would not be significant and would be outweighed by the economic benefits associated with the appeal scheme. This matter also weighs in favour of the appeal proposal with regard to the principle of sustainable development.
30. The appeal scheme would result in the loss of some arable land, were the appeal to succeed. However, the submitted layout plans show that the former quarry would be retained as an area of public open space. The existing trees and hedgerows could also be retained and enhanced through additional planting as part of any subsequent reserved matters application. These are environmental benefits which weigh in favour of the appeal proposal.
31. The provision of local needs affordable housing would also be a social benefit. A number of the dwellings proposed are intended to be provided as affordable housing units. I shall consider this issue under the separate heading below.
32. Accordingly, I conclude that the proposal would be acceptable with regard to the principle of sustainable development. The proposal would therefore be consistent with paragraphs 49 and 55 of the Framework.

#### *Affordable housing provision*

33. Policy CS11 of the Council's Core Strategy requires that all new open market housing makes appropriate contributions to the provision of local needs affordable housing. I understand that the target for the local area is currently 15%. The layout plan submitted with the application does identify that seven of the 34 dwellings proposed are intended to be provided as affordable housing units.
34. The Council have not raised any specific concerns as to the number of affordable houses proposed as part of the appeal scheme. Additionally, the size, type and tenure of the affordable housing proposed is a reserved matter and could therefore be subsequently agreed at a later stage. However there is no mechanism before me, in the form of either a completed s. 106 agreement

or Unilateral Undertaking, which would secure the delivery of the affordable housing provision proposed. This is a matter which therefore weighs significantly against the proposal.

35. I have considered whether this is a matter which could be addressed via a negatively worded condition, in line with the provisions set out in the Planning Policy Guidance. However, the Guidance does state that such an approach is unlikely to be appropriate in the majority of cases. Based on the information before me, I am not satisfied that exceptional circumstances exist in order to justify such an approach on this occasion.
36. Accordingly, I must conclude that the appeal proposal would not make sufficient provision for affordable housing provision. The proposal would therefore conflict with policy CS11 of the Council's CS.

### **Other Matters**

37. I appreciate that the application was refused by the Council, contrary to the planning officer's recommendation. However, Councils are not bound to accept the recommendations of their officers.
38. I note that the Council's tree officer raised initial concerns as to the effect of the development proposed on a tree which is considered to be significant. However, following the submission of a revised layout no objections were raised providing that should any subsequent amendments be made to the layout that an Arboricultural Assessment be undertaken.
39. I note the concerns by local residents expressed as to the siting of the proposed access and that it should be located further away from existing dwellings to minimise the impact on local residents. However, there is little specific information before me to suggest that the proposal would be harmful to the living conditions of neighbouring occupants with regard to noise or disturbance.
40. Local residents have also expressed concerns about speeding on Holyhead Road and the increase in traffic which has occurred in the last few years. However, there is little specific information before me to suggest that the development proposed would lead to significant road safety concerns due to an increase in traffic along the road nor put pressure on the junction of the Holyhead Road with the A5. Indeed, the highway authority raised no objection to the appeal proposal in this regard, subject to conditions. They also noted that as the B4380 Holyhead Road was the former A5 trunk road, the road was constructed to a sufficient standard to accommodate the development proposed.

### **Conclusion**

41. Drawing matters together, I have found that the proposal would not have an adverse effect upon the economic viability of the local area by taking high grade agricultural land out of production. The proposal would also be acceptable with regard to the principle of sustainable development. On the other hand, I have found that due to the lack of a mechanism before me to secure the provision of affordable housing, the proposal would not make adequate provision for local needs affordable housing in line with policy CS11 of the Council's CS.



42. I therefore conclude that this is a significant matter which demonstrably outweighs the lack of harm which I have found in other respects.

43. For the reasons given above, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR

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## Appeal Decision

Site visit made on 18 November 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 17 December 2014**

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**Appeal Ref: APP/L3245/A/14/2225282**

**Land off Green Lane, Off Upper Road, Shrewsbury, Shropshire, SY3 9JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R.G. Hinds against the decision of Shropshire Council.
  - The application Ref 14/01328/FUL, dated 25 March 2014, was refused by notice dated 12 August 2014.
  - The development proposed is erection of a pair of semi-detached dwellings following demolition of existing building and workshop.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the development proposed on the character and appearance of the area;
  - The effect of the development proposed on the living conditions of neighbouring occupants, with particular regard to privacy; and
  - Whether the living conditions of future occupants would be acceptable, with particular regard to the provision of outdoor amenity space and outlook.

### Reasons

#### *Character and appearance*

3. The appeal site comprises an industrial building which is somewhat dilapidated in appearance. It is situated on Green Lane which is a short, narrow road accessed directly off Green lane. There is a small collection of commercial uses and a scout hut on Green Lane and a pair of small red brick, semi-detached dwellings directly opposite the appeal site. Buildings close to the appeal site therefore have a diverse appearance, with no one style predominating.
4. Along Upper Road the majority of dwellings on the same side as the access to Green Lane are large detached dwellings set back from the highway behind front gardens within spacious plots. This spacious pattern of development, with ample space about dwellings defines the character of the area along this side of Upper Road.

5. There is some diversity within the streetscene here also, with bungalows being situated close to the junction with Roman Road and also the rear of dwellings on Hereford Road immediately abutting the boundary with the highway. However, these are on the opposite side to the road where the access to Green Lane is situated. The appeal site is close to the junction of Green Lane with Upper Road and is visible from public viewpoints along Upper Road. The width of Green Lane is narrow and the side elevations of the neighbouring dwellings on Upper Road are in close proximity to the boundary with the lane. For these reasons, the appeal site is seen within the close context of the dwellings on Upper Road on the same side as the access to Green Lane. I have therefore assessed the proposal accordingly.
6. My attention has been drawn to the planning history of the appeal site. Of relevance to this appeal proposal, this includes an application for one dwelling and one bungalow which was refused by the Council in 2009. Additionally, an application for one dwelling on the site of the existing R.G. Hinds office was granted planning permission by the Council in January 2014.
7. The appeal site measures approximately 18.5 metres wide and is a maximum of approximately 9 metres deep, narrowing to 1 metre at the southern end. Amended plans were submitted during the Council's determination of the original application. As a result, the proposal was repositioned to the north of the site.
8. This appeal proposal would see the construction of two dwellings. The dwellings together would result in a building approximately 10 metres wide, with a depth of approximately 5.5 metres. The distance between the building proposed and the rear (east) boundary would be approximately 2 metres. The distance between the side (north) boundary and the side elevation of the building would be approximately 1 metre. The distance between the front elevation of the proposed building and the boundary with the back edge of the highway would be approximately 1.5 metres.
9. Taking the above into account, there would be little space about the proposed dwellings. The proposed dwellings would also be situated close to the highway boundary. I therefore consider that the proposal would have a cramped appearance that would be at odds with the spacious character which defines the pattern of development along Upper Road close to the appeal site. As previously stated, the site can be seen from public viewpoints along Upper Road. As such, the proposed dwellings would be a visually prominent feature in the streetscene that would detract from the character and appearance of the area. Whilst I acknowledge that the appearance of the existing building on the appeal site may be unattractive, this consideration does not outweigh the harm which I have identified.
10. I note that the design of the proposal has been revised in order to overcome concerns expressed by Council officers during their determination of the original application. Specifically, the roof has been lowered in order to reduce the scale and height of the dwellings proposed and some windows have also been omitted from the front and side elevations. As a result of these features, I am in agreement with the Council that the dwellings proposed would have an unusual appearance that would not reflect the design context of the local area. This adds to the concerns which I have identified above.

11. The appellant has raised specific concerns as to the use of the word 'contrived' by the Council to describe the development. However, the use of this particular phrase has not been a decisive consideration in my determination of this appeal.
12. Accordingly, I conclude that the proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy CS6 of the Council's Core Strategy (Adopted March 2011) which, among other things, seeks to ensure that all development is appropriate in scale and density taking into account the local context and character. The proposal would also conflict with paragraph 64 of the National Planning Policy Framework (the 'Framework') which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

*Living conditions: neighbouring occupants*

13. The Council have expressed specific concerns as to the proposed 'bulls eye' in the elevation of the dwelling and its effect on the living conditions of neighbouring occupants with regard to privacy. The occupants of No. 36 Upper Road are specifically referred to.
14. Whilst the proposed 'bulls eye' feature would face towards the rear elevation of No. 36 and its rear garden area, the plans submitted with the application show that the 'bulls eye' would be constructed in contrasting brick. No glass is proposed and as such it is not intended to be a window and there would be no additional opportunities for overlooking to occur as a result. If there was any doubt as to whether the 'bulls eye' would be constructed in brick and not glass, a condition could be attached to ensure this would be the case, were the appeal to succeed.
15. The proposal has been designed so that some windows have been omitted, non-opening or fitted with obscure glass. Additionally, sufficient separation distances would be provided between the dwellings proposed and neighbouring properties. I consider that these features would reduce the likelihood of any loss of privacy for neighbouring occupants as a result of the development proposed.
16. Accordingly, I conclude that the development proposed would not be harmful to the living conditions of neighbouring occupants, with particular regard to privacy. In this regard, the proposal would not conflict with policy CS6 of the Council's Core Strategy which, among other things, seeks to ensure that all development safeguards residential amenity.

*Living conditions: future occupants*

17. In terms of the outdoor amenity space that would be provided for future occupants, an area approximately two metres wide would be provided at the rear of the dwellings. An area to the south of one of the dwellings and rear of the parking spaces proposed would also be provided. A two metre high boundary fence would be erected around the site boundary.
18. The submitted plans therefore show that there would be little outdoor space about the dwellings. Accordingly, both proposed dwellings would be provided with small, narrow outdoor amenity areas. The proximity of the proposed boundary fence would also increase the sense of enclosure. I accept that

future occupants may not always want the upkeep of a large garden area for a variety of reasons. A separate bin storage area and parking spaces would also be provided. Nevertheless, it is likely that future occupants would still desire a private outdoor area to sit out in, garden, hang washing out or erect a shed for additional storage purposes. The appeal proposal would not provide an acceptable level of outdoor amenity space in this regard.

19. Additionally, the dwellings have been designed in order to overcome privacy concerns with regard to neighbouring occupants. As a result of this, the plans show that the first floor windows in the front elevations would be non-opening and fitted with obscure glazing. These windows serve bedroom 1 in both units. Future occupants would therefore be unable to look out of or open their main bedroom windows. As a result of this, I consider that occupants would have an unacceptable outlook and the rooms would be dark and gloomy as a result. Whilst the proposed rooflights would allow additional light into the bedrooms, this does not overcome my concerns.
20. The Council have raised concerns as to the proposed parking layout. However, if the appeal were to succeed, a condition could be attached to ensure that suitable boundary treatments were put in place to screen the parking spaces from the windows in the side elevation of unit 2 and its garden area. This would ensure that future occupants would have an acceptable level of privacy. In terms of the bathroom windows proposed, whilst they would be obscurely glazed this is not an uncommon situation. Indeed obscure glazing may be seen as desirable by future occupants as this would be likely to increase their privacy whilst using these areas to shower or get dressed.
21. Additionally, based on the information before me, I am satisfied that the proposal would provide an acceptable amount of internal living space for future occupants.
22. Accordingly, I conclude that the proposal would not provide acceptable living conditions for future occupants would be acceptable, with particular regard to the provision of outdoor amenity space and outlook. The proposal would therefore conflict in this regard with policy CS6 of the Council's Core Strategy and the Council's Supplementary Planning Document 'Type and Affordability of Housing' (paragraphs 2.16 and 2.17) which together seek to ensure that all development safeguards residential amenity; and that development must not provide minimal outside amenity space and should normally provide a satisfactory level of private open space for activities including the external drying of washing or storage of tools and garden equipment. The proposal would also conflict with one of the core planning principles of the Framework which states that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings (paragraph 17).

### **Other Matters**

23. The appellant has referred to the housing land supply situation in the area. I must therefore have regard to paragraphs 47, 48 and 49 of the Framework in my decision. The proposal would result in an additional two dwellings which does weigh in favour of the appeal scheme. However, given the scale of the appeal scheme any contribution to housing land supply would be limited.
24. Some construction jobs would be created during the construction phase of the proposal, were the appeal to succeed. However these jobs would be of a

relatively short duration. Additionally, a CIL payment would be provided, were the appeal to succeed. Whilst these do amount to economic benefits, given the scale of the proposal, the weight attached to these benefits is also limited. Although the appellant has referred to a financial contribution towards affordable housing, there is no mechanism before me (in the form of a completed s. 106 agreement or Unilateral Undertaking) to secure this.

25. Changing the use of the site to residential use may well benefit the living conditions of existing residents in terms of reducing the potential for traffic. Although the appellant has stated that the business currently operating on the site does not result in any problems through noise, deliveries or disturbance. The appellant has also stated that if the business were sold to another user, problems could be encountered by existing residents. Clearly, there is an existing business on the site and the appellant would be entitled to sell that business. However there is little specific information before to suggest that the appellant has a settled intention to do so nor are there any details of an alternative business which may occupy the site. I therefore attach limited weight to this consideration.
26. I acknowledge that the site is brownfield and this does weigh in favour of the development proposed. Additionally, being located within Shrewsbury it is within a sustainable location where a range of services and facilities are accessible via modes of sustainable transport. As such, the Council does not dispute that the principle of the development would be acceptable. These factors do amount to environmental benefits which weigh in favour of the proposal.
27. Drawing matters together, whilst I have had regard to the Framework's presumption in favour of sustainable development in my determination of this appeal, the Framework does not adopt a narrow definition of sustainability. I have found that the proposal would be harmful to the character and appearance of the area and also the living conditions of future occupants, with regard to outdoor amenity space and outlook.
28. On the other hand, I have found a lack of harm in relation to the living conditions of neighbouring occupants. I have also identified a number of limited sustainably benefits associated with the proposal. In this case, these considerations do not outweigh the harm that I have found would occur as a result of the development proposed.

### **Conclusion**

29. For the reason given above, I conclude the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR

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## Appeal Decision

Site visit made on 25 November 2014

**by Christa Masters MA (Hons) MRTPI**

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

**Decision date: 19 December 2014**

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**Appeal Ref: APP/L3245/A/14/2225765**

**16 The Moors, Cressage, Shrewsbury SY5 6DA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr C Aston against the decision of Shropshire Council.
  - The application Ref 14/02495/FUL, dated 4 June 2014, was refused by notice dated 5 August 2014.
  - The development proposed is described as a new dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The effect of the proposal on the character and appearance of the area.

### Reasons

3. The appeal site is located within the settlement of Cressage. The site forms part of the rear garden of No 16 The Moors which is a two storey semi detached residential dwelling. There is a gentle slope from the south to the north which means that the properties along Severn Way sit is an elevated position and over look the appeal site. The immediate area provides a mixture of detached and semi detached residential dwellings of similar height and scale, with established front and rear gardens and off road parking.
4. Policy HS3 of the Shrewsbury and Atcham Local Plan (LP) 2001 states that within a number of defined settlements, including Cressage, planning permission for residential development will only be granted if a number of criteria can be met. These criteria include, amongst other things, that the development does not detract from the character of the settlement and is of an appropriate scale, design and character sympathetic to the immediate environment. Policy CS6 of the Core Strategy (CS) 2011 requires that all development, amongst other things, is appropriate in scale and design taking into account the local context and character.
5. In order to accommodate the dwelling proposed, the building would sit to the rear of the plot. This would be at odds with the general street scene along this stretch of The Moors and would be uncharacteristic of the general form and pattern of the area. Furthermore, the location of the building against the rear boundary with no garden behind would also be at odds with the surrounding properties.

6. The footprint of the proposed new dwelling would be significantly larger than the host property and would be located close to the rear boundary of the garden to No 39 Severn Way. Despite the fact that the dwelling proposed would be a bungalow, it would take up much of the rear garden and would introduce a cramped form of development into the established rear garden.
7. In light of the above, I conclude that the proposal would fail to respect the existing character and appearance of the area, and would therefore conflict with both policy HS3 of the LP as well as policy CS6 of the CS as outlined above.

*Other matters*

8. A number of third parties have raised concerns regarding noise, overlooking, loss of privacy and outlook, effect on the foundations of neighbouring properties and nearby trees and the accuracy of the plans. Taking into account the elevated nature of the properties along Severn Way, the building would be particularly visible from the rear windows of 39 Severn Way and the neighbouring properties. However, given the separation distances involved, and the fact that the building would be a bungalow, I do not accept that the visibility of the building alone would amount to material harm to the living conditions of these properties. The windows as proposed to the rear elevation would also be below the boundary treatment and therefore there would be no overlooking. However, this does not outweigh the harm I have identified above regarding the effect of the proposal on the character and appearance of the area.
9. The appellant contends that the GPDO (General Permitted Development Order) would permit 50% of the curtilage to be developed for ancillary buildings. Be that as it may, in my view any such buildings would not be as substantial as the proposal now before me. Similarly, the removal of permitted development rights as suggested by the appellant would not address the harm I have identified above. The appellant also states that the proposal would assist in the delivery of housing for the area, for which there is an identified shortfall. In my view, the delivery of one dwelling to the supply of housing does not have material benefits which would outweigh the harm identified in relation to the substantive issue above.
10. The Officer's report states that the proposal would generate a requirement for a contribution towards affordable housing off site as identified by policy CS11 of the CS. The report also states the appellant has agreed to this. I do not have an executed Section 106 agreement before me to secure the appropriate payment. Nevertheless, as I am dismissing the appeal for other reasons, this issue is not decisive.
11. In coming to my decision, I have taken into account the specific requirements of the appellant who wishes to live in the new dwelling. Whilst I have taken full account of the views expressed, these issues when considered collectively do not outweigh the harm to the character and appearance of the area I have identified above.

**Conclusion**

12. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Ms C Masters*

INSPECTOR

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## Appeal Decision

Site visit made on 25 November 2014

**by Christa Masters MA (Hons) MRTPI**

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

**Decision date: 8 December 2014**

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**Appeal Ref: APP/L3245/A/14/2225806**

**Land to the west of Bryn Road, The Mount, Shrewsbury, Shropshire**

**SY3 8PG**

- 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 Shropshire Homes Ltd against the decision of Shropshire Council.
  - The application Ref 14/00743/OUT, dated 18 February 2014, was refused by notice dated 6 May 2014.
  - The development proposed is the construction of 16 houses and 4 apartments with associated garaging and parking, serviced by a new adopted road.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 16 houses and 4 apartments with associated garaging and parking, serviced by a new adopted road at land to the west of Bryn Road, The Mount, Shrewsbury, Shropshire SY3 8PG in accordance with the terms of the application, Ref 14/00743/OUT, dated 18 February 2014, subject to the conditions as set out on the attached schedule.

### Procedural matters

2. The application is in outline form only, with all matters reserved except for access. I have considered the appeal on the same basis.
3. There is an executed Unilateral Undertaking (UU) which was submitted with the appeal dated 10 November 2014. This document sets out a commitment to the provision of a scheme for affordable housing. I have taken this document into account in reaching my conclusion below.
4. A previous appeal decision on the site (appeal reference T/APP/B3220/A/89/143117/P5) has been supplied by the Council. I have taken into account the content of this decision in reaching my conclusion below.

### Main Issue

5. From the evidence presented and from what I saw on the site visit, I consider the main issue in this appeal to be whether the development would preserve or enhance the character or appearance of the Mount Conservation Area.

## Reasons

6. The appeal site is an area of agricultural land fronting The Mount. The site is undulating. There is an extensive steep banking to the northern boundary of the site which then lies alongside further open land which abuts the appeal site as it falls towards the river. A public footpath runs along the external perimeter to the west of the site. From both approaches along the Mount, the site is well screened by existing established vegetation. The general built character of the area is varied with a number of detached dwellings set in elevated spacious plots, as well as a flatted development opposite the southern tip of the site known as Brickfield House. The remainder of the land opposite the site on the southern side of the The Mount comprises detached dwellings, some of which are bungalows as well as a Petrol Filling Station.
7. The Mount Conservation Area Appraisal (2006) identifies qualities and elements that contribute to, as well as detract from, the special character of the Conservation Area. In terms of the appeal site, the existing hedges to the main road frontage are noted as being a significant characteristic; however the document does not identify any views across the appeal site. The Heritage Statement which was submitted in support of the appeal also supports this view. I concur with this analysis which is reflective of the topography of the land as it falls away to the north.
8. Given that the application is in outline form only, the only matters for consideration at this stage are the principle of the development proposed and the access. The site is enclosed to the western, eastern and southern boundaries by residential development. The scale of the development proposed would in my view have the ability to provide a spacious development in a landscaped setting. As indicated by drawing TM-P-02 Rev C, the plots could be laid out in a pattern which would be reflective of the general pattern of development within the immediate environment. Furthermore, the proposal provides the opportunity for the existing boundary treatment fronting the Mount to be strengthened which would benefit the Conservation Area.
9. The Landscape Statement prepared in support of the application also notes that the proposal could provide opportunities to open up the view from the appeal site to the north and beyond. This would in my view be a welcome addition and would have a positive effect on the character and appearance of the Conservation Area as a result. The statement also makes further recommendations regarding improvements to the existing Severn Way public footpath which runs along the boundary to the north western corner of the site. These improvements would provide a positive enhancement to the Conservation Area and I will return to this matter in further detail below.
10. In terms of the view back towards the site from the public footpath, I was able to see on the day of my site visit that the site is framed by the housing along Bryn Road, as well as the pockets of housing on the southern side of the Mount which are visible in part. However there is also an extensive area of open land to the northern boundary which would remain as part of the development proposal, ensuring the dwellings retain the existing spacious setting which lies alongside the Conservation Area boundary.
11. The Heritage Statement states that the existing levels on the site would be remodelled to accommodate the dwellings proposed. I agree that such works would be necessary to ensure the appearance of the development, which would

be determined at the reserved matters stage, is satisfactory in the context of the wider Conservation Area.

12. The Council have referred to a previous appeal decision on the site. This decision was taken 24 years ago. It is inevitable that in that time, the character and appearance of the area will have changed to some degree. Moreover, planning policy has also changed. I have determined this case on the basis of the evidence before me and on its merits.
13. I therefore conclude the proposal would be in keeping with the character and appearance of the area, and therefore accords with policies CS6 and CS17 of the Shropshire Council Core Strategy (CS) 2011. Policy CS6 requires proposals to protect, restore, conserve and enhance the natural, built and historic environment and to be, amongst other things, appropriate in scale, density, pattern and design taking into account local character and context. Policy CS17 reinforces the objectives of policy CS6 by ensuring that all new developments, amongst other things, protect and enhance the local character and high quality of the built and historic environment.
14. Taking the above into account, the proposal would therefore be consistent with paragraph 132 of the National Planning Policy Framework (the Framework) which anticipates that great weight should be given to the conservation of heritage assets. For these reasons, I conclude that the proposal would preserve both the character and appearance of the Conservation Area, in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Other matters*

15. The Council have also referred to the effect of the proposed development on the recreational and ecological value of the site. However, no detailed evidence to substantiate these concerns has been provided. There is no public access to the site although the Severn Way public footpath, which would remain, runs outside the boundary of the site. On this basis, I conclude that the proposal would not adversely effect the existing recreational value of the site.
16. Turning to consider the ecology issue, the application was supported by an Ecological Assessment dated February 2014 and prepared by Star Ecology. This report concluded that there are 3 trees on the site which have bat roosting potential. None of these trees would be effected by the proposed development. The County Ecologist has recommended a condition to secure additional bat boxes on the site. I consider these measures to be reasonable and necessary and can be secured by appropriately worded conditions and accordingly I will attach a condition to this effect.
17. The executed UU which is before me relates to the provision of a scheme for affordable housing. This is to address the requirements of policy CS11 of the CS which states that the Council will seek to ensure that all new market housing makes a contribution towards, amongst other things, the provision of local needs affordable housing. The measures identified by the UU are therefore necessary, related to the development and fairly related in scale and kind. As such, it would also accord with the tests for planning obligations set out in the Framework. Therefore, a significant measure of weight can be apportioned in favour of the proposal.

18. The Council's appeal statement states that the Council can now identify 5 years' housing land supply. The appellant disagreed with this view. However, both parties agree that the site is within a sustainable location and would represent a sustainable form of development as supported by the Framework. As I have found no harm in relation to the main issue, I also conclude that the proposal would accord with the Framework in this regard.
19. Concerns have been raised by a number of third parties regarding drainage, noise, air and light pollution and effect on the river. However, these comments are not substantiated by any technical evidence. In order to protect the amenity of future residents, the issue of noise pollution will be addressed as a separate matter as part of the conditions set out below.

### **Conditions**

20. I have considered the conditions as suggested by the Council in light of the evidence presented as well as the advice contained within paragraph 206 of the Framework. In so far as the plan relates to access only I attach a condition requiring the development be carried out in accordance with the access details as identified by plan TM-P-01 Rev C. However as there is no plan which indicates the access only, I have amended the condition to ensure that the reference to this plan relates to the access only and not the layout as shown. This is for the avoidance of doubt and in the interests of the proper planning of the area.
21. As the layout, scale, materials and landscaping (including boundary treatment) and the maintenance of the landscaping will be addressed as part of the reserved matters submission, I am not attaching any additional conditions relating to these matters.
22. As highlighted above, the appellant has offered to undertake enhancement works to the Severn Way public footpath which runs along the north western boundary of the site. Such improvements, including the widening of the footpath which could be addressed at the reserved matters stage, would vastly improve the recreational value of the existing footpath and thereby positively enhance the Conservation Area. Accordingly, I have attached a condition to this effect. The Council have questioned whether the appellant should also be required to contribute towards the maintenance of the footpath. However, I do not consider this requirement would be either reasonable or necessary to make the development acceptable in planning terms.
23. The Council has requested that the timescale for the submission of the reserved matters details be reduced to one year. This is on the basis that the site's development would not be supported by the SAMDev DPD. I have considered this request in light of the guidance contained within the Planning Practice Guidance. Given the particular circumstances of this case, this is a reasonable request and accordingly I have amended the time period as suggested by the Council.
24. A further condition requiring details of the existing floor levels and proposed finished floor levels has been included to ensure the appearance of the area is satisfactory. A standard condition has also been included to require details of the proposed drainage at the site to be provided. This is necessary and reasonable to ensure that the development is constructed in accordance with



- the standards of the local planning authority. I have reworded these conditions in the interests of enforceability and precision.
25. A condition requiring a Flood Risk Assessment to be provided is required to ensure a satisfactory standard of development, in particular to ensure that the site will not be subject to flooding and to prevent the risk of flooding elsewhere.
26. A further condition has been suggested requiring a noise assessment to be submitted. This is necessary to protect the amenities of future occupiers and accordingly, I have attached a condition to this effect. A condition has been suggested to provide full engineering details of the new access road. This condition is necessary to ensure the development is completed to an acceptable standard in the interest of highway safety. The requirement for a tree protection plan to be submitted has also been included. I agree that this condition is necessary to safeguard the trees on the site.
27. The Council have suggested a condition requiring a programme of archaeological work in accordance with a written scheme of investigation. A desk based study and walkover survey was undertaken on behalf of the appellants in April 2014 and has been submitted to the Council. This report concluded that there is no reason to believe the site has been used for anything other than agriculture. The Council maintain that a condition requiring a programme of archaeological work based on surviving earthworks is required. Taking into account the advice contained within paragraph 141 of the Framework, I have attached a condition to this effect.
28. As outlined above, I am also attaching condition requiring the provision of bat boxes on the site. A further condition requiring the provision of artificial nests for small birds has been suggested by the Council. This is in order to provide nesting opportunities for wild birds. This condition would not meet all the tests as identified by the Framework, as it is not necessary to make the development acceptable in planning terms and it is therefore not included. However, a condition requiring details of a lighting plan to be submitted is deemed necessary in order to take into account the bat roosting potential of the trees on the site.

### **Conclusion**

29. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be allowed.

*Christa Masters*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: TM-P-01 Rev C. For the avoidance of doubt, the approval of drawing TM-P-01 Rev C relates to the access only as shown and does not purport to grant consent for the layout as shown.

- 2) Prior to the first occupation of any of the units hereby permitted, a scheme for improvements to the stretch of the Severn Way public footpath which runs along the north-western boundary of the site shall be submitted and approved in writing by the local planning authority. The approved scheme shall include for the resurfacing of the existing footpath along this boundary. The approved scheme shall be implemented prior to the first occupation of any of the units hereby approved.
- 3) Details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) An application for approval of the reserved matters shall be made to the local planning authority not later than 1 year from the date of this permission.
- 5) 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.
- 6) The development shall not commence until plans detailing the existing and proposed ground levels of all the land contained within the redline site plan have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 7) The development shall not commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. Such a programme must be prepared and carried out under the supervision and with the agreement of an archaeologist approved in writing by the Local Planning Authority.
- 8) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority.
- 9) A Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted to the Local Planning Authority for approval with the first of the reserved matters.  
The FRA should include, as a minimum:
  - Assessment of the Fluvial flooding (from watercourses)
  - Surface water flooding (from overland flows originating from both inside and outside the development site)
  - Groundwater flooding
  - Flooding from artificial drainage systems (from a public sewerage system, for example)
  - Flooding due to infrastructure failure (from a blocked culvert, for example)
  - The potential impact of flood water from the new site on adjacent properties should be considered, and mitigation proposals described.
- 10) Prior to construction, a noise assessment shall be submitted to the local planning authority for approval in writing and shall include details of any

mitigation required to meet target levels for noise. Target levels are those specified in the World Health Organisation Guidelines on Community Noise.

- 11) Prior to the commencement of the development full engineering details of the new access road, 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.
- 12) A Tree Protection Plan shall be submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan 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. 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.
- 13) 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.
- 14) A total of 5 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first occupation of the residential units hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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## Appeal Decision

Site visit made on 15 December 2014

**by Victoria Lucas-Gosnold LLB MCD MRTPI**

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

**Decision date: 5 January 2015**

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**Appeal Ref: APP/L3245/A/14/2227347**

**The Magnolias, Bomere Heath, Shrewsbury, SY4 3QJ**

- 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 M. Jones against the decision of Shropshire Council.
  - The application Ref 14/03064/OUT, dated 8 July 2014, was refused by notice dated 26 August 2014.
  - The development proposed is erection of 1 no. 4 bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline with all other matters except access reserved.

### Main Issue

3. The main issue is whether the development proposed would be acceptable with regard to the principle of sustainable development.

### Reasons

4. The appeal site currently forms part of the garden area associated with 'The Magnolias' which is a large, detached dwelling. The appeal site fronts onto the highway and a private lane runs along the side of it. On the opposite side of the highway facing the site, lie open fields. Fields also surround the site in the direction of Bomere Heath, separating the site from that settlement. The appeal proposal would see the construction of a four bedroom, detached dwelling.

### *Planning policy context*

5. The settlement of Merrington has been described as both a hamlet and a village. However, policy HS3 of the Shrewsbury and Atcham Borough Local Plan does not identify Merrington as a settlement for residential growth. Therefore for local policy purposes, the site is in a countryside location.
6. Policy CS5 of the 'Shropshire Local Development Framework: Core Strategy' (Adopted March 2011) states that new development will be strictly controlled in accordance with national planning policies protecting the countryside. The policy goes on to state that proposals on appropriate sites which maintain and

enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, the policy identifies specific types of development including dwellings for agricultural, forestry or other essential countryside workers or other affordable housing / accommodation to meet a local need. The proposal is for an open market property. Therefore neither of these policy exceptions are relevant to the appeal proposal.

7. The text accompanying policy CS6 goes on to state that more detailed policies relating to rural sustainable development will be developed in the Council's SAMDev DPD. Whilst that document has now been submitted, an Examination has not yet taken place. As such, the Council accepts that full weight cannot yet be attributed to the SamDev document, particularly relating to housing policies as there are significant unresolved objections. Accordingly, whilst I note that Merrington has not been identified as a location for housing growth (either a community hub or cluster) in the SAMDev I attach limited weight to this consideration.
8. The National Planning Policy Framework (the 'Framework') states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances (paragraph 55).
9. The Council's overall approach in seeking to promote sustainable development in rural areas is therefore largely consistent with the Framework. However, with regard to new housing in open countryside locations, the Framework does not specifically rule out housing development in certain types of rural settlements. Rather, it refers to new homes that would be 'isolated'. There is therefore a slight conflict with local policy in this regard.
10. There is no definition of the meaning of 'isolated' within the Framework for the purposes of paragraph 55. The appeal site is surrounded by open fields to the south and east and these do serve to visually separate the site from the more built up area of the village. However, there are a few scattered dwellings along the road close to the appeal site and there is also a small business park immediately next to the site on the other side of the private lane as well as a care facility. I therefore seem to me that the appeal site is not isolated in the strictest sense as it would be located on the edge of a small cluster of ribbon development which lines the highway. I therefore consider that this appeal turns on whether or not the proposal would promote sustainable rural development and I shall now go on to consider this issue.

#### *Access to services and facilities*

11. In terms of services and facilities within Merrington, there is the business park next to the appeal site. I understand that this was granted permission as a change of use from agricultural buildings to 9 workshops in 2002. There is also a care facility. Bomere Heath is a larger settlement than Merrington and is approximately 1Km away. Within the village, facilities include places of worship, a school, shops, a takeaway, a public house, post office, village hall,

- sports club and an industrial estate to the south of the village. I also understand that fibre optic broadband is proposed for 2014.
12. Within Bomere Heath there is a primary school with a pre-school facility. There is also a secondary school in Baschurch which is approximately 4.3 miles from the appeal site along with another school approximately 3 miles away in a suburb of Shrewsbury. A further education college which also provides a children's day nursery facility is approximately 2.8 miles away. The settlement of Battlefield is also approximately 3.5 miles away from the appeal site, where employment opportunities are available.
  13. There is therefore a range of services and facilities available in the local area. In terms of sustainable transport connectivity, although the appeal site is close to Bomere Heath it is separated from that settlement by a narrow, country lane. Although it may be within walking distance, there are no pavements or streetlights along the highway at this point. I therefore consider it unlikely that future occupants would choose to walk or cycle to that village. This is because future occupants would be highly unlikely to perceive walking or cycling along unlit, narrow country lanes on dark winter mornings as a desirable or safe option.
  14. There is a bus service which stops outside the public house in Bomere Heath, providing connections to the towns of Shrewsbury and Oswestry, where a greater range of services and facilities are available. However, future occupants would need to first travel to Bomere Heath in order to access this service. For the reasons given above, I consider that they would be likely to do so via the private car. Similarly, although Shrewsbury and Wem may have railway stations, future occupants would be likely to have to travel to those stations via the car. Moreover, the likelihood is that future occupants are less likely to choose to undertake part of a journey via bus or train if they are required to drive some distance to the nearest bus stop or train station. Whilst this does not mean that the appeal site can be considered 'remote', it does mean that future occupants of the development proposed would be more likely to be reliant on the private car.
  15. I acknowledge that whether or not future occupants would choose to commute to Shrewsbury is to a certain extent a matter of speculation. However, considering what choices future occupants are likely to make in accessing goods and services is essentially a matter of judgement. Larger towns such as Shrewsbury by definition have a greater range and density of services, facilities and employment opportunities available. This is the reason why towns tend to attract a greater number of visitors as a result. I acknowledge that there are limited services available in the local area which future occupants may choose to use, including the adjacent business site and care home facility. However, there is a strong possibility that they are more likely to choose to travel to the larger towns nearby via the private car in order to work and to meet their day to day needs, for example shopping at the supermarket, accessing healthcare or participating in leisure activities such as going to the cinema.
  16. The advent of online shopping and banking may mean that a range of goods and services can now be ordered via the web thereby reducing the need for some car journeys. However, this factor alone would be unlikely to remove the need for future occupants to undertake the majority of journeys via a car in order to access the necessary range of goods and services.

17. The appellants have questioned the Council's rationale in identifying some settlements as clusters or hubs for new development in relation to the availability of services and whether or not occupants would be reliant on the private car. However, I have previously explained the reasons why I have attached limited weight to the SAMDev DPD. Therefore, I have assessed this appeal proposal on its own merits and with regard to the particular circumstances of the case before me and relevant national and local policy.

#### *Social considerations*

18. There is some dispute between the parties as to whether or not the Council is able to identify a five-year supply of deliverable housing land. I acknowledge that the proposal would contribute one additional dwelling to housing supply in the area and would be a social benefit. However, whilst I have borne in mind paragraphs 47, 48 and 49 of the Framework, given the small scale of the development proposed, the weight I attach to this consideration is limited.
19. Policy CS11 of the Council's CS seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing. Although the appellants have referred to completed affordable housing contributions being sent to the Council, there is no specific mechanism before me in the form of either a completed s. 106 agreement or Unilateral Undertaking that would secure this. I therefore cannot be certain that an affordable housing contribution would be provided, were the appeal to succeed. This is therefore a matter which does not weigh in favour of the proposal.
20. The existing dwelling on the site, 'The Magnolias' would still be situated within a large plot even if this appeal were to succeed. I am therefore satisfied that the proposal would not be harmful to the living conditions of the occupants of that dwelling in this regard. However a lack of harm in this respect is a neutral consideration and does not therefore weigh in favour of the development proposed.

#### *Economic considerations*

21. I am advised that a CIL payment would be provided as a result of the proposal. Whilst this may not be returned to Merrington, this would be likely to be of limited benefit to the local area including Bomere Heath.
22. The proposal would create some jobs during its construction phase, were the appeal to succeed. However, by definition the duration of those jobs would be limited. Future occupants of the proposed dwelling may well purchase goods and services in the local area which may also be of benefit to the local economy. Whilst I attach some weight in favour of these considerations, that weight must be limited so as to reflect the scale of the development proposed.

#### *Access*

23. The proposed access would be sited off the private lane close to the existing access for the business park. The Parish Council have raised concerns regarding the proposed access, stating that it would be on a bad bend on a narrow busy road. However, the existing business park opposite also uses an access onto the private lane at this point. During the site visit I was able to observe several vehicles entering and exiting the business park. There is also little specific information before me regarding highway safety concerns or any



accident data regarding incidents that have occurred in this location. The scale of the development proposed is also relatively small.

24. I am therefore satisfied that the proposed access would not be harmful to highway safety and I note that the Council and the highway authority did not object to the proposal in this regard, subject to conditions. However a lack of harm in this respect is a neutral consideration and therefore does not weigh in favour of the appeal proposal.

*Environmental considerations*

25. Whilst the appeal site may be garden land and not agricultural, the Framework's Annex 2 definition of previously developed land does specifically exclude private residential gardens. The site is therefore 'greenfield' for the purposes of planning policy. However, there is nothing in the Framework which specifically rules out the development of Greenfield land. Therefore notwithstanding whether or not the proposal would be infill development, this is also a neutral consideration. This is also the case with regard to a lack of harm in terms of the effect of the proposal on ecology.
26. Matters relating to detailed design and appearance are reserved at this stage, however there is little information before me to suggest that the proposal would be harmful in this regard nor that suitable energy efficiency measures could not be incorporated. These are also neutral considerations.

*Overall conclusion*

27. Drawing matters together, I have found that future occupants of the dwelling proposed would be likely to be reliant on the private car in order to access a range of goods and services. As such, the proposal would conflict with one of the core planning principles of the Framework which state, among other things, that planning should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
28. The proposal would also fail to ensure an appropriate contribution to the provision of local needs affordable housing is provided in line with policy CS11 of the CS. Notwithstanding the age of the Local Plan, the proposal is also in a countryside location where the new housing development conflicts with policy HS3 of the Local Plan. I have also identified several neutral considerations where a lack of harm does not weigh in favour of the appeal proposal.
29. On the other hand, the proposal would see the construction of one additional dwelling. Some jobs would also be created during the construction phase of the proposal. Additionally, future occupants may choose to purchase goods and services locally. The proposal would therefore have some social and economic benefits. However, I have found that due to the small scale of the development proposed those benefits would be limited. In this case, I conclude that the sustainability benefits do not outweigh the harm that I have found would be a consequence of the development proposed. For these reasons, I consider that the proposal would neither enhance nor maintain the vitality of rural communities in line with paragraph 55 of the Framework.
30. Accordingly, I conclude that the proposal would not be acceptable with regard to the principle of sustainable development. The proposal would therefore conflict with policy HS3 of the Local Plan, policies CS5 and CS11 of the CS and would also paragraph 55 of the Framework (as set out above).

### **Other Matters**

31. I note the proposals for housing development in the area which the appellants have referred to in their grounds of appeal. However, little specific information has been provided to enable me to take a view on them. I have therefore determined this appeal on its own merits and with regard to the particular circumstances of the site.
32. I am in agreement with the appellants that the difficulties referred to which the bus company may have been experiencing are not planning matters and are not therefore relevant to my consideration of this appeal.

### **Conclusion**

33. For the reasons given above, I conclude that the appeal should be dismissed.

*Victoria Lucas-Gosnold*

INSPECTOR