



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

Date: Friday, 25 April 2014

Committee:
North Planning Committee

Date: Tuesday, 6 May 2014

Time: 2.00 pm

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

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

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

Members of the Committee

Arthur Walpole (Chairman)
Paul Wynn (Vice Chairman)
Joyce Barrow
Martin Bennett
Gerald Dakin
Steve Davenport
Pauline Dee
Vince Hunt
David Lloyd
David Minnery
Peggy Mullock

Substitute Members of the Committee

Nicholas Bardsley
John Cadwallader
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 252719

Email: Shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 8th April 2014, attached, marked 2.

Contact Emily Marshall on 01743 252726.

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 Land Off Pixley Lane, Hinstock, Shropshire (12/04209/FUL) (Pages 7 - 24)

Change of use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use

6 Cross Keys Inn, Kinnerley, Oswestry, SY10 8DB (13/05139/FUL) (Pages 25 - 50)

Erection of four dwellings; retention of public house; formation of new vehicular accesses and alterations to existing car parking arrangement; associated landscaping.

7 Land Adjacent Tawnylea, Prescott Road, Prescott, Baschurch, Shropshire (14/00831/OUT) (Pages 51 - 72)

Outline planning permission for residential development to include access.

8 Ashford Hall, Knockin, Oswestry, SY10 8HL (14/01018/FUL) (Pages 73 - 82)

Change of use of agricultural land to domestic garden land.

9 Appeals and Appeal Decisions (Pages 83 - 108)

10 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 4th June 2014 in the Shrewsbury Room, Shirehall.



Committee and Date

North Planning Committee

6th May 2014

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 8 April 2014

In the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

2.00 - 3.29 pm

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Steve Davenport, Pauline Dee, Vince Hunt, David Lloyd, David Minnery and Peggy Mullock

142 Apologies for Absence

Apologies for absence were received from Councillors M. Bennett and G. Dakin.

143 Minutes

That, subject to the deletion of the words "Disclosable Pecuniary" at Minute 131, Page 86, in relation to the interest stated by Councillor Lloyd for planning application 13/03184/FUL Plas Wilmot, Weston Lane, Oswestry, the Minutes of the meeting of the North Planning Committee held on 25th June 2013 be approved as a correct record and signed by the Chairman.

144 Public Question Time

There were no public questions, statements or petitions received.

145 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.

Councillor Paul Wynn declared that he had an interest and would leave the room prior to consideration of planning application 13/03413/OUT Land South of Hill Valley Golf Club, Tarpoley Road, Whitchurch, Shropshire due to perception of bias.

146 Refuse Tip, Maesbury Road Industrial Estate, Maesbury Road, Oswestry, Shropshire (14/00369/COU)

The Principal Planning Officer introduced the application for change of use from refuse tip to sale of static and touring caravans.

In response to a question, the Principal Planning Officer confirmed that a Condition in relation to Wat's Dyke which ran adjacent to site was not required at the current time.

Having considered the submitted plans for the proposal Members unanimously expressed their support for Officer's recommendation.

RESOLVED:

That Planning Permission be granted in accordance with the officers recommendation.

**147 Field Farm Marchamley Wood, Shrewsbury, Shropshire, SY4 5LH
(14/00852/FUL)**

The Principal Planning Officer introduced the application for a two storey extension to dwelling and an extension to existing garage/workshop to provide annex, explaining that the application had been brought to the Committee for consideration as it was an application made on behalf of an officer of the Council.

Having considered the submitted plans for the proposal Members unanimously expressed their support for the Officers recommendation.

RESOLVED:

That Planning Permission be granted in accordance with the officer's recommendation.

(Councillor Paul Wynn left the meeting at this point.)

**148 Land South of Hill Valley Golf Club, Tarporley Road, Whitchurch, Shropshire
(13/03413/OUT)**

The Principal Planning Officer introduced the outline application for a residential development (up to 86 dwellings) including vehicular access (off Tarporley Road). He drew Members' attention to the schedule of additional letters, which included a briefing note from the agent. It was noted that the application had been deferred at the meeting held on 11th March to allow Members to undertake a site visit to assess the impact of the proposal on the surrounding area. A site visit had taken place that morning and the site had been viewed from various points.

Ms E. Jones, the agent for the application spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees, during which the following points were raised:

- i. The site was within a sustainable location, within walking distance of the town centre and local amenities and adjacent to the settlement boundary;

- ii. Views of the site were largely filtered and obscured by vegetation and the natural topography of the wider surrounding landscape;
- iii. The development would alter the character of the landscape, but it would not have a significant adverse impact on the environment;
- iv. The pattern of the development was not different to other existing developments within the area and greater weight than was reasonable had been attributed to this by officers;
- v. The European Protected Species 3 test matrix had been misapplied in this case as the impact of the loss of the intermediate and distant Great Crested Newt habitat that would occur was classed as low and could be addressed through mitigation; and
- vi. The application was in accordance with the relevant policies and should be approved in accordance with the NPPF presumption in favour of sustainable development.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor P. Mullock, as the local Ward Councillor, stated that she had no further comments to make since the last meeting; Councillor P. Mullock took no part in the debate and did not vote.

Having considered the submitted plans for the proposal, the majority of Members commented that the site visit had been worthwhile and expressed their support for the officer's recommendation to refuse the application, stating that they considered that the site was inappropriate in terms of its narrow width and its location in relation to the built up edge of town.

RESOLVED:

That Planning Permission be refused in accordance with the officers recommendation.

(Councillor Paul Wynn rejoined the meeting at this point.)

**149 Land North of Jubilee Cottage, Harmer Hill, Shrewsbury, SY4 3DZ
(13/04682/OUT)**

The Principal Planning Officer introduced the application for the erection of six detached dwellings (including one affordable unit) with means of access and layout. He drew Members' attention to the schedule of additional letters and confirmed that consideration of the application had been deferred at the meeting on 11th March 2014 in order that the implications of the written ministerial statement issued by Nick Boles MP and the Planning Practice Guidance with regard to issues concerning the phasing of development in the settlement and the shared residential and agricultural access could be assessed prior to any decision being made.

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

- i. He agreed with the points made by the Parish Council;

- ii. He asked for an explanation as to why a previous application in the village for 14 dwellings had been rejected by Planning Officers in September 2013 as being unsustainable; and
- iii. Why was another development within the settlement now considered to be sustainable.

Mr R. Jeffrey, Myddle and Broughton Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- i. The views of the Parish Council were driven by the (Community Led Plan) CLP which had received a 46% response rate, so the views expressed were well founded and current;
- ii. The response to the CLP had indicated that the community of Harmer Hill were least in favour of residential development;
- iii. The CLP had allowed for 53 properties, however the number granted planning permission had already reached 41
- iv. The application was not in accordance with the NPPF as it failed to provide economic, social and environmental benefits to the area; and
- v. The proposal went against the wishes of the residents of the Parish as expressed in the CLP, in that the development was for too many dwellings and they were in the wrong location, thereby diminishing the character of the village and the open countryside.

The Chairman reported that Ms P. Stephan, the agent for the applicant, had registered to speak in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees. However she had been unable to attend the meeting and so he referred Members of the Committee to page 9 of the Minutes of the previous meeting and the points made by Ms. Stephan at that time.

At the previous meeting concern had been expressed at the location and form of the agricultural access, however it was noted that although the submission remained the same in this respect, it was preferable to having the access located at either end of the development where visibility would be limited.

In response to comments made by Mr Purslow, and comparisons to a similar application for a residential development within Harmer Hill that had recently been refused by Shropshire Council, the Principal Planning Officer explained that the decision was taken at a time when the Council considered it had a five year supply of housing land, meaning the development boundary of Harmer Hill was a saved policy and that particular application site was located outside the development boundary and therefore in open countryside.

Concern was expressed at the access onto the B5476 Wem Road, which had a 40mph speed limit, although it was felt that this limit was not usually observed by motorists. The Principal Planning Officer highlighted the fact that the Highways Authority considered the proposals to be satisfactory and had raised no objection to the development.

Having considered the submitted plans for the proposal, the majority of Members expressed the view that whilst, hearing and understanding the views of the local community, it would be difficult to find reasons to refuse the application that would be sustainable on appeal and for this reason they supported the officer's recommendation.

RESOLVED:

That, subject to the applicants entering into a S106 Legal Agreement to secure affordable housing, and an update to Condition 1, Planning Permission be granted in accordance with the officer's recommendation.

150 Land North of Burntwood House, Babbinswood, Whittington, Oswestry Shropshire (13/01717/FUL)

The Principal Planning Officer introduced the application for the development of two dwellings and the relocation of the existing building store. He explained that additional photographs of the area had been supplied and were available for the Committee to view.

Mrs P. Raine, Whittington Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- iv. The Parish Council wanted to stress that Babbinswood was not a village, it was only a hamlet, the village was Whittington and the two should remain separate;
- v. If the proposals were approved, it could create a precedent for other land owners to start developing their land;
- vi. Whittington Parish Council were opposed to any development that could lead to the hamlet of Babbinswood becoming absorbed into the village of Whittington; and
- vii. Whittington Parish Council's Planning Policy Statement recognised its obligations to identify a maximum of 100 residential properties within the village, was well on its way to meet this obligation and should not be forced to accept development to balance the shortcomings of others.

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

- i. Babbinswood was a hamlet, not a village;
- ii. The site was located outside the existing development boundary;
- iii. The proposals would not have a significant impact on Shropshire Council's Housing Land supply, but would have a significant impact on the character of the area;
- iv. The proposed hedgerow removal would have an adverse impact on a diverse range of species;
- v. The proposed visibility splays were inadequate for a busy and fast section of road, which was located between two bends;

- vi. A site visit should be carried out in order for Members to see the issues that were particular to this site.

Mr David Parker, agent for the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which the following points were raised:

- i. The development would have a direct benefit to local employment as the applicant was a local developer;
- ii. The development would make a small but meaningful contribution to the Council's housing land supply;
- iii. The development would create much needed new homes for local people;
- iv. The scheme would reflect the pattern and style of existing homes in the village;
- v. The hedgerow would be replanted to offset the length that would be lost; and
- vi. In response to concerns relating to the merging of the two settlements of Whittington and Babbinswood, the owner had indicated that a restrictive legal covenant would be placed on the adjoining field to prevent further development.

In response to concerns relating to access and Highways safety, Mr D. Parker the agent for the applicant confirmed that the southern visibility splay land was within the ownership of the applicant and the land which the visibility splay to the North passed through was owned by Shropshire Council.

Having considered the submitted plans for the proposal, the majority of Members expressed their support for the officers recommendation.

RESOLVED:

That subject to the applicant's entering into a S106 Legal Agreement to secure a financial contribution to affordable housing, Planning Permission be granted in accordance with the officer's recommendation.

151 Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the northern area be noted.

152 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 pm on Tuesday 6th May 2014, in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:



<u>Committee and Date</u>
North Planning Committee
6 May 2014

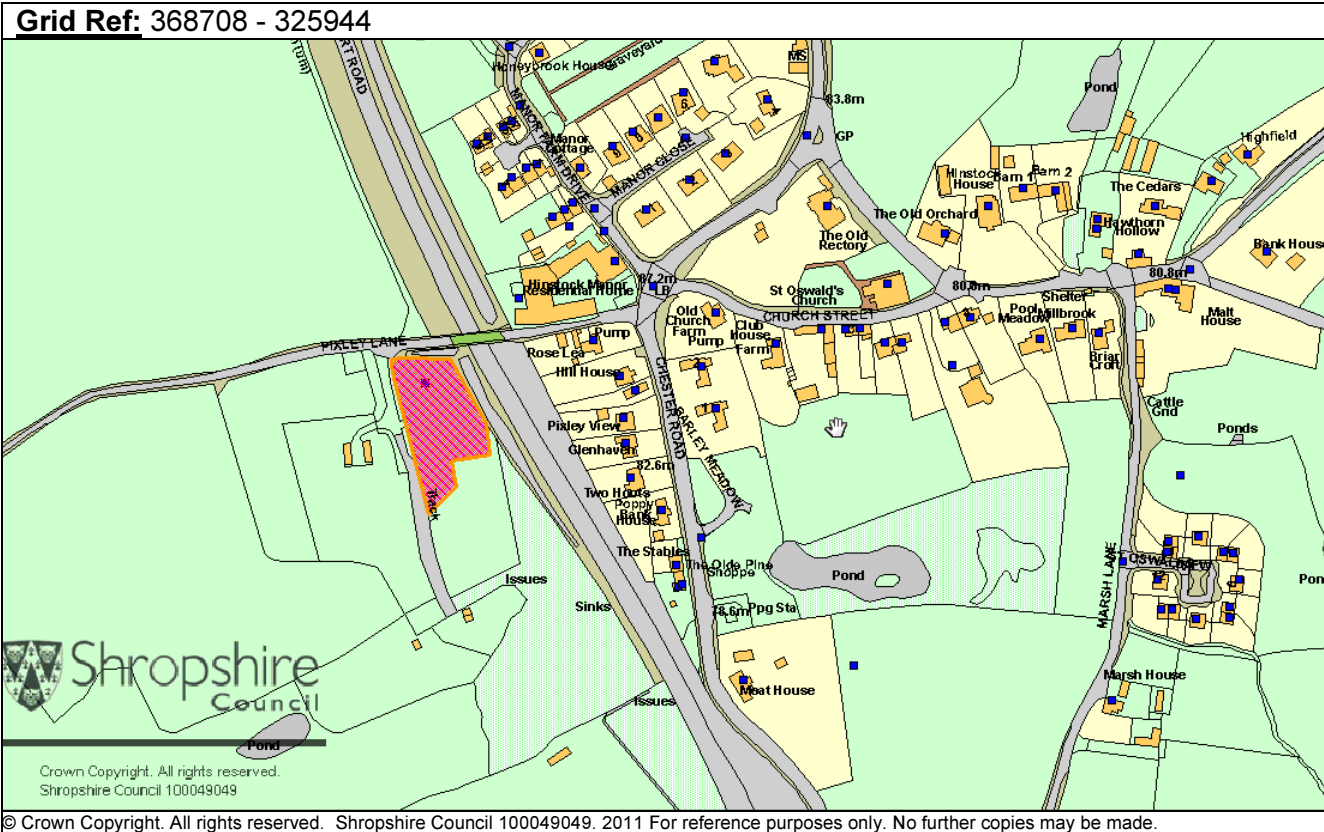
<u>Item</u>
5
Public

Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 12/04209/FUL	<u>Parish:</u> Hinstock
<u>Proposal:</u> Change of use of land for the stationing of caravans for residential purposes for 3 no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use	
<u>Site Address:</u> Land Off Pixley Lane Hinstock Shropshire	
<u>Applicant:</u> Mr Bishopsgate Property Management Ltd	
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk



Recommendation:- APPROVE subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 The application proposes the change of use of the existing land to enable the creation of three gypsy pitches. The proposed works will involve the construction of hard standing for one static caravan and one touring caravan and the erection of a utility/ day room in each of the three pitches within hedge boundaries and the installation of associated foul drainage.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is a relatively flat grassed paddock with hedge boundaries to the east with the A41 and the north with Pixley Lane. To the west is the access track to the sewerage treatment plant and to the south is agricultural land. The site is on the edge of Hinstock, outside the development boundary, and the roof and one window of the Manor Place Care Home is visible from the site. The site is separated from the village by the A41 but the village is visible from the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to officers and is considered to be based on material planning reasons. The Principal Planning Officer, in consultation with the committee chairman and the Local Member, agrees that the Parish/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 **Hinstock Parish Council** – The Parish Council **objects** strongly to this application, for the following reasons;

- This development is not within the village envelope or the SAMDev policy framework for Hinstock
- The site is a green field which was sold for grazing. Core Strategy Policy CS5 says development on Greenfield is strictly controlled to protect the countryside and the green belt. This is not a suitable exception, as the application does not have strong local connections.
- Planning Policy for Travellers Sites, Paragraph 23 states that Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated for Development Plan. Again the applicant does not have strong local connections.
- There is insufficient information in the application, and some information given is not correct eg there is no hard standing area on the existing site and there is no regular bus service to the Village. The application form states that the surface water drainage from the proposed development (roofs and proposed hard standing area) is to be disposed of via soakaways. However no details of the proposed soakaways or percolation tests have been provided.

- Traffic concerns – Pixley Lane is a single track lane which joins the A529 on a bad bend, where there are already problems. The Parish Council is currently in talks with Shropshire Council to try to improve safety for pedestrians and motorists in this area and additional traffic in the form of large caravans would make it more hazardous.
- The Parish Council meeting held on November 1st 2012 was attended by 138 parishioners who wanted to show their objection to this application, showing great community apprehension.
- Parishioners fear an increase in crime in the Parish.
- No Ecological Assessment has been provided and as such it is not possible to conclude that the development will not cause offence under the Conservation of Habitats and Species Regulations (2010) and as such fails to meet policy CS17, which seeks to protect and enhance the natural environment, as it is believed that there are great crested newts in this area.
- The potential visual and sound impact on the adjoining neighbours has not been assessed or the potential disruption to the enjoyment of existing local rural amenities.

4.1.2 Council Public Protection Officer – raised concerns.

Having considered the potential for an adverse impact of odour produced by the sewage treatment plant on proposed residential caravan sites is satisfied that there is unlikely to be any significant odour impact due to the fact that the sewage treatment plant is enclosed. Wind may carry some odour towards the proposed caravan plots on occasion but I would not expect it to cause any change in behaviour of residents as a result due to its likely intensity and frequency. Therefore I am satisfied that the condition relating to odour specified in correspondence from this service on 23rd November 2012 is not required should this application be granted approval.

There is a potential for the occupiers of the proposed residential caravans to be impacted by road traffic noise associated with vehicles using the busy A41 trunk road running adjacent to the site. No noise assessment has been submitted and recommends that a condition is imposed to require an assessment to be submitted and approved before any work commences.

No details are submitted in relation to a lighting scheme for the site. The use of inappropriate lamps (including positioning and direction) might give rise to light nuisance to nearby residents and as such recommends a condition.

There is also a potential for noise and other nuisance to impact on the occupiers of nearby residential properties on Pixley Lane and Chester Road if inappropriate activities are undertaken on site.

- #### 4.1.3 Council Highway Officer – No objection.
- The proposal is for the provision of 3 gypsy pitches served off Pixley Lane. Pixley Lane is an unclassified road and forms a no through road. The lane becomes a track with blue advisory signs stating 'unsuitable for motor vehicles' to the west of the site access. As such therefore the lane is considered to be lightly trafficked with vehicular movements associated with residents/occupiers directly adjoining the lane. Whilst the lane

experiences a narrowing at approximately half way between its junction with Chester Road and the application site it is of a satisfactory width for a majority of this length to allow vehicles to pass one another with good forward visibility and a pedestrian footway also available for most of this length too.

The development is considered to be in effect establishing three residential units with movement of the touring caravans into and out of the site being on a seasonal basis and as such it is considered that the likely traffic generated by the proposal is unlikely to result in adverse highway implications.

From the highways aspect therefore I raise no objection to the development and recommend that the access, drive and turning areas be satisfactorily laid out and completed in accordance with the approved details prior to the site being first occupied. In respect of the access apron over the highway verge this should be improved in accordance with the Council's specification with 20 mm surface course using 6 mm aggregate, 40 mm dense binder course using 20 mm aggregate and 200mm Type 1 MOT sub base.

As the provision/improvement of the access will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

- 4.1.4 **Council Rights of Way Officer** – It does not appear that this application would affect a public right of way and as such the Outdoor Recreation Team would raise **no objection**.
- 4.1.5 **Council Drainage Engineer** – **No objection, the details required can be dealt with by condition.**

The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan 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.

Full details, plan and sizing of the proposed package sewage treatment plant and drainage fields should be submitted for approval. British Water Flows and Loads: 3 should be used to determine the sizing of the package sewage treatment plant and drainage field should be designed to cater for the correct number of persons. The design of the drainage fields is incorrect. Vp used in the calculations should be 32 not 18 and the width of the drainage fields should not be greater than 0.9m.

On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details of how the surface water will be accommodated and should ensure that the finished floor levels of the development are set above any known flood level.

4.1.6 **Council Ecologists** – Following submission of additional information confirmed **no objection** subject to conditions.

Further to the request for an Ecological Assessment a report by Star Ecology has been submitted with the application. This concludes that the habitats on site are of low ecological value; however the hedgerows on site may be used by breeding birds. Star Ecology (2013) recommend measures to be taken if any hedgerow would be removed during bird nesting season and artificial nests should be provided.

Star Ecology conducted a Great Crested Newt assessment in 2013 following reports from Hinstock residents that one or more of the reed beds in the Severn Trent Water Sewage Treatment Works had open water and was used by amphibians.

Star Ecology was not provided access to the reed beds to carry out a comprehensive Great Crested Newt Assessment. An assessment was made from a public property on April 25th 2013.

The application site is part of an improved grassland field and contains improved grassland, bare ground and hardstanding, and is bounded by three intact species poor hedgerows.

The reed beds are located approximately 50m southwest of the site. The two reed beds together have the approximate surface area of 750m². It is understood from Seven Trent Water that the reed beds:

- Contain gravel planted with Common reed
- Provide tertiary horizontal flow treatment of effluent
- Are dug-out and refurbished every 7-10 years

Although access was not granted to survey the site Star Ecology was able to complete a Habitat Suitability Index assessment. The HSI score of 0.71 means that the suitability of the reed beds for the breeding purposes of Great Crested Newts is 'Good'.

Star Ecology (2013) conclude that irrespective of whether Great Crested Newts successfully use the reed beds for breeding purposes or not, considering the scale of the proposed development, the habitats on site and the distance of the site from the reed beds: risk avoidance measures would be considered proportionate mitigation.

The site also has the potential for foraging and commuting bats and as such recommends a condition to require submission of lighting details.

4.2 **Public Comments**

4.2.1 253 comments have been received objecting to the application on the following grounds:

- Outside the development boundary and SAMDev boundary
- Not within the two sites identified for future development in the village
- Loss of agricultural land in time of food shortages

- Lack of local infrastructure
- No benefits to local community, countryside, employment, tourism or recreation
- No evidence of need or local connection
- The road fronting the site is part of established 5k and 10k runs which bring visitors to the area
- No information is provided on the use of the remaining land
- A previous application for use as car parking for Hinstock Manor was refused
- Proposed development and large areas of hard standing are out of character and will have a negative visual impact
- Removal of hedgerow and erection of 1.8m fencing will be an eyesore and unacceptable
- The junction of Pixley lane and the width is not sufficient for emergency vehicles
- Concern over capacity of the bridge for heavy vehicles
- The un-adopted road may require upgrading and this will be very costly given the width of the bridge
- No maximum numbers provided for vehicles
- Increase in traffic and significant road hazard
- Pixley Lane is a bridleway
- No street lighting in area
- Impact on recreational use of lane
- Hinstock is not on a bus route
- The use of generators will increase noise and air pollution
- Loss of privacy to existing residents
- Will result in light pollution
- Close proximity to A41 and sewerage plant will impact on residents of site and be a safety risk
- Impact on great crested newts and other wildlife and plants
- No mains water or drainage on the site
- The Biodigester T6 model is only suitable for 6 persons or one single residential caravan
- The land is clay and during heavy rain water runs off the field and down the lane
- Possible site of local historic interest

4.2.2 In addition a petition of 158 signatures has been received objecting to the proposal.

4.2.3 One support comment has been received.

4.2.4 A substantial number of the objectors also raised that the site is within Greenbelt. However, this is not correct. The Greenbelt in Shropshire runs along the south east of the County, there is no Greenbelt in the north. The site is classed as countryside for planning purposes but is not Greenbelt.

5.0 THE MAIN ISSUES

- Policy & principle of development

- Need and status of applicants
- Suitability of proposed site
- Layout of site, scale and design of buildings
- Impact on local area and neighbours amenities
- Access and highway issues
- Trees and ecology
- Drainage
- Other matters

6.0 OFFICER APPRAISAL

6.1 Policy & Principle of Development

- 6.1.1 This application is to establish a new site for 3 gypsy traveller plots. Gypsy travellers are defined in the planning policy for traveller sites (2012) as being: *“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently but excluding members of an organised group of travelling show people or circus people travelling together as such.”*
- 6.1.2 The development of such sites, by their very nature, is often contentious. However, local planning authorities are obliged to ensure that the accommodation needs of gypsies and travellers is assessed and addressed through a plan-led process.
- 6.1.3 At a National level the new Planning Policy for Traveller Sites (PPTS) was brought out in March 2012 following the National Planning Policy Framework (NPPF) and these replace the former PPS’s and Circular 01/2006 on gypsy and traveller caravan sites. Both the NPPF and the PPTS reiterate the requirement that planning decisions must be taken in accordance with the development plan, unless material considerations indicate otherwise. The development plan is in this instance the Shropshire Core Strategy which has a specific policy Gypsies and Traveller Provision (Policy CS12). Policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development Principles) and CS9 (Infrastructure Provision) are also material to the decision along with the Supplementary Planning Document on Type and Affordability of Housing (SPD).
- 6.1.4 The PPTS and NPPF are also supplemented by additional key evidence and supplementary policies namely;
- Regional Gypsy and Traveller Accommodation Assessment 2008
 - Designing Gypsy and Traveller Sites. National Good Practice Guide (2008)
- 6.1.5 The key issues when assessing applications for new gypsy and traveller sites are set out in the PPTS as follows:
- The existing level of local provision and need for sites
 - The availability (or lack) of alternative accommodation for the applicants
 - Other personal circumstances of the applicant
 - That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/ plots should be used to assess applications that may come forward on unallocated sites,

eg:

- Is the site in a suitable and sustainable location?
- Is the site reasonably accessible to services and facilities?
- Is suitable access provided?
- Is the site well planned or landscaped in such a way as to positively enhance the environment and increase its openness

It is consideration of these issues which forms the basis of this report.

6.2 **Need and status of applicants**

6.2.1 At a national level Gypsies and Travellers are estimated to make up less than 1% of the population of England, but only a proportion of gypsies and travellers live in caravans. July 2005 Caravan Count figures show that there are around 16,000 gypsy and traveller caravans, with around three quarters of these on authorised sites.

6.2.2 In a Shropshire context accommodation needs have been identified in the sub-regional Gypsy and Traveller Accommodation Assessment. Through the Core Strategy Shropshire aims to facilitate the provision of 79 residential pitches up to 2017. It is intended that this new pitch provision should be balanced between public and private sites. As such it is acknowledged that there is a need for new sites and case law has established that, for Gypsy and Traveller applications, the balance between rights of the individual and the rights of others has to take into account the difficulties faced by this recognised ethnic group in finding any suitable sites on which to live, that respects their culture. This legal situation means that the identified need for gypsy and traveller sites is a material consideration which must be given significant weight by the Council in reaching any decision.

6.2.3 Policy CS12 has three bullet points relating to the location of gypsy accommodation. Firstly sites will be allocated to meet identified need which will be done through planning policy and site allocation. Secondly proposals for sites close to Shrewsbury, Market Towns, Key Centres, Community Hubs and Clusters will be supported. And thirdly suitable development proposals for small exception sites of under 5 pitches will be supported where a strong local connection is demonstrated. The PPTS states that new traveller sites in the open countryside, away from existing settlements or outside areas allocated in the development plan should be strictly limited but does not prevent sites in rural areas. There are two issues here, Hinstock is being promoted as a community hub and as such the second bullet point would be relevant to an application for the proposed site, which is close to the cluster. Furthermore as the Shropshire Council policy in relation to sites away from hubs and clusters is more restrictive than the more up to date PPTS developments for gypsy sites in the countryside need to be considered against the PPTS where the need to show local connection is not required.

6.2.4 The concerns of Hinstock Parish Council and the local residents are noted, however, there is no requirement for the applicant to prove a local connection under the PPTS or the NPPF and both of these documents supersede the Core Strategy. The site is considered to be on the edge of an existing settlement which is being promoted as a community hub and as such policy CS12 is supportive of the principle of the proposal.

6.3 **Suitability of proposed sites**

- 6.3.1 The application site is outside the development boundary for Hinstock as identified in the saved North Shropshire Local Plan and as such, for planning purposes the site is considered to be countryside. However, the development boundaries are now given little weight in the consideration of applications for any form of residential use due to the lack of deliverable housing land within the County, this is the case for both open market housing and restricted housing including sites for gypsies and travellers. It is on the opposite side of the A41 to the majority of the built development of Hinstock, however the village is visible from the site and the site is only a short distance along a narrow road from the village. It is considered by officers that the development of this site for the proposed use would be appropriate and would enable integration with the community.
- 6.3.2 The school, public house and shop within the village are all accessible on foot or by bicycle and Hinstock is being promoted as a Community Hub in the forthcoming Site Allocations and Management of Development (SAMDev) document. The village has 2 proposed allocated housing sites to provide approximately 38 of the suggested 60 houses in the SAMDev. As such the village is considered to be a sustainable settlement with services and facilities.
- 6.3.3 Furthermore, it is considered that the development of this site as proposed would meet the sustainable criteria in paragraph 11 of the PPTS. The site provides the opportunity to promote integrated co-existence between the occupants and the community; provides the occupants with a settled base to access health services and schools and reduce the need for long distance travel. The issues of impact on the amenities of future residents are considered later in the report, however there is no issue of flooding at this site, the scale of the development would not place undue pressure on the local infrastructure and services and the site provides the opportunities for a live work balance on the site.
- 6.4 **Layout of site, scale and design of buildings**
- 6.4.1 Policy CS12 also requires all developments to incorporate suitable design and screening and have suitable access and areas for manoeuvring and parking. Policy CS6 seeks to ensure that development is designed to a high quality respecting and enhancing the local distinctiveness.
- 6.4.2 The proposed layout plan shows the site hard surfaced and subdivided into 3 by fencing and hedges. The four proposed day rooms are 8m by 5m, single storey, with a low pitched roof. Internally the building will provide an open plan kitchen/ day room, a bathroom and a wash room. It is proposed to construct the buildings out of brick and clay tile. The provision of day rooms on gypsy and traveller pitches is accepted as there are known hazards and welfare issues with cooking and bathing in a caravan on a regular basis. The principle of day rooms is not unacceptable and the scale and design of the proposed structures are considered to be appropriate for the use and the site.
- 6.4.3 Policy CS12 requires all gypsy and traveller developments to incorporate suitable design and screening and the PPTS requires sites to be well planned in such a way as to positively enhance the environment by not enclosing a site with hard landscaping or high fences. It is acknowledged that the three pitches will be hard standing, however these are broken up with hedging and are also small areas of hard standing designed in accordance with the good practice guide on designing

gypsy and traveller sites. The retention of the existing roadside hedges and trees and the planting of additional hedges will help to soften the development.

6.4.4 Although the A41 separates the site from the village officers consider that the development of the site for three gypsy pitches would be read as part of the village of Hinstock and not as a visually intrusive development in the countryside. It will result in a change of appearance of the site and any future lighting may also result in a greater impact. However, officers do not consider that this impact is of significant harm to outweigh the benefits of providing three additional pitches towards the identified need in the County.

6.5 **Impact on local area and neighbours amenities**

6.5.1 Paragraphs 12 and 23 of the PPTS states that when considering the suitability of a site in a rural area regard should be had to the scale of the nearest settled community. As noted above Hinstock is being promoted as a Community Hub, the third tier in the settlement hierarchy below Shrewsbury and the Market Towns. It is one of the larger villages in the northeast of Shropshire and has a number of services and facilities. The proposals for three gypsy pitches would not therefore dominate the settlement.

6.5.2 The Parish Council and residents have raised concerns about the impact on recreational use of lane and the impact on the amenities of existing residents from noise, air pollution, loss of privacy and light pollution. The nearest neighbouring property would be the accommodation within Hinstock Manor residential care home which is over 40 metres from the edge of the site and with the A41 in between. The distance will ensure that there is no loss of privacy and will also reduce the potential for light pollution providing the lighting is provided appropriately to not spill beyond the site. The noise and air pollution from the site would not be any greater than if the site were in a residential use and as such would not be any greater than the noise and air pollution from the existing residential properties. There is no business use proposed on site beyond the parking of business related vehicles however the occupants could use the site for business ancillary to the residential use as any with dwelling.

6.5.3 The concerns about the impact on the leisure use of the lane are noted and it is acknowledged that the development will increase traffic movements on the lane and increase noise and light in the immediate area. However, as detailed below, the proposal for three pitches would not result in a significant increase in traffic, the noise of the A41 should also be taken into account when considering noise from the site and the lighting can be controlled through condition. Overall officers consider that the scale of the development proposed would not result in a level of harm to the leisure use of the lane as to warrant refusal of the scheme.

6.6 **Access and highway issues**

6.6.1 It is proposed to serve all three pitches off Pixley Lane off a single point of access which is currently used to access the sewerage treatment plant. Pixley Lane is off Chester Road which is the main road through Hinstock with the junction adjacent to Hinstock Manor. Concern has been raised about the junction of Pixley Lane onto Chester Road (A529), the level of traffic movements, the capacity of the bridge which carries Pixley Lane over the A41 and that Pixley Lane is a bridleway with no street lighting.

- 6.6.2 For confirmation the lane is used as a bridleway but is not restricted in that it does not prevent vehicular use. Beyond the site the lane does become a track with an advisory note 'unsuitable for motor vehicles'. As such, although it is accepted that the proposed development will add additional traffic to the lane, including the occasional moving of caravans, the lane is currently lightly trafficked and the Council Highway Officer has advised that it is appropriate for the proposed use with sufficient space for passing and a pedestrian footway.
- 6.6.3 Although there is no control over traffic movements it is unlikely that the larger static caravans would be moved from the site once they have been sited unless either ownership changes or a new caravan is purchased. The majority of traffic movements would be with cars or 3.5T or less vehicles as could be associated with any domestic dwelling. The touring caravans are likely to move when the occupants travel but this could also be expected at an open market property with a caravan.
- 6.6.4 The Council Highway Officer has confirmed that they have no objection and recommended that the access, drive and turning areas be laid out before use. The Officer has also confirmed that the access from Pixley Lane to Chester Road is acceptable given the level of vehicle movements that would be associated with the proposed development. It is accepted that the local community do not consider that this access has good visibility but it is also noted that the access is within the village where the speed limit is 30mph and at a point where a number of roads meet.
- 6.7 **Trees and ecology**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The site is currently agricultural land with established trees and hedges on the boundary and with open countryside beyond. An ecological survey has been undertaken and submitted with the application and considered by the Council's Ecologist.
- 6.7.2 Within the design and access statement submitted in support of the application the agent confirms that the existing hedgerows, bunds and areas of vegetation will be retained and augmented and that no trees will be affected by the proposal. Additional native hedgerow and tree planting is indicated on the plans and the concern of local residents that the hedgerows are to be removed and replaced with fences is not what is shown on the proposal. New fencing is shown on the boundaries between the pitches and along the access track but these are shown with hedges along the outside. As such the external appearance of the development will be of hedgerows.
- 6.7.3 The Council Ecologist has now confirmed that the additional information provided is sufficient and recommended conditions to ensure that the work is done in accordance with the survey so as to ensure no impact on great crested newts and to provide artificial nests and appropriate lighting for the bat corridors and informatives relating to bats, nesting birds and great crested newts.

6.7.4 It is acknowledged that the hedges and trees on the edges of the site and the treatment works adjacent to the site may provide habitat for protected species but the proposed development would not result in harm to the habitats or species and as such the development can be considered to be compliant with policy CS17.

6.8 **Drainage**

6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The application form advises that the foul drainage from the development is proposed to be disposed of to a package treatment plan and surface water disposed via soakaways.

6.8.2 The preference is for foul drainage to be connected to mains drainage, however as noted by the objectors there is no mains drainage to the site. As such a package treatment plant is generally considered the next most suitable means of dealing with foul drainage. Full details of the proposed treatment plant will be required but can be dealt with by condition and any system would need to be sufficient to deal with the potential occupancy of the three pitches as advised in the Council Drainage Engineer's response.

6.8.3 Percolation tests will also be required to ensure that the surface water drainage system is designed appropriately and provided with sufficient length of outfall. The Council Drainage Engineer has confirmed that this could also be dealt with by condition and would also need to include details of how the surface water will be accommodated and the finished floor levels to ensure that they are above the known flood levels of the surface water flooding.

6.9 **Other matters**

6.9.1 Policy CS12 policy also requires all new gypsy traveller sites to make provision for essential business use. No information has been provided to detail what business proposals there are for the site however the site layout does not show any space allocated specifically for business use and the Design and Access Statement advises that vehicles will be a maximum of 3.5T and as such it is considered that any business operated from the site would be similar to any business which could be operated from a residential dwelling.

6.9.2 Hinstock Parish Council and local residents have raised concerns that the development would increase crime in the area. However, the fear of crime is only a material consideration where the use, by its nature, would provide a reasonable basis for concern. These concerns need to be carefully considered and given the scale of the development proposed as a small settled site for three gypsy pitches the proposed use of the site would not inevitably result in an increase in crime and there is no evidence to support these concerns.

6.9.3 The Council Public Protection Officer also initially raised concerns about amenities the future occupants of the caravans due to the close proximity of the sewerage treatment plant and the A41. The Public Protection Officer has since visited the site and confirmed that the sewerage treatment plant will not cause any harm to future residents. Although the Public Protection Officer remains concerned about the potential for noise impact on the future residents he has also advised that a

noise survey could be conditioned.

- 6.9.4 However, members should note that consent has now been granted by appeal for a site at Adbo Hill. This site is also on the A41 and was for 4 pitches in closer proximity to the highway carriageway than the proposed site at Pixley Lane. Although the Public Protection Officer requested a noise assessment this request was made after the planning application was refused and no noise assessment was submitted. The planning inspector will have re-considered the proposed development and all of the consultees comments including those of the public protection officer but did not comment on the noise impact on the residents of the proposed caravans or recommend a condition.
- 6.9.5 As such officers consider that it would be difficult to argue the need for a noise survey on the site at Pixley Lane when one has not been required for a similar site up the road. However, the land owner has put forward a suggestion of providing an acoustic fence along the boundary with the A41 inside the site and therefore inside the existing landscaped bank of the A41 which would help to mitigate any potential noise and the details of this fencing can be controlled by condition.

7.0 CONCLUSION

- 7.1 The application site is considered to comply with the requirements of policy CS12 of the Shropshire Core Strategy as the site is close to the proposed community hub of Hinstock and as such is close to a sustainable settlement. The scale and design of the development is considered to be acceptable and although it would result in some harm to the character and appearance of the area this harm is not considered to be significant. The proposed use of this site would not result in harm to the amenities of nearby residents given the distance of existing properties from the site and the intervening highway.
- 7.2 The unmet need for gypsy sites within Shropshire also needs to be given weight and previous appeal decisions have given this matter significant weight and deemed that this need outweighed the harm

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than three months after the grounds to make the

claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **FINANCIAL IMPLICATIONS**

9.1 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.

10.0 **BACKGROUND**

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
Planning Policy for Traveller Sites

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS12 - Gypsies and Traveller Provision
CS17 - Environmental Networks
CS18 - Sustainable Water Management

10.2 Relevant planning history:

13/00244/OUT Outline application (all matters reserved) for the erection of one bungalow REFUSED 5th November 2013 for the following reason:

The proposed development is located within an area of defined as countryside for planning policy purposes and accordingly would lead to sporadic development that would undermine the "rural rebalance" approach to development. Accordingly the proposal is considered contrary to adopted Policies CS1, CS4, CS5 and CS6 of the Shropshire Core Strategy, and to Government advice contained in the National Planning Policy Framework (in particular paragraph 55). Although it would in terms of ecology and highways be in accordance with adopted policies, these do not outweigh the overriding policy objections.

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Andrew Davies
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 site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites.

Reason: To control the occupation of the site in accordance with adopted policy.

4. No more than 6 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 3 shall be a static caravan or mobile home) shall be stationed on the site at any time.

Reason: In the interests of visual amenities.

5. Work shall be carried out strictly in accordance with the Risk Avoidance Measures (RAMs) for Great Crested Newts and attached as an appendix to this planning permission within the Great Crested Newt Assessment conducted by Star Ecology (15th August 2013)

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
 - Means of enclosure
 - Hard surfacing materials
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)

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

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

7. At the same time as the landscaping scheme required by the above condition is submitted to the Local Planning Authority there shall be submitted a schedule of maintenance for a period of five years of the proposed planting commencing at the completion of the final phase of implementation as required by that condition; the schedule to make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule. The existing hedges around the site shall be retained at the agreed minimum height for the lifetime of the development.

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

8. Prior to the first siting of any caravans on the site details of the position, height and manufactures specifications for the proposed boundary fencing shall be submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

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

9. 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

10. A total of 5 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the caravans hereby permitted.

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

11. No external lighting shall be installed on the site unless details of the position, height and type of lights have been submitted to and approved in writing by the local planning authority. The external lighting shall be installed and operated in accordance with the approved scheme and no other lighting shall be installed or operated.

Reason: To ensure the amenity and character of the area is protected.

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

12. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site. No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.

Reason: In the interest of visual amenities.

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<u>Committee and Date</u>
North Planning Committee
6 May 2014

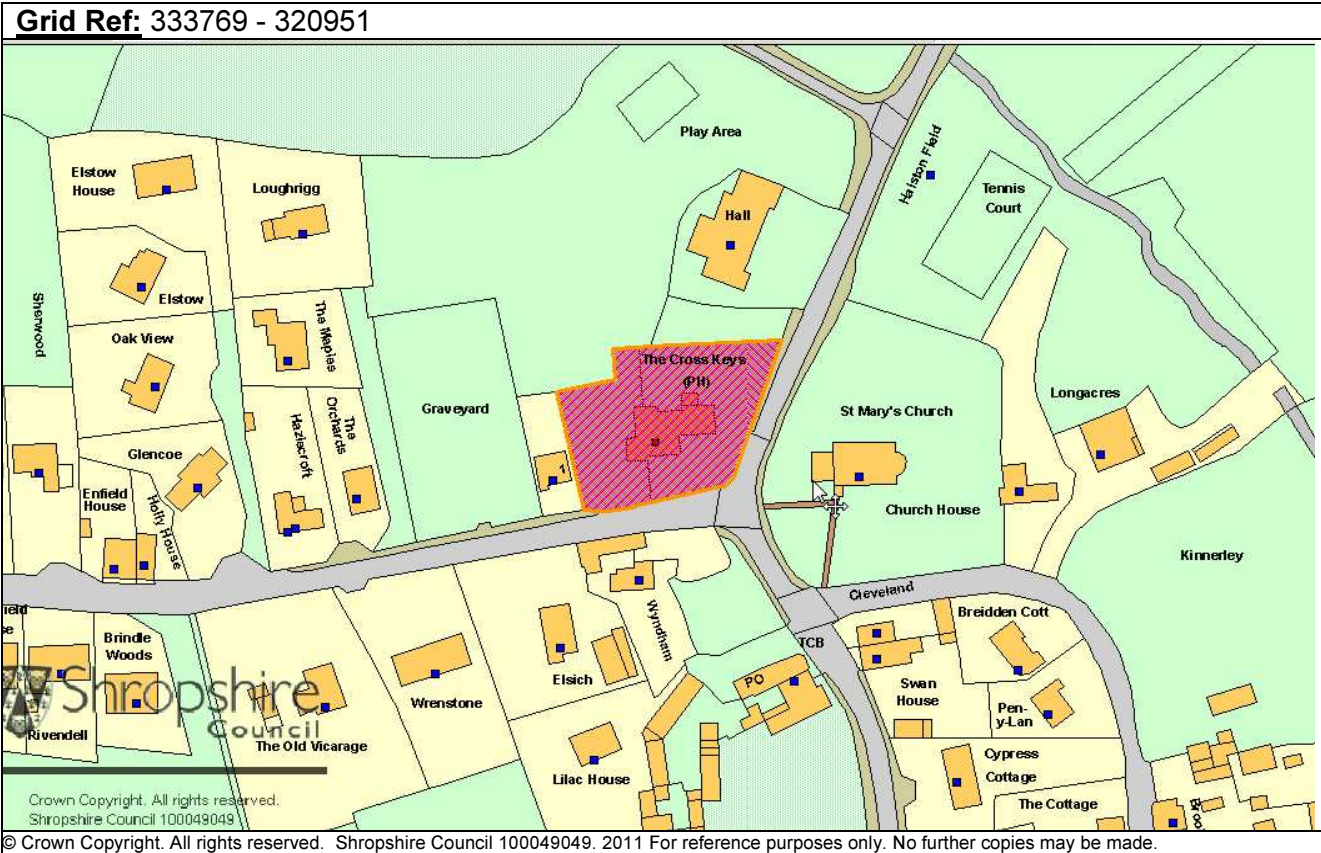
<u>Item</u>
6
Public

Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 13/05139/FUL	<u>Parish:</u> Kinnerley
<u>Proposal:</u> Erection of four dwellings; retention of public house; formation of new vehicular accesses and alterations to existing car parking arrangement; associated landscaping	
<u>Site Address:</u> Cross Keys Inn Kinnerley Oswestry SY10 8DB	
<u>Applicant:</u> Mr Malcolm Guest	
<u>Case Officer:</u> Joe Crook	<u>email:</u> planningdmc@shropshire.gov.uk



Recommendation:- Subject to the applicants entering into a S106 agreement to secure affordable housing Grant Permission subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The proposed development is for the erection of 4 semi-detached dwellings; the retention of the existing public house; the formation of new vehicular accesses and alterations to existing car parking arrangement and associated landscaping.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The Cross Keys Inn Public House is located within the Village of Kinnerley. Kinnerley lies to the south of Oswestry and North West of Nesscliffe. The Public House is a large detached building of brick and slate construction which is located within a prominent location within the main core of the village, opposite the Church and close to the main shop in Kinnerley. There is a tarmac/gravelled parking area to the front and east side of the building with a grassed area to the west.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Objections have been received from Kinnerley Parish Council and following liaison with the Local Member and the Committee Chair it has been requested that the item be determined by the Northern Planning Committee due to the nature of the issues raised.

4.0 COMMUNITY REPRESENTATIONS

4.1.1 - Consultee Comments

Kinnerley Parish Council considered the above planning application at its meeting on 28 January 2014.

It strongly **Objects** to the proposals as currently submitted.

The Parish Council strongly supports the retention of the Cross Keys as an important community facility in the centre of our village. The Kinnerley Parish Neighbourhood Plan specifically states (on page 44, paragraph 79) that people are keen to have welcoming, family friendly pubs that can act as focal points for the community.

The reasons for the objection are as follows:

1. Kinnerley Parish Neighbourhood Plan (KPNP): The Housing and Development and Economic and Tourist Development section of the KPNP was adopted for development management purposes by Shropshire Council on 14 November 2012. It is a material planning consideration. Development in Kinnerley Parish should be plan led not developer led. In the KPNP, the Cross Keys site was not identified as a site suitable for future development. The application therefore does not comply with the local development plan.

The Community Group of the KPNP (which was established after its adoption to oversee and monitor the planning and implementation of activities related to the Neighbourhood Plan action ideas, see page 44 of KPNP) has seen a greater awareness and desire to protect the Cross Keys.

2. Setting: The pub occupies a key and prominent location in the centre of Kinnerley and faces the village green and adjacent church. The visual appearance of the proposed houses on the road side to the north-east would adversely affect the character of this historic village centre. Furthermore, the houses extend beyond the existing natural building line, which will be visually intrusive on an already narrow road.

3. Highways: Access to the proposed properties to the north-east is considered to be unsafe. There will be a need to reverse in, or out, of the drives onto an already dangerous section of road or existing pavement. The level of the ground for the proposed houses is much higher than the road, so driveways to them would be on a pronounced slope thus adding to the potential traffic dangers. Safety concerns about the road through Kinnerley are regularly raised with Highways and, following speed assessments, approval was given to install a Vehicle Activated Speed Sign adjacent to the proposed siting of plots 3 and 4. There is limited visibility due to the Church Wall adjacent to the bend, in the village centre. Only recently, following community concerns raised in the KPNP, Shropshire Council agreed to also install mirrors on the other side of the bend near the shop to improve limited visibility when leaving Church Lane. Vehicles reversing into or out of the drives would cause a significant increased risk to road safety on an already unsafe section of road and to local children using the adjacent play area and BMX track who walk or cycle along this section of road.

4. Heritage: We would recommend that the historic value of the pub and its setting is given further review as part of the planning application process.

5. Design: The Application provides no elevations showing the massing of the proposed houses with the Cross Keys pub or adjacent buildings. This was a matter raised with the architect during pre-application discussions. In any event we consider that the proposed development is out of scale and character to the setting. We prefer, in view of the prominent and key geographic location of the application site, that photomontage views of the development be submitted.

6. Car park: The Parish Council notes a clear and direct link to the economic need and the necessity to retain the existing car park at the Cross Keys, and for it to be laid out properly to make full use of the space available. The Cross Keys will not survive on “walk in” business or people travelling by bus. An adequate car park is essential to allow the Cross Keys to be economically viable. Furthermore it must be a car park that is easy to use and not restricted in space, which would put people off visiting the pub. It is to be noted that the existing car park holds a significantly greater number of cars than that proposed in the planning application.

The KPNP (at page 44) recommended the identification and implementation of suitable measures to control parking in central Kinnerley, e.g. limiting length of stay in the car park by the village green, and encouraging the use of the car park instead of on-road parking by the village shop. Any restriction to the Cross Keys car

parking spaces might exacerbate this village parking problem.

7. Viability: The Cross Keys pub is seen as an essential existing facility as noted in the KPNP. Years of bad management led to the severe decline of the pub and to its eventual sale last year. The recent new management (by a local and well respected family) has brought about a 'sea-change' and it is now a busy, vibrant and friendly pub. The existing situation is simply incomparable to previous managers and any planning decision must take full account of the comments of the current landlords where it pertains to the viability as a pub. The pub now offers an excellent menu as well as being a free house. It is clear that with good management the future of the pub has a far 'safer' future than the Applicant has suggested in the planning documentation.

With the business currently demonstrating its potential for success, more car parking will be needed, not less.

8. Financial information: There is no clear demonstration of financial predictions or 'matter of fact' to back up the statements by the Applicant that the pub is in danger of closing and therefore possibly providing a reason to depart from the KPNP. We consider the application statement to be out of date in that it follows the same arguments presented by the architect in September of last year before the present landlord took a lease on the property and before it was demonstrated that with good management the pub very much has a viable future.

9. Consultation: The Parish Council would have welcomed the opportunity to ask the applicant questions at the Council meeting. An invitation was made but neither the applicant nor his agent were made available. Nevertheless, the Parish Council welcomes further discussions with the owner (Applicant) of the Cross Keys and asks that any new proposal is submitted with financial information to outline the cost of repairing/renovating the pub.

10. National Planning Policy Framework (NPPF): The proposal is contrary to paragraph 17 of the NPPF which seeks a plan led system empowering local people to shape their surroundings, which in this case is embodied in the KPNP. In its requirement for good design as set out in the NPPF this proposal is currently contrary to paragraphs 58 and 61. Paragraph 64 is quite clear in 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".

11. Local development plan: The proposed development is contrary to Policies CS6 and CS8 of the Shropshire Core Strategy in that it does not achieve satisfactory design quality and most importantly does not in itself protect the existing facilities that contribute to the village life.

12. Public opinion: At the Parish Council meeting on 28 January 2014 available seats for members of the public were full and those members of the public who spoke at the meeting expressed little support for this application and strong support to ensure good managers/landlords (such as the present landlord) continue to run the pub, independent of any redevelopment of the grounds. A representation by the current landlord confirmed that; in his view, the changes that are proposed,

particularly the proposed reduction of available car parking space, would be adverse for his business.

Informative comments in addition, and separate to, the Objection noted above.

The Parish Council recognises the efforts being made by the applicant and welcomes further dialogue. The Parish Council also recognises that urgent improvement work is needed to improve the living as well as commercial facilities at the pub. This has also been confirmed by the current landlord.

Taking this on board the Council considers that there may be some merit in exploring the development potential of the garden (plots 1 and 2) on an exceptional basis. The development would still need to have recognition and consideration of its appearance and scale as a frontage plot, in the centre of the village.

The Parish Council could be minded to support in principle development on this west side of the Cross Keys on the basis that this is enabling development. Support would be given only on the condition that a binding legal agreement is put in place to link the proceeds of the sale of this land/development directly for repairs/renovation of the Cross Keys. In so doing the Parish Council considers it would be instigating the core principle of the KPNP to ensure the continued use of the Cross Keys as a public house.

Following the above response, some substantial correspondence was submitted in respect of comments received from the applicant regarding the financial details of the public house in order that it continues to run. The Parish commented that the applicant was making a financial case in respect of the financial issues in order to assist with his planning application, and that the planning application should be considered on relevant planning matters only. They also commented that the planning system is not intended to protect the individual matters in terms of the interests of one party over another. The Parish comments go on to discuss the details of the price paid for the site, the subsidising of the rent for the current occupant of the public house and that, overall, the submitted financial details are inaccurate and seek to portray a false financial situation in order to obtain planning permission.

- 4.1.2 **SC Ecology** – No objections subject to conditions and informatives. Advise that any works to the Public House may mean further surveys are required.
- 4.1.3 **SC Drainage** – Full drainage details required including 50% betterment due to brownfield site. Recommend conditions and informatives in this regard.
- 4.1.4 **Affordable Housing** – The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and therefore satisfies the provisions of the SPD Type and Affordability of Housing.
- 4.1.5 **SC Archaeology** - The proposed development site lies within the core of the historic village of Kinnerley, c. 40m west of St. Mary's Church (Listed Grade II* - National Heritage List Ref. 1054675). This part of the settlement is therefore likely to have occupied since at least the medieval period. Historic editions of the Ordnance Survey map indicate that the western side of the proposed development site has remained undeveloped since at least the later 19th century, whilst a range

of outbuildings previously stood the north of the current public house. It is therefore possible that archaeological features and deposits relating to the medieval and later development of the village might be present on the proposed development site, particularly to the west of the current building. As a consequence, on present evidence it is deemed to have moderate ' high archaeological potential. Recommend that a programme of archaeological work, to comprise an archaeological watching brief during all ground disturbance works, be made a condition of any planning permission for the proposed development.

- 4.1.6 **SC Public Protection** - The public house has a license to be open until 12:30 Friday and Saturday and slightly earlier on Sundays and other week days. It is likely that there will be some noise from the public house from time to time however it is noted that facades generally facing the public house have no windows into habitable rooms which will reduce any noise disturbance. It is recommended that double glazing is installed to a higher than normal standard of noise attenuation to ensure that disturbance of residents, particularly in night time hours i.e. after 11pm. The applicant also owns the public house and is advised that building residential properties close to the public house may restrict operations in future and could result in application for later licensing hours or music events.

Recommend Electric Vehicle charging point installation.

- 4.1.7 **SC Trees** – Following the submission of an arboricultural assessment, slight amendments to the positioning of plots 3 and 4 were made to ensure that these were largely outside of the root protection areas for the trees to the north boundary. Following this the Trees Officer confirmed that there were **no objections** to the scheme, subject to a condition being attached to any permission.
- 4.1.8 **SC Conservation** – The proposal is adjacent to the Grade II* listed Church of St Mary and associated Font within the graveyard and Churchyard Cross and steps are both Grade II listed. The Cross Keys is considered to be an undesignated Heritage Asset.

The proposed site is considered cramped and high density, when viewed within the wider context of the village grain, but this may be a result of trying to achieve smaller properties to add a varied mix to dwellings available in the area.

With the proposal for dwellings (plots 1 and 2) comes the removal the hedgerow and it is questioned as to whether it is necessary to provide a pavement when there is one on the other side of the road and it goes nowhere? The proposal on the other side of the public house (plots 3 and 4) will require the removal of the historic sandstone wall, a vernacular detail along the roadside through the historic core of the village. These alterations are likely to have a cumulative detrimental impact on character of this part of the village and therefore possibly affect the wider setting of the listed church and historic environment.

The visual appearance of the proposed dwellings has some reference to the local vernacular but the fenestration detailing and proportion does not and it is considered that a design which takes a more subservient cottage detail, perhaps with gables to the road would harmonise with the public house rather than try to loosely imitate it, as a consequence detract from it. It is recommended that a design

assessment in accordance with the English Heritage guidance is carried out to inform the design within its wider setting of the listed church and its potential harm. If harm is envisaged there should be clear and convincing justification given for this (NPPF para 132) and if less than substantial harm is revealed as part of the assessment or can be reduced to less than substantial harm through negotiations then para 134 of the NPPF could apply i.e. the retention and reuse of the Cross Keys and minimal impact on setting of church and area.

4.1.9 **English Heritage** – Initial objections raised to the scheme based on its impact on the setting of the Grade II* St. Mary's Church and the undesignated Cross Keys public house, which is considered to be a heritage asset. Further correspondence was required in order to establish the level of harm considered in respect of St. Mary's Church and to clarify where this harm arises from. The response in this regard confirmed that English Heritage considered the harm to the setting of St Mary's Church as 'less than substantial' in terms of the NPPF definitions and that the submitted heritage assessment within the design and access statement was sufficient for the purposes of the application. However, the English Heritage inspector did comment that the harm to the Grade II* listed building would still in itself be grounds for refusal but did not quantify the reasons for stating that this is the case. It was also commented that either the removal of plots 3 and 4 to the east or possibly two single dwellings on either side of the building could mitigate against the harm created.

4.1.10 **SC Highways** – No objections raised.

4.2.1 - Public Comments

25 public objections have been received which raise the following issues:

- The proposed dwellings opposite the church (plots 3 and 4) are on an elevated piece of land and part demolition of the existing sandstone wall will be detrimental to the character and setting of the historic core of the village, the grade II* listed church and the overall street scene.
- Plots 3 and 4 will be obtrusive when viewed from the main square in the village given they will be forward of the building line.
- Direct vehicular access onto the main highway through the village is considered to be detrimental to highway safety and close to a blind bend on the road, as well as the Parish Hall car park and the children's play area.
- Children utilising the play area and crossing the road at this juncture will be endangered by the proposal.
- Cars will have to reverse out onto the main road as there is no designated turning inside the site.
- The access point to the Parish Hall was moved due to the risk of being located near to the bend by the church, at the request of the Council.
- Insufficient car parking if pub becomes busy and the Parish Hall car park should not be used as overflow when it is full.
- There should be no loss of car parking, the improvement in the current pub offer has seen an increase in vehicles with 6-12 vehicles regularly parked at the site.
- Why is the additional pavement to the frontage necessary?
- There is no vehicular access to the rear of the pub. What about deliveries etc.
- Semi-detached dwellings in this location are cramped and inappropriate since there are no other semi-detached properties within this area.

- 4 dwellings is excessive and not in proportion with the site.
- The pub is essential to the local community and therefore any works to the public house should be tied to the housing development.
- The housing development requirement within the Kinnerley Parish Plan has been identified for the next 13 years and the proposed development locations do not include the Cross Keys.
- Street scene elevations should be provided in order to establish the visual impact of proposed plots 3 and 4.
- The historic context of the site needs to be taken into account and the development would be detrimental to the heritage importance of a grade II* listed church, Cleveland House and the Cross Keys itself which is understood to have a medieval cruck frame at its core of possible 15th Century date. The modern development would be completely out of character and scale with the historic core of Kinnerley and insensitive to the historic buildings within the vicinity. It would also compromise the village green setting due to the car parking to the front.
- The reduction in the space for the pub will likely see its popularity reduce and could see it close on this basis.
- Without a garden and car park the public house will cease to function as a viable business.
- There is no reference to the refurbishment works to take place and be tied in to the development. The condition of the building should have been reflected in the purchase price. How will it be guaranteed that any money associated with the scheme will be put back into the pub?
- Has the impact of the development on the trees to the northern boundary been considered as development is within the root protection areas and this needs to be considered, along with the depth of the digging and its impact on roots etc.
- Has an ecology survey been submitted?
- Without marked parking spaces it is not realistic to assume that 16 parking spaces will be fully available.
- The design of the proposed houses is banal and inappropriate in its setting.
- Concern regarding tree protection areas as shown.

4.2.2 However, some general support for houses on the plot to support long term viability of public house was included within the above objections, particularly in the location of plots 1 and 2. It was also noted by objectors that the current occupier of public house has made some progress with regard to making the pub more successful. Objectors commented that this should continue and it is evident that it can work with the right people involved to make the pub a viable business proposition (though it should also be noted that the viability of the public house has been disputed by the applicant given it is currently heavily subsidised).

4.2.3 In addition to the above, CPRE Oswestry raised significant concerns in respect of the development due to the impact of the development on an historically important site and its heritage assets. They submitted a heritage statement as part of their objection which raised the following issues:

- The planning application should not be determined without an appropriate heritage statement given the context of the site.
- CPRE have undertaken this in order to ensure that the North Planning Committee are aware of the significant importance of the site within Kinnerley and within the wider area.

Key points made within the submitted heritage statement:

- The core of the village of Kinnerley centred around the Church conforms to a medieval pattern of development. The Church sits on a circular mound, which it shares with the site east of the Cross Keys PH, the road having the appearance of having been cut through this mound. Only very early Churches of the immediately post Roman/early Christian era occupy such circular mounds, which are themselves semi-defensive in nature. It is possible that this cutting through the Saxon enclosure around the Church was a Norman modification to create access from their stronghold at Belan Bank, requiring the revetment of both Churchyard and manorial site with a stone wall. Both the Church and the site of the Cross keys probably occupied the same building platform.
- The fact that the Cross Keys is a cruck-framed open hall would reinforce that it dates from the late 15th century as replacement for a possibly earlier building.
- The Cross Keys PH building now has a Georgian external shell which is typical of the late 1700s/early 1800s and this development is also reflected in practically every other house of significance (including the former old Vicarage) within the settlement, and is of historical significance.
- The road pattern has a reversed S which is characteristic of the Saxon and Medieval periods, reflecting the use of the Saxon plough and the fact that it radiates outwards from a typical 'green' – an enclosure for the impounding of animals, and a market place. This Saxon characteristic is still intact.
- The Saxon Green Village - Green villages are a very particular type of early settlement pattern and their form and context needs to be guarded.
- St. Mary's Church clearly had a Saxon foundation, being the Mother Church or Minster for all Churches to the south of Oswestry. A minster Church is of considerable significance. The present Kinnerley Church is truly majestic and rises on its mound about the surrounding buildings but it should not be forgotten that the Cross Keys site is also part of this same site in origin and is of great visual importance to the 'green village' and is the most important building in the village as viewed from the Churchyard. Its environs are thus of considerable visual importance to the Church itself.
- Of even greater significance is that the site for redevelopment immediately east of the Cross Keys is the possible site of the early Christian Preaching Cross (dating from 6th-10th century), attested to by the field names Cross Field which is attached to the land immediately east of and behind The Cross Keys PH (evidence from Tithe apportionment). It is thus possible that the PH takes its name from a former preaching cross which stood on what appears to be the end of the defensive enclosure before the road was cut through. The cross would have preceded the building of any Church on the site and its site would have been deliberately chosen by a missionary priest to precede the building of the first wooden church from out of which a colony of missionary priests would travel to surrounding areas to convert the pagan Saxons to the Christian religion as early as the 6th century.
- The preaching cross in the Churchyard is thought to be 15th century in date and could be a replacement. Such features acquired a symbolic significance over the centuries and as the old Saxon Cross crumbled away it necessitated a replacement which could easily have moved its location. The proposed development thus could hardly be described as being a suitable use for such a unique historical site of considerable importance to the foundation of Christianity for the Oswestry area.
- Sandstone walls are a feature of the village. It is thus essential to retain these

important features, especially those that delineate and act as a revetment for what appears to be a deliberate cutting through the early religious/Saxon defensive site.

- The proposed development is an unsuitable use for such a unique historical site of considerable importance to the foundation of Christianity for the Oswestry area.
- The proposed designs are banal and overpowering and will dwarf the Cross Keys PH, tower over the green and create an unfortunate duality with the Church, reducing its importance in the street scene. Under no circumstances can these proposed developments be allowed to disrupt the setting of the Minster Church.
- The settlement as a whole abounds with buildings of listable quality including the larger Georgian and stone houses which undoubtedly have earlier cores; and the whole form of the village itself has potential to be a conservation area. Such 'green villages' are very rare, are known to be associated with Saxon settlement, and its importance as an early foundation of Christianity urgently needs to be recognised.
- The development should be resisted under the National Planning Policy Framework on the basis of the unique character outlined above, and the historic importance of the 'green village' of early origin. It is also detrimental to the setting of a grade II* listed building of which it was likely originally part of and therefore should be refused on this basis. The application should also not be determined as no heritage statement has been made, and this is essential in light of the above, and in accordance with the NPPF.
- The NPPF states Section 132 states that "when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction. Substantial harm to a grade II* building should be wholly exceptional"
- Section 133 states that "where a proposed development would lead to substantial harm or total loss of significance of a designated heritage asset the LPA should refuse consent"
- It is urged that the LA regard the mound upon which the east side of the Cross Keys sits as part of the defensive Saxon mound upon which the Church sits and thus an undesignated heritage asset. Also that Section 129 of the NPPF should apply, that is, non-designated heritage assets of archaeological interest that are demonstrable of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.
- Finally it is urged that in accordance with section 141 LPAs should make information about the significance of the historic environment (at Kinnerley i.e. the defensive mound, the 'green village' and the Minster Church) gathered as part of the development management process, publically accessible and that it should form the basis of a Conservation Area designation.
- The scheme is also contrary to Core Strategy policies CS6: Sustainable Design and Development, CS16: Tourism, Culture and Leisure and CS17: Environmental Networks of the Shropshire Core Strategy.

In addition, when Kinnerley Parish Neighbourhood Plan was adopted by Shropshire Council the Parish was congratulated for identifying more sites for housing development than was proposed in the SAMDev document. KPNP specifically excluded future development in the centre of Kinnerley Village.

- 4.2.4 An assessment of the Conservation Officer comments and the revised design and access statement has also been undertaken by CPRE who have made the following comments:

- A consultation with English Heritage should take place as the application affects the setting of a Grade II* listed building.
- The response of the Conservation Officer recognises that the scheme represents overdevelopment of the site and should therefore be refused by the Council.
- The Conservation Officer raises a number of key issues, and states that development has a cumulative detrimental impact on the site and setting of the wider area including the listed church. Her comments also reference the removal of hedgerow and sandstone wall, as well as the inclusion of a pavement which goes nowhere.
- Kinnerley Parish has allocated sufficient housing to meet the needs of the Council's housing numbers.

The revised design and access statement (which includes the heritage statement) has failed to address the above issues and confirms a lack of understanding of the impact of the development as it concludes a positive impact on its surrounds.

5.0 THE MAIN ISSUES

- Principle of development
- Sustainable development
- Impact on the setting of St. Mary's Church and historic core of Kinnerley
- Design, scale and character
- Highways
- Impact on neighbouring amenities
- Drainage
- Ecology
- Public Protection
- Affordable Housing
- Other issues

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 and 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 ‘Revised Preferred Options’ stage 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).*

6.1.4 Kinnerley is part of a Community Cluster within this area, also made up of Maesbrook, Dovaston and Knockin Heath and this has an overall target of 50 dwellings for the plan period. However, Kinnerley has undertaken a Community Led Plan which has been endorsed by Shropshire Council’s cabinet and is now adopted for development management purposes. Specific site allocations have been proposed within the Neighbourhood plan and this includes two allocated sites for development in Kinnerley, with a total housing target of 23 dwellings on these sites whilst retaining a development boundary. The Community Led Plan acknowledged the requirement for more housing whilst also identifying that Kinnerley village is by definition a ‘Community Hub’ given the level of services and facilities available including a shop, pub, school, post office, Parish Hall, play areas and bus route. However it also specified that approximately half of the required housing for the cluster should be sited here, and that this is represented within the allocated sites for 23 dwellings. It was also specified within the community questionnaire that the housing should not be on a single large site but on a mix of sites within the area. The site proposed for development is within the designated development boundary but was not included as a site for consideration during the assessment of allocations for the Kinnerley Neighbourhood Plan. It is also noted that smaller dwellings in the form of 1-3 bed houses were largely preferred as opposed to 4-5 bed houses.

6.1.5 A number of residents have objected to the proposed scheme on the basis that the allocation of housing required for Kinnerley and the surrounding area was allocated during the Community Led Plan and therefore additional housing sites would not be in accordance with this adopted plan. The Parish Council have raised this issue and commented that development in Kinnerley Parish should be plan led not developer led and, in the Neighbourhood Plan, the Cross Keys site was not identified as a site suitable for future development. This means that it is the Parish Council’s opinion that the application does not therefore comply with the local development plan and as such the proposal is contrary to paragraph 17 of the

NPPF which seeks a plan led system empowering local people to shape their surroundings and in this case this is embodied in the Kinnerley Parish Neighbourhood Plan.

- 6.1.6 Saved policy H5 of the Oswestry Local Plan is also a relevant local policy in that it supports sustainable housing developments in the larger areas, such as Kinnerley, where a variety of services and facilities are available. This allows suitable windfall sites within development boundaries.
- 6.1.7 As noted above however, the NPPF specifies 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. In this case, greater weight should be the presumption in favour of sustainable development as advocated in paragraph 14 of the NPPF. Due to the current position on meeting the 5 year land supply for Shropshire guidance is such that NPPF paragraph 49 applies. This effectively means that in taking decisions saved local plan policies are not considered up to date and are given less weight than the NPPF guidance, with the emerging SAMDev also given less weight in this regard. The lack of 5 year land supply also reduces the weight given to Parish plans, in this case the Kinnerley Neighbourhood Parish Plan, in determining the location of housing. The consideration of the principle of residential development is therefore largely based on whether the site is considered to be in a sustainable location due to the lack of 5 year land supply for housing.

6.2 Sustainable development

- 6.2.1 As referenced above, the Kinnerley Parish Plan itself references the level of services and facilities present within the centre of Kinnerley and that this would typically represent that of a Community Hub under policy CS4 of the Shropshire Core Strategy. The location of the development within the development boundary and the main core of Kinnerley means its siting is close to the variety of services available in the village and as such it can be seen to be a sustainable location which would minimise the requirement for car use and would be easily accessible to all available facilities. Furthermore officers consider that it will be read within the context of the existing development within the village and will not be isolated from it in any way. On this basis it is considered that the principle of the development is acceptable based on the fact the proposal accords with paragraph 49 of the NPPF in terms of a presumption in favour of sustainable development.

6.3 Impact on the setting of St. Mary's Church and historic core of Kinnerley

- 6.3.1 Clearly a variety of concerns have been received relating to the impact of the development on heritage assets within the area including St. Mary's Church opposite the site, and the historic core of the settlement of Kinnerley. The Council's Historic Environment Team have made reference to this and the need for a level of assessment of the impact on the Grade II* listed church. The Parish have commented that the elevated nature of the site to the north east, forward of the building line will have a detrimental impact on the village setting. Furthermore the CPRE have submitted a detailed document which outlines the historic development of the village and the potential importance of the Cross Keys site in its early development. The majority of the detail relating to this can be found above, but some of the main issues raised relate to the Cross Keys site sharing the circular

defensive saxon mound upon which the Grade II* listed St. Mary's sits with the road having been cut through the mound; the fact the Cross Keys could have dated from the 15th century given it was a cruck-framed open hall prior to its Georgian shell; the historical significance of the Georgian Shell from the early 1800s and the reflection of this within the surrounding village; the settlement pattern and context of a Saxon 'Green Village'; the significance of the church and its setting as well as the other significant religious features and buildings of listable quality within the area; and of most significance is that the site for redevelopment immediately east of the Cross Keys is the possible site of the early Christian Preaching Cross dating from 6th-10th century.

- 6.3.2 On the basis of the above the CPRE objection comments that the scheme should be refused under NPPF Section 132 which states that "when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction"... "Substantial harm to a grade II* building should be wholly exceptional" as well as Section 133 which states that "where a proposed development would lead to substantial harm or total loss of significance of a designated heritage asset the LPA should refuse consent".
- 6.3.3 The balance of the consideration has to therefore be on the level of impact of the development on a heritage asset, in the form of the Grade II* listed church and the non-designated asset referred to in the form of the Cross Keys itself. Paragraph 128 of the National Planning Policy Framework states that local planning authorities should require the applicant to describe the significance of any heritage assets potentially affected and any contribution made to their setting. The level of detail of the submission should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. The applicant has included a heritage assessment within their design and access statement which has accessed the relevant historic environment record and has assessed the level of impact of the development. It has been referred to the English Heritage Inspector who has agreed that it represents a sufficient level of information for the application in terms of its assessment of the historic environment. The assessment concludes that there is nil impact on the setting of the grade II* listed church given the scale and positioning of the dwellings within gaps in built up frontages and within the setting of the Cross Keys itself. However, in addition the level of impact on the Cross Keys is considered to be minimal with the building unaffected in its central position within the site as the focal point as the most distinctive structure. The statement also points out that in accordance with the NPPF, where development includes sites with archaeological interest then appropriate requests for further archaeological investigation should be made. This has been acknowledged by the Local Authority and a condition could be attached in this regard.
- 6.3.4 It is noted that the CPRE comment provides detailed information regarding the historic development of the village, and how the development within the village is of significance to the development of Christianity within the area, the significance of St. Mary's Church and the potential for the Cross Keys site to have been potentially part of the same defensive mound. However, the area is not a designated Conservation Area and it is evident that there has been some modern development

within this historic core of Kinnerley, something noted with the applicant's Heritage Assessment. In this regard the consideration of the development really lies with the assessment of the impact on the Grade II* listed church and the Cross Keys itself. Paragraph 132 of the NPPF recognises that the weight of consideration should be based on the importance of the asset itself. In this case much greater weight is given to the consideration of the impact on the Grade II* listed building than on the non-designated heritage asset (which has only recently been described as such).

- 6.3.5 In respect of the above comments from the CPRE with regard to the level of impact and the consideration of the NPPF guidance, it is notable that whilst the English Heritage Inspector has considered there to be some harm in respect of the Grade II* listed church, this harm is considered to be 'less than substantial'. On this basis the above sections of the NPPF are not entirely relevant and the consideration of this application is within the context of 'less than substantial' harm on a grade II* listed building and harm to the setting of an undesignated heritage asset in the form of the public house itself. Whilst there has been an application made to English Heritage in order to attempt to list the Cross Keys pub, this can not be given weight in regard to the application given its current undesignated status and it should also be noted that this was clearly undertaken in response to the application being submitted and not based on an independent consideration of the building prior to an application for development of the site. As referenced above, clearly far more weight is given to the level of harm to the Grade II* listed building than a non-designated asset.
- 6.3.6 Whilst the CPRE comments regarding the potential historical layout of the defensive mound in this location are acknowledged, the current layout of the village has to be given weight as well and the two sites are now separated by the road that has potentially been dug through this mound. Officers consider that visually this creates significant separation between the two sites, particularly with the sandstone walls on either side and this has been included within the development in order maintain a level of continuity and sensitivity in this regard. Furthermore, the existing context within which plots 3 and 4 sit requires consideration as this includes the modern Parish Hall to the north, a tennis court to the north east and a modern dwelling further away to the west. The dwellings will be visually divided from the church by the road and the overall scale, height and setting of the church within a much larger site will be relatively unaffected given the division and the overall prominence of the church on the opposite side of the road. In addition the dwellings will be well screened by existing trees, which are to be protected as part of the development, and will be read much more closely against the Cross Keys itself.
- 6.3.7 In this regard it is considered that there is an impact on the setting of the Grade II* building, however as confirmed by English Heritage this impact is "less than substantial". As per paragraph 134 of the NPPF, where this is considered to be the case, this should be weighed against the benefits of the proposal and securing the sites optimum viable use. Whilst the English Heritage Inspector has commented that the harm could still be sufficient for a refusal of the scheme, evidently in the consideration of the scheme we need to consider the level of harm against the wider benefits of sustainable housing development at a time when additional housing supply is crucial within Shropshire, as well as the retention of an important community facility within Kinnerley. Based on the fact that the harm is considered to be 'less than substantial' to the Grade II* listed church and the pub itself is not

designated, along with the assessments made above in respect of the position of the proposed dwellings, their subservience to both the public house and church and the limited vantage points from which they are viewed, officers consider that the balance falls in favour of the benefits of the scheme being given greater weight than the harm to the heritage asset.

- 6.3.8 Whilst it is noted that reference is made to the settlement pattern including the roads, this is largely unaffected by the development in many respects and the form of the area is not uniform in any case and includes elements of modern development. Furthermore, the potential for the site to have been used for an early Christian Preaching Cross does not appear to be fully confirmed but obviously any evidence regarding this could be established through the archaeology works to take place as part of the condition requested by Historic Environment.
- 6.3.9 The visual impact of the development on the non-designated asset, the Cross Keys itself, is considered to be minimal. Whilst it is acknowledged that this is a prominent building in its own right it will be retained in its entirety with the proposed dwellings located to the side and rear of the building largely as infill development, reducing the overall visual impact and retaining the focus of the Cross Keys within the site. It is equally considered that the design of the dwellings are such that they reflect the character of the site and surrounding area and this will be discussed further within the next section. It is also acknowledged that the addition of the sandstone wall sections along the frontage of the site to replicate the existing walling are considered to provide visual enhancement with respect to the scheme.
- 6.3.10 It should also be noted that there is some dispute over the location and extent of the Cruck frame within the public house, with objections stating it is within the eastern section of the building, though photographic evidence provided by the applicant appears to show its potential location differently. Whilst such a dispute is not considered to have a major bearing on the application recommendation in itself, it does demonstrate that it is difficult to give any great weight to this at the current stage given that it is entirely internal, and its extent has not been fully established. With the development not proposing to alter the public house, and currently not designated, it is not considered that this would be a reason to delay or refuse the application as submitted.

6.4 **Design, scale and character**

- 6.4.1 Concerns have been raised regarding the design of the dwellings, with objectors referring to the dwellings as banal and visually detrimental to the area, as well as inappropriate in scale and cramped within the site. The Conservation Officer has commented that the dwellings should be altered in design and formed through a design assessment, and that the proposed design whilst taking some reference to local vernacular does not achieve an appropriate visual appearance. A cottage style to the dwellings with fronting gables is suggested. Furthermore the Conservation Officer has commented that the removal of the historic sandstone wall is a vernacular detail within the historic core of the village and its removal would be detrimental to the character of the area. However, this has been reintroduced as part of the scheme following negotiation, with sections of sandstone walling to be included on the side and front of the site (where vehicular access points for the development are not required).

- 6.4.2 The layout of the scheme is dictated by the position of the public house to the centre of the site and officers consider that this ensures a level of balance within the visual appearance of the scheme, retaining the visual dominance of the public house. Whilst objections to the scheme have commented that the dwellings will dominate the existing public house building and will be cramped within the site, this is not considered to be the case. Plots 1 and 2 will be comfortably located as infill development between the Cross Keys and an existing dwelling to the west and will be staggered so that each side is set slightly in from the adjacent building, thus allowing the existing buildings to maintain visual prominence and the proposed dwellings to remain subservient.
- 6.4.3 The dwelling frontages have been staggered with hipped roofs included and this reflects the design of the Cross Keys and is a prominent feature of properties within the area. The width of the properties will be approximately half of the Cross Keys itself with the height of the dwellings to be similar to the main ridge height of the pub (though a condition for finished floor levels will be included) and therefore the overall scale of the dwellings is not considered to be excessive. Whilst the fenestration has been noted to be different to that of the public house, clearly the difference between the uses of the buildings requires for more domestic features to be utilised on the proposed dwellings, and the new properties have included architectural details such as chimneys and windows headers and cills. These features are intended to be sensitive to the character of the area and the public house, but evidently the buildings will be read as domestic properties and are not intended to match exactly the design of the public house. It is also worth noting the plots 1 and 2 will also be read within the context of the existing more modern properties within the vicinity of this part of the site.
- 6.4.4 The Conservation Officer has commented that a change in design could be considered more appropriate and subservient, utilising a cottage detail with gables to the road, formed from a design statement. However, the design of the dwellings proposed is considered by Officers to be sensitive to the local vernacular for the reasons set out above and is not considered to be excessive in scale or visually dominant in any case. The introduction of gables to the frontages as suggested by the Conservation Officer is considered to be a relatively alien feature to the village and it is considered that this would sit uncomfortably within the historic core of the village and the Cross Keys itself.
- 6.4.5 It should also be noted that the design of the dwellings lends itself to smaller semi-detached properties. A number of objectors have commented that detached dwellings would be preferred in this location but it is noted that the Kinnerley Neighbourhood Plan identifies the need for smaller properties and these units would meet such a need given that they be relatively compact 3 bedroom properties. However, objectors have also raised that this leads to a relatively cramped development. This is not considered to be the case, with parking provision for two cars to the front of the properties and relatively generous amenity space to the rear of the all houses. On this basis the density of the development is considered to be appropriate, whilst also meeting a housing need within the area.
- 6.4.6 A number of objections have been received with regard to plots 3 and 4 due to these dwellings being sited opposite the Grade II* listed church and considered to be forward of the 'building' line of the Cross Keys and obtrusive in this regard. The

issues relating to the impact of these dwellings on the heritage assets within the locality are discussed above. However, in terms of the relationship with the Cross Keys and the wider area, the dwellings will be positioned to the rear of the public house and are not considered to compete with the Cross Keys building, or appear excessive adjacent to it, given that they will be set back from the pub frontage and side facing to the main centre of Kinnerley Village. Whilst they will be on an elevated section of land the distance they are set back from the pub frontage reduces the visual impact of this when viewed from the centre of the village, and with the frontages of the properties onto Vicarage Road and screened by large trees (to be safeguarded as part of the application) when viewed from the north east it is considered that the visual impact of these properties is minimised. A new stone wall will be constructed in front of the side elevation facing towards the main core of the village and as such this will further visually divide plots 3 and 4 from both the pub frontage and the core of the village, and also soften the visual appearance. As such it is not considered that the plots 3 and 4 represent an adverse visual intrusion within the core of the village and are considered to have a relatively minimal impact, allowing the prominent Cross Keys to remain so.

6.4.7 It should be noted that slight amendments were made to plots 3 and 4 following consultation with the Trees Officer, and the garage to plot 3 was removed, with the dwellings moved slightly away from the Tree Root Protection Zone. Given the screening that the trees provide and their amenity value, it is considered that this is an enhancement to the scheme and the revised positions of the dwellings are negligible in their change compared with the original submission.

6.4.8 Overall, officers consider that the design and appearance of the dwellings is not banal or standardised 'off the peg' house designs, and the scheme is considered to be sensitive in its design and layout to the main village 'green' area and the Cross Keys site itself. They are not considered to be excessive in scale or to have an adverse impact on the character of the site. Appropriate conditions can be attached in respect of materials, finished floor levels and fenestration details and as such it is considered that the scheme is acceptable in accordance with policies CS6 and CS17 of the Shropshire Core Strategy.

6.5 Highways and access

6.5.1 The highway authority have comment as follows:-

A number of issues have been raised in respect of the scheme and the associated accesses, parking and impact on the highway network. Concern firstly has been raised in respect of the car parking for the public house being reduced and that there is a direct correlation between the success of the public house and the need for maximum parking in order for it to operate and be economically viable. However, details submitted with the application show that with some of the existing grassed area to the front of the site included for additional parking under the proposed scheme, the overall level of parking for the public house is no different to that existing. Given it will create a more formalised layout it is actually considered to be beneficial in this regard. Whilst the parking provision would not meet the parking standards of the Oswestry Borough Plan, which is one space for every 3 square metres of public house, it does not currently meet these requirements. With the parking provision matching that existing, and possibly slightly more generous with a formalised layout, it is considered that this is sufficient in this case and a refusal

would be difficult to sustain purely on these grounds. Whilst reference is made to a parking problem within the village, and the potential for overflow to park in the Village Hall car park, it is considered that the allocation of commensurate parking with the existing public house provision means the current offer at the public house, if successful, would create the same issues and therefore the highway authority do not consider that this can be given significant weight.

- 6.5.2 Concerns have been raised with respect to the vehicles reversing out onto Vicarage Road adjacent to the church, and that safety concerns already exist which has led to the installation of a vehicle activated speed sign in this location, with limited visibility due to the Church Wall adjacent to the bend at this point. Vehicles reversing would therefore increase risk to road safety on this section and it should be noted that children utilising the adjacent play area and BMX track would be at increased danger. It was also noted that the Parish Hall access was moved further from the bend in order to overcome visibility concerns.
- 6.5.3 Whilst these concerns are noted, it is considered that the additional sections and widening of the pavement wrapping around the site improves the safety issues in respect of those attempting to access the surrounding facilities, and represent a minimal impact in terms of the vehicles accessing the parking facilities for the dwellings given that this will be at slow speeds where pedestrians would be clearly visible.
- 6.5.4 Whilst the concerns regarding the access points of plots 3 and 4 are also acknowledged, the access from plot 3 would largely have visibility beyond the bend in order to see oncoming traffic, with the access point to plot 4 of sufficient distance from the bend in order to have adequate visibility, in both directions. The highway speeds in this location are considered to be at or around 30 mph and whilst the comments are noted regarding the requirement for additional signage, this is considered to be an enforcement issue and the proposed scheme can only be considered within the context of the prevailing speed limit within the local highway network. On balance it is considered that the highway access points are acceptable within the context of a 30mph speed limit and is therefore acceptable in this regard.
- 6.5.5 It has been queried why the additional pavement to the frontage of the site is necessary, but this was requested by the highway authority prior to the application being submitted in order to improve the pedestrian safety and to integrate the site with its surrounding area. The fact that the development proposal provides the opportunity to provide a uniform footway width across the site road frontage is considered to be of benefit to the wider community.
- 6.5.6 A further query has been made relating to no vehicular access being available to the rear of the pub, making deliveries difficult. However, deliveries would still be able to be taken from the front of the pub and these would arrive at times when the car park is unlikely to be fully utilised such as in the mornings or during weekdays. This is considered to be a management issue and if necessary a planning condition could be imposed requiring a Delivery/Waste Management Plan being submitted for subsequent approval. It is not therefore considered that this issue could be considered as a reason for refusal of the scheme.

6.6 **Impact on neighbouring amenities**

6.6.1 Plots 3 and 4 would not be detrimental to the amenities of any neighbouring properties given that they will be located to the rear/side of the public house and facing on to the road, with the Parish Hall to the north. Plots 1 and 2 would sit between the public house and the dwelling to the west. Whilst there is evidently some impact on the adjacent dwelling this is considered to be minimal in terms of sunlight given the sun's position generally rising and towards its highest point when facing the side of the proposed properties and that existing. The sun will then fall on the opposite side of the properties. In terms of privacy the dwellings will be set slightly further back than the existing dwelling and will have windows only facing directly to the rear and front of the site other than for a bathroom, and this will be obscure glazed. As such it is considered that there will be minimal adverse impact on the amenities of surrounding neighbouring properties.

6.7 **Drainage**

6.7.1 The Drainage Engineer confirmed that conditions and informatives could be attached with regard to surface water drainage and connecting to the foul water mains drainage. It was commented that as the site is a brownfield site then 50% betterment to current flows would be required and the applicant will be made aware of this via an informative, along with the prioritisation of soakaways as a method of drainage in the first instance.

6.8 **Ecology**

6.8.1 Following consultation with the Planning Ecologist it has been established that no further ecological surveys are required for the construction of 4 houses and conditions and informatives in respect of bird and bat box provision as well as external lighting should be included on any permission granted. They have also stated that any works to the public house may require further surveys to be undertaken and the applicant has been made aware of this, though obviously the scheme under consideration does not involve any works to the public house, only its retention.

6.9 **Public Protection**

6.9.1 The Public Protection Officer has commented that the proximity of the dwellings to the public house means there will be some potential noise from the public house which has a license to open until 12:30 Friday and Saturdays. It is therefore recommended that double glazing to a higher standard of noise attenuation than normal is installed, and submission of joinery details will be required by condition. It is also noted that the proximity of the houses may mean future restrictions or issues in terms of licensing hours or music events. Whilst this is acknowledged it is not considered to be a reason for refusal of the scheme and can be adequately controlled through public protection and licensing requirements for public houses.

It is recommended to include a condition regarding charging point installation for low emission vehicles, but this will be included as an informative in this case.

6.10 **Affordable Housing**

6.10.1 Following the submission of the affordable housing contribution proforma, the affordable housing department confirmed that the level of contribution submitted was correct. This will be subject to a section 106 agreement should the application be approved.

6.11 Trees

6.11.1 Some concern has been raised regarding the impact on the trees at the site, and that full consideration has been given to the impact on tree roots. An arboricultural assessment has been submitted with the application and following consideration by the Trees Officer it was considered that this was acceptable following the removal of the garage to plot 3 to allow for plots 3 and 4 to be moved over and out of the tree root protection areas for the trees to the northern boundary. The Trees Officer confirmed that this was sufficient to overcome any concerns subject to an appropriately worded condition in respect of the development. The development is therefore considered to be acceptable in this regard.

6.12 Other issues

6.12.1 As raised above within the Parish Comments section, the applicant and the Parish Council had some correspondence regarding the submitted financial information and there were varying assessments of this information. However, with the full contributions being made in respect of the Community Infrastructure Levy and Affordable Housing, the determination of the application is being made purely on the addition of four houses within a sustainable location, and the retention of the existing public house. The financial details of the public house are not therefore entirely relevant and are not given substantial weight to the recommendation, which is actually being based on the details given in the 'Principle of development' described above i.e. sustainable housing development.

6.12.2 Concerns have been raised within objections in relation to the potential impact on the popularity of the public house, and its overall viability, based on the proposed scheme reducing the amount of space for pub garden and car park. However, as referenced above, the number of car parking spaces is largely the same as currently provided within the ad hoc parking area for the pub and the formalised layout means the viability of the pub is not threatened in this regard. A garden area for the public house will be retained and all the internal facilities, and therefore the scheme is not considered to represent a substantially different offer to that existing, particularly when it is considered that a large amount of the area surrounding the public house is currently unused.

6.12.3 An objector has commented that there is no reference to the refurbishment works to take place at the public house, and that this should be tied to the development and if not how will it be guaranteed that any money associated with the scheme be put back into the pub. As noted above, the scheme put forward is effectively to consider the addition of four dwellings in this location, with the retention of the public house. As officers consider the scheme to be acceptable in terms meeting the housing requirements of Shropshire and being within a sustainable location in this regard, it is not considered that refurbishment of the public house is required to make the scheme acceptable in planning terms. As such the proposal is being considered purely on its merits as a housing scheme, and obviously the retention of the public house is welcomed as this is a community facility within the local area and is widely supported in its retention.

7.0 CONCLUSION

The proposed scheme is considered to represent a sustainable housing development close to local services and facilities, and is considered to be of an appropriate design, scale and siting. The impact on the surrounding area and in

particular the setting of the adjacent grade II* listed building is not considered to be substantial and there is not considered to be a detrimental impact in terms of trees, drainage, protected species or highway safety. As such it is considered that the scheme accords with policies CS4, CS6 and CS17 of the Shropshire Core Strategy, saved policy H5 of the Oswestry Borough Plan and the National Planning Policy Framework. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 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 - Community Hubs and Community Clusters
 CS6 - Sustainable Design and Development Principles
 CS17 - Environmental Networks
 H5 – Larger Settlements

11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Arthur Walpole
Appendices APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

The samples required shall include the erection of sample panels of both brickwork and the proposed sandstone walls, 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.

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

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

5. 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 expiration of 5 years from the date of occupation of the building for its permitted use.

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 has been 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.

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.

6. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

7. No development approved by this permission shall commence until details of the proposed finished floor levels have been submitted to and approved by the local planning authority.

Reason: In the interest of maintaining the amenity and character of the area.

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

8. A total of 1 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

9. A total of 1 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 buildings 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

10. 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.

11. No joinery works shall commence until precise details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:5 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. The work shall be carried out strictly in accordance with the approved details.

Reason: To safeguard the character of the surrounding area.

12. The accesses, parking layout and parking spaces shall be satisfactorily laid out and completed in accordance with the amended plan 1045 05 Rev D prior to the dwellings being occupied.

Reason: In the interests of highway safety.



<u>Committee and Date</u>
North Planning Committee
6 May 2014

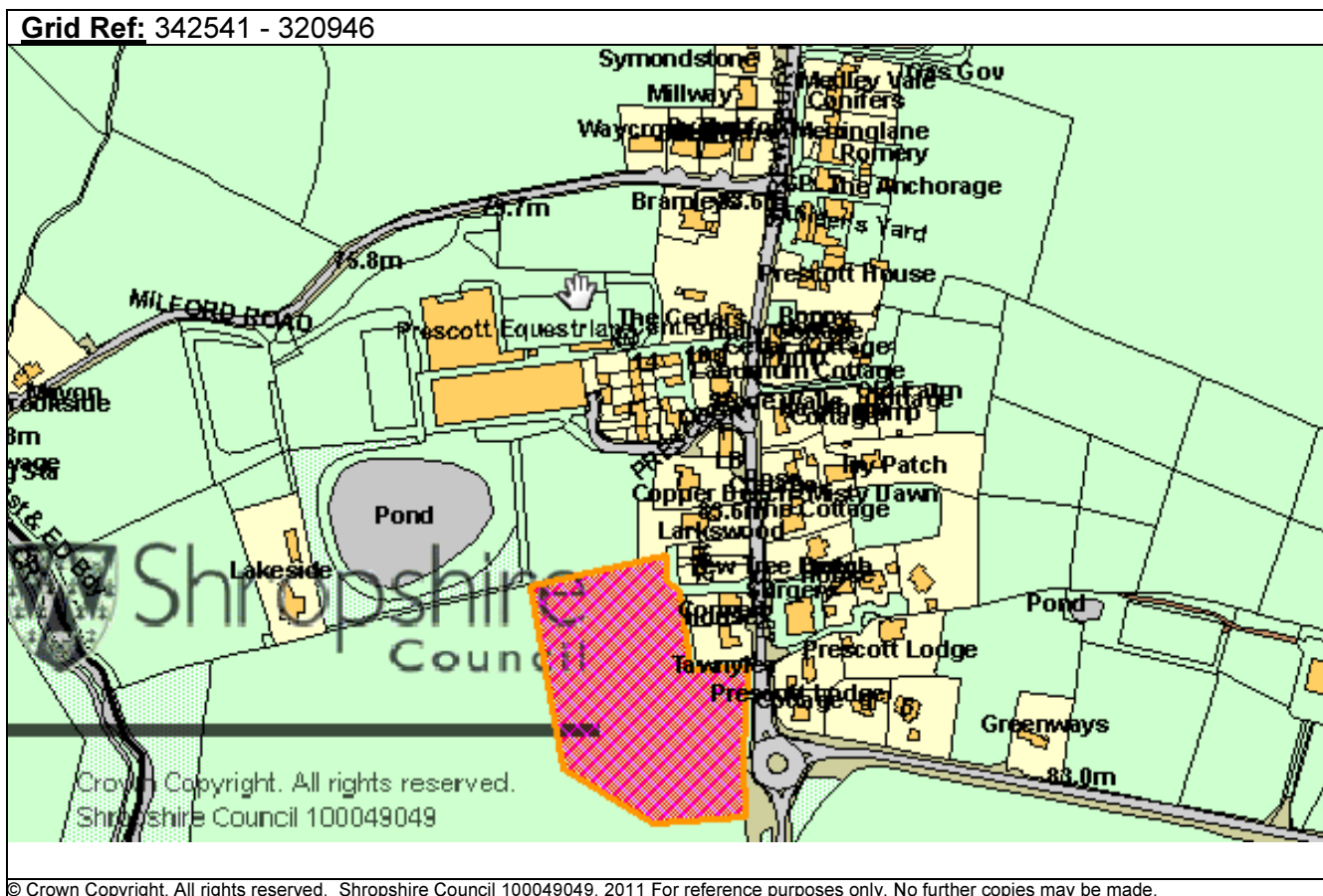
<u>Item</u>
7
Public

Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/00831/OUT	<u>Parish:</u> Baschurch
<u>Proposal:</u> Outline planning permission for residential development to include access	
<u>Site Address:</u> Land Adjacent Tawnylea Prescott Road Prescott Baschurch Shropshire	
<u>Applicant:</u> J,B,E & W Warner	
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk



Recommendation:- Grant delegated powers to the Area Planning Manager / Principal Planning Officer to issue permission subject to:

- no new material considerations being raised as a result of the proposal being advertised as a Departure in the Shropshire Star on Tuesday 29th April 2014 for a 21 day period expiring on 20th May 2014, and
- a Section 106 legal agreement to secure affordable housing in accordance with the prevailing rate at the time of the submission of the Reserved Matters application in accordance with the Type ad Affordability of Housing SPD, and
- the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to outline planning permission for residential development to include access. The submitted location plan also indicates an area designated for staff parking for the Prescott surgery opposite. No indicative layout has been submitted but the Design and Access statement indicates 35 dwellings.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a grade 2 agricultural field approximately 1.26 hectares in size situated to the West of a roundabout to the South of the village of Baschurch. The site fronts the B5067 Shrewsbury Road to the West of the roundabout and there is currently a field access off this roundabout.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Highways DC: No objection.** The application is seeking the principle of approval for the residential development of a parcel of land located adjoining the southern edge of the village directly served off an existing roundabout junction. The roundabout is within the 30 mph local speed limit and is well served by footway facilities directly linking the site to the village to the north. Subject to the junction onto the roundabout being constructed and laid out in accordance with the Council's design standards the Highway Authority is of the view that the development would not be likely to lead to conditions detrimental to highway safety and raises no objection to the development. The proposed crossing point over the Class II road should be provided by the dropping of kerbs and provision of tactile paving. The Highway Authority raises no objection to the granting of outline

consent.

- 4.1.2 **SC Drainage: No objection.** Recommends that drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage.
- 4.1.3 **SC Affordable Houses: No objection.** The scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application. The current prevailing target rate for affordable housing in this area is 15%. The required tenure split of the affordable homes is 70% for affordable rent and 30% for low cost home ownership and these 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 size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted.
- 4.1.4 **SC Archeology (Historic Environment): No objection.** The proposed development site comprises a 1.26ha area immediately south-west of the historic core of Prescott; which until the 20th century comprised a separate settlement to Baschurch and one of probable medieval origin. The proposed development site is also located approximately c350m north-east of a cropmark enclosure of likely Iron Age to Roman date. Whilst there are currently no known heritage assets with archaeological interest on the proposed development site, it is possible that archaeological features of later prehistoric/ Roman date and/or relating to the medieval and later development of Prescott will be present. On present information, the proposed development site is therefore deemed to have moderate-high archaeological potential. In view of the above and relation to Paragraph 141 of the NPPF, recommends that a phased programme of archaeological work, to comprise an initial field evaluation consisting of a geophysical survey and targeted trial trenching followed by further mitigation as appropriate, be made a condition of any planning permission for the proposed development.
- 4.1.5 **SC Ecology: Request further information.**

Badger signs were found by Greenscape Environmental (2014) in the plantation woodlands over 100m from the application site and no badger tracks were evident crossing the site. In case of animals seeking to cross the construction site recommends an informative.

Greenscape Environmental (2014) considers there is no potential bat roosting habitat on site, however the site boundaries could be used for bat foraging and commuting. Recommends a condition to control lighting to avoid impact on bat behaviour:

Recommends an informative to ensure nesting birds are not affected by any hedgerow removal necessary.

Greenscape Environmental (2014) reports that there are four ponds within 500

metres of the application site. These scored Habitat Suitability Index scores of:

	Distance from site (m)	Habitat Suitability Index	Potential to support GCN breeding	Notes
Pond 1	54	0.26	Poor	Waterfowl and carp
Pond 2	70	0.71	Good	No fish or waterfowl
Pond 3	500	0.46	Poor	In woodland
Pond 4	200	0.83	Excellent	

Greenscape Environmental (April 2014) have started the presence/absence surveys of Ponds 2 and 4, and found that great crested newts (GCN) are present in both of these ponds. Pond 2 is the closest, at 70 metres. Until the necessary four surveys have been carried out, it is not possible to say what the size of the GCN population is at both ponds, which will affect the details of the necessary mitigation.

Greenscape Environmental (April 2014) states that the works will need to be conducted under licence from Natural England.

The application site is arable land and therefore of low value as terrestrial GCN habitat. However as newts could be present in the boundary hedgerows or crossing the site, the risks to individual newts will have to be reduced by a strict method statement being followed. Newts will need to be removed from the development area and excluded during the development. This will be completed by erecting newt fencing around sections of the site to inhibit newts crossing the land.

The April 2014 draft report contains a method statement for the mitigation works but cannot be finalised until the remaining GCN surveys have been completed. This is likely to be in May 2014. A final report from Greenscape Environmental should be submitted and thereafter conditioned as set out in recommended condition 2.

As compensation, Greenscape Environmental (April 2014) state that the SUDS scheme will provide suitable terrestrial and aquatic habitat for GCN to be planned at a later date. These details should be submitted for approval as part of the Reserved Matters application.

A draft European Protected Species 3 tests matrix is provided, to be finished once the final survey results are available and a final report containing mitigation is submitted. The planning officer will need to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix *** to be finalised*** 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.

4.1.6 **SC Conservation (Historic Environment):** The proposal needs to be in accordance with policies CS5 Countryside Green Belt, CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012. No pre-application consultation was made with the Historic Environment Team. The site is immediately adjacent to the Baschurch Conservation Area of Prescott, considered a Heritage Asset. There are both designated and non-designation Heritage Assets (buildings/structures) within the proximity of the site. Although no assessment of the impact on the setting of the designated and non-designated Heritage Assets (buildings/structures) has been submitted with the application, it is considered that any potential impact on the setting of these buildings/structures is low, therefore no further assessment will be required. Developments of this type have the potential to have an adverse impact on the landscape character of the area, and it is noted within the Baschurch Conservation Area Appraisal that there are views over this land which add to the character of this part of the Conservation Area. However, this is not something which the Historic Environment Team can advise on further, therefore it is recommended that Development Management consider obtaining the opinion of an appropriately qualified Landscape professional to review the Landscape information submitted in support of the application, taking into consideration its proximity to the Conservation Area and assessing the impact accordingly.

Should the development be approved the design of the proposed development layout and dwellings therein should reflect the local vernacular in terms of scale, details and materials used in their construction, in accordance with the requirements of the policies noted above. If on balance the site is considered to be acceptable then any detailed application must be accompanied by a full design rationale for the development of the site, taking into consideration the setting of the Conservation Area. English Heritage should be consulted as the application site is more than 1000 square meters which could affect the setting of a Conservation Area.

4.2 - Public Comments

4.2.1 **Baschurch Parish Council:** object to the application on the following material considerations:

- i) The Ecology report should be undertaken again at a more appropriate time of the year.
- ii) The visual amenity to surroundings would be impaired as this was the entrance to the village.
- iii) The development was unsustainable as it does not determine a good housing mix.
- iv) The development was isolated from existing services.
- v) The site is not appropriate to the context of the village (It would expand in the wrong location and would elongate the village).
- vi) With the figures quoted for proposed development in Baschurch Parish via SAMDev process it was felt that we had reached number to have achieved a 5 yr land supply.
- vii) The public footpath needed to be protected and not removed.
- viii) The development gave no community benefits

- ix) The site was not within the SAM Dev.
- x) There were no affordable houses proposed on the site.
- xi) Car Spaces for Drs Surgery had not been decreased to 10 spaces.
- xii) The application was outside the development boundary.
- xiii) No public open space had been provided.
- xiv) No pre application had been undertaken with the Parish Council.

4.2.2 15 letters of objection from 11 residents have been received summarised as follows:

- No positive benefits for the residents of Baschurch
- The population of Baschurch has increased considerably already and existing facilities and services are overstretched
- The proposed density of 35 houses for the site is too high and not in keeping with the village
- Exacerbate existing congestion on the roads in Baschurch and present a road safety hazard
- The additional access to the proposed overflow surgery car park and its use by patients who would have to cross a busy road is ludicrous and irresponsible
- The car park adjacent to 'Tawnylea' with car movements all through the day would result in noise and disturbance for the residents and if its use is not restricted to surgery opening times it could be used 7 days a week both day and night
- The introduction of a pedestrian crossing would result in light and noise pollution for the residents at 'Tawnylea' and is potentially hazardous for pedestrians and vehicles when combined with the access to the car park and would result in traffic 'hold ups'
- The surgery site should be developed for housing and a new surgery built on this site adjacent to 'Tawnylea'
- All the services and facilities are at the opposite end of the village with the schools almost a mile away so residents are likely to use their cars and add to the traffic and congestion
- The recreational field would be too far away for young children to easily access
- The site is not designated for development and the proposal is therefore in contravention of the Core Strategy
- More sustainable alternative sites are currently available within the development boundary of the village, and these must be given priority and developed first that
- The development will elongate the village and is undesirable ribbon development

- Paragraph 4.67 of the Core strategy states that *Development in Community Hubs and Community Clusters will be within the village. To prevent ribbon development, development adjoining the village is not acceptable, unless on a site that has been allocated for development, or as an exception site for affordable housing or other development allowed under Policy CS5 Countryside and Green Belt.*
- The beautiful approach to the village of Baschurch and the open vista providing excellent and distant views of the Shropshire/Powys borderland hills would be lost when approaching Baschurch from Shrewsbury.
- Loss of a beautiful view and harm to the outlook from the rear of nearby dwellings including properties in Prescott Court
- The site is on the edge of the Prescott Conservation area and the view of the open field is indicated as an important view
- The ecological survey should be repeated
- Development of the site would take out badger feeding grounds (mainly earth worms)
- The well used public footpath could be affected
- This is a prime agricultural field classed as grade 2 and has demonstrated the ability to grow a large variety of crops and it is a government priority to preserve grade 2 land
- Paragraph 112 of the NPPF states that '*Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. 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*'.
- Brownfield sites should be developed before greenfield sites
- Criticisms of the submitted Landscape and Visual Assessment and that the assessment of the visual effects for the proposed development has been based on selective photographs/viewpoints in order to support the development and are not an accurate representation of the true visual impact of the proposal
- To judge whether a site does or does not have an 'unremarkable landscape' or that there will be no loss of landscape or visual character to the area is purely a subjective view held by the author. The general opinion of local residents and those travelling through the village would differ, and that it is indeed a remarkable landscape with views stretching across the North Shropshire countryside and into Mid Wales.
- The report states that the visual impact would be localised to within 400M of the

site, however, views from the westerly aspect of the site (e.g. from The Cliffe and upper Milford Road) would be adversely affected. No amount of screening will hide the development from the elevated position of The Cliffe

- The site can be considered to have a high degree of landscape sensitivity as it has a distinctive landmark skyline (The Cliffe, Nescliffe, Rodneys Pillar and beyond to Mid Wales)
- Contrary to the opinion of the author that the area has an 'urban edge feel,' it could be conversely argued that the proposed site has a wholly 'agricultural feel,' as it is currently a working field that produces high quality crops outside the current development boundary.
- The fact that screening along the North West, and south boundaries is promoted by the report, highlights the high visual impact of the site.

5.0 THE MAIN ISSUES

Principle of development

Assessment of sustainability

Impact on character of conservation area and landscape/ visual impact

Highways

Others material considerations

- Ecology

- Drainage

- Archaeology

- Impact on residential amenity

- Rights of way

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 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.'

Paragraph 14 of the NPPF is also relevant and highlights that for decision taking this means:

'where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'

6.1.3 The adopted planning policy for Baschurch is the NSDC Local Plan but the site is outside the development boundary on the proposals map and is therefore classed as countryside. Shropshire Council has an adopted Core Strategy and 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 'Pre-Submission Draft Plan (or Final Plan) stage' 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).*

6.1.4 Baschurch is coming forward as a 'Community Hub' and the Draft SAMDev DPD indicates a development boundary and a housing guideline of around 150-200 additional dwellings over the period to 2026. The SAMDev pre-submission draft plan indicates that this will be delivered through the development of allocated housing sites together with development by infilling, groups of houses and conversion of buildings within the development boundary identified on the Policies Map. The application site was not carried forward as a preferred site (BAS002) within SAMDev as it was considered to be visually prominent and did not score well in terms of its relationship to village services and was not supported by residents. As it is not included as an allocated site and is outside the suggested development boundary within the SAMDev pre-submission draft plan allowing this proposal would be contrary to the emerging SAMDev DPD and contrary to the PCs aspirations regarding the location of new development within Baschurch. However in the absence of a five year land supply a 'presumption in favour of sustainable development' and the need to boost the housing supply (a government priority) is now the most significant material consideration when determining planning applications for housing and takes precedence over adopted and emerging local planning policy in relation to the supply of housing due to those policies not being considered up to date. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the

paragraphs below.

6.2 Sustainable development

6.2.1 Baschurch is a large village with a wealth of services and facilities within the village and surrounding area and a bus service to Shrewsbury and Oswestry. These services and facilities include Walford college and the private Adcote school just outside the village and a primary and secondary school within the village, an Indian restaurant, Chinese takeaway, fish and chip shop, hairdressers and beauticians, doctors, village shop, farm shop, two pubs, hardware store, a new supermarket, a village hall, church and riding stables. In addition there are numerous employment opportunities within in and close to the village including three vehicle repair garages, builders, PGL holiday centre, a care home, holiday cottages, a large equine vets practice, livery yard and vehicle driver agency. Office space is available to let at Walford Business Centre. 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 and a range of facilities and employment opportunities 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 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.*

6.2.3 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of additional houses will also support local businesses as future occupiers will access and use local services and facilities ensuring they remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

- 6.2.4 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 settlements where it will support facilities helping to retain 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. In addition to boosting the supply of open market housing the proposal will provide affordable housing on site at the prevailing rate at the time of the reserved matters application.
- 6.2.5 Environmental role – The site is agricultural land with no heritage, cultural or ecological designation. The application site has been assessed for its heritage, cultural and ecological value by the Council’s Historic Environment Officers and Ecologist and these matters are considered in greater detail below. In principle it has been determined that the proposal would have no significant adverse impacts on these values. Officers consider that the impact of the proposal on the landscape would not be significant and demonstrable and as such would not outweigh the benefits. The proposal would provide ecological enhancements of the site that will be secured by condition. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by public transport to the array of services, facilities and employment opportunities in Shrewsbury and Oswestry.
- 6.2.6 It is therefore considered that the proposed development is sustainable having regard to the three dimensions of sustainable development. It is considered that the settlement can accommodate additional dwellings outside the development boundary identified within the Draft SAMDev, subject to a satisfactory scale and design, and that the development would be acceptable in principle and should be supported provided there are no adverse impacts that would outweigh the benefits.
- 6.3 **Impact on character of conservation area, landscape and visual amenities of area**
- 6.3.1 **Conservation area** - The application has been assessed by the Council’s Conservation Officer whose comments have been included in full above. The Conservation Officer has confirmed that the site is immediately adjacent to the Baschurch Conservation Area of Prescott and that there are both designated and non-designation Heritage Assets (buildings/structures) within the proximity of the site. Although no assessment of the impact on the setting of the designated and non-designated Heritage Assets has been submitted with the application the Conservation Officer considers that any potential impact on the setting of these is low and therefore no further assessment will be required. The Conservation Officer has requested that the application for reserved matters should be accompanied by a full design rationale for the development of the site, taking into consideration the setting of the Conservation Area. A condition will be imposed regarding this and English Heritage will be consulted at that time. It is considered that subject to a satisfactory layout and design that reflects the local vernacular in terms of scale, details and material the proposal would have no adverse impact on the character and appearance of the adjacent conservation area and heritage assets.

- 6.3.2 **Landscape and visual impact** – The Conservation Officer has acknowledged that the development has the potential to have an adverse impact on the landscape character of the area but that this is not something that they can advise on further. They have recommended that Development Management consider obtaining the opinion of an appropriately qualified Landscape professional to review the Landscape information submitted in support of the application but this is not considered necessary by DM officers.
- 6.3.3 It is acknowledged that landscape value is subjective and that the loss of this greenfield is an emotive aspect of this proposal for local residents. The majority of the objections received relate to the impact of the proposal on the landscape and also include criticisms of the submitted Landscape and Visual Assessment and that the assessment of the visual effects for the proposed development has been based on selective photographs/viewpoints in order to support the development and are not an accurate representation of the true visual impact of the development. The applicant has provided the following response to these comments:

The process of landscape assessment utilises Tables 1 and 2 presented in the report, prepared with reference to guidelines produced by the Landscape Institute and the Institute of Environmental Management and Assessment 'Guidelines for Landscape and Visual Assessment' (Landscape Institute and Institute of Environmental Management, 2013 and 2002) (GLVIA). Table 1 relates to landscape sensitivity: The landscape sensitivity to changes associated with the nature of the proposed development has been assessed as low because it is a flat, open agricultural field located in the urban fringe environment of Baschurch. Longer distance views to the west of the site constitute only a very small sector of the view (wider views being hidden by intervening trees) and are of a very low angle due to the distance of these hills from the proposed site. Sites with high sensitivity are more frequently those of national importance, and those of medium sensitivity are of regional importance: this site is not of either national or regional landscape importance. Table 2 relates to the magnitude of change that the proposed development would have on that landscape: it is apparent that the objection raised is based on a misunderstanding of the use of this table: table 2 is not about landscape sensitivity, but about the magnitude of change to which the landscape would be subjected, should the development be granted.

- 6.3.4 The site comprises approximately 1.26 Hectares of agricultural land that fronts onto Shrewsbury Road adjacent to a roundabout to the South of the village. There is currently a field access gate from the roundabout and a stile further to the South of this providing access to the public footpath which crosses a small part of the site to the South West. There is a timber fence along the Northern boundary of the site and there are no boundaries to the West and South, with the field continuing in both directions. The site is predominantly flat, with a slight fall from East to West and the land beyond falls away at an increased rate towards the watercourse to the West. The site is not subject to any landscape designation but the landscape type described in the Shropshire Landscape Typology as 'Estate Farmland' covers extensive areas of land North West of Shrewsbury. The site is a fairly flat open field on the edge of the village with no significant landscape features and no significant hedgerow boundaries and no significant trees that would be impacted on by this proposal. The landscape value of the site itself is therefore considered to be low. Built development of the site will obviously change the view of the site locally

but the reserved matters application will include landscaping and a built form that will add interest to what is currently a very plain flat open field.

- 6.3.5 The submitted landscape and visual assessment provides photographs from several vantage points and residents have provided their own photographs taken from the same vantage points to illustrate the impact the proposal will have. It is not disputed that the development will change the appearance of the site but it is whether the loss of the view of the field from these vantage points would have a significant adverse impact on the character and appearance of the locality or the wider landscape and it is officers opinion that it would not. It is agreed with the assessment submitted with the application that the views are unremarkable and this is particularly so from Viewpoint 2, 3, 4 and 5 which illustrate how ordinary the view is. Viewpoint 6 from the East and Viewpoint 1 (a more close up view from the East) also illustrate how plain the view of the field is and that the only feature of interest is the hills in the distance.
- 6.3.6 This more important landscape feature and valued view of the site and beyond is experienced when approaching the roundabout from the East. However it is only when getting nearer to this roundabout that the view of the site with the hills in the distance can be seen. This is therefore only a localised and limited view of the site and the distant hills beyond and is not of regional or national importance. The view of the site from more distant view points will obviously change but it is not considered that the development of the site would have a significant adverse impact on the wider landscape or the appearance of the settlement of Baschurch and Prescott when viewed from the distant vantage points of The Cliffe, Nescliffe and Rodney's Pillar for example. It is therefore considered that the development of the site will have a negligible impact on the landscape and the village of Baschurch when viewed from distant locations.
- 6.3.7 Officers acknowledge that the appearance of the field will change with development but an appropriately designed layout will provide an interesting focal point at the entrance to the village. Any loss of the distant views of the hills to the West when approaching the roundabout is far outweighed by the benefit of additional housing. Residents have also raised concern about the loss of Grade 2 agricultural land but the NPPF only steers development away from '*significant development of agricultural land*', and the loss of just over 1 hectare of agricultural land is not considered to be. It is also worth noting that the majority of the land around Baschurch is grade 2 and therefore any housing development around the village would result in the loss of grade 2 agricultural land.

6.4 Highways

- 6.4.1 The proposal indicates the access to the site off the existing roundabout to the South of the village. The Highways officer has confirmed that subject to the junction onto the roundabout being constructed and laid out in accordance with the Council's design standards the proposed development would not be detrimental to highway safety and raises no objection to the development. A condition will therefore be imposed requiring this and that full details of the design and construction of any new roads, footways, accesses and parking provision to be submitted for approval. The proposal originally indicated a separate access to an

overflow car park to be provided within the site to serve the doctors surgery opposite and a formalised controlled crossing. The access and crossing have been removed from the proposed scheme at the request of the Highways Officer and the amended plan shows that this car park will be accessed from within the estate and that it would be used for staff only which will reduce the number of vehicles movements and remove the potential conflict between pedestrians and vehicles. It is considered that the proposal provides a safe means of access to the site and would not result in any highway safety implications. The layout of internal roads and parking provision for residents will be considered at the reserved matters stage and the provision of a car park for use only by staff at the Prescott Surgery will be controlled by condition.

6.5 Others material considerations:

- 6.5.1 **Ecology** – The initial ecological survey found no evidence of badgers on the site and that there is no potential bat roosting habitat (although the site boundaries could be used for foraging and commuting bats) and confirmed that there are four ponds within 500metres of the site and that presence/absence surveys for newts should be carried out for two of them. The initial surveys have been undertaken and Newts were found in the ponds and additional surveys are required to establish the size of the GCN population so that the necessary details for mitigation can be finalised. The application site is arable land and therefore of low value as terrestrial GCN habitat. However as newts could be present in the boundary hedgerows or crossing the site there is potential to disturb or damage individual newts and this risk can be reduced by a strict method statement being followed. Any newts will need to be excluded from the development area during the development and this will be completed by erecting newt fencing around sections of the site to inhibit newts crossing the land. The remaining GCN surveys will be completed during May and the method statement for mitigation works updated. The Councils ecologist confirms that the proposed development will not be detrimental to the maintenance of the populations of great crested newts at a favourable conservation status within their natural range provided conditions are imposed regarding the method statement for mitigation works and landscape and habitat enhancements. Work will need to be conducted under licence from Natural England and an EPS three tests matrix has been completed and is attached as appendix 2 to this report.
- 6.5.2 **Drainage** – The site is within Flood zone 1 (the lowest risk of flooding) but as the site extends to over 1 hectare a Flood Risk Assessment (FRA) is required and has been submitted. This confirms that the area around the River Perry as Flood Zone 2 and 3 (between 1 in 100 and 1 in 1000 annual probability of Flooding and 1 in 100 annual probability of flooding respectively). These areas around the River Perry liable to flooding are a considerable distance from the site and at a lower level. The site is remote from the watercourse and at a higher level, so is not at risk of fluvial flooding and the site is not at risk of pluvial flooding by surface water run-off from adjacent fields due to the topography of the land, being generally flat and sparsely developed. Therefore no special precautions need to be put into place on site to deal with localized flooding, beyond adequate surface water drainage which should be designed to not increase any run off from the site towards the neighbouring sites. The submitted drainage report and FRA indicates that surface water can be dealt with via either soakaways subject to successful infiltration tests or as a controlled discharge to the nearby River Perry. Foul

drainage will be to Public Sewer or a foul treatment plant could be considered with discharge to either soakaway or to the River Perry. The Councils drainage engineer has no objection to the proposal and has commented that the detailed drainage proposals can be submitted at the reserved Matters stage and conditions and informatives can be imposed regarding this.

- 6.5.3 **Archaeology** – The Councils Archaeologist has confirmed that whilst there are currently no known heritage assets with archaeological interest on the proposed development site, it is possible that archaeological features of later prehistoric/ Roman date and/or relating to the medieval and later development of Prescott will be present and recommends that a phased programme of archaeological work, to comprise an initial field evaluation consisting of a geophysical survey and targeted trial trenching followed by further mitigation as appropriate, be made a condition of any planning permission for the proposed development. The suggested condition can be imposed on any approval.
- 6.5.4 **Impact on residential amenity** - Shropshire Core Strategy Policy CS6 “Sustainable Design and Development Principles” indicates that development should safeguard residential amenity. As this is outline only and no layout plans have been provided the impact on the nearest dwellings can not be fully assessed. However there are only five properties (‘Tawnylea’, ‘Corwen House’ and 41, 42 and 43 Shrewsbury Road) that share a boundary with the site and it is considered that a layout can be designed that would include buildings of an acceptable scale and design that would not appear obtrusive or result in a loss of privacy and a loss of light to these properties. There is no right to a view and the devaluation of properties is not a material consideration. In addition it is expected that rear gardens of the proposed houses would back onto these properties and there would not be vehicular access roads adjacent to these boundaries. Although the tranquil countryside setting currently enjoyed will be replaced with residential gardens it is not considered that this would create unacceptable levels of noise adjacent to these residential properties. The concern of the nearest neighbour about the noise and disturbance from the controlled crossing and the frequent vehicular and pedestrian activity in association with its use and that of the proposed overflow car park has been addressed by the omission of the crossing and separate access, and car parking being restricted to staff only. It is therefore considered that the proposal would have no significant adverse impact on residential amenity.
- 6.5.5 **Rights of way** - There is a public footpath across the South West Corner of the site with access provided via a stile to the South of the current field access at the roundabout. An informative can be imposed advising that this must remain open and available at all times and its possible diversion could be considered at the reserved matters stage.
- 7.0 **CONCLUSION**
- 7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle. Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an appropriately designed scheme could be achieved that would reflect the local vernacular in terms of scale, details and materials and provide an attractive

and interesting frontage when approaching the site. Whilst officers accept that there will be an impact on the view of the landscape it is considered that this impact would not be significant and demonstrable and as such would not outweigh the benefits. The proposal would have no adverse highway or ecological implications subject to conditions being imposed, and the open space provision and on site affordable housing will be decided at the reserved matters stage and will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of 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 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: CS2, CS6 CS11 and CS17

11. Additional Information

List of Background Papers: File 14/00831/OUT
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Nick Bardsley

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the scale, appearance, layout 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.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 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 three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. 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.

5. The application for reserved matters should be accompanied by a full design rationale for the development of the site, taking into consideration the setting of the Conservation Area.

Reason: To ensure that the development would have no adverse impact on the setting of the adjacent conservation area.

6. A contoured plan of the finished road levels shall be provided as part of the application for reserved matters 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.

7. Details of the design and construction of any new roads, footways, accesses and parking provision together with the disposal of surface water shall be submitted as part of the application for reserved matters. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

a) Details of provision of terrestrial and aquatic habitat for great crested newts, such as through a SUDS scheme;

- b) Planting plans, including wildlife habitat and features (e.g. hibernacula)
- 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) Prescriptions for management actions (e.g. for SUDS pond);
- d) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- e) Implementation timetables

Reason: To ensure the protection of great crested newts, a European Protected Species and provision of amenity and biodiversity afforded by appropriate landscape design

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

- 9. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts 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 great crested newts, a European Protected Species

- 10. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Phase 1 Environmental Survey by Greenscape Environmental *****updated XXX 2014***

Reason: To ensure the protection of great crested newts, a European Protected Species

- 11. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

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

- 12. The junction of the estate road with the adjoining highway shall be constructed in accordance with the Local Planning Authority's specification for the time being in force for residential and industrial estate roads prior to the first occupation of the development.

Reason: To ensure the formation of a satisfactory estate road junction to serve as a means of access to the development.

- 13. Prior to the occupation of the first dwelling house on the development hereby approved the car parking area shown to be used for staff parking in association with the Prescott Surgery

shall be provided and surfaced in accordance with a scheme to be first agreed in writing with the LPA.

Reason: To provide additional parking for the surgery staff in the interests of highway safety.

14. Prior to the car park referred to in condition 13 above being first brought into use lockable gates shall be provided with only staff of the Prescott Surgery being key holders. The gates shall be locked when the surgery is not occupied.

Reason: To ensure that there is no unauthorised use of the car park and that adequate surgery parking is maintained.

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

15. The parking area referred to in condition 13 above shall only be used for the parking of vehicles of staff employed at the Prescott Surgery and for no other purpose.

Reason: To ensure that there is no unauthorised use of the car park and that adequate surgery parking is maintained.

APPENDIX 2: EUROPEAN PROTECTED SPECIES – Consideration of the three tests

DRAFT

Application name and reference number:

14/00831/OUT

Date of consideration of three tests:

23rd April 2013

Consideration of three tests carried out by:

Alison Slade
 Planning Ecologist (01743 252578)
Alison.Slade@Shropshire.gov.uk

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 proposal will provide up to 35 new homes of which 5 would be affordable which will boost the housing supply in a sustainable location and as a result provide social and economic benefits for both present and future generations and will also provide bio-diversity enhancements of the site with no adverse environmental impacts.

2 Is there 'no satisfactory alternative'?

The alternative is not to develop the site but this would not provide the much needed boost to housing supply numbers in Shropshire and would not provide the social and economic benefits of the proposal and the ecological enhancements of the site to be secured by conditions attached to this planning permission.

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'?

Greenscape Environmental (April 2014) have started the presence/absence surveys of Ponds 2 and 4, and found that great crested newts (GCN) are present in both of these ponds. Pond 2 is the closest, at 70 metres. Until the necessary four surveys have been carried out, it is not possible to say what the size of the GCN population is at both ponds, which will affect the details of the necessary mitigation.

The application site is arable land and therefore of low value as terrestrial GCN habitat. However as newts could be present in the boundary hedgerows or crossing the site, the risks to individual newts will have to be reduced by a strict method statement being followed. Newts will need to be removed from the development area and excluded during the development. This will be completed by erecting newt fencing around sections of the site to inhibit newts crossing the land.

The April 2014 draft report contains a method statement for the mitigation works but cannot be finalised until the remaining GCN surveys have been completed. This is likely to be in May 2014. A final report from Greenscape Environmental should be submitted and thereafter conditioned as set out in recommended condition 2.

As compensation, Greenscape Environmental (April 2014) state that the SUDS scheme will provide suitable terrestrial and aquatic habitat for GCN to be planned at a later date. These details should be submitted for approval as part of the Reserved Matters application.

The proposed development will not be detrimental to the maintenance of the populations of great crested newts at a favourable conservation status within their natural range, provided that the conditions and informatives detailed in the response from Alison Slade to Jane Raymond dated 23rd April 2014 **** to be finalised*** are attached to any consent and thereafter implemented

Draft Conditions

1. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts 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 great crested newts, a European Protected Species

2. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Phase 1 Environmental Survey by Greenscape Environmental *****updated XXX 2014***

Reason: To ensure the protection of great crested newts, a European Protected Species

3. The first submission of reserved matters shall include a scheme of great crested newt compensation and landscaping and these works shall be carried

out as approved. The submitted scheme shall include:

- a) Details of provision of terrestrial and aquatic habitat for great crested newts, such as through a SUDS scheme;
- b) Planting plans, including wildlife habitat and features (e.g. hibernacula)
- 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) Prescriptions for management actions (e.g. for SUDS pond);
- d) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- e) Implementation timetables

Reason: To ensure the protection of great crested newts, a European Protected Species and provision of amenity and biodiversity afforded by appropriate landscape design



<u>Committee and Date</u>
North Planning Committee
6 May 2014

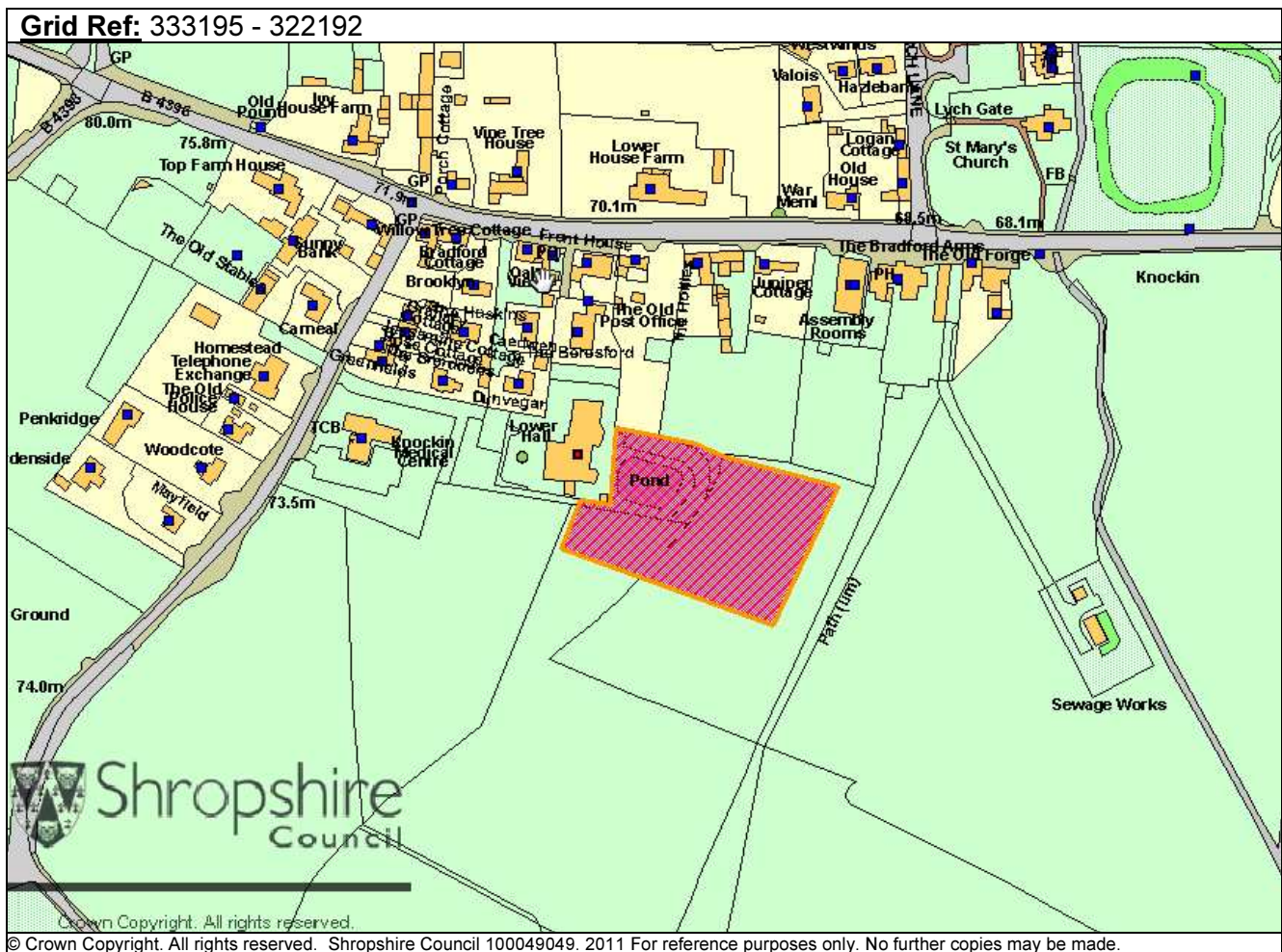
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Public

Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/01018/FUL	<u>Parish:</u> Knockin
<u>Proposal:</u> Change of use of agricultural land to domestic garden land	
<u>Site Address:</u> Ashford Hall Knockin Oswestry SY10 8HL	
<u>Applicant:</u> Mr Ajmer Rai	
<u>Case Officer:</u> Karen Townend	<u>email:</u> planningdmne@shropshire.gov.uk



Recommendation:- APPROVE subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

1.1 This application proposes the erection of a low boundary wall of three bricks high with metal railings above to a height of 2 metres in place of a previous proposal for a wall of just under 1m metres with rendered posts 800mm wide and metal railings to a total height of 2.6 metres. The application also involves the change of use of land from agricultural land to domestic garden and regrading and reinstatement of the land. The previous application with the rendered posts and higher wall and total height was refused planning permission and dismissed on appeal. The current proposal seeks to overcome the reasons for refusal.

2.0 SITE LOCATION/DESCRIPTION

2.1 Ashford Hall lies on the edge of Knockin, behind other housing sited on the main roads through the village. It is a large dwelling which previously sat in a restricted domestic curtilage. Consent was granted on 3rd January 2013 to extend the curtilage to include a larger garden area to the east of the house. The current application includes the approved garden extension (granted January 2013) and a further extension to this previous approval.

2.2 To the North of the site boundary are existing residential properties, Assembly Rooms and the Bradford Arms Public House. To the south is open agricultural land, and Knockin Medical Centre lies to the west of the house.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council comments are contrary to the recommendation of officers and the Principal Planning Officer in discussion with the local member and chair of the committee have agreed that the matters raised are material planning considerations which should be discussed at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Knockin Parish Council** – The Parish Council considered this application at a special meeting on 1.4.14 and does not object to the element of the application that relates to the change of use of agricultural land to garden.

However the Parish Council is in agreement with the conservation officers comment on this application in that whilst the railings are a slightly improved boundary treatment than that previously proposed. It is considered that with the addition of the brick plinth the whole height of the railings is excessive and will appear overly dominant in a rural setting. It will also be more difficult to screen such a high boundary treatment with landscaping. The Parish Council considers that the fencing should be of a maximum height of 1.5m from ground level.

In addition to this, should permission be granted, the Parish Council would wish the

following conditions as part of the permission.

1. Lighting lights or the illumination from them should not be visible from outside of the site.
2. There should be a condition removing permitted development rights for building works within the site.

- 4.1.2 **Council Conservation Officer** – The site lies on the edge of the Knockin Conservation Area and falls within open countryside. A recent application for a similar proposal was refused on appeal.

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 PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

This application seeks permission for the change of use of agricultural land to garden land and the erection of railings on a brick plinth to form the boundary treatment to the proposed garden. A mixed native hedge is proposed to be set around the boundary.

It is considered that the railings are a slightly improved boundary treatment than that previously proposed. However it is considered that with the addition of the brick plinth the whole height of the railings is excessive and will appear overly dominant. It will also be more difficult to screen such a high boundary treatment with landscaping.

A simpler, shorter design would be more appropriate, easier to screen and sit better within the open countryside setting. It is recommended that the above comments are taken into account and revisions are considered.

4.2 **Public Comments**

- 4.2.1 A site notice and press notice have been produced and 5 individual neighbours have been notified. No comments have been received as a result of this consultation.

5.0 **THE MAIN ISSUES**

- Principle of the proposed change of use
- Soil movement
- Size of extended garden
- Boundary treatment
- Impact upon landscape, setting and the Conservation Area

6.0 **OFFICER APPRAISAL**

6.1 **Policy & principle of development**

- 6.1.1 Planning permission was granted in January 2013 for the change of use of land to the east of Ashford Hall. The consent was granted with permitted development rights for outbuildings, swimming pools, enclosures and hard standings removed by

condition and a separate condition requesting submission of a landscaping scheme. Within the officers report it was noted that at the time the application was for a change of use only with no built development on the land, on this basis the application was considered acceptable as although the area identified was defined as agriculture it was not intensively used. The report also confirmed that permitted development rights were to be removed on the basis that allowing permitted development rights could potentially erode the character and appearance of the area to the extent that it would be harmful to the landscape and rural area. A landscaping condition was imposed to ensure adequate assimilation into the rural landscape.

6.1.2 As with the previous application the overriding presumption of Shropshire Council's Core Strategy and the NPPF is to facilitate and promote development providing it does not have an adverse impact. Accordingly applications to change the use of agricultural land to domestic gardens in rural settings can be supported in principle but are considered based on their impacts.

6.1.3 This current application follows a refusal of an application for a further extension of the domestic garden, re-grading of the land and erection of a wall and railings. That application was refused for the following reason:

The change of use of the land and associated development works would erode the character and appearance of the area to the extent that it would be harmful to the landscape character and rural nature of the locality. The wall, pillars, railings and lighting undertaken and proposed introduce an urban feature which will not easily assimilate into the existing rural landscape; will not maintain the scale, appearance and character of the area or safeguard the amenities of the locality, and will have an adverse impact on the character and appearance of the village and an adverse impact on the overall quality of the natural or historic environment and adjoining Conservation Area. Accordingly the proposal is contrary to policies CS5, CS6 and CS17 of the Shropshire Core Strategy. 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.

6.1.4 An appeal was subsequently submitted and dismissed and the Planning Inspector dismissed the appeal.

6.1.5 The current planning application proposes a lower wall of three bricks high and lower railings with metal supporting piers rather than the blockwork rendered piers which had previously been erected and proposed. The current application continues to propose a garden which is larger in area than previously approved, involves the moving of soil off and around the site and the erection of the wall and railings. It is these matters and the impacts which need to be considered in this current application.

6.2 **Soil movements**

6.2.1 The movement of soil around a domestic garden would ordinarily not require planning permission unless it constituted an engineering operation, ie activities which are normally undertaken by persons carrying on business as an engineer altering the profile of land by excavation, embanking or tipping. Planning law has established that it is not necessary for an engineer to be present on site for work to

constitute an engineering operation. The works undertaken at Ashford Hall are considered to be engineering operations as the work which has been done is beyond that which would normally be carried out by a householder improving their garden. In addition a pond, formerly created as a wildlife pond granted consent in October 2000, which was previously outside the domestic curtilage has been drained and a new pond excavated which would also constitute engineering operations.

6.2.2 The agent has confirmed that there is no soil being taken from the site. The top soil has been removed and stored on adjacent land and will be replaced on the application site over a layer of sand and stone. The end result will be a flat garden. Officers consider that although this will result in a change in the character of this parcel of land this change is not considered by officers to be unacceptable or significantly harmful.

6.2.3 The planning inspector on considering this point noted that the issue of regarding and site levels could be dealt with by condition and the agent considers that there will be no perceptible change in levels and that the development will outwardly retain the rural character.

6.3 **Size of extended garden area**

6.3.1 Ashford Hall was built around 1999, it is a large neo-Georgian house within a restricted domestic curtilage albeit adjacent to open countryside, which at the time of the consent was appropriate for the owner. Following the sale of the property the current owner sought consent in January 2013 to extend the domestic curtilage. The garden area approved in January 2013 showed the existing curtilage around the dwelling and the main area of extended garden to the east with a narrow strip to the south. The area containing the pond permitted as a wildlife pond between the dwelling and the extended garden was shown as within the ownership of the applicant but not part of the January 2013 application. This land did not form part of the domestic curtilage of the dwelling – the pond was granted consent under planning ref 00/11229/FUL dated 12/10/2000 and the proposal was for ‘ construction of a wildlife pond on land adjoining the new dwelling’.

6.3.2 The current proposal includes the area around the former pond and a wider strip to the south of the approved extended garden (January 2013). The proposal does not extend any further to the east and will be no further than the current extent of the village development boundary and will stop short of the land occupied by the Bradford Arms. The length of the extension to the east is 48m as defined in the agent’s statement and of varying widths of an average of 33m wide. It is acknowledged that the land is the same as that previously refused by officers.

6.3.3 In considering this issue the Planning Inspector has advised that “there is a sound argument for providing the property with a more generous and extensive landscaped grounds” as the dwelling was built as a ‘gentleman’s residence’ with a very limited curtilage. Within the concluding remarks on the appeal the inspector states that “there would be no objection in principle to the extension of the domestic garden onto the appeal site”.

6.3.4 Officers therefore advise that a refusal on the principle of the garden extension would not be likely to be defensible on appeal and that the primary focus should

be on whether the current boundary treatment is acceptable.

6.4 **Boundary treatment**

6.4.1 The previously approved scheme did not propose any built development and as such was considered to retain the overall rural character and appearance of the area as noted within the planning statement attached to planning application 12/04951/COU. Within the planning statement there is recognition that a small section of hedgerow would be removed however a new hedgerow would be planted along the southern boundary to form a new means of enclosure.

6.4.2 The previous refusal for a blockwork rendered wall with blockwork rendered pillars, metal railings between the pillars and lighting on each pillar was refused on the grounds that this boundary was considered to be harmful to the character of the area. This refusal was upheld by the planning inspector who noted that the rural landscape is characterised by open fields and pasture land separated by hedgerows and that existing boundaries around the village are hedges, brick and sandstone. The inspector commented that the harsh appearance of the wall and railings was apparent but also accepted that the grounds of country houses are bounded by walls or fences but that this is ordinarily been achieved by the use of local or natural materials. The inspector judged that the wall, with its multitude of piers, was intrusive and out of place in the rural landscape and from a number of locations drew the eye and have an adverse impact on the setting of the Knockin Conservation Area.

6.4.3 In order to overcome the reason the previous application was refused and the appeal dismissed the applicant and their agent have proposed a lower wall, removing the solid piers and reducing the height of the railings. It is acknowledged that the Parish Council and the Conservation Officer remain concerned about the height of the proposal and whether it can be mitigated by landscaping and these concerns are noted. However, officers consider that the reduced height is an improvement of the previously refused scheme and is also the height that could have been erected around any other domestic garden under permitted development rights. Consent is only required in this instance as the land is in part not domestic garden and also has its permitted development rights removed.

6.5 **Impact on area**

6.5.1 Abutting the edge of the Knockin conservation area the extended garden area is visible from the public footpaths which run along the eastern boundary of the application site. It is acknowledged that the previously refused scheme was highly visible and detrimental to the character of the area and specifically the conservation area. However this was mainly due to its height and the solid 800mm wide plinths. As noted above the railings have been removed and the plinths are now part of the metal railings and as such are not solid features.

6.5.2 The submitted plan does not include any details of lighting. The agent has confirmed that the applicant wishes to provide lighting around the garden but has not at this time provided any details. Officers advise that the lighting can be controlled by condition to ensure that the lighting is of a low wattage and appropriately hooded to ensure that spillage does not adversely affect the wider area.

6.5.3 It is therefore considered by officers that the amended scheme now submitted, with the provision of additional native species landscaping on the outside of the wall and railings, will maintain and enhance the countryside character and comply with the reasons that permitted development rights were removed for this type of work. Accordingly officers consider that the development will comply with policies CS5, CS6 and CS17.

7.0 CONCLUSION

7.1 The change of use of the land and associated regarding of the land and the proposed wall and railings are considered to be appropriate for the dwelling to which the land would be associated and not detrimental to the character of the area or the conservation area. Accordingly the proposal is considered to comply with policies CS5, CS6 and CS17 of the Shropshire Core Strategy. 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.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks

10.2 Relevant planning history:

12/04951/COU Change of use of agricultural land to domestic garden land GRANT 3rd January 2013

13/01915/FUL Application under Section 73A of the Town & Country Planning Act for the change of use of agricultural land to domestic garden land; erection of boundary wall and railings REFUSE 4th September 2013

Appeal

13/02063/REF Application under Section 73A of the Town & Country Planning Act for the change of use of agricultural land to domestic garden land; erection of boundary wall and railings DISMIS 6th February 2014

11.0 ADDITIONAL INFORMATION

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Arthur Walpole

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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

3. Except for the development hereby approved, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development relating to Schedule 2 Part 1 Class E & F or Schedule 2 Part 2 Class shall be erected, constructed or carried out within the area of domestic curtilage identified by this application.

Reason: To maintain the scale, appearance and character of the development and to safeguard the amenities of the locality.

4. 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.

5. Prior to the installation of any lighting on the site details of the design, specifications, wattage, height, position and spillage of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be installed in accordance with the approved details and retained as such for the lifetime of the development.

Reason: To safeguard the amenities of the locality.

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<u>Committee and Date</u>
North Planning Committee
6 May 2014

<u>Item</u>
9
Public

Development Management Report

Responsible Officer: Tim Rogers
 Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

SCHEDULE OF APPEALS AS AT COMMITTEE 6th May 2014

Appeals determined

LPA reference	12/05051/FUL - 13/02060/REF
Appeal against	Refusal of planning permission
Committee or Del. Decision	Committee
Appellant	The Millhouse Group - C/O Bleazard and Galletta
Proposal	Erection of a three storey terraced block comprising 9 town houses and 13 apartments with associated external works including formation of new vehicular access, estate road and car park
Location	Land Off Mill Street Wem Shropshire
Date of appeal	12.09.13
Appeal method	Hearing
Date site visit	
Date of appeal decision	11.04.14
Costs awarded	
Appeal decision	Dismissed

LPA reference	13/03217/FUL
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr Steve Jennings
Proposal	Erection of 10 dwellings together with landscaping and associated car parking
Location	Rear Of Maesercroft Kinnerley Shropshire
Date of appeal	06.01.2014
Appeal method	Written
Date site visit	04.03.2014
Date of appeal decision	31.03.2014
Costs awarded	Refused
Appeal decision	Allowed

LPA reference	13/01692/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr J Allmark
Proposal	Variation of Condition No. 2 and 3 attached to planning permission 12/00827/FUL to allow external brick finish rather than the rendered finish
Location	Top Farm Baschurch Shrewsbury
Date of appeal	23.10.2013
Appeal method	Written
Date site visit	25.02.2014
Date of appeal decision	01.04.2014
Costs awarded	
Appeal decision	Allowed



Appeal Decision

Hearing held on 23 January 2014

Site visit made on 7 February 2014

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 11 April 2014

Appeal Ref: APP/L3245/A/13/2204719

Land off Mill Street, Wem, Shropshire SY4 5EX

- 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 The Millhouse Group against the decision of Shropshire Council.
 - The application Ref 12/05051/FUL, dated 3 December 2012, was refused by notice dated 22 August 2013.
 - The development proposed is Wem Gateway – erection of three storey terraced block comprising 9 town houses and 13 apartments with associated external works including formation of vehicular access, estate road and car parking.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. It was agreed at the hearing that other than in relation to two errors the appeal concerned the plans listed in section 4.1 of the appellant's appeal statement. The errors related to plans 1188 D32 and 1188 D39. It is common ground that the Council determined the application on the basis of revision C versions of both plans. My consideration of the case and my decision is therefore based on the list of plans in the appellant's statement subject to the two amendments described. A planning obligation has also been submitted which I have taken into account.
3. Planning Practice Guidance was issued on 6 March 2014. The content of the guidance has been considered, but in light of the facts in this case it does not alter my conclusions in relation to this appeal.

Application for costs

4. At the Hearing an application for costs was made by The Millhouse Group against Shropshire Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues in this appeal are;
 - the effect of the proposed development on the character and appearance of the Wem Conservation Area and the setting of Wem Mill, a grade II listed building;

- whether the proposal would comply with the spatial strategy of the National Planning Policy Framework (the Framework) and the Core Strategy in terms of minimising flood risk;
- the effect of the proposal on the living conditions of the occupiers of Wem Mill, with regard to outlook, natural light and privacy; and,
- the effect of the proposed development on biodiversity.

Reasons

Development Plan

6. The development plan includes the saved policies of the North Shropshire Local Plan 2000 to 2011 and the Shropshire Core Strategy 2011. The appeal site is located within the settlement boundary of Wem. Saved policy H5 of the Local Plan and policy CS1 of the Core Strategy in principle supports new housing development in the settlement.

Character and appearance

7. In the exercise of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The objectives of policy CS6 of the Core Strategy are consistent with this test.
8. The Framework is a more recent document than the Core Strategy. Paragraph 126 of the Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also identifies that heritage assets are irreplaceable resources. Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a Conservation Area, great weight should be given to the asset's conservation.
9. The Wem Conservation Area Appraisal is a useful document. However, as it is in draft form I can only attach some weight to it. I have therefore carried out my own assessment in order to identify the special character of the Conservation Area. This assessment has been informed by the Appraisal, hearing, site visit and the documents and written submission received.
10. The Conservation Area is focused on the linear development of buildings along the main roads that pass through the centre of the town and includes some development in depth. Development closest to the town centre is predominantly characterised by two and three storey buildings set on the back edge of pavements occupying the full width of narrow plots. As a result, the central part of the Conservation Area has a fine urban grain.
11. In contrast, the appeal site is located at the southern end of the Conservation Area where buildings are typically set back from the pavement and are generally more spaciouly set. Wem Mill, a Grade II listed building on the opposite side of the road to the appeal site, and Mill House are exceptions as respectively their main and flank elevations are positioned against the highway. As a result, these buildings partially enclose Mill Street in the vicinity of the appeal site.

12. Mill House is an attractive large detached dwelling that appears to date from a similar era as the Mill. The appeal site wraps around three sides of the property. The 1874 Ordnance Survey Map shows buildings with a small footprint within the appeal site to the west of the position of Mill House. The last buildings on the site were demolished many years ago and the occasional low outcrops of brickwork that remain have blended into the trees and vegetation on the site. As a consequence, I find that the appeal site no longer constitutes previously developed land.
13. At present when approaching from the south towards the town centre, or from the west along the footpath along the River Roden, Wem Mill, Mill House and the open verdant character of the appeal site onto which these buildings look forms an attractive and important part of the street scene. These features denote the change from the late twentieth century suburban development along Mill Street to the south to the historic part of the town to the north. The Summary Character Appraisal attached to the appellant's Urban Design Study recognises that the Mill together with land to its rear and the appeal site was under utilised and under maintained. However, at the time that the Character Appraisal was written the Mill had not been extended and an access road and car parking created to its rear. In my view, the bringing back into use of Wem Mill with new development confined to its rear represents the sort of sensitive enhancements to this gateway recommended by the Appraisal. In contrast, the proposed development would result in a tall crescent linked to a tall apartment building on open land facing the Mill that would cover almost the whole length of the appeal site in built development.
14. The apartment building would be set close to the back edge of the pavement on Mill Street and would be one storey shorter in height. The setback and slight reduction in scale of this part of the scheme would be insufficient to materially reduce the overall scale of the development. The resulting massing effect of the crescent and apartment building would unduly enclose Mill Street and create a dense urban environment of tall buildings at the southern end of the Conservation Area. Apart from Wem Mill (whose extension is far more compact and confined to the rear) and a discrete new building set well back from the road on its northern side, this part of the Conservation Area is not characterised by such development. Whilst I recognise that in views from the north Mill House would serve to screen the development until close by this would not overcome the detrimental effects in views from the south or from the public footpath along the river to the west. As a result, the proposed development would fail to preserve the character or appearance of the Conservation Area.
15. The architectural detail and external materials proposed would provide visual interest and allow the buildings to complement the appearance of the Mill and other nearby buildings in the Conservation Area. Nevertheless, this would be insufficient to overcome the significant harm to the Conservation Area as a result of the scale, extent and massing effect of the proposed buildings. The proposal in not preserving or enhancing the character or appearance of the Conservation Area would therefore fail the statutory test and would be contrary to policy CS6 of the Core Strategy.

Listed buildings

16. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.
17. The proposed development would be on the opposite side of the road to the Wem Mill. However, the open verdant character of the appeal site results in the Mill having a tranquil setting in important public views from the south and west. As I have earlier described the scale of the proposed development of the site would radically alter this and in views from these directions the setting of the Mill would become densely developed and urban. In views from the footpath along the River Roden to the west Wem Mill would also be largely obscured from view by the proposed development. I recognise that the design of the apartment building close to the Mill has evolved to become slightly subservient to it. However, this does not alter my view that the scale and extent of the proposed development as a whole would be insensitive to the Mill and fail to preserve its setting.
18. The bridge to the north of Wem Mill has a single segmental arch and dates from the early nineteenth century. It is also Grade II listed. The proposed development would be sufficiently distant from this bridge for its setting not to be adversely affected by the proposed scheme.
19. Taking these matters into account, I therefore conclude that whilst the setting of Wem Mill would be demonstrably harmed by the proposed development the setting of the Bridge would be preserved. As a result, the proposed development would be contrary to policy CS6 of the Core Strategy and would fail the general statutory duty in the exercise of planning functions with regard to listed buildings.

Conclusion on the first main issue

20. The harm that would be caused to the significance of the Conservation Area as a whole and to the setting of Wem Mill, although significant, on balance, would be less than substantial. In such circumstances paragraph 134 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal. In accordance with the statutory duties described I attach considerable importance and weight to the harm that would be caused to Wem Conservation Area and the setting of Wem Mill. On the other side of the balance, the public benefits of providing 22 additional dwellings, including some affordable dwellings, in helping address housing need in a location with good access to services and public transport, are of noteworthy weight.
21. Overall, I conclude that the public benefits of the proposal do not outweigh the harm that would be caused to Wem Conservation Area and the setting of Wem Mill. The proposed development would therefore also be contrary to the Framework.

Flooding

22. The main source of flood risk to the site comes from the River Roden and the Back Brook. These water courses respectively enclose the northern and southern sides of the proposed housing development.
23. Policy CS18 of the Core Strategy states that, amongst other matters, planning applications should be in accordance with the tests contained within PPS25 and should have regard to the Strategic Flood Risk Assessment (SFRA) for the county. Whilst PPS25 was replaced by the Framework in 2012 its tests were incorporated into the new document. Policy CS18 is therefore consistent with the Framework.
24. The Framework is an important material consideration. Paragraph 101 of the Framework states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Sequential Test should therefore be applied to proposals for new development.
25. The starting point for applying the Sequential Test is the Strategic Flood Risk Assessment (SFRA). The SFRA for the area places the appeal site in Flood Zone 3. This is the zone with a high probability (1 in 100 or greater annual probability of river flooding). In terms of defining the area to which the Sequential Test should apply I consider that this should be the area of the District rather than individual settlements. This is because this is the area over which housing land supply is normally considered. It was agreed at the hearing that there are housing sites currently available for more than the twenty two dwellings proposed in Flood Zones 1 and 2 within the area of the local authority. As a consequence, the housing proposed could be located in a zone with a lower probability of flooding. Development of the appeal site for housing therefore would be contrary to the strategy of the Framework which directs development away from areas at highest flood risk.
26. If it had not been possible for the housing proposed to be located in a zone with a lower probability of flooding the Exception Test defined in paragraph 102 of the Framework would have been relevant. Subject to consideration of, amongst other matters, the wider sustainability benefits to the community of the development, flood risk and safety the Exception Test can support housing within Flood Zone 3. To inform the Exception Test a site specific flood risk assessment is required.
27. The appellant has carried out a site specific flood risk assessment for the site. Based upon this work the Environment Agency consider that other than in relation to the car park the site would be safe from flooding. Nevertheless, as the Agency state in their letter of 27 February 2013 the Sequential Test should be applied to the site to determine if there are other available sites with a lower probability of flooding. As it is agreed that such sites do exist the proposed development would be contrary to the Framework.
28. For all of these reasons the proposed development would fail to minimise flood risk by locating new housing development in an area of higher flood risk contrary to the Sequential Test. As a consequence, it would be contrary to policy CS18 of the Core Strategy and the Framework.

Living conditions

29. The proposed apartment building and Wem Mill would directly face each other across Mill Street. Within the western elevation of Wem Mill are full height windows to living rooms that provide the primary outlook to these rooms and the sole windows to bedrooms. At present these rooms enjoy an open outlook across the appeal site. At 7m in height to eaves level the apartment building would be tall and in comparison the horizontal separation distance between Wem Mill and the building of 11m to 12m would be small. The disparity between height and separation would be most acute within the ground floor apartments of the Mill. As a result, the proposed apartment building would have an overbearing and enclosing affect on the outlook experienced by occupiers within the two ground floor apartments. On the upper floors of the Mill the proposed building would not appear as tall and so the outlook experienced would not be materially harmed.
30. Reference has been made to similar separation distances between the main elevations of houses being found elsewhere. However, in my assessment whilst such a gap would be acceptable if the buildings are no taller than two storeys, if the buildings are three storeys tall, as with the proposed apartment building, the affect on outlook would be unacceptable.
31. In terms of sunlight, it is likely that the proposed development would overshadow the western elevation of Wem Mill so that in the latter part of the day sunlight would be prevent from entering all of the windows in this elevation. In contrast, in terms of daylight, the apartment building would be set sufficiently far away for levels within the Mill not to be adversely affected.
32. In relation to privacy, the elevations of the buildings would be sufficiently close for overlooking to occur between habitable rooms on each level. However, with the steps that occupiers of the Mill could take to protect their privacy, such as the use of net curtains, I find that acceptable levels of privacy would be provided.
33. Notwithstanding my favourable findings in relation to the affect of the proposed development on daylight and privacy within Wem Mill this does not overcome the demonstrable harm that would be caused to outlook and sunlight levels. The proposed development would therefore be contrary to policy CS6 of the Core Strategy which, amongst other matters, requires that residential amenity is safeguarded. It would also be contrary to a core planning principle of the Framework which requires a good standard of amenity for all existing occupants of buildings.

Biodiversity

34. The appeal site falls within part of the Shropshire Environmental Network (SEN). It forms part of the corridor linking the core areas of the SEN to the east and west of Wem. Such corridors allow species to move between the core areas to feed, disperse and migrate. Paragraphs 109, 114 and 117 of the Framework encourage the establishment of such networks and promote their protection and preservation. Policy CS17 of the Core Strategy only allows development that does not have a significant adverse impact on the SEN and does not create barriers or severs links between dependant sites. As a result, policy CS17 is consistent with the Framework.

35. The appeal site occupies almost the full width of the corridor and includes the Back Brook, both its banks and the northern side of the River Roden. The proposed development would clear the existing trees from most of the site and occupy the land in between the two water courses. The majority of this land would be covered by buildings and hard standing.
36. To the east of the appeal site as far as the railway bridge, Wem Mill and suburban housing narrow the SEN corridor to the width of the watercourses and their banks. The rear gardens to the houses along the water courses provide some scope for wildlife migration but their manicured condition limits this potential. As a consequence, whilst the corridor to the east of the appeal site has not been severed it is under pressure.
37. With rear gardens separating the proposed houses from the Back Brook, light and other forms of disturbance would create a less than ideal environment for the movement of wildlife along the water course and land along its northern bank. The loss of vegetation, increased activity and lighting associated with dwellings on an access road along the northern bank of the River Roden would have a similar effect. However, the proposed development would not materially reduce the width of the wildlife corridors further than has happened to the east of the appeal site. Furthermore, although the quality of the environment for the movement of wildlife would be lessened it would not be prevented, especially during the quieter nocturnal hours.
38. Taking all these matters into account, I therefore conclude that whilst the proposed development would result in some adverse effects on the wildlife corridor a barrier to movement would not be created and the corridor would not be severed. The proposed development would therefore comply with the objectives of policy CS17 of the Core Strategy and the Framework.

Other matters

Housing land supply and sustainable development

39. It was agreed at the hearing that the Council had less than 5 years housing land supply. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered to be up to date in such situations and that the presumption in favour of sustainable development should apply. In such circumstances paragraph 14 of the Framework advises that planning permission should be granted unless either of the following circumstances apply. Firstly, the adverse impacts of doing so clearly outweigh the benefits when assessed against the policies in the Framework as a whole. Secondly, specific policies in the Framework indicate development should be restricted.
40. Whilst the policies governing the supply of residential development may be out of date it is common ground that as the site is located within Wem it is suitable in principle for residential redevelopment.
41. In relation to sustainability, the appeal site is located within convenient walking distance of the town centre which has a range of shops, services and facilities. It also has good access to public transport. The housing scheme in helping to address housing need and providing affordable housing also has social benefits. New development also supports economic growth during construction.

Afterwards the increase in population of Wem would boost the spending power of the local economy. However, environmentally the appeal scheme would fail to preserve the character or appearance of the Conservation Area and Wem Mill which are designated heritage assets. It would also fail to minimise flood risk by locating new housing development in an area of higher flood risk, contrary to a specific policy of the Framework. Finally, it would unacceptably harm the living conditions of the occupiers of Wem Mill. As a consequence, the scheme would not constitute sustainable development within the meaning of the Framework.

Overall conclusions

42. Taking all these matters into account, the site is in a sustainable location and the development would have social and economic benefits. There would also be no material harm to biodiversity. However, I consider that any presumption in favour of development is significantly and demonstrably outweighed by the harm that would be caused to designated heritage assets, living conditions and the failure to minimise flood risk.
43. In accordance with the Core Strategy residential developments in the County are required to contribute towards affordable housing. A scheme to mitigate the effects of the development on Great Crested Newts is also sought. At the request of the Council the appellant has submitted a properly completed section 106 agreement to secure compliance with these matters. The tests in paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits, and the terms of the obligation are not in dispute, it is not necessary to assess the agreement against the requirements of regulation 122 or paragraph 204.
44. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Collinge	Jake Collinge Planning Consultancy
Mr Wright	Bleazard & Galletta LLP
Mr Haslam	Staffordshire Ecological Services Limited

FOR THE LOCAL PLANNING AUTHORITY:

Mr Farmer	Shropshire Council
Dr Swales	Shropshire Council

INTERESTED PERSONS:

Councillor Dee	Shropshire Council and Wem Town Council
Mrs Carson	local resident
Mr Edwards	local resident
Mr Hollinshead	local resident
Mr Rogers	local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Address list for the letter of notification detailing the time, date and location of the hearing.
- 2 E-mail from English Heritage to the appellant (30 September 2010).
- 3 Listing descriptions for the Grade II Wem Mill and Grade II bridge north of Wem Mill.
- 4 Supplementary Planning Document 'Type and Affordability of Housing'.
- 5 Shropshire Five Year Housing Land Supply Statement.
- 6 Wem Conservation Area Appraisal.
- 7 Draft section 106 agreement.

PLANS SUBMITTED AT THE HEARING

- A Elevations Plan ref 1188 D32 Rev C.
- B Typical Details ref D39 Rev C.
- C Wem Mill floor plan ref AP06131/10 R.
- D Wem Mill floor plan ref AP06131/410.
- E Strategic Flood Risk Assessment Map of the appeal site.

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Costs Decision

Hearing held on 23 January 2014

Site visit made on 7 February 2014

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 11 April 2014

Costs application in relation to Appeal Ref: APP/L3245/A/13/2204719

Land off Mill Street, Wem, Shropshire SY4 5EX

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by The Millhouse Group for a full award of costs against Shropshire Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for Wem Gateway – erection of three storey terraced block comprising 9 town houses and 13 apartments with associated external works including formation of vehicular access, estate road and car parking.
-

Decision

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

The submissions for The Millhouse Group

2. The Council have failed to provide sufficient evidence to demonstrate that the proposed development would have a significant adverse effect on Shropshire's Environmental Network. This is contrary to paragraph B16 of Circular 03/2009. The appeal scheme is a resubmission of an almost identical scheme which was not refused on the basis of harm to the character and appearance of the area. In not determining like cases in a like manner paragraph B29 of the Circular has been contravened.
3. No reply to the Council's written response was received.

The response by Shropshire Council

4. The response to the application was made in writing.

Reasons

5. Since the application for costs was made Circular 03/2009 has been superseded by Planning Practice Guidance (PPG). However, having regard to the submissions received, I am satisfied that no party's interests would be prejudiced by judging the application against PPG.
6. PPG advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
7. There are 2 claims to be assessed. Firstly, whether the Council produced evidence to show clearly why the development cannot be permitted (paragraph

- 49). Secondly, whether the Council determined the proposed development and the previous scheme in a like manner (paragraph 49).
8. In relation to the first claim, at appeal stage the Council's Statement of Case expanded upon the second reason for refusal explaining why, in the view of the Council, the County's environmental assets would be adversely affected to a significant degree. Taken together with the discussion at the hearing, realistic and specific evidence was therefore presented by the Council about the consequences of the proposed development. The Council's behaviour therefore was not unreasonable.
 9. Turning to the second claim, it is clear from the minutes of the Committee Meeting that refused the initial application (ref 10/04297/FUL) that although it was not given as a reason for refusal there were concerns over the design of the development and loss of the site to built development. At the first of the two committee meetings considering the appeal proposal in 2013 the minutes showed once more that members had concerns regarding overdevelopment of the site and the impact of the development on the character and appearance of the area. This was confirmed in the decision notice where this was given as the first reason for refusal. The Statement of Case, the discussion at the hearing and the site visit substantiated this reason. It was not therefore spurious. Not citing this as a reason for refusal in relation to the first application was therefore unfortunate rather than unreasonable behaviour.
 10. Furthermore, unnecessary expense was not incurred. This is because the Council's second reason for refusal on the protection of environmental assets meant that if the appellant wished to pursue the proposed development they would have had to go to appeal anyway. In addition, had the first application been refused on the basis of its harm on the character and appearance of the area, given the fundamental disagreement between the parties regarding the scale of the development, it is unlikely this could have been resolved other than by appeal.
 11. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector



Appeal Decision

Site visit made on 4 March 2014

by Susan Holland MA DipTP MRTPI DipPollCon

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

Decision date: 31 March 2014

Appeal Ref: APP/L3245/A/13/2210532

land at rear of Maesercroft, Kinnerley, Shropshire SY10 8DF

- 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 Steve Jennings against the decision of Shropshire Council.
 - The application Ref 13/03217/FUL, dated 9 August 2013, was refused by notice dated 19 November 2013.
 - The development proposed is the erection of 10 dwellings together with landscaping and associated parking.
-

Procedural Matters

1. As originally submitted, the application was for 12 dwellings, but it was subsequently revised. Though neither specifies the date of revision, both the Appellant in his Grounds of Appeal document, and the Council in its Officer's Report to Committee, state that the description of development in the application was revised to 10 dwellings. It is clear from the terms of the Officer's Report and the Council's Decision Notice that the revision took place before the Council's consideration of the application and its decision; and from letters submitted by local residents that they have had the opportunity to see and comment on the proposal as revised. Accordingly, the appeal is to be dealt with on the basis of the revised description of development: that is, the scheme for 10 dwellings.
2. On 6 March 2014 the Department for Communities and Local Government (DCLG) issued its Planning Practice Guidance. However, the Planning Guidance has no bearing on this decision.

Decision

3. The appeal is allowed and planning permission is granted for the erection of 10 dwellings together with landscaping and associated parking on land to the rear of Maesercroft, Kinnerley, Shropshire SY10 8DF in accordance with the terms of the application, Ref 13/03217/FUL, dated 9 August 2013, and the plans submitted with it, subject to the 12 conditions set out in the Annex to this decision.

Application for costs

4. An application for costs was made by Mr Steve Jennings against Shropshire Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is the effect of the appeal proposal upon the character and appearance of the surrounding area.

Reasons

6. The green fields which form the appeal site together present a long frontage to Bankfields Lane. In depth, the site borders rear gardens to frontage properties on School Road, this part of the site being effectively surrounded on 3 sides by existing dwellings, including a row of semi-detached houses fronting the south side of Bankfields Lane. A shallow offshoot of the site continues along the Bankfields Lane frontage. This part of the site is backed by open fields and faces, across Bankfields Lane, an open area of land which has planning permission for residential development as a continuation of the neighbouring Coly Anchor estate. The appeal site itself has planning permission for 7 dwellings.
7. Looking beyond the site, the surrounding residential properties are modest in both dwelling and plot size. Detached and semi-detached houses predominate, with some bungalows. The Coly Anchor development itself features a mixture of dwelling size and exterior treatment. The housing mix, exterior features and materials proposed in the appeal scheme would be compatible with these.
8. The proposed plot layout would respond to its immediate surroundings by varying garden length and the position of garages to maximise to a reasonable degree the distance from adjacent existing houses. The arrangement of proposed Plot 10, on the offshoot land, would retain an elongated garden alongside the Bankfields Lane frontage: this would draw the proposed dwelling as closely as possible within the frame of existing built development on Bankfields Lane and new built development proposed to be concentrated on the main part of the site. By arranging the proposed plots to face inwards onto a central cul-de-sac, the appeal scheme would not only give the development its own identity but also retain the existing strong hedgerow and trees on the outer highway boundary so as to keep as far as possible the rural character of Bankfields Lane. The proposal would not represent *overdevelopment*.
9. Criticisms made, by objectors, of the proposed '*off-the-peg, minimal*' design and layout focus upon dwelling size, interior arrangement, equipment (such as the lack of a woodburning stove), materials, exterior design features, and density of development: culminating in an overall judgment, on the part of objectors, of inferior *quality* said to be inconsistent with the adopted Kinnerley Parish Neighbourhood Plan. However, this criticism and judgment could be described as largely subjective: and though some small 2-bedroomed houses are proposed in the scheme, these would conform to the identified need for smaller dwellings over the plan period as expressed in the Neighbourhood Plan, which also states at paragraph (¶)G2 to Annex 5 that *smaller houses are in keeping with the particular character of the area*. No evidence has been brought to the effect that the quality of the proposed dwellings would depart, downwards, in any fundamental way from those in the surrounding area.
10. In conclusion, therefore, the appeal proposal on balance would not have a materially harmful effect upon the character and appearance of the surrounding area. The proposal would meet the requirements of the statutory development plan at Policy CS6 of the adopted Shropshire Core Strategy, in particular in that it would be *appropriate in scale, density, pattern and design taking into account the local context and character*; and those of the National Planning Policy Framework, at ¶17, in that it would sufficiently *secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings*.

Other Matters

Highways

11. Objectors maintain that the proposal would exacerbate problems of parking around the nearby school to the south of the junction between Bankfields Lane and School Road. However, the site lies within very easy walking distance from the school, and a footway (to be improved under the proposals) is available along the south side of Bankfields Lane and connecting with the footway on School Road: so that the proposal in itself would not add to existing school-related traffic. In any case, the proposal would add only 3 dwellings to the number already approved for the site. The appeal scheme includes improvements to visibility at the junction, to be made within the limits of the highway, sufficient to provide for safe access by vehicles associated with the new development. Consultation with the Highways Officer raised no objection to the scheme.

Bin Store

12. The proposal would make provision for a bin store. In order to meet criticism of the location initially proposed for the store, the Appellant has submitted a further revised plan, Ref.PL06D in which the bin store is relocated from the site entrance to a more recessed position at the first 'elbow' of the access road, and screened by planting and a 1.8m fence.

Conditions

13. In addition to the standard time condition, further conditions are needed in order to secure a satisfactory development. For the avoidance of doubt, given the series of earlier revisions, it is necessary to impose a condition specifying the plans to be followed. Conditions Nos.3 & 4 are necessary in the interests of highway safety at the site access and its junction with Bankfields Lane, and at the junction of Bankfields Lane with School Road. Conditions Nos.5 & 6 are necessary to secure satisfactory treatment of existing trees and hedgerows in the interests of visual amenity and nature conservation. Conditions Nos.8-10 are necessary in the interests of nature conservation. Condition No.7 is necessary in the interests of residential amenity and to enable effective waste collection. Condition No.11 is necessary to secure residential amenity at neighbouring properties. Condition No.12 is necessary in the interests of visual amenity within the development.

S106 Unilateral Undertaking

14. The submitted completed S106 Unilateral Undertaking provides for the appropriate 10% contribution to affordable housing on the site (1 dwelling), and so satisfies the Policy CS11 of the adopted Core Strategy.

Overall Conclusion

15. In these circumstances the overall conclusion, in the light of the main issue, the prevailing planning policies for the area, and all other material considerations, is that the appeal should be allowed, subject to the 12 conditions set out in the Annex to this decision.

S Holland

INSPECTOR

ANNEX: CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised Plans Nos. PL05C, PL06D, PL10A, PL11B, PL12B, PL13B, PL14B, PL15B, PL16B, and PL17B.
- 3) Prior to the commencement of development full engineering details of the means of access and access road, including drainage and visibility sightlines, shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first brought into use until the access and associated works have been completed in accordance with the approved details and/or phased completion of works.
- 4) Prior to the commencement of development full engineering details of the highway improvements to the junction of Bankfields Lane/School Road together with localised improvements to Bankfields Lane shall be submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the highway improvement scheme has been fully implemented in accordance with the approved details.
- 5) No ground clearance or construction work shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority to ensure that there will be no damage to any existing trees or hedgerows within the site. The submitted scheme shall include the provision of chestnut paling or similar form of protective fencing to BS5837: 1991 standard, at least 1.25m high and securely mounted on timber posts driven into the ground, has been erected around each tree, tree group or hedge to be preserved on site or on immediately adjoining land. The fencing shall be located at least 1m beyond the line described by the furthest extent of the canopy of each tree, tree group or hedge. The approved scheme shall be retained on site for the duration of the construction works.
- 6) No development shall take place until full details of landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure and boundary treatment: and soft landscape works which shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation timetables.
- 7) No dwelling hereby approved shall be occupied until the refuse collection area as shown on drawing number PL06D has been provided and properly laid out; and the space shall thereafter be maintained free of any impediment to its designated use.
- 8) A total of 12 woodcrete artificial nests, as detailed in the Updated Ecological Survey Report conducted by Pearce Environmental Ltd (July 2013) shall be erected on the site prior to first occupation of the buildings hereby permitted.
- 9) A total of 6 woodcrete bat boxes, as detailed in the Updated Ecological Survey Report conducted by Pearce Environmental Ltd (July 2013), shall be

erected on the site prior to first use of the buildings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path, and shall thereafter be permanently retained.

- 10) Work shall be carried out strictly in accordance with the Updated Ecological Survey Report conducted by Pearce Environmental Ltd (July 2013).
- 11) No windows or other openings shall be formed in the west elevations of the dwellings on Plots 4 and 5 as shown on approved drawings Nos. PL06D, PL12B, & PL13B.
- 12) The external materials and their colour shall be as detailed in the deposited revised Design and Access statement received on 18 October 2013.

(12 conditions).

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Costs Decision

Site visit made on 4 March 2014

by **Susan Holland MA DipTP MRTPI DipPollCon**

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

Decision date: 31 March 2014

Costs application in relation to Appeal Ref: APP/L3245/A/13/2210532 Land rear of Maesercroft, Kinnerley, Shropshire SY10 8DF

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Steve Jennings for a full award of costs against Shropshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 10 dwellings together with landscaping and associated parking.
-

Decision

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

Reasons

2. The application for costs was made and responded to on the basis of Circular 03/2009, which has been superseded by the Department of Communities and Local Government's Planning Guidance issued on 6 March 2014. However, having regard to the submissions put to me, I am satisfied that no party's interests will be prejudiced by my judging the application and response against the Planning Guidance. Paragraph (¶) 030 of the Planning Guidance advises that *costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.*
3. The Council's submitted statement on the appeal does not (as alleged by the Appellant) *contain inaccurate assertions about the resultant impact on a heritage asset*: the statement makes no reference to any heritage asset. The Appellant's application for costs appears to imply erroneously, at ¶b, in its reference to *the Council's own Conservation Area Assessment*, that the appeal site lies within a Conservation Area. The consultation response of the Council's Conservation Officer states that *the proposed development site does not lie within a conservation area or contain any listed buildings.* The wording at ¶b of the Appellant's application for costs thus appears to have been wrongly inserted. But given that it forms part of the application for costs, it suggests an element of unreasonable behaviour on the part of the Council which is not demonstrated.
4. The Council's decision, which was taken contrary to the recommendation of its professional Planning Officers, was based upon a difference of opinion concerning the overall design quality of the proposed development. This is essentially a matter of judgment. The Neighbourhood Plan for Kinnerley seeks to secure, in future built development, a locally distinctive character of design.

In the implementation of this Plan in the current case this element has proved in practice, as exhibited via local consultation, to be highly prescriptive; and to go beyond what is visible in the surrounding area, and beyond the policy requirement of the adopted Core Strategy. Nevertheless, the terms of the Neighbourhood Plan themselves invite the pursuit of ambitious design solutions and for that reason the Council's attention to local opinion does not, on balance, constitute unreasonable behaviour. The evidence on which the Council relies includes the evidence which is available and visible on the ground, and against which the impact of the appeal proposal is to be judged.

5. The principle of residential development on the site has indeed been established by the earlier planning permission for 7 dwellings. However, the current appeal proposal increases the number of dwellings to 10, and changes the dwelling types and sizes proposed. This is a material increase which justifies a fresh consideration of the site in the context of the new proposal. Though the previous permission represents a material consideration, it cannot be assumed that planning permission should be automatically forthcoming for the new proposal.
6. The Appellant was aware, throughout the application process, of the local concern for particular features of design, but chose to pursue, albeit with certain concessions, his own preferred designs. The planning application and appeals process allows for such divergences of opinion to be examined independently. The Appellant's frustration is understandable, but is no guarantee of ultimate success in the Costs process. The resulting appeal decision in this case is in favour of the Appellant, but that does not in itself demonstrate unreasonable behaviour on the part of the Council.
7. Accordingly, on balance, the Council did not unreasonably refuse the application the subject of the current appeal, and has not behaved unreasonably in its conduct of the appeal; and unreasonable behaviour resulting in unnecessary or wasted expense, as described in the DCLG Planning Guidance 2014, has not therefore been demonstrated.

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INSPECTOR



Appeal Decision

Site visit made on 25 February 2014

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 1 April 2014

Appeal Ref: APP/L3245/A/13/2207308

Top Farm, Baschurch, Shrewsbury, SY4 2DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Allmark against the decision of Shropshire Council.
 - The application Ref 13/01692/VAR, dated 22 April 2013, was refused by notice dated 19 June 2013.
 - The application sought planning permission for the erection of one (local need) dwelling to include detached garage and formation of vehicular access; installation of sewage treatment plant without complying with conditions attached to planning permission Ref 12/00827/FUL, dated 12 April 2013.
 - The conditions in dispute are Nos 2 and 3 which state that: "The development shall be carried out strictly in accordance with the deposited and amended plans and drawings" (No 2) and "No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details" (No 3).
 - The reasons given for the conditions are: "For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details." (No 2) and "To ensure that the external appearance of the development is satisfactory" (No 3).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one (local need) dwelling to include detached garage and formation of vehicular access; and the installation of sewage treatment plant at Top Farm, Baschurch, Shrewsbury, SY4 2DA in accordance with the application Ref 13/01692/VAR dated 22 April 2013, without compliance with condition numbers 2 and 3 previously imposed on planning permission Ref 12/00827/FUL, dated 12 April 2013 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - (1) The development shall be carried out in accordance with the drawings listed on planning permission Ref 12/00827/FUL, dated 12 April 2013 except where superseded by drawing 213.06 01.
 - (2) No hard surfacing shall be laid until full details of the materials to be used have been submitted to and approved in writing by the Local
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Planning Authority. Development shall be carried out in accordance with the approved details.

Procedural Matters and Background

2. It appears that the application to remove the conditions was made before the conditions were breached and therefore I am treating this as an appeal under S.73 of the Act. Nevertheless, I saw at my visit that the dwelling has been substantially completed although some parts of the development remained incomplete such as the drive and parking space.
3. The reason for the Council's refusal relates to the use of external materials. The approved plans seem to imply that the garage would be brick and that the main part of the dwelling would have a render finish. The appeal seeks a brick finish along with some minor amendments to the elevations. The Council objects to the use of brick for the main part of the dwelling. It has not made any objection to the other amendments and as they are small I have no reason to find otherwise.
4. On 6 March 2014 the planning guidance was published and came into force. I have considered the content of the guidance, but in light of the facts in this case, it does not alter my conclusions.

Main Issue

5. The main issue is the implications that the variation of the conditions would have on the character and appearance of the area.

Reasons

6. The site is located in the countryside where buildings are sporadic. There are a few other buildings in the vicinity of the appeal site but they are generously spaced apart. The buildings that can be seen from the site are constructed of various materials including render, brick and metal cladding. I acknowledge that the 3 dwellings closest to the appeal site have a render finish but there are large brick agricultural buildings nearby and brick dwellings in the wider locality of Marton. The context within which the appeal building is set is therefore one of a variety of materials with none presenting a dominant feature, even within the immediate vicinity of the site. Therefore, I consider that the brick finish, including its specific colour, respects the character and appearance of the area.
7. I therefore conclude that the variation of the conditions would not harm the character and appearance of the area and I find no conflict with the Shropshire Local Development Framework Adopted Core Strategy, 2011(CS) Policy CS6 which seeks to ensure that development is designed to a high quality which respects and enhances local distinctiveness. The Council has referred to CS Policy CS11 and its Type and Affordability of Housing Supplementary Planning Document in its decision notice but these policies are primarily concerned about the provision of housing and are not directly relevant to the main issue.
8. I have considered the Council's suggested conditions against the advice in Planning Practice Guidance *Use of Planning Conditions*. As the house has already been constructed conditions are not required in respect of the external materials of the dwelling. I have therefore deleted Condition 3 of the original

permission and replaced it with the new condition requiring details of hard surfacing materials as the drive and parking spaces had not been constructed at the time of my visit. I have also deleted Condition 2 and replaced it with a new plans condition to replace the original floor plans and elevations with the appeal ones.

9. For the above reasons I allow the appeal.

Siobhan Watson

INSPECTOR

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