



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

Date: Monday, 12 January 2015

**Committee:**  
**North Planning Committee**

**Date:** Tuesday, 20 January 2015  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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

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

**Members of the Committee**

Arthur Walpole (Chairman)  
Paul Wynn (Vice Chairman)  
Joyce Barrow  
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  
Thomas Biggins  
Roger Hughes

Your Committee Officer is:

**Emily Marshall** Committee Officer  
Tel: 01743 252726  
Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 10)

To confirm the Minutes of the meeting of the North Planning Committee held on 16<sup>th</sup> December 2014, attached, marked 2.

Contact Shelley Davies on 01743 252719.

## 3 Public Question Time

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

## 4 Disclosable Pecuniary Interests

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

## 5 Proposed Residential Development Land East of Teal Drive, Ellesmere, Shropshire (14/03370/FUL)

Erection of 68 dwellings to include on-site open space provision. (Report to Follow).

## 6 Land Adj No. 33 Chester Road, Whitchurch (14/02830/OUT) (Pages 11 - 34)

Outline application for the erection of 15 dwellings to include access

## 7 Proposed Residential Development South Of Ash Hall Ash Magna Whitchurch (14/03484/OUT) (Pages 35 - 50)

Outline application (access for approval) for residential development (some affordable housing) and associated amenity space.

## 8 67 Aston Street Wem Shropshire (14/01530/REM) (Pages 51 - 64)

Reserved Matters application (access, appearance, landscaping, layout and scale) pursuant to Permission 08/00033 for proposed re-development of site for mixed use

## 9 Land At Brookmill, Hampton Wood, Ellesmere (14/02078/FUL)

Construction of stables, manege and temporary mobile home and change of use of land from agricultural to equestrian use. (Report to Follow).

## 10 Appeals and Appeal Decisions (Pages 65 - 76)

## 11 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 17<sup>th</sup> February 2015, in the Shrewsbury Room, Shirehall.



## Committee and Date

North Planning Committee

20<sup>th</sup> January 2015

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 16 December 2014**

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

**2.00 - 5.05 pm**

**Responsible Officer:** Shelley Davies

Email: shelley.davies@shropshire.gov.uk      Tel: 01743 252726

### **Present**

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, Gerald Dakin, Steve Davenport, Vince Hunt, Peggy Mullock, John Cadwallader (substitute for David Minnery) and Peter Cherrington (substitute for Pauline Dee).

### **98 Apologies for Absence**

Apologies for absence were received from Councillors Martin Bennett, Mrs Pauline Dee (substitute: Peter Cherrington), David Lloyd and David Minnery (substitute: John Cadwallader).

### **99 Minutes**

That the Minutes of the meeting of the North Planning Committee held on 18<sup>th</sup> November 2014 be approved as a correct record and signed by the Chairman subject to the following amendment:

The second paragraph of Minute 89 to be amended as follows:

*Ms Sandra Kiessling on behalf of the Friends of Rush Lane Group, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:*

Additionally it was agreed that a Clerk's note be added to read - *A copy of the full statement is kept on file.*

### **100 Public Question Time**

There were no public questions, statements or petitions received.

## 101 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 Peter Cherrington explained that as the local ward Councillor for planning application 12/01381/FUL Llysfield Nursing Home, 129 Middleton Road, Oswestry, and in accordance with Shropshire Council's Constitution he would take no part in the debate and would not vote on the application.

Councillor Gerald Dakin explained that as the local ward Councillor for planning application 14/01398/MAW Broughall Fields Farm, Ash Road, Whitchurch, and in accordance with Shropshire Council's Constitution he would make a statement on the application and then leave the room during consideration of the item, taking no part in the debate and would not vote on the application.

Councillor Mrs. M. Mullock declared that she had a non-pecuniary interest in relation to planning application 14/01398/MAW Broughall Fields Farm, Ash Road, Whitchurch, as three members of her family were employed at Grocontinental Ltd. She would make a statement and then leave the room during consideration of the item, taking no part in the debate and would not vote on the application.

Councillor P. Wynn declared that he had a non-pecuniary interest in relation to planning application 14/01398/MAW Broughall Fields Farm, Ash Road, Whitchurch, as he knew the land owner. He stated that he would take no part in the debate and would not vote on the application.

Councillor John Cadwallader explained that as the local ward Councillor for planning application 14/01426/OUT Land South of Chapel Lane, Norton in Hales and in accordance with Shropshire Council's Constitution he would make a statement on the application and then leave the room during consideration of the item, taking no part in the debate and would not vote.

*Councillor P. Wynn left the table and moved to the back of the room during consideration planning application 14/01398/MAW.*

## 102 Broughall Fields Farm, Ash Road, Whitchurch, Shropshire, TF8 7BX (14/01398/MAW)

The Principal Planning Officer introduced the application for Installation of Anaerobic Digestion plant consisting of control building; feedstock/reception building, 30m diameter digester, 30m diameter digestate store, feedstock clamps and all associated works and drew Members' attention to the schedule of additional letters. It was confirmed that Members had attended a site visit that morning and had assessed the impact of the proposed development on the surrounding area.

In response to a question from the Chairman regarding the re-routing of the culvert, the Principal Planning Officer explained that the applicant would be required to submit a detailed scheme as detailed in the Officer's report at Condition 21.

Peter Lowe, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- There was no pre-application consultation with the local community;
- The electricity generated would not enable the applicant to become self-sufficient;
- The anaerobic digester at Swancote did produce odour;
- The development would adversely affect highway safety;
- If there was an incident and an exclusion zone was enforced by the Environment Agency the A525 by-pass would be closed, causing gridlock in the town;
- The existing water course was a habitat for water voles;
- There was no shortage of electricity in Whitchurch as stated in the report; and
- The application was no benefit to the Town and would adversely affect tourism.

Councillor John Sinnot, Whitchurch Town Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The Town Council were not against anaerobic digesters in principle but were united in their objection to this application as they considered it to be in the wrong location;
- He assured the meeting that there was no shortage of electricity in the Town;
- The electricity generated cannot be used by the Town and therefore was of no benefit to the wider community;
- The site was too close to receptors such as the local nursery; and
- The anaerobic digester would produce odour.

Linda Grocott, applicant, spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The current business moved to Whitchurch in 1996 and played a vital part in the Shropshire economy;
- The business provided stable employment for local people;
- The application would enable the business to become self-sufficient;
- A number of businesses had left Whitchurch due to power shortage issues; and
- Amendments had been made to the application following concerns such as the elimination of food waste.

Nick Williams, 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 a number of points were raised including the following:

- The business was the largest employer in Whitchurch;
- Electricity was required at the business 24 hours a day, seven days a week, 364 days a year;
- The anaerobic digester would generate more than half of the electricity required by the business;
- The removal of food waste element was welcomed by Environment Agency and Public Protection;
- There had been no representations from statutory consultees;
- The plant would operate in line with a permit from the Environment Agency and would be closed if conditions were not met; and
- The development was located in a sensible site and would supply renewal energy in line with the guidance.

Councillor Mrs Peggy Mullock made a statement in support of the proposal, and then left the room, taking no part in the debate and did not vote.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor Gerald Dakin, as the Local Member, made a statement, and then left the room, taking no part in the debate and did not vote. During his statement a number of points were raised including the following:

- The electric supply on the industrial estate was insufficient;
- The proposed plant was different to the plant at Harper Adams University;
- There were 13 other anaerobic digesters in Shropshire;
- The proposal would give power where it was needed and enable the business to continue in the future;
- The business was largest employer in Whitchurch and known nationally;
- There had been a scaremongering campaign by a group of people objecting to the application;
- If the plant failed to operate in line with the Environment Agency permit it would be closed;
- The applicant would not allow this to happen and waste a 5 million pound investment; and
- He had no concerns in relation to the application and felt it would serve the needs of the Town.

The Principal Planning Officer explained that the benefits of the scheme outweighed the adverse impacts and the concerns raised by objectors had resulted in a better scheme. It was confirmed that there had been a pre-application process and that if there was an incident at the site this would be subject to a number of different regulatory regimes although the primary responsibility would rest with the operator. In response to comments relating to the fire prevention measures detailed in paragraph 7.3.3, the Principal Planning Officer advised that if Members were minded to approve the application a condition be added in relation to this issue.

Having considered the submitted plans for the proposal, the Members unanimously expressed their support for the officer's recommendation, subject to the inclusion of an additional condition in relation to fire prevention measures.

**RESOLVED:**

That Planning Permission be granted in accordance with the Officer's recommendation subject to:

- The conditions set out in Appendix 1; and
- An additional condition relating to fire prevention measures.

*Councillors Mrs Peggy Mullock, Gerald Dakin and Paul Wynn re-joined the meeting at this point.*

**103 Land South of Chapel Lane, Norton in Hales (14/01426/OUT)**

The Principal Planning Officer introduced the outline application for 16 open market dwellings and 3 affordable dwellings to include access and drew Members' attention to the schedule of additional letters.

Gavin Cope, local resident and representative from the Parish Plan Group, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The proposal was larger than the application refused by this Committee in October 2014;
- The North Shropshire District Council saved policy was still in place until SAMDev was adopted;
- The site was outside the development boundary for the village;
- The site was classed as open countryside in SAMDev and therefore contrary to CS4; and
- The proposal was contrary to CS6 as there was no employment or public transport in the village.

Councillor Richard Ancliffe, representing Norton in Hales Parish Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The application was one of four recent applications for Norton in Hales;
- The amount of new development was out of scale for a small village;
- The Parish Council dispute the statement in the Officer's report that 19.4% was not significant; and
- There were no longer any open spaces between houses as there were before 1990.

Peter Eardley, the applicant, spoke for the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The site was unsuitable for modern agricultural;
- Although the application was outline the only matter reserved was landscaping;
- The scheme had been prepared in conjunction with Planning Officers;
- The application would provide CIL money and affordable housing to enable younger families to stay in the village; and
- The highways improvements would benefit the whole village.

By virtue of the amendment made to Shropshire Council's Constitution, as agreed at the meeting of Council held on 27 February 2014, Councillor John Cadwallader, as the Local Member, made a statement, and then left the room, taking no part in the debate and did not vote on the application. During his statement a number of points were raised including the following:

- It had been agreed that the village should be classed as open countryside in SAMDev;
- SAMDev should be given more weight;
- The Highway Officer acknowledged the highway problems;
- The proposed pedestrian refuge was unsuitable;
- The development would have a minimal impact on school intake;
- The proposal was no benefit to the village and the public concern had been understated in the Officer's report; and
- There were no employment opportunities in the village and the development would maximise the need for car travel.

Having considered the submitted plans for the proposal, the majority of Members indicated that the harm resulting from the development would outweigh the benefits of the proposed development and expressed their objection to the application.

**RESOLVED:**

That Planning Permission be refused, contrary to the Officer's recommendation for the following reasons:

The Committee acknowledged that the housing proposed by the development would contribute economically and socially by boosting the housing supply, including open market and affordable housing and would also provide support for the existing services in the village and highway improvements to which weight was given. However it was considered that this was outweighed by the harm identified. Namely, Weight was given to the fact that the proposed development was not plan led being contrary to both current saved North Shropshire Local Plan and the emerging policies in the Site Allocations and Management of Development DPD and further it would have a harmful cumulative effect on the highway network in the village contrary to CS4, CS5 and CS6 of the Shropshire Core Strategy.



*Councillor John Cadwallader re-joined the meeting at this point.*

**104 Proposed Residential Development Land East of Teal Drive, Ellesmere, Shropshire (14/03370/FUL)**

The Principal Planning Officer introduced the application for the erection of 68 dwellings to include on-site open space provision and drew Members' attention to the schedule of additional letters and an additional representation that had been circulated at the meeting.

Brian Udal, local resident, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- Over 60 local residents with concerns attended a meeting in relation to this application;
- Flooding occurred on the site every year;
- The proposed attenuation ponds were a danger to children;
- The site was not included in SAMDev; and
- The primary school was under pressure; and
- It would take children over 20 minutes to walk to the school.

Councillor Geoff Elner, Ellesmere Town Council, spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- There were applications for over 700 new houses in Ellesmere which would swamp the Town;
- The Town was not able to cope with this amount of development;
- The site flooded on a regular basis;
- The Town Council would prefer development on other sites; and
- Development in this area would have an adverse effect on economic development.

Penny Bicknell, 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 a number of points were raised including the following:

- The proposed site was taken forward as a preferred option site;
- The proposal was in a sustainable location;
- The land was in the same ownership as the Teal Drive development and was a logical extension to Ellesmere;
- The application was not speculative and would be completed in a short timescale;

- The site was not in a flood risk zone and a flood risk assessment had been completed; and
- The development would provide affordable housing.

The Chairman read out the following statement from the Local Ward Councillor, Councillor Ann Hartley, who was unable to attend the meeting:

*As local member I strongly object to this application. In Ellesmere we are not against new housing development in fact we welcome more housing recognising the vibrancy and economic value. At present we have applications for 10 in Church Street, 57 at the Railway Yard, 68 in Teal Drive, 250 for the Wharf Development, 40 in Elson Road – 45 McCarthy & Stone and 280 are being phased in the Canal Development. However we are very mindful of all new developments being sited in the right place for the future of the town. These must not be in the town centre as the roads are not suitable for any more traffic pressure.*

*The area that is unanimously supported by the Chamber of Commerce, the Town Council and the vast majority of the community and myself is the Wharf and Canal area. The proposal for a newly constructed road linking the Wharf to the Oswestry Road makes this by far the most sensible proposition. The proposed Teal Drive development is not in the SAMDev and was not even in the North Shropshire Local Plan Development Boundary. The proposed site and surrounding area has severe flooding and is a greenfield site. We have enough site allocations identified for Ellesmere without including this dubious application. I urge the committee strongly to reject the application.*

In response to concerns raised by Members in relation to flooding issues, the Principal Planning Officer confirmed that the site was not in a flood zone and explained that conditions had been included to address the issues identified by the Drainage Engineer.

Having considered the submitted plans Members of the Committee unanimously indicated that the harm resulting from the development would outweigh the benefits of the proposed development and expressed their objection to the proposal.

**RESOLVED:**

That Members were minded to refuse Planning Permission against the Officer's recommendation. The Committee were concerned at the cumulative impact the development would have on the Town and gave greater weight to the emerging SAMDev Policies and saved local plan policies which classified the site as being within open countryside. Concern was also raised in relation to the impact on the road network and drainage issues.

A further report, on reasons for refusal would be considered at a future meeting of this Committee, in accordance with Shropshire Council's Constitution.

105 **Land South of 54 Red Bank Road, Market Drayton, Shropshire (14/03759/FUL)**

The Solicitor reported that there had been a Ministerial statement issued and new guidance in relation to planning obligations and small residential schemes and it was not appropriate to determine the application at this time until the Council had considered these matters.

**RESOLVED:**

That consideration of this application be deferred to a future meeting of the Committee.

*Councillor Peter Cherrington left the meeting at this point.*

**106 Llysfield Nursing Homes, 129 Middleton Road, Oswestry, Shropshire (12/01381/FUL)**

The Principal Planning Officer introduced the planning application for the erection of 2 two storey extensions and highway visibility improvements and drew Members' attention to the schedule of additional letters.

Ann Morris, representative for Stephen Morgan (resident of neighbouring property), spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees during which a number of points were raised including the following:

- The access to Mr Morgan's property was shared with the nursing home and at times access to his home was prevented;
- The proposal was overbearing and would result in a loss of light at Mr Morgan's property; and
- The development would increase the traffic movements at the nursing home.

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

**RESOLVED:**

That Planning Permission be refused in accordance with the Officer's recommendation.

**107 Appeals and Appeal Decisions**

**RESOLVED:**

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

**108 Date of the Next Meeting**

It was noted that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 20<sup>th</sup> January 2015 in the Shrewsbury Room, Shirehall.

Signed ..... (Chairman)

Date: .....



Committee and Date

North Planning Committee

20 January 2015

Item

**6**

Public

## Development Management Report

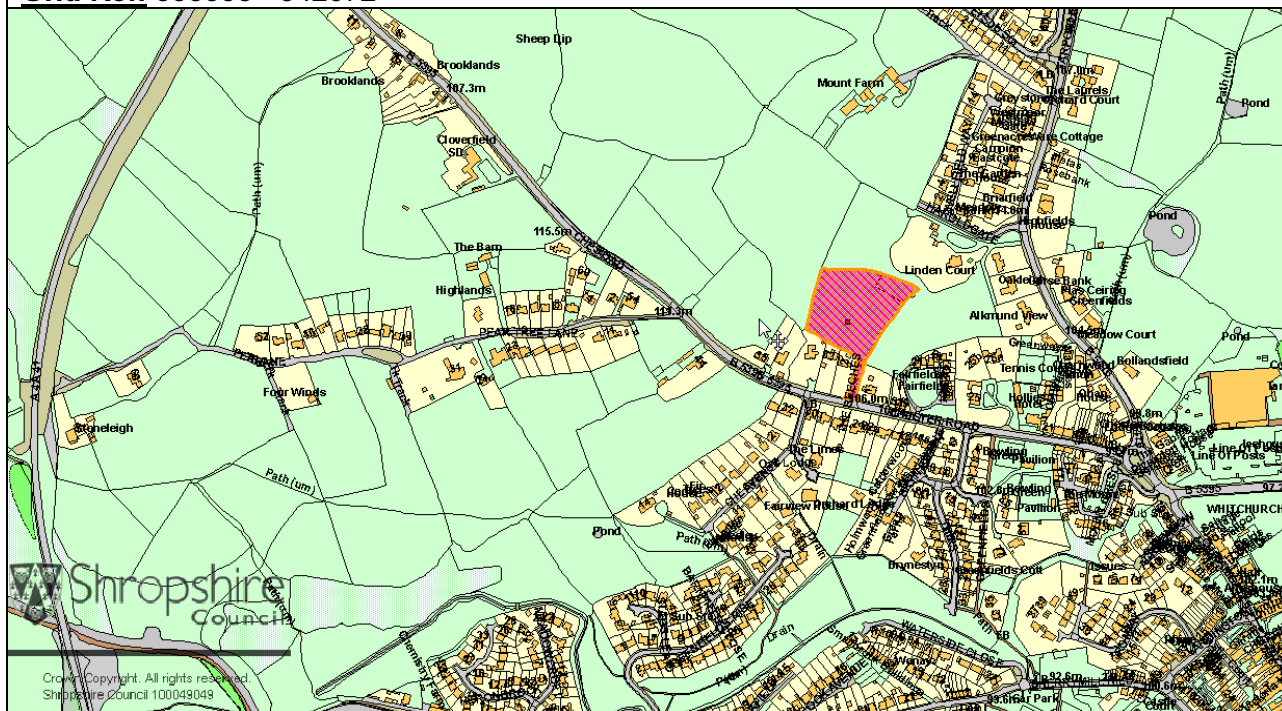
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 14/02830/OUT	<b>Parish:</b>	Whitchurch Urban
<b>Proposal:</b> Outline application for the erection of 15 dwellings to include access		
<b>Site Address:</b> Land Adj No. 33 Chester Road Whitchurch Shropshire SY13 1NB		
<b>Applicant:</b> Shingler Homes Ltd		
<b>Case Officer:</b> Jane Preece	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	

**Grid Ref:** 353558 - 342072



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**Recommendation:-** Approve, subject the imposition of conditions set out in Appendix 1 and the prior completion of a Section 106 agreement to secure the affordable housing contribution.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks outline planning permission for residential development on 1.07 hectares of agricultural located off Chester Road, Whitchurch. Access is included for approval at this outline stage. It is proposed that the site would utilise an existing access connecting the land to Chester Road. Otherwise all other matters relating to scale, appearance, landscaping and layout are reserved for later approval.
- 1.2 To assist the consideration of the application an indicative site layout plan has been provided, showing an indicative layout for 15 dwellings. The indicative dwelling layout plan is for information and illustrative purposes only.
- 1.3 For foul drainage disposal the development would proposed to connect to the existing mains sewer. The surface water from the development would be disposed of to a sustainable drainage system and soakaways.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposal relates to a parcel of agricultural land located on the northern side of the B5395 Chester Road and on the edge Whitchurch. The land lies directly behind frontage development on Chester Road, with an access point positioned between numbers 1 and 2 The Beeches.
- 2.2 The site occupies higher ground than the frontage development on Chester Road and the relief of the land generally rises away from the existing development in a north easterly direction. A survey plan (Drwg No. 01) showing existing site contours and levels related to O.S. Datum has been submitted with the application to which Members may wish to refer to familiarise themselves with the topography of the site. As a general comment the level of the land rises steadily from 108m to 115m ridge in a north easterly direction across the site to the tree line. The ridge height of the neighbouring development is shown to be in the region of 115 m.
- 2.3 The land currently appears to be unmanaged for agricultural purposes and is overgrown. The site contains several mature trees and is surrounded by a mix of hedgerows. In recognition of these characteristics of the site, the application is supported by an Environmental Survey and a Tree Report.
- 2.4 In terms of current development plan policies the site sits within an area defined as open countryside. In terms of the emerging Site Allocations and Management of Development (SAMDev) Plan the site remains outside the established development boundary for Whitchurch.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Objection from Town Council and request from Local Member.

The Town Council object as the site 'is not in the SAMDev and infrastructure is questionable.'

The Local Member has requested that the application is considered by the Planning Committee as (i) Whitchurch Town Council have and objected and (ii) there is a lot of local interest in the application.

Despite their original view that the application could be dealt with under delegated powers the Chair and Vice Chair in consultation with the Principle Planning Officer have since reviewed the above and have now agreed that the application should be presented to Committee for determination.

#### 4.0 **Community Representations**

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

**SC Archaeology (Historic Environment)** – No objection. The site is deemed to have moderate archaeological potential. Recommend imposing a condition to secure the implementation of a programme of archaeological work.

**SC Planning Policy** – Comments are quoted in full within Section 6.1 below.

**SC Trees** – No objection. Having read the submitted tree report and constraints plan, accept that development of the site can accommodate the mature boundary trees. No objection to the removal of the fruit trees. Trees A and B may be made the subject of a precautionary TPO. The final layout should take into account shade paths and conditions on tree protection can be imposed at reserved matters stage.

**Natural England** – No objections.

**SC Ecologist** – No objection. Recommend conditions and informatives. The HRA matrix must be included in the Planning Officers report for the application and must be discussed and minuted at any committee at which the planning application is presented.

**SC Conservation (Historic Environment)** – No comments received.

**SC Highways DC** – No objection. Recommend condition requiring full design layout and engineering details of the means of access to the site from Chester Road and internal road layout for prior approval.

**SC Drainage** – No objection. The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

**Dwy Cymru Welsh Water** – Comments awaited at time of writing report (Welsh Water have until 2<sup>nd</sup> December 2014 to comment).

**SC Learning & Skills** – No comments received.

**SC Affordable Houses** – No objection. Any consent would need to be subject to

a Section 106 Agreement requiring an affordable housing contribution in accordance with policy CS11 and the requirements of the SPD Type and Affordability of Housing.

(All consultee comments are available to view in full on line)

#### 4.2 Public Comments

**Whitchurch Town Council – OBJECTS.** After proposal, by Councillor Sinnott seconded by Cllr Rigley **PLN/3/1314 RESOLVED** that this would be objected upon as it is not in the SAMDEV and infrastructure is questionable.

**Local representations** – Ten representations of objection have been received. The main objections relate to:

- Site is outside the development boundary and in an area of open countryside
- Should use available sites within the development boundary
- Site was excluded from previous Local Plan, upheld by the Inspector, and has not been included in the SAMDev
- Shropshire County Council can demonstrate 5.5 years of deliverable housing sites.
- Flooding (associated with increase surface water). Historically the area has suffered a flooding problem already. Topography and heavy, impervious soil add to drainage problems
- Capacity of mains sewer. Already suffer with blocked drains/back-up
- Access and safety. The existing access road is inadequate and visibility at the junction is restricted
- Increase in traffic
- Number of properties recently applied for along Chester Road now totals 89 – all the extra cars will not make it safe to cross the road
- Indiscriminate parking
- Infrequent bus service on Chester Rd, with no designated bus stop
- Loss of privacy and overlooking due to elevation of site
- Unsocial use of open space and impact on amenity/management of the open space
- Impact on wildlife
- Loss of view
- Incline of site/topography
- Increase in noise and disturbance from development
- Impact on trees
- Effect on existing schools, doctors and other facilities – can they support the overall increase in demand locally
- Understand any development on the land would be single storey only
- Density is out of keeping
- Potential from vibration if pile driving needed on this wet site
- Overdevelopment/unsustainable. 75 houses have already been approved along Chester Road. Further development will damage the environment and visual amenity.
- Should rejected for the same reasons as 14/00426/FUL, Chapel Lane,



Trefonen, Oswestry and the application to build 86 houses on Land South of Hill Valley Golf Club (13/03413/OUT)

(The full content of public objections can be viewed on line)

## 5.0 THE MAIN ISSUES

- Policy and principle of development
- Affordable housing
- Highways
- Drainage
- Impact on environment
- Impact on residential amenity
- Infrastructure

## 6.0 OFFICER APPRAISAL

### 6.1 Policy and principle of development

6.1.1 The Councils' Principle Policy Officer has provided detailed comments on the policy and principle of development as follows:

6.1.2 'Background and Policy Context: The application proposes the development of 15 dwellings on land off Chester Road to the north-east of Whitchurch on land adjacent to, but outside the town's current development boundary.

6.1.3 *Housing Land Supply* - At August 2014, using data up to date to 31 March 2014, it is considered the Council can demonstrate a 5.5 years supply of deliverable housing sites. The full 5 year supply statement can be viewed here <http://shropshire.gov.uk/media/1053369/Five-Year-Housing-Statement-August-2014.pdf>.

6.1.4 It is considered therefore that the Council's housing supply planning policies are not out of date under paragraph 49 of the NPPF, and appropriate weight should be given to them in decision making. It continues to be recognised that the NPPF's presumption in favour of sustainable development and aim of boosting significantly the supply of housing continue to be material considerations in assessing planning applications.

6.1.5 *The Local Plan* - It is considered the following adopted planning policies are relevant for consideration:

- Core Strategy Policy CS3: The Market Towns and Other Key Centres
- Core Strategy Policy CS5: Countryside and Greenbelt
- Core Strategy Policy CS6: Sustainable Design and Development Principles
- North Shropshire Local Plan 'Saved' Policy H5: Infillings, Groups of Houses and Conversions in Market Towns and main Service Villages

6.1.6 In accordance with NPPF Paragraph 216, the weight that can be attached to policies in emerging plans depends on the stage of preparation, the extent of unresolved objections, and degree of consistency with the NPPF. Whilst the

SAMDev is at an advanced stage having been submitted to the Secretary of State, and has been subject to very substantial public consultation, it has not been subject to examination. With this in mind it is considered appropriate to give consideration to the following emerging SAMDev policies:

- SAMDev Policy MD3: Managing Housing Development
- SAMDev Policy S18: Whitchurch Town Development Strategy

(NB: Since the above comments were made by the Councils' Principle Policy Officer the SAMdev has been subjected to examination – a copy of the Inspectors interim views is available at <http://shropshire.gov.uk/media/1283086/Inspectors-Interim-Note-1-Strategy.pdf> )

- 6.1.7 Policy Considerations: The application site is not being proposed as a residential allocation in Policy S18 of the emerging SAMDev. The site sits adjacent to, but outside the current adopted development boundary for Whitchurch. The development boundary is currently established in the North Shropshire Local Plan (NSLP) 2005. It is considered that despite the time limitation on the NSLP (2000-2011), the development boundary for Whitchurch continues to reflect the natural settlement form and should be given weight in decision making. There are no proposed changes to the development boundary along Chester Road in the emerging SAMDev Plan. It is therefore considered the site sits in a countryside location and Core Strategy Policy CS5 should be given consideration.
- 6.1.8 Given it has been established the Council's housing supply policies are considered up-to-date, and that this site is not proposed in the submitted SAMDev, it is considered the [Development] Plan does not establish the principal for development on this site. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is therefore necessary to consider whether other material considerations, such as the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply, in this instance warrant a departure from the Local Plan.
- 6.1.9 Presumption in Favour of Sustainable Development Considerations: Core Strategy CS3 identifies Whitchurch as a main market town and indicates the town will have substantial development, recognising its accessible location on the highway and rail network, maintaining and enhancing its vibrant town centre and balancing business and housing development. Submitted SAMDev policy S18 provides greater detail to the strategy for Whitchurch and promotes a housing guideline of around 1,200 dwellings in the plan period (2006-2026) and allocates a number of sites for development.
- 6.1.10 As the proposal is an outline application with all matters except access reserved, it is only possible to assess the site's 'in principle' sustainability at this stage. The application site, alongside the land adjacent to the east, was subject to a technical site assessment through the SAMDev process. This assessment covered many of the issues relevant for considering the site's general sustainability, albeit in the context of selecting suitable site allocations. The two principal concerns raised over this site at this stage were the 'backland' nature of the site, and the suitability of the proposed access off Chester Road via the Beeches. The concern over access was in relation to the larger development site encompassing a total of 2.2ha.

- 6.1.11 It is noted that the Inspector's Report into the North Shropshire Local Plan raised concern about potential landscape impacts from the development of land off Chester Road and Tarporley Road. However, this was on the basis of a much larger comprehensive development of 300+ dwellings rather than the much smaller scheme currently being considered. It is not therefore considered that landscape and visual impact is a significant sustainability consideration in this instance.
- 6.1.12 Whilst the application site is not identified within the SAMDev Plan, it is considered the scale of the proposal would not adversely impact on the delivery of the plan's preferred development sites, or on the viability of the town's overall housing guideline. It is noted there are a number of recently approved and pending applications along Chester Road, all on sites outside the development boundary and not being considered through the SAMDev Plan. Submitted SAMDev Policy MD3 indicates that cumulative impacts of development can be a relevant policy consideration, however, in the context of the limited weight that can be attached to this policy ahead of the Inspector's report into the examination, it is not considered cumulative impact should be given significant weight in this instance.
- 6.1.13 The site sits on the edge of the existing development boundary and is approximately 1 mile from Whitchurch High Street and 0.5 miles from Sainsbury's on London Road. Whilst this is further than the 480 meters promoted through the SAMDev assessments as a comfortable walking distance to facilities and services, it is considered the site's location is well related to the urban edge of the town.
- 6.1.14 In relation to Core Strategy policy CS6, the issue of the site's location on 'backland' is of relevance in assessing the site's contribution to design, pattern and local context and character. The NPPF also makes it clear that good design is a fundamental part of sustainable development. It is noted the northern side of Chester Road is characterised by interspersed housing and hedgerows as opposed to the southern side which has more prominent linear housing with open frontages. Housing development off the nearby Fairfields is set back from the road, and whilst it is not 'backland' development it does have a have a similar character.
- 6.1.15 In summary, the Council can currently demonstrate a five year supply of deliverable housing sites and therefore Local Plan policies should not be considered out-to-date in relation to NPPF paragraph 49. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the Local Plan. Notwithstanding it is still considered appropriate to give appropriate consideration to the NPPF's presumption in favour of sustainable development and its aim of boosting significantly housing supply. Whilst it is noted the application is in outline with all issues except access reserved, in assessing the site's general sustainability it is considered appropriate to take into account the site's relatively small scale, its location on the edge of the town development boundary, its proximity to services and facilities, and the site's potential contribution to local character, design and pattern. In addition to these issues, it will be important for the decision to take account of other consultee comments, notably over the suitability of access and on-site infrastructure issues, including drainage.'

## 6.2 **Affordable housing**

6.2.1 Policy CS11 of the Shropshire Core Strategy requires all housing developments to contribute to affordable housing in accordance with the Supplementary Planning Document (SPD) on Type and Affordability of Housing. Therefore, if this site is deemed suitable for residential development, then there would be a requirement for a contribution towards the provision of affordable housing in accordance with Policy CS11. The level of contribution would need to accord with the requirements of the Housing SPD and at the prevailing housing target rate at the time of reserved matters application. If the Reserved Matters were to be submitted while the target rate is set at 10%, there would be a requirement for one of the 15 houses to become affordable on site and an off-site contribution of 0.5 agreed by a section 106 agreement. This requirement is acknowledged and catered for in the current submission.

### 6.3 Highways

6.3.1 Paragraph 32 of the NPPF promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.3.2 The site is located on the northern side of Chester Road, a Class II road, B5395. Chester Road forms one of the northerly routes from the Whitchurch Bypass into the town centre to the south. The site is located within the local speed limit of 30 mph, on the outskirts of the residential area of the town and has pedestrian footways leading into the town. The town is served by a train station and bus services locally. Therefore, despite local objections to the contrary and as assessed for other recent residential applications on Chester Road, it is considered that the site has reasonable access to road networks, footways and public transport links.

6.3.3 Specific concerns have been raised by local residents regarding the access provision and highway safety issues. The Council's Highway Officer has been consulted on the application and has raised no concerns over the capacity of Chester Road to accommodate the traffic generated from the development or the level of visibility available from the access road junction onto Chester Road. Nonetheless, in terms of specification, construction and junction radius layout the Highway Officer has commented that the access road, in its present state, is not suitable to be considered for adoption. Therefore improvements are required to meet with required standards and these improvements can be secured by imposing a pre-commencement planning condition requiring the submission of full design layout and engineering details of both the means of access to the site and the internal road layout for prior approval.

6.3.4 Overall, therefore there is no grounds for objection to the application on transport links, highway and access grounds. Car parking will be addressed at the reserved matters stage in relation to layout.

### 6.4 Drainage

6.4.1 The NPPF requires consideration to be given to the potential flood risk of development. Core Strategy Policy CS18: Sustainable Water Management states that development will integrate measures for sustainable water management to

reduce flood risk and avoid an adverse impact on water quality.

6.4.2 The information submitted with the application advises that the foul drainage will be connected to the mains system and surface water drainage will be disposed of using soakaways and sustainable drainage techniques.

6.4.3 Foul water disposal: Foul mains drainage is available in Whitchurch and for foul drainage disposal the development would be expected to connect to the existing mains sewer. It will be the applicants/developers responsibility to pursue consent from the service provider to connect into the foul main sewer. Whilst objectors have questioned the capacity of the sewer and mentioned blockage problems this issue is a matter for the service provider and is not a reason to refuse planning permission.

6.4.4 Surface water disposal: Objections have been raised by local residents regarding existing drainage problems in the area and the potential of development to exacerbate the situation and lead to flooding. The Councils' Flood and Water Management Team has been consulted on the application. The Councils' Drainage Engineer has consequently provided comments on the original submission and further in the light of the local objections lodged and the additional drainage information provided by the agent in response to those concerns. In summary, it is the professional opinion of the Councils' Drainage Engineer, that the drainage issues can be controlled through appropriately worded conditions for prior approval. This includes the submission of a flood risk assessment (FRA), together with full drainage details, plans and calculations for a sustainable drainage scheme that would comply with required standards of the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and the Shropshire Council's Interim Guidance for Developers. In brief, the surface water management measures would need to demonstrate that the drainage arrangements were adequate to deal with the surface water which falls on the site and therefore would not be permitted to increase flood risk elsewhere.

6.4.5 As such it is acknowledged that whilst there is local concern about increased surface water problems from developing the site, it is considered that the site could be developed with an appropriate drainage scheme, secured by conditional requirements, to ensure that there is no greater risk of flooding either within the site or in the wider area and as such would comply with policy CS18 and the NPPF with regard to this matter.

## 6.5 **Impact on environment**

6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density and pattern taking into account the local context and character.

6.5.2 Part 7 of the NPPF 'Requiring Good Design' indicates that great importance is given to design of the built environment and paragraph 58 sets out expectations for new development including ensuring that development adds to the overall quality of an area, establishes a strong sense of place and ensuring developments are visually attractive and respond to local character. The planning balance which

needs to be considered is balancing the benefit of the provision of new housing on the outskirts of the sustainable market town against any harm. Paragraph 14 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 6.5.3 The NPPF and policy CS17 of the Shropshire Core Strategy also require consideration to be given to the impact of the proposed development on the natural, built and historic environment and seek to ensure that development does not affect the visual, ecological or heritage values of these assets.
- 6.5.4 Site context and character – Objectors are concerned that the proposal will be out of keeping with the density of development in this area and visually harm the character of the area. It is acknowledged that the development of the land will change the character and appearance of the site itself and the outlook over the land from nearby properties. However, the issue is whether that change will be so harmful as warrant refusal.
- 6.5.5 In respect of landscape there are no recognised local or national landscape designations that influence the site and, as discussed out in policy section above, this unkempt agricultural field development in isolation for 15 dwellings is not seen as having a high landscape impact within the wider environs. The site sits on the edge of the settlement, being positioned behind existing development off Chester Road to the south/south east and Tarporley Road to the east/north east and where residential development generally adjoins agricultural land. Furthermore, the site is contained by existing boundary hedges and mature trees, which are largely to be retained. Allowing for this context and setting, it is not considered the development of the site for residential purposes, where the presence of existing trees are safeguarded by condition and landscaping and layout are reserved for later approval, will constitute an unacceptable or unduly harmful visual intrusion into the rural hinterland.
- 6.5.6 Density and pattern of development: Notwithstanding this context and setting, reference has been made to the fact that the development will constitute back land development in a negative sense and will be out of keeping with the density with the detached properties which front onto Chester Road and sit within substantial plots. However, it has to be acknowledged that not all development in the vicinity of the site is direct frontage development or of the same spatial pattern. A specific example of higher density development which sits back from the road exists to the south east of this site, ie the development known as Fairfields, as referred to by the Councils Policy Officer. Taking into account the wider characteristics of the locality it is therefore considered that the site could potentially be developed with 15 houses without resulting in a significant and demonstrable harm to the character and appearance of the area in terms of density and pattern of development which would justify resistance of the outline application. This assessment is made on the full understanding that the site layout that has been submitted with this outline application is for illustrative purposes only and is not submitted for approval at this outline stage. That illustrative plan depicts 2 x 4 bed semis, 7 x 3 bed semis and 6 x 4 bed detached houses and the general arrangement of these house types does give cause for concern about the inter-relationship of the new dwellings within the site.

- 6.5.7 Ecology: The application is supported by Environmental Survey and Natural England and the Councils' Natural Environment Team consulted on the application and supporting documents. Detailed comments have consequently been provided by the Councils' Planning Ecologist. The Councils' Planning Ecologist is satisfied that, subject to the imposition of conditions and informatives relating to great crested newts, bats and nesting wild birds, the site can be developed without adversely impacting on statutorily protected species and habitats. Furthermore, new planting will be introduced to the site as part of the landscaping proposals that will, subject to the agreement over specific details and plant species etc, offer opportunities for biodiversity enhancements.
- 6.5.8 Accordingly, the development is considered capable of complying with the NPPF and Core Strategy Policies CS6 and CS17 in relation to ecology and biodiversity.
- 6.5.9 Due to the presence of internationally designated sites forming part of the Midland Meres and Mosses Ramsar Sites and SAC's the Council has carried out a Habitats Regulation Assessment (HRA) for this planning application. The completed HRA is attached as Appendix A to this report and must be discussed and minuted at any committee at which the planning application is presented. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site. Natural England have been formally consulted on this planning application, together with the HRA, and have raised no objection on the basis of the information provided and concur with the view that no significant effects are likely to occur.
- 6.5.10 Trees: In recognition of the presence of trees on the site and at the request of the Councils' Tree Officer the application is supported by a Tree Report. Having assessed the submitted tree report and constraints plan the Tree Officer accepts that the development of the site can accommodate the mature boundary trees and that, therefore, the site is capable of being developed without adversely impacting on trees in compliance with policy. No conditions are recommended at this outline stage, as the Tree Officer considers that the future of the important trees on the site will be better safeguarded by imposing a precautionary Tree Preservation Order and further that conditions on tree protection can be imposed at reserved matters stage.
- 6.5.11 Topography: As previously stated the site slopes. Although it is recognised that some earthworks will be therefore be required to facilitate the development, it will be expected that the final layout of the site will work with the existing landscape contours and site constraints where possible and will be graded naturally in sympathy with the character of the site and so as to not adversely impact on land form or the natural features of the site, including trees and boundary hedgerows. In the event that outline planning permission is granted, it will therefore be important that a condition is imposed requiring the submission of full details of site levels both before and after development for further consideration as a part of any follow on scheme.
- 6.5.12 Archaeology: The site has been identified as having moderate archaeological potential by the Councils' Archaeologist due to the potential of below ground remains of a post-medieval brick kiln and other structures to be present. This does not prevent the granting of outline consent as, in line with paragraph 141 of the

NPPF, the Councils' Archaeologist is satisfied that the archaeological potential can be adequately addressed by imposing a pre-commencement condition requiring a programme of archaeological work, to comprise a watching brief during the ground works for proposed development, be made a condition of any planning permission.

## 6.6 **Impact on residential amenity**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.6.2 Concerns have been raised locally regarding the impact on views, potential loss of privacy/overlooking and noise and disturbance.

6.6.3 Impact on views: The impact on a private view is not a planning matter and the landscape impacts have already been considered above. Whether existing residents will be able to see the new properties or not is not a reason to refuse the application.

6.6.4 Loss of privacy/overlooking/loss of light: At this outline planning stage the scale and layout of the site has not been submitted for approval, although an indicative layout for a development of two storey dwellings has been provided. On plan, the submitted layout shows that the nearest new dwellings would sit to the north of the existing dwellings on Chester Road and over 21 metres away. Having regard to this orientation, coupled with the separation distance and the presence of boundary treatments this is normally sufficient to demonstrate that no adverse impact will occur in terms of overlooking or loss of light to warrant refusal. However, regard should also be paid to the elevated nature of the site in this instance. On balance, as the scale, layout and design of the new dwellings are reserved for later approval it remains to be considered that the site can be developed without adversely impacting on neighbours as the Local Planning Authority retains control over these matters for later approval. Therefore, in order to ensure that the site will be developed without causing any unacceptable form of overlooking or overshadowing due to elevation then, as discussed previously in relation to topography, it will be important to impose a condition requiring the submission of full details of the existing and proposed site levels, both before and after development in relation to site and the surrounding development, together with information on finished floor levels for due consideration.

6.6.5 Aside from the impact on existing neighbours, the final layout will also need to take into account the inter-relationship of the new dwellings within the site and safeguard against potential overlooking and overshadowing issues. The indicative layout does give rise to some concerns in this respect. Furthermore, On a point of layout detail the Tree Officer expresses some concern about the shading of plot 1 from a large mature oak and, in recognition that the layout is only indicative at this stage, suggests that before a final layout is submitted the shade paths of the trees are plotted by the applicants arboriculturist and the layout adjusted if shading of the house or garden is excessive.

6.6.6 Noise and disturbance: It is not envisaged that the use of the site for residential purposes in general residential use or any associated traffic movements emerging



therefrom would cause any substantive noise and disturbance issues that would warrant refusal. As regards potential noise and disturbance generated by the development process then this would be controlled by other legislation, although planning conditions can be imposed restricting working hours in order to help safeguard residential amenity.

6.6.7 Open Space: Objectors have raise a concern over the maintenance and potential anti social use of the indicative open space. In all instances the developer will be required to satisfy the Council that appropriate arrangements have been made whereby the open space will be maintained in perpetuity. The maintenance of the open space, together with landscaping of any areas not contained within private gardens can be controlled by imposing a landscape management and maintenance condition. As regards the use of open space for anti social behaviour then the final layout of the scheme should be so designed as to ensure that the space benefits from natural surveillance to deter such behaviour and respects the amenities of any existing adjoining development through the use of appropriate boundary treatments.

## 6.7 **Infrastructure**

6.7.1 In considering a sites sustainability the Council can take into account local infrastructure as part of the planning balance. Whether a site has good local infrastructure is not the only reason why it can be considered to be sustainable but it does form part of the reason. The NPPF advises that international and national bodies have set out broad principles of sustainable development. Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. The UK Sustainable Development Strategy *Securing the Future* set out five 'guiding principles' of sustainable development: living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly. Two of the three dimensions of sustainable development within the NPPF comment on the need to include provision of and access to infrastructure.

6.7.2 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL by the applicant ensures that this matter will be dealt with after the consent.

6.7.3 With regard to this specific application site, it is acknowledged that due to its location the future residents of the proposed development are likely to utilise the services and facilities within the town. The proposed dwellings on this site have not been taken into account in the consideration of the housing growth proposed for the town in the SAMDev. Whitchurch is proposed to have approximately 1,200 new homes but as the site has not been promoted through the SAMDev the proposed dwellings on this site would be in addition to this allocation.

6.7.4 It is also acknowledged that there are issues within Whitchurch regarding certain facilities, services and infra structure, including electricity capacity and school places. The issue of electricity would be a matter for the developer to resolve with the supplier and is also a matter which is high on the priority list for CIL monies. The issue of school places is planned to be resolved through the allocation of the land off Tilstock Road to the south of the town. Overall it is considered that the proposed addition of 15 dwellings on the application site, taking into account the significance of Whitchurch as a market town and as a priority for new development, would not result in a level of pressure on local infrastructure which would justify refusing the application.

## 7.0 **CONCLUSION**

7.1 The site is located outside the current Whitchurch development boundary and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMdev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply. With this in mind it is accepted that the site is in a sustainable location, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context it is considered that the the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application in this instance such as to warrant a departure from the development plan.

7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with the requirements of the NPPF.

7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements and will not be harmful to the natural and historic environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.

7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of scale, appearance, landscaping and layout, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.

- 7.5 Overall, it is considered that the outline proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy.
- 7.6 Therefore, approval is recommended subject to the conditions of approval listed in the appendix below and the prior completion of a Section 106 agreement to secure the affordable housing contributions.
- 7.7 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 six weeks after the grounds to make the claim first arose.

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a

number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## 9.0 **Financial Implications**

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

## 10. **Background**

### **Relevant Planning Policies**

#### **Central Government Guidance:**

National Planning Policy Framework

#### **Core Strategy and Saved Policies:**

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

SPD Type and Affordability of Housing

### **RELEVANT PLANNING HISTORY:**

10/04446/OUT Outline application for the erection of two dwellings following demolition of existing dwelling (All Matters Reserved) GRANT 15th December 2010

## 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 Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions APPENDIX A - HRA

## Appendix A

### Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

Application name and reference number:

14/02830/OUT

Date of completion for the HRA screening matrix:

4<sup>th</sup> September 2014

HRA screening matrix completed by:

Alison Slade  
 Planning Ecologist  
 Shropshire Council  
 01743 252578  
[Alison.Slade@Shropshire.gov.uk](mailto:Alison.Slade@Shropshire.gov.uk)

**Table 1: Details of project or plan**

Name of plan or project	Outline application for the erection of 15 dwellings to include access - Land Adj No. 33 Chester Road, Whitchurch
Name and description of Natura 2000 sites	<p>Brown Moss SAC and Ramsar site, part of the Midland Meres and Mosses Phase 1.</p> <p>Brown Moss (32.02ha) is a series of pools set in heathland and woodland. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. It is designated as a SAC on account of the presence of an Annex II species on the Habitats Directive, namely floating water-plantain <i>Luronium natans</i>.</p> <p>Ramsar criteria:</p> <p><b>Criterion 1a.</b> A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog.</p> <p><b>Criterion 2a.</b> Supports a number of rare species of plants associated with wetlands.</p> <p><b>Criterion 2a.</b> Contains an assemblage of invertebrates.</p> <ul style="list-style-type: none"> <li>• Oss Mere Site of Special Scientific Importance (SSSI), which is also covered by the Midland Mere and Mosses Phase 2 Ramsar designation., This consists of several lowland open water and peatland sites which support a number of rare and nationally scarce species of plants associated with wetlands</li> <li>• Quoisley Meres SSSI and Midland Meres and Mosses Phase 2</li> </ul>

	<p>Ramsar site is designated to represent a type of mere with nutrient rich open water and well developed fringing habitats</p> <ul style="list-style-type: none"> <li>Fenn's Whixall, Bettisfield, Wem and Cadney Mosses SAC and Ramsar site, part of the Midland Meres and Mosses Phase 2. SAC primary reason for selection is for Active raised bog. Other SAC qualifying feature is degraded raised bogs still capable of natural regeneration.</li> </ul>
Description of the plan or project	Outline application for residential development (up to 130 dwellings) to include access
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	14/01264/FUL Residential development of 100 dwellings; formation of vehicular access and estate roads; creation of public open space, wildflower area and balancing pond; associated landscaping; demolition of all existing agricultural buildings - Mount Farm Tarporley Road Whitchurch, Shropshire

## Statement

The application site is outside of the surface water catchment for any Ramsar site. No impact is considered to be likely on the closest European Sites, Oss Mere and Quoisley Mere SSSI and Ramsar sites, which are 3 km away and closed to general public access. Brown Moss Ramsar site is 3.4km distance from the application site. Fenn's Whixall, Bettisfield, Wem and Cadney Mosses is 6km away.

In their consultation response on the nearby 100 dwelling Mount Farm development Natural England have provided the following advice dated 22nd May 2014:

*"In advising your authority on the requirements relating to HRA, and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:*

- the proposal is not necessary for the management of the European sites in proximity; and*
- that the proposal is unlikely to have a significant effect on any European site in proximity, and can therefore be screened out from any requirement for further assessment.*

*This application is in close proximity to Oss Mere SSSI and Brown Moss SSSI. Given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the sites have been notified. We therefore advise your authority that these SSSIs do not represent a constraint in determining this application."*

The Council considers the on-site provision of usable informal open space to be sufficient so as not to result in a significant increase in recreational visit to Brown Moss or Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses.

### **The Significance test**

The proposed works in application 14/02830/OUT will not have a likely significant effect on the Midland Meres and Mires Phases 1 and 2 Ramsar sites and Brown Moss SAC due to no pathways for an effect. An Appropriate Assessment is not required.

### **The Integrity test**

The proposed works in application 14/02830/OUT will not have an impact on the integrity of the Midland Meres and Mires Phases 1 and 2 Ramsar site or the Brown Moss SAC due to no pathways for an effect. An Appropriate Assessment is not required.

### **Conclusions**

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

## **Guidance on completing the HRA Screening Matrix**

### **The Habitat Regulation Assessment process**

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –  
 (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and  
 (b) is not directly connected with or necessary to the management of that site,  
 must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

### **Habitat Regulation Assessment Outcomes**

**A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.**

**If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.**

### **Duty of the Local Planning Authority**

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.



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

1. Details of the scale, appearance, landscaping and layout (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 the Town and Country Planning (Development Management Procedure) Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of twelve months from the date of this permission.

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

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

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

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

The means of enclosure of the site

The levels of the site (both before and after development and in relation to the surrounding development)

The means of access for disabled people

The finished floor levels

Reason: To ensure the development is of an appropriate standard.

5. This permission does not purport to grant consent for the layout shown on any of the deposited plans submitted with application.

Reason: To enable the Local Planning Authority to consider the siting and layout of the development when the reserved matters are submitted.

6. Work shall be carried out strictly in accordance with the Phase 1 Environmental Survey by Greenscape Environmental dated September 2014.

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

7. Construction works shall not take place outside 07:30 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

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

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

8. No development approved by this permission shall commence until the applicant 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 Local Planning Authority prior to the commencement of works and the archaeological works shall be carried out as approved.

Reason: The site is known to hold archaeological interest.

9. Prior to the commencement of development full design layout and engineering details shall be submitted of the means of access to the site from Chester Road and internal road layout; the development hereby permitted not be first occupied until the means of access and junction onto Chester Road has been constructed fully in accordance with the approved details.

Reason: In the interests of highway safety.

10. No development shall commence until full details, plans and calculations of the proposed surface water drainage proposals and network have been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall illustrate how the development will comply with the National Planning Policy Framework; the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area; Shropshire Council's Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. The approved scheme shall be completed before the development is occupied.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to minimise the risk of surface water flooding and flood risk elsewhere as a result of the development.

11. No development shall commence until a Flood Risk Assessment (FRA) has been submitted to and approved in writing by the Local Planning Authority. The FRA should include, as a minimum:
- ' Assessment of the Fluvial flooding (from watercourses)
  - ' Surface water flooding (from overland flows originating from both inside and outside the development site)
  - ' Groundwater flooding
  - ' Flooding from artificial drainage systems (from a public sewerage system, for example)
  - ' Flooding due to infrastructure failure (from a blocked culvert, for example)

Reason: To ensure that all potential flood risk to the development has been addressed.

12. No development shall take place until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, has been submitted to and approved by the local planning authority. The landscape management plan shall be carried out as approved.

Reason: To secure the provision, establishment and long term management and maintenance of all landscape areas.

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

13. All foul drainage shall be directed to the mains foul sewerage system prior to the occupation of any dwellings.

Reason: To ensure the proper drainage of the site and to minimise the risk of pollution.

14. 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.

15. Prior to the first occupation of the dwellings two bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected as specified in section 6.1.1. of the Phase 1 Environmental Survey by Greenscape Environmental dated July 2014. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

16. Prior to the first occupation of the dwellings four artificial nests suitable for small birds such as robin, wren, tit species, sparrow and swallow shall be erected on the site and thereafter retained for the lifetime of the development.

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

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Committee and Date  
 North Planning Committee  
 20 January 2015

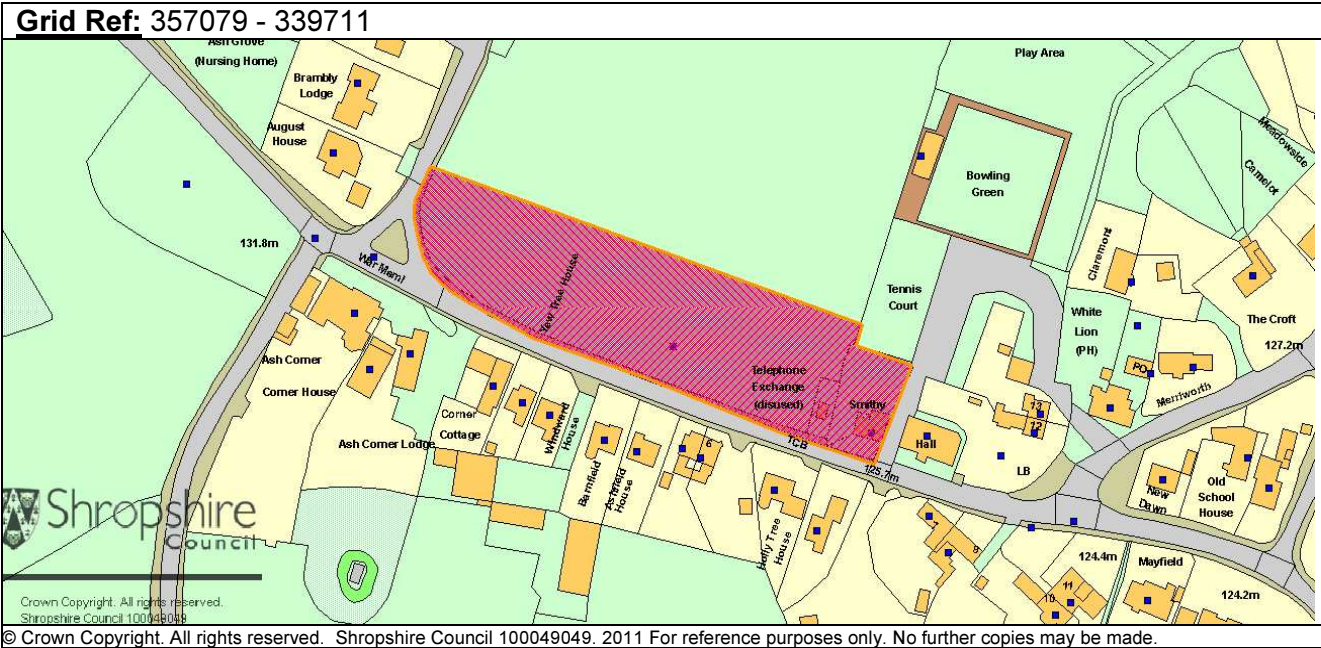
Item  
**7**  
 Public

## Development Management Report

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

**Summary of Application**

<b>Application Number:</b> 14/03484/OUT	<b>Parish:</b>	Whitchurch Rural
<b>Proposal:</b> Outline application (access for approval) for residential development (some affordable housing) and associated amenity space.		
<b>Site Address:</b> Proposed Residential Development South Of Ash Hall Ash Magna Whitchurch Shropshire		
<b>Applicant:</b> R H Gregory And Company		
<b>Case Officer:</b> Sue Collins	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>	



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks outline planning permission for the creation of seven dwellings. The means of access is to be considered as part of the outline application with the appearance, landscaping, layout and scale for consideration at reserved matters stage. Six of the dwellings would be new build with the seventh being created through the conversion of The Smithy.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located to the south of Ash Hall and to the north of Ash Lane between the War Memorial to the west and the entrance to the tennis courts/bowling green to the east.

2.2 It is an undulating area of land which is above the level of Ash Lane. The boundary to the highway is defined by a mature hedgerow. There are dwellings located to the south of Ash Lane and to the west of the site all of which are on the opposite side of highways to the site. To the east is the entrance to the tennis courts and the bowling green with the village hall on the opposite side of the vehicular access.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Complex or major applications which in the view of the Group Manager for Environment or the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman should be determined by the relevant Planning Committee.

As there have been a number of objections to the proposal including a petition it is considered that in this case it would be more appropriate for the proposal to be debated by the North Planning Committee.

### 4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

#### 4.1 Consultee Comments

##### 4.1.1 Whitchurch Rural Parish Council:

##### Original Comments

The Councillors agreed to object to this application as they believe it to be outside a current development boundary, contrary to CS6, in close proximity to a grade 2\* listed building and on the basis of community objections.

##### Final Comments

The Parish Council agreed to support the application following consideration of the amendments to the proposal. Highways alterations were noted with approval. Councillors noted plans to maintain the Old Smithy building which they would like to see restored and given a suitable ongoing function.

4.1.2 **Affordable Housing Officer:** No objection subject to the appropriate contribution for affordable housing is made. The level will be set at the approval of reserved matters stage.

4.1.3 **Drainage:** No objection but further information will be required as part of a reserved matters application.

- 4.1.4 **Public Protection:** No objection. However the development should include vehicle charging points.
- 4.1.5 **Historic Environment – Archaeology:** The site has a moderate-high archaeological potential.
- 4.1.6 **English Heritage:** Although not designated The Smithy is of some quality and is a significant component on the village. Its retention in the proposed scheme is appreciated.
- 4.1.7 **Tree Officer:** No objection and details for the planting of the new hedge have been provided.
- 4.1.8 **Highways Development Control:** No objection subject to the inclusion of the recommended conditions should planning permission be granted.
- 4.1.9 **Ecology:** Concerns raised regarding the mitigation proposals for Great Crested Newts but otherwise no objection subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.
- 4.2 **Public Comments**
- 4.2.1 There have been 8 letters of objection and 2 letters of support from the public. There has also been a petition against the removal of an ancient hedgerow (associated with the development site) that has received 110 signatures. The grounds for objection are as follows:
- Shrewsbury, at present, has a 5.47 year housing supply. It therefore is unnecessary to consider this site for development because it is outside the development boundary as outlined by SAMDev.
  - The community has strong feelings against the proposal.
  - The development will upset the character of the village.
  - An ancient hedgerow will be removed for access. This hedgerow is a haven for wildlife and a habitat for the Great Crested Newts. It also contributes to the character of the village.
  - There will be drainage issues. The road running through the village already does not cope with moderately heavy showers and there have been incidences of garages, drives and gardens flooding.
  - Access to the new properties will be dangerous. The road through the village is narrow and unable to accommodate the projected increase in traffic.
  - The new two-way access by the village hall will be extremely dangerous as a result of poor visibility.
  - The increase in traffic will create more pollution. If there are electrical cars, this will contribute to the current electricity shortage in the Whitchurch area.
  - In the last 50 years, Ash Magna has been affected by foot and mouth disease. It is believed that carcasses may have been buried on the site of the proposed development. Little research has been undertaken into the exhumation of FMD carcasses and there may be a risk associated with opening such burial sites.
  - There are issues with broadband speeds in the village. New houses will only exacerbate the issue.

- There is no gas supply for Ash Magna. New houses will add to this problem.
- Ash Hall is a Grade 2 listed building and it has 'medium / high' archaeological interest.
- The land is sloping. This would mean that development would either result in a loss of privacy for the neighbours opposite or expensive excavating would be required, making the project very expensive.
- Listed in the amenities of the village is a 'daily bus service'. This is a school bus and therefore should not be considered as such.

#### 4.2.2 Comments for support are as follows:

- SAMDev states that Ash should have at least 15 new dwellings by 2026. This development will make a major contribution to this total. It is also in keeping with the village setting of ribbon development. This is preferable to trying to squeeze in development on inappropriate sites (e.g. gardens).
- The development is of enormous importance to the landscape of the village. Support is offered for the development however, given its significance, it would be appropriate for this application to go to Committee.

## 5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & 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 Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and



demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

- 6.1.3 In both the current North Shropshire Local Plan and the SAMDev Final Plan, this area is identified as being in an area of open countryside although adjacent to the existing and proposed development boundary. As such any new housing development in the area would normally be strictly controlled as defined in policy CS5 of the Shropshire Core Strategy. However as SAMDev has not yet been adopted and considering the age of the North Shropshire Local Plan it will be necessary to consider the proposal in light of the NPPF.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 Although SAMDev has not yet been adopted the documents submitted as part of the Final Plan identify that Ash Maga and Ash Parva provide a total of 15 new dwellings up to 2026. However with the exception of land at Ash Parva it is difficult to see how any further dwellings could be constructed within the proposed development boundary for Ash Magna to meet their target. The land at Ash Parva is the subject of a current application which is proposing the construction of 8 dwellings. Therefore this application for 7 dwellings on land adjacent to the development infill boundary would provide the remaining dwellings required under the proposed SAMDev.
- 6.1.6 Having regard to the position regarding land supply, the key points to consider are that the land supply calculation includes a number of sites in SAMDev and brownfield locations yet to be developed. Under delivery on the ground will continue to erode the 5 year land supply figure until such a time as development activity on the ground increases. In principle the site is considered to be sustainable and as it is adjacent to a cluster in SAMDev which has also been taken into consideration as part of the Council's five year housing land supply calculations. To encourage the early delivery of the site it is recommended that the permission is reduced to 12months and a planning condition will be included to

this effect. The officer recommendation, having regard to these factors and the changing balance of considerations in the context of a 5 year housing land supply is to therefore to maintain a recommendation for approval.

6.1.6 In terms of deliverability, it has been confirmed by the Agent to the Case Officer that the Applicant is in discussion with developers about the possibility of the scheme being brought forward. However, this will not be progressed any further until planning permission is secured. This information confirms that the site is deliverable.

## 6.2 **Is the Development Sustainable**

6.2.1 The sustainability of a site is not judged purely on its location, or on whether it is deliverable. The fact that the site is deliverable and available is a positive in its favour. However, the suitability of a site in terms of its sustainability needs to be considered against the NPPF as a whole and the policies within the Core Strategy which do not relate to housing supply and therefore remain up to date policies. Paragraph 6 of the NPPF advises that paragraphs 18 to 219 constitute sustainable development.

6.2.2 Paragraph 55 of the NPPF promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The example given is where there are groups of smaller settlements and a development in one of these may support the services in others nearby. However dwellings in isolated locations should be avoided

6.2.3 A number of appeal decisions have been received where the issue of sustainability is dealt with. This has provided conflicting views as to what is or is not considered sustainable development. It is also noted that a number of small settlements are being promoted within SAMDev for development which would have few if any local services or facilities.

6.2.4 This land is shown to be adjacent to the settlement of Ash Magna on Ordnance Survey maps. The land is currently for grazing with no buildings having been constructed on it. Whilst there are some hedges particularly along the road frontage these would not be considered sufficient to screen the proposed development. The proposal is considered to be located on land designated as open countryside. However it lies between and adjacent to other development within the village along one of the main access roads. Therefore whilst it would be visible within the landscape it is closely associated with other existing buildings. The proposal would provide dwellings that are linear with the highway which is a main characteristic of development in the village. As such the proposal is one that would be considered to meet the requirements of the NPPF when read as a whole as this proposal would not lead to a sporadic form of development in the open countryside.

## 6.3 **Economic Consideration**

6.3.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system.

6.3.2 It is acknowledged that there are economic benefits of new house building in

providing housing in close proximity to the settlement and that it is located relatively close to other settlements where potential employment opportunities exist. Whilst it may be necessary to drive to some of these locations this does not necessarily preclude them from consideration as most rural settlements in Shropshire require access to other areas by vehicle.

- 6.3.3 As detailed in Paragraph 55 of the NPPF the benefit to nearby services can also be taken into consideration and as further development would contribute to the vitality and viability of these facilities in the area this aspect also has to be considered.
- 6.3.4 In this case Ash Magna benefits from a public house together with village hall, tennis courts and bowling green. The village is also within close proximity of Whitchurch. As such there is potential for the development to have a significant impact on the businesses and facilities in the area which would help maintain their vitality and viability.
- 6.3.5 Taking the above in to consideration it is noted that there may be potential benefits to the economy of the area and nearby settlements.

#### 6.4 **Social Considerations**

- 6.4.1 The development of the site would increase the population of the settlement and as such provide potential support to village clubs, societies and the various facilities available. It is also within close proximity of Whitchurch where there are a significant number of other public facilities and services available. There is a footpath through the village connecting the site to the facilities and as a result of the development it would be possible to include a further footpath along the roadside. In addition the development may provide an Affordable Housing Contribution that would assist in the provision of much needed affordable dwellings in the area. As with the economic benefits this is an accepted benefit of house building. Therefore in this instance it is considered by officers that the benefit to the social aspects would outweigh the harm potentially that could be caused.
- 6.4.2 Concerns have been expressed by local residents that comment has been made in the submitted documents that the village has a bus service. However this is only a school bus and there is no other regular public bus service available. This concern is appreciated, however, it is considered by Officer's that Ash Magna is close enough to other settlements with their associated services and facilities that this would not outweigh the benefit of the development. Previous appeal decisions have provided guidance that to use a car to access services in rural areas is not a reason to justify a development as being unsustainable. It should also be bourn in mind that as Ash Magna is being promoted within the SAMDev as a Cluster, the village must be considered a sustainable location and therefore to justify refusal on this issue would be difficult to sustain should it be taken to appeal.

#### 6.5 **Environmental Considerations**

- 6.5.1 The site is currently used for grazing purposes. It is appreciated that the site is close to other dwellings and whilst the new development would have a visual impact on the area, this would not be considered to be unacceptable given its

close association to other buildings. Whilst it will result in the removal of the existing highway boundary hedge, a new hedgerow would be planted and whilst it would take time to establish, using appropriate plants would provide an improved hedgerow which would maintain and improve upon the character of the existing.

- 6.5.2 The Smithy is also to be included within the scheme and following the recommendation of English Heritage will be converted as part of one of the proposed dwellings. This will therefore ensure the preservation of the non-listed heritage asset which is currently vacant and unused.
- 6.5.3 It is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. It has also been accepted in considering the applications around settlements, that development of agricultural land is unavoidable to deliver the housing required. The loss of grade 3 best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the seven houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing.

## 6.6 **Summary**

- 6.6.1 Local residents have objected to the proposal on the basis that the site is in an area of open countryside and therefore as there is a 5 year housing land supply there is no necessity for the site to be developed and contrary to policy.
- 6.6.2 In view of the above it is the opinion of officers that the proposed development will have an impact on the character and appearance of the area. However the site is closely associated to other dwellings within the village and village facilities. It is also within close proximity of other settlements, particularly Whitchurch, where additional facilities and services are available. It will also ensure the preservation of a heritage asset within the village. Overall in view of the above it is considered that the potential benefits of the development outweighs the potential harm as such the development does meet the criteria set out in the NPPF.

## 6.7 **Design, Scale and Character**

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.
- 6.7.2 This is an outline application where the layout, appearance, scale and landscaping are not for consideration at this stage. However, following the recommendation by English Heritage the application has been slightly varied to allow for the retention of The Smithy within the proposal. The amended indicative layout plans identify that this would be incorporated by being converted to residential use. This would

ensure the preservation of the non-listed heritage asset and the feature of the village. Full details of the proposed conversion scheme would need to be included as part of the reserved matters application should outline planning permission be granted.

## 6.8 **Impact on Residential Amenity**

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.8.2 Concerns have been expressed by local residents that the proposal will result in a loss of privacy and light to neighbouring properties.

6.8.3 There are no dwellings immediately adjacent to the site. There are dwellings to the south and west of the site but these are separated from the application site by public highways. The indicative plan also shows that the houses could be set approximately 30 metres from the front wall of the houses opposite. This is well in excess of the guidance generally accepted as a minimum of 21 metres to maintain privacy. However, the final design and layout together with the proposed landscaping will assess this more fully.

## 6.9 **Highways**

6.9.1 Local residents have raised concerns regarding the impact the proposed development may have on the highways in the area. It is considered that the access arrangements and additional traffic will increase highway hazards.

6.9.2 The proposed development provides the opportunity of regularising the width of the carriageway along the site road frontage. In this respect it is considered that the carriageway should be widened to a minimum width of 5.0 metres by incorporating some localised widening. The setting back of the hedge by depth of 2.4 metres from the carriageway edge as stated in the Design and Access Statement provides a satisfactory measure of visibility from the new accesses and an improvement to the existing entrance serving the adjoining tennis and bowling clubs. A surfaced footway should however be provided along the site road frontage to link into the village hall facility and not a grassed margin. The setting back of the hedge enables this to be provided. The principle of grouping the accesses is supported and the proposed parking and turning arrangements indicatively shown on the illustrative layout are satisfactory. The principle of the amended access arrangement to the club is also welcomed from the highway perspective. Improving an existing substandard point of access and enabling vehicles to have a more direct route to the adjoining Class III rather than travelling around the one way system to the east of the site.

6.9.3 In view of the comments from the Highways Development Control Officer it is considered that the proposal will not have a detrimental impact on highway safety. It may also result in improvements both through the provision of an additional footpath and also a widening of sections of the highway.

## 6.10 **Impact on Hedgerow**

6.10.1 Objections to the proposal also include the loss of the mature hedgerow along the highway frontage.

- 6.10.2 It is noted that the hedgerow does not fully enclose the site from the highway as sections have previously been removed or lost. Therefore the hedgerow is not considered a good example of a mature hedgerow. The new hedge to be planted could contain a mixture of new plants which would improve the bio-diversity of the area. In addition by setting the new hedgerow back from the roadside it would not only allow for the provision of a footpath but also allow for the maintenance of the hedge to be more safely carried out.
- 6.10.3 The Council's Tree Officer has made comment on the application and has recommended the species of plants to be used and other information which should planning permission be granted be included as a condition and/or informative.
- 6.10.4 On balance the new hedgerow would be an improvement on the existing, allow improved village connectivity and provide an improvement to the biodiversity of the area.
- 6.11 **Ecology**
- 6.11.1 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. Therefore the application has been considered by the Council's Ecologist.
- 6.11.2 No objection has been raised by the Council Ecologist to the proposed development subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.
- 6.11.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.
- 6.12 **Drainage**
- 6.12.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.12.2 Concerns have been raised by local residents regarding the potential for surface water flooding in the area as a result of the proposed development.
- 6.12.3 No objection to the proposed development has been raised by the Council's Drainage Engineer. However, should outline planning permission be granted conditions will be required to ensure that appropriate information is provided as part of the reserved matters application to demonstrate that appropriate systems can be installed. This additional information would ensure that there would be no increase in the risk of flooding in the area as a result of the proposed development.
- 6.12.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire

Core Strategy.

**6.13 Impact on Historic Environment**

- 6.13.1 Issues have been raised by local residents that the proposed development will have a detrimental impact on the historic environment of the village. Of particular concern is the impact on Ash Hall which is a Grade II\* listed building and that the site is identified as of moderate to high archaeological interest.
- 6.13.2 As the site is close to a Grade II\* listed building the application has been considered by both English Heritage and the Council's Historic Environment Team.
- 6.13.3 No objections were raised in connection with the potential impact on the setting of the listed building. However a request was made that the non-listed Smithy be retained within the development. Amended plans were submitted which show this to be incorporated within the scheme as one of the proposed dwellings.
- 6.13.4 With regard to the archaeology on the site, the Council's Archaeologist has comments that the proposed development site lies within the core of the historic village of Ash Magna, and within a part of the settlement that is likely to have been inhabited since the medieval period. The Tithe Award map for Ash Magna Township in Whitchurch Parish of 1841 and historic editions of the Ordnance Survey map indicate that from at least mid-19th century it previously formed part of the part of the grounds for Ash Hall (Grade II\* Listed National Heritage List ref. 1366504). However, the position of the site in relation to the wider morphology of the village suggests that it may have been occupied by buildings in earlier centuries. It is therefore possible that archaeological features and deposits relating to the medieval and later development of the village will be present on the proposed development site. As a consequence, on present evidence it is deemed to have moderate high archaeological potential.
- 6.13.5 A condition has been recommended for inclusion should planning permission be granted which will allow for a programme of archaeological work to be carried out prior to works commencing on site.
- 6.13.6 In view of the comments above whilst the concerns of local residents are appreciated, the advice that has been provided does not object to the proposal. In deed the proposal will provide an opportunity for the knowledge of the history of the village to be increased and for the retention of a heritage asset which at present is unused and is falling into dis-repair.
- 6.13.7 As such it is considered by Officers that the proposal would be in accordance with the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.
- 6.14 Other Matters**
- 6.14.1 Local residents have commented that there is a lack of broadband and gas to the village. These are not reasons that can be used to justify refusal of a planning application. The construction of additional dwellings may lead to the provision of such services to the village but this is most likely dependent on the need of the community and the willingness of suppliers to provide these services.

- 6.14.2 Comments have also been received that the site may be the burial site of livestock with Foot and Mouth. Following discussions with the Public Protection Officer, there is no record of this site having been used for such a purpose. In addition as this potentially would have been sometime ago, it is unlikely that there would be any residual contamination in the ground.

## **7.0 CONCLUSION**

- 7.1 The proposed development will be visible within the rural landscape however, its close association with existing development, services and facilities ensure that the benefits of the development outweigh the harm and as such it meets the criteria set out in the NPPF for sustainable development.

The reserved matters application will provide the detail to ensure that the layout, appearance, scale and landscaping are appropriate for the area.

Overall it is considered that on balance the proposed development is in accordance with the NPPF, policies CS5, CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy and the SPD on the Type and Affordability of Housing.

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

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

### **8.2 Human Rights**

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



of the County in the interests of the Community.

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

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

### 8.3 **Equalities**

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

## 9.0 **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. **Background**

### 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  
CS11 - Type and Affordability of housing  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

## 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 Gerald Dakin
Appendices APPENDIX 1 - Conditions

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

1. Approval of the details of the siting, design and external appearance of the development and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of twelve months from the date of this permission.

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

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

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

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

The number of units but not exceeding seven

The means of enclosure of the site

The levels of the site

The means of access for disabled people

The drainage of the site

The finished floor levels

Full details for the conversion of The Smithy as part of the development for Plot 7

Reason: To ensure the development is of an appropriate standard.

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

5. 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**

6. The accesses shall be satisfactorily completed in accordance with the approved plan JG\_003 Rev E and setting back of the boundary hedge to depth of 2.4 metres from the carriageway edge prior to the dwellings being occupied.

Reason: In the interests of highway safety.

7. No development shall take place until a scheme for the strip widening of the Class III road to 5.0 metres along the site road frontage has been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

8. No development shall take place until full engineering details for the footway along the site road frontage and amended access arrangement to the tennis and bowling club, indicatively shown on drawing JG\_003 Rev E have been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

9. Details of the parking and turning areas shall be submitted as part of the first reserved matters application. The approved scheme shall be satisfactorily completed and laid out prior to any of the dwellings being occupied. The approved parking and turning areas shall thereafter maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory parking and turning facilities in the interests of highway safety.

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## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application seeks reserved matters approval for access, appearance, landscaping, layout and scale pursuant to outline planning permission 11/00588/OUT for the proposed re-development of the site for mixed use (residential and commercial (Class A) uses). Outline application 11/00588/OUT was a renewal of a previous outline reference NS/08/00033/OUT.
- 1.2 An indicative plan for the development of the site was prepared and agreed as part of the outline application. The scheme proposed a commercial unit to the frontage of the site onto Aston Street, with two separate blocks of residential accommodation to the centre and rear of the site. A pedestrian linkage was also proposed through the site to an area of public open space to the rear with frontage onto that defined open space area. The outline consequently approved conditionally required these details to form part of any reserved matters application, ie the relevant conditions read as follows:

5. The layout and scale of the proposed development submitted under reserved matters shall be in accordance with drawing number 01, dated April 2001 submitted with the original planning permission numbered NS/08/00033/OUT.

Reason: To ensure an appropriate form and layout without detriment to the wider visual or residential amenities of the area.

6. The first submission of reserved matters shall include a pedestrian link from the development site from Aston Street to the rear of the site as illustrated by drawing number 01, dated April 2008 submitted with the original planning application numbered NS/08/00033/OUT. The agreed link shall be implemented to the satisfaction of the local planning authority prior to the occupation of the first dwelling on site.

Reason: To secure additional and convenient pedestrian access to the site.

7. The first submission of reserved matters shall include land reserved within the application site for public open space as illustrated by drawing number 01 dated April 2008. Details of the arrangements for the future management and maintenance of this open space shall be agreed with the local planning authority prior to the occupation of the first dwelling on site.

Reason: In order to make appropriate provision for open space within the development site.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the development boundary, town centre shopping area and the Wem Conservation Area.
- 2.2 The site is accessed off Aston Street.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

#### 3.1 Town Council objection and request by Local Member relating to issues of access and insufficient car parking provision.

Wem is covered by two Local Members, Councillor Chris Mellings and Councillor Pauline Dee who have both been made aware of the town councils objection. Have spoken with Town Clerk, Mayor & Deputy Councillor Mellings has confirmed that, whilst not necessarily agreeing with the recommendation to approve itself, he is happy for a decision for approval to be dealt with under the scheme of delegation. However, Councillor Dee is adamant that this application should go to committee for reasons of lack of appropriate parking provision. She's in full agreement with the Town Councils objection and as a resident of Wem is very well aware of the parking problems experienced locally. This request has been discussed by Principal Officers with the Chair and the Vice Chair of the Planning Committee and it was concluded that the application should be a committee decision unless the agent is willing to amend the parking provision for the scheme so that there is a parking space to serve each unit. The agent has been approach in this regard but no amendments or response has been forthcoming at the time of writing this report.

### 4.0 Community Representations

#### 4.1 Consultee Comments

**SC Highways** – No objection. Recommend conditions.

**SC Conservation (Historic Environment)** – No objection. Reviewed additional information submitted. Is reduced, if any, scope for manoeuvre as layout has been approved. Therefore only wish to comment on shop front design. Door detail is not acceptable but the imposition of a joinery condition can address this issue. Recommend conditions.

**SC Drainage** – No objection. Drainage proposal is acceptable.

**SC Public Protection** – No objection. Would (i) remind applicant that before any works commence on site any contaminated land conditions placed on the application should be taken account of and (ii) recommend the installation of electrical charging facilities for off road parking, reference paragraph 35 of the NPPF.

**SC Archaeology** – No objection. Condition 9 on the outline planning permission ref. 11/00588/OUT already covers archaeological matters.

**West Mercia Constabulary** – No comments received.

#### 4.2 Public Comments

##### 4.2.1 **Wem Town Council** – Object. The Town Council's Planning Committee resolved to object to this application because of concerns regarding the insufficient car parking provision and the very substandard vehicular access. The Town

Councillors would suggested that a smaller scale development with better car parking provision would be more appropriate for this site subject to the approval of the Highway Authority. The Town Council would request that a minimum of two car parking spaces per dwelling be provided for any development within Wem.

Re-consultation comments – Object. The Town Council's Planning & Transport Committee resolved to object to the proposed amendments for the same reasons as it objected to the original application - insufficient parking provision and the very substandard vehicular access. The Councillors had particular concerns about the following matters - 1. Parking provision for the sixth dwelling. 2. The need for controlled access to the gate to avoid anti social behaviour. 3. Future intentions for the area designated public open space.

4.2.2 **Local Representations** – Two letters of objection have been received. The main concerns relate to:

- Will block sunlight/daylight to garden/loss of light to 68 Aston St
- Highway safety and extra traffic congestion. More accesses will only add to congestion and traffic problem

## 5.0 THE MAIN ISSUES

- Principle of development
- Layout and scale
- Design and appearance
- Access and parking
- Landscaping and open space
- Drainage
- Impact on neighbours/residential amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The application is for the approval of reserved matters with the principle of the site's redevelopment having been established under the outline approval 08/00033/OUT and 11/00588/OUT.

### 6.2 Layout and scale

6.2.1 The layout and scale of the proposed development is largely prescribed by conditions 5, 6 and 7 attached to the outline application and as quoted in Section 1 above. The submitted details comply with the requirements of those conditions and are considered to be acceptable and to satisfy policies CS4, CS6 and CS17 of the Core Strategy.

### 6.3 Design and appearance

6.3.1 The site lies within the conservation area of Wem where design and appearance is of primary concern. Despite some initial concerns expressed by the Councils' Conservation Officer requiring additional information as to how this development would fit in with neighbouring development, the conservation area heritage assets and the town square, the agent has responded that this matter would have been considered at outline stage given the prescriptive nature of the scale and layout



drawing conditionally approved as part of the outline consent and with which this reserved matters application accords. The Conservation Officer has reviewed this response and therefore raises no further issues from the conservation perspective. The design of the shop front remains unacceptable but it is considered that this matter can be addressed by imposing a condition requiring the prior approval of the final design, together with that of all joinery details, materials etc. Subject to the imposition of such a condition together with conditions covering other matters of final detail (external materials, exterior services, roof, head and sill details, boundary treatments etc) the scheme meets with the approval of the Conservation Officer and is considered acceptable and to accord with the requirements of Core Strategy policies CS6 and CS17 and the NPPF in relation to matters of design and appearance and will cause no significant harm to the character and appearance of the built and historic environment in this locality.

#### 6.4 **Access and parking**

6.4.1 The Town Council has raised an objection on the grounds of substandard access and inadequate parking.

6.4.2 The concern of the Town Council is that the proposed scheme does not provide sufficient parking facilities and the site has a substandard access. It is acknowledged by the Councils' Highway Officer that the means of access does not meet all of the desired highway standards. However, taking into account the former commercial use of the site and the fact that the access is established in connection with that former use then it is not considered by the Highway Officer that a refusal could be sustained to use the access to serve the re-development proposals. Furthermore, the Highway Officer is satisfied with the level of parking provision as proposed. The scheme identifies 5 car parking spaces to serve 6 residential units (and one commercial unit). This lower level of parking provision is considered acceptable in this case having particular regard to the town centre location of the site and its' proximity to the town centre public car park, together with local bus stops and Wem railway station. The public car park offers an alternative parking solution whilst nearby bus stops and the railway station offer the opportunity to support more sustainable modes of transport (such as public transport, cycling and walking) which should be encouraged in line with local and national planning policies objectives. In response to the Highway Officers' comment that the provision of secure cycle parking is to be encouraged, the agent has commented that cycle parking would be within the rear gardens of the dwellings.

6.4.3 To reiterate and expand, officers would highlight the town centre location of this particular site and the availability of other modes of transport, such as walking, cycling and the use of public transport (both bus and train), which are all considered more sustainable and are to be encouraged in line with the sustainable objectives of local and national planning policy – rather than encouraging continued reliance on the car. This objective is set out in saved Local Plan policy D7: Parking Standards as follows:

***'All development should provide for an appropriate level of vehicle parking to avoid on-street parking and increasing traffic problems. The District Council will seek to ensure that the levels of parking provision for new development will help to promote sustainable transport choices. A lower level of provision may be permitted in town centres and in other***

***locations where the applicant can demonstrate that the proposed development is well served by suitable alternative modes of transport, including public transport services, or where the proposed development consists of one or two bedroom dwellings.***

*One of the primary aims of the Local Plan is to reduce dependency on the car and promote sustainable transport choices. ... However, there is also a need to ensure that development does not have an adverse effect on highway safety and traffic congestion. Vehicles parked on roadsides can cause a hazard to pedestrians and other vehicles and can also make the local environment less attractive. Where an applicant can demonstrate that a development is well served by suitable public transport facilities or located close to existing car parking facilities with spare capacity, a lower level of parking provision may be acceptable...'*

- 6.4.4 No doubt Members are aware that the strive towards sustainable development is seen as a 'golden thread' running throughout local and national planning policy. This site has all the credentials to support sustainable transport options, with shops, services and bus and rail transport options all within a short walk **and** the units are all two bedroomed. Insisting on a higher level of parking provision will not help to reduce dependency on the car or promote the alternative, sustainable transport options.
- 6.4.5 Insisting on a higher level of car parking will also increase the vehicular movements associated with the site and the Town Council are already concerned about this access. Whilst it is acknowledged that the access '*does not meet all the desired standards*' officers have to pay due regard to the fact that the access is historic and not new. The access is existing and established in connection with the former commercial use of the site and officers have to bear in mind the type, size and unrestricted frequency of vehicles that could continue to access the site in connection with an established commercial use. In the circumstances it is not considered that a refusal on sub-standard highway grounds would be upheld on appeal. Members may wish to refer to the development at the rear of 27 Aston Street in this context, where a proposal to re-develop was refused on highway grounds but the Inspector allowed the appeal back in October 2007. In that case the Inspector, whilst accepting that the access arrangements were sub-standard, considered that (i) there would be a marginal improvement in the access arrangements by virtue of the development proposals and (ii) the safety and free flow of traffic would not be unduly harmed having regard to the context and historic thoroughfare.
- 6.4.6 To add to this officers consideration is limited by the proceeding approvals to re-develop the site, ie outline planning permissions NS/08/00033/OUT and renewal 11/00588/OUT when it was generally accepted that the site would have direct access onto Aston Street and the layout plan 01 submitted at that time formed a conditional requirement of those outline consents and as such is very prescriptive, ie Condition 5 of the outline approval reads as follows:

*'The layout and scale of the proposed development submitted under reserved matters shall be in accordance with drawing number 01, dated April 2001 submitted with the original planning permission numbered NS/08/00033/OUT.'*

*Reason: To ensure an appropriate form and layout without detriment to the wider visual or residential amenities of the area.'*

6.4.7 A copy of the approved layout plan is available to view via public access attached to this planning application record. The re-use of the existing access is denoted on that plan and the layout restricts the ability to squeeze in any additional parking. At that time the provision of 7 dwellings was indicated, one more dwelling unit than this approval of reserved matters application.

6.4.8 On a final note, as regards the requirement for electrical charging points referred to by the Councils' Public Protection Officer, then an informative can be attached to any consent issued. This will be consistent with the way this requirement has been dealt with for other applications of late.

## 6.5 **Landscaping and open space**

6.5.1 The NPPF and Core Strategy policies CS6 and CS17 require consideration to be given to the impact of the proposed development on both the built and natural environment and seek to ensure that development does not have adverse impacts on the visual appearance of an area.

6.5.2 The soft landscaping proposals for the site include the provision of grassed areas, together with shrub and tree planting. These planting proposals will help to soften the visual impact of the new built development and will also lend to the biodiversity of the area. In the absence of specific details of the proposed shrub and tree species, planting numbers and sizes then a condition should be imposed requiring the prior approval of these details to ensure that the final tree and shrub planting scheme is appropriate for the site.

6.5.3 In terms of hard landscaping, the development is to be provided with porous paving to the access, parking/turning areas, together with the pedestrian through route as shown on the submitted layout. New boundary treatments (screen fencing/walling) will also be introduced to the eastern and western boundaries, together with new railings to the property frontages. As specific details of these surfacing and boundary treatments have not been provided then a condition should be imposed requiring the prior approval of these details to ensure they are appropriate for the site and its setting.

6.5.4 Overall, and subject to the prior approval of specific tree/shrub planting, hard surfacing and boundary treatments, it is considered that the proposed site will be landscaped in an acceptable manner which will make a positive contribution to the town centre location and to biodiversity. In this context, it is considered that the proposal is acceptable and complies with Core Strategy policies CS6 and CS17 and the NPPF.

6.5.5 The landscaping proposals include for an area of public open space to the southern end of the site and adjacent the town square. Whilst the town council have questioned the future intentions for the area designated as public open space, officers would clarify that the provision of such is a conditional requirement of the outline permission and the future management and maintenance of this area is covered by condition 7 of the outline permission, ie:

*'7. The first submission of reserved matters shall include land reserved within the application site for public open space as illustrated by drawing number 01 dated April 2008. Details of the arrangements for the future management and maintenance of this open space shall be agreed with the local planning authority prior to the occupation of the first dwelling on site.'*

*Reason: In order to make appropriate provision for open space within the development site.'*

6.5.6 A separate application to discharge the management and maintenance requirement condition 7 will therefore be required.

## 6.6 **Drainage**

6.6.1 Core Strategy Policy CS18: Sustainable Water Management states that development will integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality.

6.6.2 For foul drainage disposal the development intends to connect to the mains sewer. Surface water is intended to be disposed of via soakaways. At the request of the Councils' Flood Risk and Water Management Team a detailed drainage layout plan and soakaway calculations have been submitted. The Drainage Engineer has consequently confirmed that the submitted drainage details are acceptable. On this basis the proposal is considered to comply with Core Strategy Policy CS18 and the NPPF in drainage terms.

## 6.7 **Impact on neighbours/residential amenity**

6.7.1 Core Strategy policies CS6 and CS17 refer to the need to safeguard residential and local amenity and recognise the importance of ensuring that development proposals do not have unacceptable consequences for neighbours and/or residential amenity.

6.7.2 The potential impact of two storey residential development has been assessed. The new units are positioned and orientated such that it is considered they will not adversely impact on nearby existing residents in terms of overlooking or overshadowing. However, as originally submitted officers expressed concern about potential overlooking between the proposed new units. This concern has been satisfactorily addressed with the submission of amended plans whereby the positioning of the windows has been adjusted to avoid direct overlooking. In this context, it is no longer considered that potential residents will be unacceptably affected by overlooking. Accordingly, the proposal is considered to comply with policies CS6 and CS17 of the Core Strategy in residential amenity terms.

6.7.3 With regard to anti social behaviour concerns mentioned by the town council the agent has stated that: *'The pedestrian access is as shown on the approved layout. The high walls / boundaries were apparent on the approved drawing, located between the existing White Lion outbuildings and the new development it is not possible to propose anything else here. The 'gap' referred to allows pedestrian access to the rear gardens of the properties it would have a gate which would restrict access to residents only, it will therefore not encourage anti-social behaviour as suggested.'*

## 7.0 **CONCLUSION**

- 7.1 The development is considered to be acceptable in terms of scale, layout, appearance and landscape that will not unacceptably impact on residential amenities or the character and appearance of Wem Conservation Area, nearby listed buildings or the visual character and context of the local area in general. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements. Accordingly, it is considered that the proposals comply with the requirements of policies CS6, CS17 and CS18 of the adopted Shropshire Core Strategy, together with the NPPF.
- 7.2 Despite objections to the contrary it is also considered that the development can be provided with acceptable vehicular access, parking and turning provision taking into consideration both the historic/authorised use of the site and its town centre location where other more sustainable transport options are available and particularly taking into consideration the sustainable objectives of local and national planning policies aimed at reducing reliance on the car.
- 7.3 Accordingly, approval is recommended subject to the imposition of appropriate planning conditions.
- 7.4 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 six weeks after the grounds to make the claim first arose.

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

### 8.2 **Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol

Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### 8.3 **Equalities**

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

### 9.0 **Financial Implications**

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

## 10. **Background**

### Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

NS/77/00859/FUL Erection of replacement furniture storage building. REC

NS/08/00033/OUT Proposed re-development of site for residential, A1, A2 and A3 uses  
Consent 20th May 2008

NS/08/00040/CON Proposed demolition of showroom, 2no corrugated nissan huts and sheds to allow the re-development of the site

Consent 4th February 2008

NS/08/02067/CON Proposed demolition of showroom, two corrugated nissan huts and sheds to allow the re-development of the site (amendments to previously approved 08/00040/CON 04.02.2008)  
Consent 21st January 2009

11/00588/OUT Renewal of extant Outline Planning Permission Ref: 08/00033 for proposed re-development of site for residential, A1, A2 and A3 uses  
Granted 7th April 2011

**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 Pauline Dee

Cllr Chris Mellings

Appendices

APPENDIX 1 - Conditions

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

1. The development shall be carried out strictly in accordance with the approved plans and drawings.

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

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

2. 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 a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority.

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

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

3. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the approved drawing 1444 D 01 prior to any of the dwellings or retail unit being occupied. The approved parking and turning areas shall thereafter maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety.

4. Notwithstanding the landscaping details shown on approved drawing, full details of the scheme of tree and shrub planting indicated on the drawing shall be submitted for the prior written approval of the Local Planning Authority. The submitted details shall include written specifications of the tree and shrub species, planting sizes and numbers. The planting 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 planting works shall be carried out by the end of the first available planting season upon completion of the proposed 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: In the interests of the amenity of the locality and to ensure the provision, establishment and maintenance of a reasonable standard of tree and shrub planting in accordance with the approved details.

5. Notwithstanding the landscaping details shown on the approved drawing, full details of the design, materials and height of all the boundary treatments indicated on the drawing shall be submitted for the prior written approval of the Local Planning Authority. The boundary treatments shall be installed in accordance with the agreed details prior to the occupation of the buildings hereby approved and shall thereafter be retained and maintained in situ.

Reason: To ensure that the appearance of the development is satisfactory and in the interests of visual amenity.

6. Details of exterior soil and vent pipes, waste pipes, rainwater goods, boiler flues and ventilation terminals, meter boxes, exterior cabling and electrical fittings shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works on these aspects of the development. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

7. Details of the roof construction details including details of eaves, ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works on the roof. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

8. The roof windows shall be of the traditional low profile metal pattern and details shall be submitted to and approved in writing by the Local Planning Authority before the installation of any roof windows. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

9. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence on these aspects of the development. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

10. No joinery works shall commence until precise details of the proposed shop front together with 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, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

11. None of the decorative ironwork authorised by this consent shall commence until the following information is submitted to and approved in writing by the Local Planning Authority:
- Fully detailed and dimensioned drawings, together with samples of scrolls, spearheads finials, and any other details
  - Details of the method of attachment of the decorative ironwork
  - Details of the proposed high-performance corrosion-inhibiting priming system
  - The colour scheme for the ironwork
- The development shall be carried out in accordance with the approved details.

Reason: To safeguard the architectural and historic interest and character of the area.

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

12. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

Reason: To safeguard the architectural and historic interest and character of the area.



Committee and Date

North Planning Committee

20 January 2015

Item

**10**

Public

## Development Management Report

Responsible Officer: Tim Rogers

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

### SCHEDULE OF APPEALS AS AT COMMITTEE: 20<sup>th</sup> January 2015

#### Appeals Lodged

<b>LPA reference</b>	14/00426/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	H Martin
<b>Proposal</b>	Outline application (access for approval) for mixed residential development; alterations to existing vehicular access; works to existing highway
<b>Location</b>	Chapel Lane, Trefonen, Oswestry
<b>Date of appeal</b>	10.12.2014
<b>Appeal method</b>	Written
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/02977/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs R Bright
<b>Proposal</b>	Outline application for 3 no. dwellings to include means of access
<b>Location</b>	Land At Sandyman Kinnerley Oswestry SY10 8DS
<b>Date of appeal</b>	08.01.2015
<b>Appeal method</b>	Written
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/00790/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	JRT Developments Ltd – C/O Christal Planning Services Limited
<b>Proposal</b>	Outline application for the erection of fourteen dwellings incorporating two affordable units (to include formation of vehicular and pedestrian access)
<b>Location</b>	Land Off Bearstone Road Norton In Hales Market Drayton Shropshire
<b>Date of appeal</b>	08.01.15
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/02864/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Malcolm Guest
<b>Proposal</b>	Erection of 1No dwelling with detached garage (revised scheme)
<b>Location</b>	Cross Keys Inn Kinnerley Oswestry
<b>Date of appeal</b>	09.01.2014
<b>Appeal method</b>	Written
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

**Appeals determined**

<b>LPA reference</b>	14/01939/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr L Evans
<b>Proposal</b>	Erection of one detached dwelling; creation of new vehicular access
<b>Location</b>	18 Cambrian Drive Oswestry Shropshire SY11 1HF
<b>Date of appeal</b>	22.10.2014
<b>Appeal method</b>	Written reps
<b>Date site visit</b>	15.12.2014
<b>Date of appeal decision</b>	02.01.2015
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

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## Appeal Decision

Site visit made on 15 December 2014

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

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

**Decision date: 2 January 2015**

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**Appeal Ref: APP/L3245/A/14/2227586**

**Land to the rear of 18 Cambrian Drive, Oswestry, Shropshire, SY11 1HF**

- 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 Leslie Evans against the decision of Shropshire Council.
  - The application Ref 14/01939/FUL, dated 25 May 2014, was refused by notice dated 23 July 2014.
  - The development proposed is a single dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

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

### Reasons

#### *Character and appearance*

3. The appeal site currently forms part of the rear garden area associated with No. 18 Cambrian Drive (No. 18). There is a single storey garage on the site. No. 18 is situated close to the junction of Cambrian Drive with Western Drive. Although the property immediately next to the appeal site on Western Drive is detached, the majority of dwellings close to the appeal site are two storey detached dwellings. There are also some bungalows further along Cambrian Drive but these do not form part of the immediate visual context within which the appeal site is seen.

4. Most dwellings close to the appeal site are set back from the highway behind a small front gardens and the majority have large rear garden areas. This is particularly evident when looking across the appeal site towards the rear of dwellings along Cambrian Drive, where the large plot sizes can be seen from public viewpoints in the highway. The character of the area is therefore defined by two storey dwellings set within large, spacious plots.
5. The appeal proposal would see the construction of a two bedroom, detached dwelling. It would be positioned at the far end of No. 18's rear garden in the approximate location of the existing single storey garage. The site is approximately 11 metres by 13 metres in size. The proposed dwelling would front onto and gain access from Western Drive. Although accommodation would be provided on two levels, the first floor accommodation would comprise rooms in the roof space. The proposed dwelling would therefore be one and a half storeys in height with rooflights inserted in the front roof slope. An application for a proposed two storey detached dwelling on the appeal site was previously refused by the Council in 2013.
6. The proposed dwelling has been orientated within the site so as to respect the defined building line of dwellings along Western Drive. However, due to the confines of the site, this has resulted in the rear elevation of the proposal being situated approximately 2 metres from the rear boundary of the site. Although I have had regard to the illustrative streetscene submitted with the appeal documents, when considered in conjunction with the other plans submitted, they do show that there would be little space about the proposed dwelling. The proposal would therefore have a cramped appearance which would harmfully detract from the more spacious pattern of development in the area.
7. Although there is an existing garage on the appeal site, this building is low-key in appearance and is of relatively modest proportions. It is therefore not seen as an incongruous feature in the streetscene. The appeal proposal would be considerably larger than the existing garage and would also have a more domestic appearance, for example the insertion of windows facing towards the highway. Therefore, even taking account of the existing situation, I consider that the appeal proposal would be harmful for the reasons I have described above.
8. The proposed dwelling would be constructed in materials that would reflect the local vernacular. I note that the Council did not object to the proposal in this regard, subject to conditions. However a lack of harm in this respect is a neutral consideration and does not outweigh the harm that I have identified.
9. Accordingly, the proposal would be harmful to the character and appearance of the area. The proposal would therefore conflict with policy CS6 of the 'Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011) (CS) which, among other things, seeks to ensure that all development is appropriate in scale, density, pattern and design taking account of the local context and character.
10. The proposal would also conflict with paragraph 64 of the National Planning Policy Framework (the 'Framework') which states that permission should be refused for development of poor design that fails to take the opportunities



available for improving the character and quality of an area and the way it functions.

*Living conditions: neighbouring occupants*

11. As previously stated, the proposed dwelling would be situated approximately 2 metres from the rear boundary of the site which also serves as the side boundary of No.20's rear garden. The shared boundary comprises a conifer hedge which is between approximately 2 and 2.5 metres high<sup>1</sup>. The proposed dwelling would be approximately 2.75 metres high at the eaves and would have a ridge height of approximately 5.5 metres.
12. I acknowledge that the eaves height of the dwelling proposed would not be significantly higher than the existing boundary hedge. However, even if I were to take the appellant's best case in terms of the maximum height of the hedge, the ridge height of the dwelling would be approximately 3 metres higher. The footprint of the dwelling proposed would be approximately 8 metres by 6.5 metres. The proposal would therefore be higher than the existing hedge, in close proximity to it and would extend for approximately 8 metres in length along the side boundary of No. 20's rear garden area.
13. For these reasons, I consider that the proposal would dominate the outlook of No. 20's garden and would have an overbearing effect as a result. This would be harmful to the living conditions of the occupants when using their garden area to sit out in or relax. This would be the case even taking account of the existing garage on the appeal site as the proposed dwelling would be considerably taller and wider. This would therefore be materially different to the existing situation and does not therefore outweigh my concerns.
14. A condition could be attached, were the appeal to succeed, requiring the retention of the existing boundary treatment or a suitable alternative of a similar height. However, in my view this would not sufficiently screen the proposal from the garden of No. 20 such that it would overcome the harm that I have identified.
15. The proposal would be situated to the rear of No. 18's garden and its western elevation would face towards the existing dwelling. The plans show that there would be a small utility room window and access door in that elevation. As such, this window would not serve a main habitable room. It would therefore be reasonable to consider imposing a condition requiring this window to be obscurely glazed, were the appeal to succeed. As such, I am satisfied that no additional overlooking would occur as a result of the utility room window or access door proposed.
16. The proposed patio area would be situated at the side of the dwelling, close to the shared boundary with No. 18. The plans show that a 1.8 metre close boarded fence would be erected along the shared boundary. A condition could also be put in place to ensure that the proposed fence is erected and retained. I consider that the proposed fence would screen views of No. 18 from future occupants of the dwelling proposed from views from the outdoor amenity area.

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<sup>1</sup> Although the submitted plans show the hedge to be 2 metres high, the appellant has stated in his grounds of appeal that it is actually 2.5 metres high.

17. Although the proposal would result in the reduction of some of the private outdoor amenity area associated with no. 18, I am satisfied that the resultant space would be of a sufficient size to allow the occupants to continue to enjoy their garden area. However, I do have concerns that the proposed siting of the dwelling would be in close proximity to No. 18 and that it would have a harmful, overbearing effect on the occupants of that dwelling as a result when using their rear garden for activities such as children playing or entertaining.
18. The Council's decision notice refers additionally to the effect of the proposal on the occupants of Nos. 22 and 24 with regard to outlook. However, these dwellings would be separated from the dwelling proposed by the full width of No. 20's rear garden. I am therefore satisfied that a suitable separation distance would be provided between the proposal and Nos. 22 and 24 such that there would be no harm in this regard.
19. The Council's decision notice also refer to the effect on the living conditions of Nos. 20, 22 and 24 Cambrian Drive with regard to privacy. However, the submitted plans show that no windows or rooflights are proposed in the rear roof slope. I have previously described how the small window in the east / side elevation would not serve a habitable room. Additionally, it would be situated below the height of the existing boundary treatment. Given the circumstances I have described, I am therefore satisfied that the proposal would not result in a harmful loss of privacy for the occupants of Nos. 20, 22 and 24.
20. The occupant of No. 16 Cambrian Drive has also raised concerns as to the effect of the proposal on their living conditions. However, given that the appeal site is on the opposite side of the street to No. 16, I consider that the separation distance proposed would ensure that the appeal scheme would not be harmful in this regard.
21. Drawing matters together, I have found that the proposal would not be harmful to the living conditions of neighbouring occupants with regard to privacy or outlook with specific regard to the occupants of Nos. 22 and 24. On the other hand, I have found that the proposal would be harmful to the living conditions of the occupants of Nos. 18 and 20 with regard to outlook. Policy CS6 of the Council's CS seeks to ensure that all development safeguards residential amenity. The Council's policy approach is consistent with paragraph 17 of the Framework which states, among other things, that planning should always seek to secure a good standard of amenity for all existing occupants of land and buildings. Both local and national policy therefore confirms the importance of protecting the amenity of existing occupants. I therefore consider that the harm I have identified which would occur to the occupants of Nos. 18 and 20 as a result of the appeal proposal does clearly outweigh the lack of harm which I have identified in other respects.
22. The appellant owns No. 18 and rents out the property. I note he has referred to a previous appeal decision which he advises indicates that previous Inspectors have taken the view that if an appellant is prepared to accept a diminution of the amenity of their own property then that is a matter for them. Specific details of that appeal are not before me.

Nevertheless, the protection of the living conditions of existing occupants, regardless of who owns the lands and buildings in question, is a proper planning concern. Additionally, I have determined this appeal on its own merits with regard to the particular circumstances of the case.

23. Accordingly, I conclude that the development proposed would be harmful to the living conditions of the occupants of Nos. 18 and 20 Cambrian Drive, with particular regard to outlook. The proposal would therefore conflict with policy CS6 of the Council's CS and paragraph 17 of the Framework (as set out above).

*Living conditions: future occupants*

24. The proposed amenity space that would be provided for future occupants of the dwelling would be approximately 2 metres in width along the rear of the site. There would also be a small patio area to the side of the dwelling at the rear of the parking area proposed. A lawn would also be provided at the front of the dwelling, however as this would front directly onto the highway, this space would be capable of being overlooked and does not therefore form part of the private amenity space associated with the proposal.
25. There would therefore be a very small area of private amenity space provided for future occupants. Due to its close proximity to the rear and side boundary it would be likely to be dark and gloomy as a result of the shading effect of the existing conifer hedge and the proposed side boundary fence. The plans submitted with the application also show that part of this area would be used as a bin store which would reduce the size of the amenity area proposed still further.
26. Although future occupants of the dwelling proposed may be at different stages in their lives (whether elderly or single, young professionals) it is likely that they will still desire an area to sit out in and relax, garden or perhaps to erect a small shed for the storage of garden tools or a bicycle. The amenity area that would be provided with the dwelling proposed would not be of a sufficient size to accommodate these needs and would be unacceptable as a result.
27. The appellant has stated that nobody would be forced to live in the dwelling proposed. However, ensuring that the living conditions of future occupants is acceptable is a proper planning concern, as confirmed by both national and local policy. I therefore attach limited weight to this consideration.
28. The proposal would therefore not provide acceptable living conditions for future occupants. The proposal would therefore conflict with policy CS6 of the Council's CS seeks to ensure that all development safeguards residential amenity. The proposal would also conflict with paragraph 17 of the Framework which states, among other things, that planning should always seek to secure a good standard of amenity for all future occupants of land and buildings.

**Other Matters**

29. In my determination of this appeal, I have had regard to the Framework's presumption in favour of sustainable development (paragraphs 14 and 49). I acknowledge that there would be sustainability benefits associated with the

proposal. Specifically, the appeal site is within the built up area of Oswestry where there is a range of services, facilities and employment opportunities available. As such, the Council does not dispute that the site is within a sustainable location.

30. One additional dwelling would also be provided. Although the appellant has described it as 'affordable' rented accommodation there is no specific mechanism before me such a completed s. 106 agreement that would secure this. In the context of planning, the term 'affordable housing' has a specific meaning, as defined by Annex 2 of the Framework. Therefore, although the proposal may be intended to be 'low cost' it does not meet the definition of an 'affordable' house for the purposes of planning policy.
31. Policy CS11 of the Council's CS seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing. There is also no specific mechanism before which would secure a financial contribution towards the provision of local needs affordable housing. This is therefore a matter which does not weigh in favour of the appeal scheme.
32. I acknowledge that the proposal may comply with some limited aspects of policy CS6 relating to standards for water use, sustainable design and construction; climate change and adapting to changing lifestyle needs; and high quality design in relation to landscaping, car parking provision, land stability and ground contamination. Given the small scale of the proposal, it would also be unlikely to have a disproportionate demand on local infrastructure. However, even if the proposal were to comply with these elements of the policy, a lack of harm in these respects is a neutral consideration and does not therefore outweigh the harm that I have identified above. I am in agreement with the appellant that the criteria relating to traffic generation is not a relevant consideration to this appeal.
33. Additionally, in conjunction with the development proposed, it is intended to provide a new parking space for the occupants of No. 18. The Council has not raised any specific concerns regarding the proposed access or construction of hard standing in relation to this. Based on the information before me, the proposed access would also be acceptable, subject to conditions. This is also however a neutral consideration.
34. Drawing matters together, I have identified several sustainability benefits that would be associated with the proposal. Specifically, the site is within a sustainable location and one additional house would be provided. I have also identified several neutral considerations where a lack of harm does not weigh in favour of the proposal, including issues relating to climate change, water use, sustainable design, access, car parking, access, landscaping, the effect on local infrastructure and traffic generation.
35. On the other hand, I have found that the proposal would be harmful to the character and appearance of the area; the living conditions of the occupants of Nos. 18 and 20 with regard to outlook; and would not provide acceptable living conditions for future occupants with regard to outdoor amenity space. Additionally, the proposal would not be for an affordable dwelling and would fail to secure an appropriate contribution to the provision of local needs affordable housing. I therefore conclude that the harm that I have identified

does significantly and demonstrably outweigh the limited benefits associated with the appeal scheme.

36. I note that the appellant has also referred to quotes from Council officer's reports where they have referred to criteria listed within policy CS6 where not all of the words contained within the policy have been repeated. Whilst that may be so, policy CS6 is clearly a general policy covering a fairly wide range of issues under the broad heading of 'sustainable design and development principles'. As such the matters listed within the policy will not be relevant to every development. Therefore the absence of specific words when the Council is referring to its own policy requirements may not necessarily indicate support for the proposal in these respects, or indeed that the omitted words can be considered to be any less important for policy purposes.

### **Conclusion**

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

*Victoria Lucas-Gosnold*

INSPECTOR

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