

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

Date: Monday, 6 July 2015

**Committee:**  
**South Planning Committee**

**Date:** Tuesday, 14 July 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**

David Evans (Chairman)  
Stuart West (Vice Chairman)  
Andy Boddington  
Nigel Hartin  
Richard Huffer  
John Hurst-Knight  
Cecilia Motley  
Madge Shingleton  
Robert Tindall  
David Turner  
Tina Woodward

**Substitute Members of the Committee**

Charlotte Barnes  
Gwilym Butler  
Lee Chapman  
Heather Kidd  
Christian Lea  
William Parr  
Vivienne Parry  
Malcolm Pate  
Kevin Turley  
Leslie Winwood  
Michael Wood

Your Committee Officer is:

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

# AGENDA

## 1 **Apologies for Absence**

To receive any apologies for absence.

## 2 **Minutes** (Pages 1 - 6)

To confirm the minutes of the South Planning Committee meeting held on 16 June 2015.

Contact Linda Jeavons (01743) 252738.

## 3 **Public Question Time**

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

## 4 **Disclosable Pecuniary Interests**

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

## 5 **The Fish Shop, High Street, Broseley, Shropshire, TF12 5ET (14/03594/VAR)** (Pages 7 - 18)

Application under Section 73a of the Town and Country Planning Act 1990 for the Variation of Condition Nos. 2 and 4 and removal of Condition Nos. 3, 5 and 7 attached to Planning Permission 09/03161/FUL dated 4th February 2010 for the rebuilding of fish and chip shop (Retrospective)

## 6 **Proposed Residential Development East Of Church Road, Alveley, Shropshire, WV15 6NP (15/00535/FUL)** (Pages 19 - 42)

Erection of three affordable dwellings to include formation of new access (amended description).

## 7 **Proposed Residential Development Land North of Haughton Road, Shifnal, Shropshire (15/01390/REM)** (Pages 43 - 62)

Application for approval of reserved matters (appearance, landscaping, layout and scale) pursuant to 12/04646/OUT for the mixed residential development of 184 dwellings.

## 8 **Proposed Dwelling Rear of 4 Church Street, Cleobury Mortimer, Shropshire, (15/01976/FUL)** (Pages 63 - 74)

Conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse.

## 9 **Proposed Dwelling Rear of 4 Church Street, Cleobury Mortimer, Shropshire, (15/01977/LBC)** (Pages 75 - 84)

Listed Building Consent for works to facilitate the conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse.

**10 Diddlebury Village Hall, Diddlebury, Craven Arms, Shropshire, SY7 9DJ  
(15/02047/FUL) (Pages 85 - 92)**

Erection of extension and alterations to village hall; demolition of previous extensions.

**11 Schedule of Appeals and Appeal Decisions (Pages 93 - 118)**

**12 Date of the Next Meeting**

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 11 August 2015, in the Shrewsbury Room, Shirehall.

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## Committee and Date

South Planning Committee

14 July 2015

## **SOUTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 16 June 2015**

**2.00 - 4.14 pm in the Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

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

### **Present**

Councillor David Evans (Chairman)

Councillors Andy Boddington, Nigel Hartin, Richard Huffer, John Hurst-Knight, Cecilia Motley, Madge Shingleton, Robert Tindall, David Turner and Lee Chapman (substitute for Tina Woodward)

### **17 Apologies for Absence**

Apologies for absence were received from Councillors Stuart West and Tina Woodward (Substitute: Lee Chapman).

### **18 Minutes**

**RESOLVED:** That the Minutes of the South Planning Committees held on 14 May 2015 and 19 May 2015, be approved as a correct record and signed by the Chairman.

### **19 Public Question Time**

There were no public questions.

### **20 Disclosable Pecuniary Interests**

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

With reference to planning application 15/00535/FUL, Councillor J Hurst-Knight declared that he was a Director of Shropshire Towns and Rural Housing (STaR Housing) and would make a statement and then leave the room and take no part in the consideration of, or voting on, this application.

## 21 Change in Order of Business

### RESOLVED:

That Report No. 7 (Land at Whitton, Caynham, Shropshire – 15/01238/FUL) be considered as the next item of business.

## 22 Land at Whitton, Caynham, Shropshire (15/01238/FUL)

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

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed comments from Caynham Parish Council, Save South Shropshire Countryside, the Case Officer, applicant and objectors.

Mrs S Turner, representing Save South Shropshire, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr R Cavenagh, representing local residents, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor Mrs B Ashford, representing Caynham Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr L Adams, on behalf of the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. With the permission of the Chairman, and, in view of the number of persons speaking against, which was contrary to the Policy for Speaking at Regulatory Committees, Mr Adams was afforded up to six minutes to speak. Following which, he responded to questions from Members and provided clarification on the proposed use of the site following construction and decommissioning; confirmed that there was no intention to submit a further planning application in the future and, if this application was permitted, the impending appeal would be withdrawn; and confirmed his agreement to commit to a unilateral undertaking to deliver the appropriate local community benefits.

In response to questions and the concerns of Members, the Principal Planner explained that a legal agreement and not a condition would be the way forward to prevent the submission of a further planning application within the current application site boundary in the future. The delivery of community benefits, whilst not technically relevant to a planning application, was supported via the overall National Planning Policy Framework (NPPF) ethos of facilitating social sustainability.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Richard Huffer, as local Ward Councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During his statement he drew Members' attention to the report and the comments of consultees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers and Officers. Some Members suggested that serious consideration should be given to placing solar panels elsewhere, eg factory/office rooftops, council properties etc. A Member circulated and referred to a copy of a press release issued by the Department for Environment, Food & Rural Affairs, which made reference to new rules regarding the withdrawal of the right for farmers to claim subsidies for fields filled with solar panels under new plans to ensure more agricultural land was dedicated to growing crops and food.

In response to further questions from Members, the Principal Planner explained that his recommendation followed an exercise of consultation with the applicant and a review of the information/evidence submitted by technical consultees. In the ethos of the NPPF and as set out in his job description, he had worked with the applicant in a positive and pro-active manner prior to submitting his recommendation. The Solicitor advised caution when citing the loss of agricultural land as a reason for refusal and drew Members' attention to paragraph 6.2.5 of the report and a recent appeal decision which found no evidence of a loss of best and most versatile land in similar circumstances.

**RESOLVED:**

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

- The development site is in close proximity to the Shropshire Hills Area of Outstanding Natural Beauty and would have a detrimental and visual impact upon the environment, character and landscape of the area and would result in the loss of best and most versatile land. Accordingly, the proposal would be contrary to Core Strategy Policies CS5, CS6 and CS17 and paragraph 112 of the National Planning Policy Framework whereby the adverse impacts would significantly and demonstrably outweigh the benefits.

(At this juncture, the meeting convened at 3.22 pm and reconvened at 3.31 pm.)

**23 Royal George, High Street, Shifnal, Shropshire, TF11 8BL (15/00321/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location and layout. He confirmed that Members had undertaken a site visit that morning and had viewed the site and assessed the impact of the proposal on the surrounding area.

In the ensuing debate, Members considered the submitted plans and unanimously expressed support for the proposal.

**RESOLVED:**

That, subject to the conditions set out in Appendix 1 to the report, planning permission be granted as per the Officer's recommendation.

**24 Proposed Residential Development East of Church Road, Alveley, Shropshire, WV15 6NP (15/00535/FUL)**

The Principal Planner introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and elevations. He confirmed that Members had undertaken a site visit that morning, had travelled through Alveley and noted the location of other recreational sites, including Alveley Country Park, and had viewed the site and assessed the impact of the proposal on the surrounding area.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed comments from the local Ward Member, Tina Woodward, the Case Officer and an objector.

By virtue of his declaration at Minute No. 20, Councillor John Hurst-Knight made a statement and then left the room, took no part in the debate and did not vote on this item. During his statement, the following points were raised:

- He expressed support for the proposal; and
- STaR Housing had a duty to provide this type of housing and a need for this type of accommodation had been identified in the Alveley Parish Plan.

In the ensuing debate, Members expressed concern regarding the loss of open space and especially given the distance to an existing area of open space that would remain and Alveley Country Park, which would require the supervision of young children on the journeys to and from both sites. Members acknowledged the need for affordable housing but expressed reservations regarding the design, which would not be in keeping with the surrounding area and expressed their frustration that solar panels would not be installed as a given.

In response to the concerns and questions from Members, the Principal Planner referred them to the report which set out the applicant's approach to energy reducing features and questioned whether it would be considered reasonable to impose a condition requiring solar panels on a single application.

**RESOLVED:**

That this application be deferred to a future meeting in order for the applicant to submit an improved design more in keeping with the local area.



**25 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the southern area as at 16 June 2015 be noted.

**26 Date of the Next Meeting**

**RESOLVED:**

That it be noted that the next meeting of the South Planning Committee would be held at 2.00 pm on Tuesday, 14 July 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....

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Committee and date

South Planning Committee

14 July 2015

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 14/03594/VAR	<b>Parish:</b> Broseley
<b>Proposal:</b> Application under Section 73a of the Town and Country Planning Act 1990 for the Variation of Condition Nos. 2 and 4 and removal of Condition Nos. 3, 5 and 7 attached to Planning Permission 09/03161/FUL dated 4th February 2010 for the rebuilding of fish and chip shop (Retrospective)	
<b>Site Address:</b> The Fish Shop High Street Broseley Shropshire TF12 5ET	
<b>Applicant:</b> Mr Parminda Sandhu	
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 367510 - 301724

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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application is submitted under Section 73a of the Town and Country Planning Act 1990 in order to resolve outstanding amendments to and details required by conditions on Planning Permission Ref: 09/03161/FUL for 'Rebuilding of fish and chip shop', granted on 5<sup>th</sup> February 2010. Officers have been through a long process with the applicants and their agent in order to overcome the unauthorised planning matters which have arisen. An application to vary and remove a number of conditions on the original Planning Permission is considered to be the most effective way of resolving the issues.

Therefore this application is for the variation of condition nos. 2 and 4, and removal of condition nos. 3, 5 and 7 applied to Planning Permission Ref: 09/03161/FUL, details as follows:

### 1.2 Condition No. 2:

*The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan numbers B171/SK1 Revision F received on 25<sup>th</sup> January 2009.*

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

The original drawings indicated the land as flat whereas it slopes from front to rear, resulting in more brickwork to the rear as built to accommodate the slope. Other existing alterations in the design, and as are proposed to conclude the build are:

- o Removal of the 2 ground floor windows in the north east facing rear elevation.
- o Installation of 2 rooflights in the mono pitch roof over the single story rear element of the building.
- o Increase in the rear element to make it the full width of the building rather than stepped in from the south east facing side.
- o Addition of a flue to the north west facing side elevation adjacent to the chimney
- o Replacement of installed aluminium shop front with feature timber design.
- o More detailed eaves and chimney.
- o Alterations to internal room divisions
- o Addition of steps to side door and ramp to front.

The variation of this condition involves substituting the amended and additional drawings and documents submitted with this application which demonstrate the above amendments.

1.3 Condition no. 3

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

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

As there has been a change in specification to some of the materials used, the removal of this condition will demonstrate agreement with details of the materials submitted in support of this application.

1.4 Condition No. 4

*Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority; joinery design, materials and finish of windows, external doors and shopfront; design, materials and finish of rooflights; treatment of eaves and gable verges; location of waste storage; kitchen odour extraction system.*

*Reason: In the interests of visual amenity and public health.*

Amended joinery details have been submitted relating to the doors and windows and to the timber shop front to replace the aluminium one installed. Slightly more ornate than approved eaves and verge details of the roof have also been submitted, rooflight colour specified and flue included on the elevation drawings. The location of the waste storage was agreed to be acceptable as part of the information submitted to discharge the conditions under Planning Permission Ref: 09/03161/FUL.

Rather than being varied, it is suggested that if all the details submitted are found to be acceptable, then this condition should also be removed as there would no requirement to vary it.

1.5 Condition No. 5

*The rear elevation windows shown on the approved drawing shall be replaced with rooflights in the rear roof slope, unless otherwise agreed in writing with the Local Planning Authority.*

*Reason: In the interests of safeguarding the privacy of adjacent property.*

This condition is proposed to be removed as the work described to remove the windows and install rooflights has now been carried out.

## 1.6 Condition No. 7

*The building shall not be occupied until the remedial measures recommended in the report by Spilman Associates have been fully complied with in particular by stabilisation of the working by drilling and grouting.*

*Reason: In the interests of public safety.*

This condition is proposed to be removed as design calculations and sketches for the raft foundation works undertaken have been submitted for consideration as part of this application.

## 2.0 **SITE LOCATION/DESCRIPTION**

2.1 The site falls within the Market Town of Broseley and is included in Broseley Conservation Area and the Shopping Centre designations. It is accessed directly from the High Street to the south west via a small car parking area which also provides vehicular and pedestrian access on the northern side of the site to residential properties beyond. The building is located towards the south eastern end of the High Street inbetween, but set over 10m back from, the line of shops and other commercial premises along the street frontage. The properties adjacent to the north west are 3 storey Georgian brick buildings, and those on the other side to the south east are rendered and brick properties of cottage character and scale. Opposite the site and beyond another parking forecourt are more modern, single storey, flat roofed commercial units.

2.2 The erection of a new chip shop building as approved under Planning Permission Ref: 09/03161/FUL is virtually completed, however work has ceased pending the decision of this application. For this reason, the visual appearance of the building is unfinished within the street scene and not truly represented.

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

3.1 Applications requested to be referred, by the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

## 4.0 **Community Representations**

4.1 - Consultee Comments

4.1.1 Broseley Town Council (03-10-14) – The variation does not address the unsuitability of the finish (brick) nor the error in heights. In his email to the Town Council dated 23<sup>rd</sup> May 2014, Ian Kilby states that ‘brick used would have benefitted from having more variation of colour and have been less “burnt orange”. He further comments, ‘The mortar is a cement mortar as opposed to a lime, cement, sand mortar as approved in the finishes schedule’. In order to address the brickwork problem Town Councillors would suggest rendering the building and painting it white. An extraction pipe has been fitted onto the side of the building. This was not on the original application



Broseley Town Council (19-12-14) - Councillors considered your email and the comments from SC Public Protection regarding the above at their meeting last night. They asked me to let you know that they are keen to have odours minimised but are not qualified to comment on odour extraction systems.

- 4.1.2 SC Public Protection (22-09-14) - The high level discharge which will reduce odour in the area from the chip shop cooking activities is noted however please could the applicant submit details of the extraction system including how grease is removed and any odour abatement that is found in the ducting.

SC Public Protection (17-12-14) - The location and discharge height of the flue in relation to the extraction equipment are satisfactory. However, the details provided of what odour abatement will be installed have not been provided. On the original application it suggested an ON 100 purified air system and mesh filters. Please could the applicant provide this information in order comment to be provided on this aspect. Details provided state the benefits of mesh and baffles and the importance of regular maintenance and cleaning however the applicant has not stated which will be used, mesh, baffles or a combination of both. Also there is no reference to the ON 100 purified air unit.

Without the above details in relation to odour extraction systems, condition 4 should not be discharged. As this condition requires discharge prior to development commencing, the operator should be stopped from trading until this issue is resolved.

SC Public Protection (23-01-15) - Having considered the application and the height of discharge SC Public Protection are reasonably satisfied that no nuisance will be caused by odour emitted from the flue. However, it is recommended that no chainman's hat is fitted to the top of the flue in order to stop grounding of air emitted. It is also recommended that an accelerator cowl is used on the top of the flue to ensure air is accelerated upwards to aid with dispersion.

- 4.1.3 SC Conservation - It is considered that the timber joinery and shop front proposed will be acceptable within the Conservation Area.

- 4.1.4 SC Archaeology - No comments to make on this application with respect to archaeological matters.

#### 4.2 - Public Comments

- 4.2.1 Seven letter of public representation expressing objection to this application have been received from Broseley residents which can be viewed in full online, however their concerns are summarised as follows:

- o It is very clear that the conditions stated in the original planning permission have been blatantly disregarded.
- o The new chip shop is a monumental eyesore and completely out of keeping with neighbouring dwellings.
- o This building appears not to fulfil the usual strictures that have been applied to other developments within the Conservation Area.
- o It is evident that Ibstock Oldcott Rustic brick has not been used. During the

building process, a sample was taken from the site to the building merchants who delivered the brick and they advised that it was Hanson Caernarfon Berkshire Red.

- o The side elevation shows that two different types of brick have been used.
- o The building should be rendered and painted in keeping with others adjacent.
- o There is no evidence of blue brick or lime mortar being used.
- o The roof tiles should surely have been reclaimed tiles, not the black monotone which are out of character in the Conservation Area.
- o The developer knew what joinery was to be used and blatantly ignored this by fitting metal frames.
- o If the new chimney is not to be used for the extraction system, what is its purpose?
- o To run the flue up the outside will be another eyesore which will surely encroach onto the adjacent right of way not owned by the chip shop.
- o When approval was granted, the Conservation Officer made it clear that 'an external extraction steel flue system was no longer acceptable in such a prominent position in the Conservation Area'.
- o The building is over dominant in relation to neighbouring properties, and gives a cramped appearance when viewed from Dark Lane.
- o This application, if granted, runs the risk of other residents and businesses building what they like and applying for a variation retrospectively.

4.2.2 Additionally Cllr Jean Jones has submitted a letter expressing her own personal views, in addition to the deep concerns felt by many in the community at the nature of this development and the process that has accompanied the build. This is also available to view online, but is reproduced below:

This development, sited in our town's main thoroughfare and within our conservation area, has been allowed to progress despite being in flagrant breach of the terms of the original planning permission. When local concerns were raised during the construction process about the height of the build and the type of brick used, they were dismissed as minor variations. The physical result is an ugly, ill proportioned and out of character building that jars unpleasantly with its surroundings. The wider implications relate to loss of public confidence in the system and implications for community cohesion. There is a general perception that, as far as Council is concerned, 'anything will do for Broseley' and that cannot be a healthy state of affairs.

Broseley Town Council which, many years ago, played a leading role in paving and marking the land that fronts this building, has been treated very badly, as have the businesses and local people who use this car park. It now appears that the developer is able to construct, on land that does not belong to him, a ramp to the front of the property and a step to the side in order to mitigate access problems caused by his own poor construction methods. What of the rights of the Town Council that has maintained this land, or the right of the community to expect even a reasonable standard of development on this most prominent site?

Following a potentially catastrophic explosion and long period of dereliction, people were genuinely delighted when work began to rebuild the local fish and chip shop. Since then, we have endured a long period of disruptive intermittent building work,



culminating with this appalling construction.

This community is working hard to promote tourism to our town. Volunteers give freely of their time, money and energies to enhance and improve our local environment. We currently have an application pending to include much of Broseley in the Ironbridge Gorge World Heritage Site. We do not accept that, for whatever reasons, Shropshire Council is unable to meet its responsibilities to ensure a good standard of development of our built environment.

I am therefore unable to support all the variations to conditions requested with regard to this application. Most importantly, there is, first, a fundamental error in construction levels resulting in an elevated roofline and raised floor levels and secondly, use of bricks not of the type specified, i.e. not in conformity with existing local materials. I also have concerns regarding the extraction method, which appears to vary from that recommended.

It has been emphasised by officers that any response to a development that does not conform to planning permission has to be 'proportionate'. We might ask, 'proportionate to what?' To the extent of deviation from the original plans? To the impact on and nature of the surrounding environment? To the level of public concern?

## **5.0 THE MAIN ISSUES**

- o Principle of development
- o Scale/height
- o Materials/finish
- o Odour extraction system
- o Land stabilisation
- o Access

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

6.1.1 Matters considered under Planning Permission Ref: 09/03161/FUL relating to the erection of this building are not being re-considered here. The consideration here is whether the various unauthorised amendments which have taken place and the further details required in fulfilment of conditions applied to Planning Permission Ref: 09/03161/FUL, are acceptable.

6.1.2 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. . It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and does not adversely affect the heritage values and function of these assets.

6.1.3 The proposed development is not considered to have an adverse impact on the character or context of the existing building, the amenities of adjacent buildings or surrounding Conservation Area. It is of an appropriate scale within its setting, has a traditional timber shop front design, can be finished in suitable materials, and includes features which will protect and enhance the Conservation Area. The positioning and design of the odour extraction system and the raft foundation works are considered suitable and level access into the building encouraged. The principle of development is therefore acceptable.

## 6.2 Scale/height

6.2.1 The proportions of the building were considered and approved under Planning Permission Ref: 09/03161/FUL and have not been significantly digressed from. It is understood that additional brickwork has been included in order to compensate for the slope of the land, however, any impact from this is considered to be minimal. As the building is set back over 10m from the High Street with 3 storey properties grouped together in a mass adjacent to the north west, it is not dominant. Additionally, the building's height is considered to be a natural visual step between the higher properties to the north west and the adjacent cottage style buildings to the south and east.

## 6.3 Materials/finish

6.3.1 It is clearly indicated on the submitted plans that the shop front will be reconstructed in a white painted timber frame of traditional appearance also using the submitted joinery details that have been found acceptable by SC Conservation. It is considered that the amended shop front will protect and enhance the surrounding Conservation Area and contribute more positively to it than some of the existing shop fronts adjacent along the High Street and which are in more prominent positions within the Conservation Area. It is the front elevation of The Fish Shop which is the main aspect within the Conservation Area.

6.3.2 Other elevations of the building are far less prominent than the frontage, however issues have been raised over the choice of brickwork employed. There is a notable variety of brickwork present within the High Street, ranging from decorative Victorian work further to the south, the facings on the Georgian buildings adjacent to the north west which differ from each other, and the more utilitarian brickwork of their rears. Many of the cottages and modern buildings present in the Conservation Area are additionally rendered in a range of muted colours. Therefore the brickwork used to build The Fish Shop is not considered to be wholly out of keeping within the Conservation Area where a wide variety of facings are already present. However, it is felt that rendering over the brickwork would also be appropriate to this part of Broseley should the applicant consider this an option.

6.3.3 It has been noted within the public representations that if there is an external flue system, then there is no requirement for a chimney. However, Broseley is an area which contains many older properties of which chimneys are a prominent and widely present feature. The majority of the adjacent properties have single or multiple chimneys. Design Principle DS.6 of the Broseley Town Plan specifically relates to chimneys, stating that:

*'Existing chimneys must be preserved. The inclusion of functioning, brick built chimneys in design proposals will be supported'.*

The chimney at The Fish Shop is therefore a feature which is in accordance with the design ethos of the Broseley Town Plan, whether used as the extraction system or not.

#### 6.4 Odour extraction system

6.4.1 In respect of condition no. 4, details of the flue were submitted as part of its discharge under Planning Permission Ref: 09/03161/FUL. The matter remained unresolved in relation to the use of masking agents discharging to the atmosphere via a high velocity terminal which raised concerns from SC Public Protection (Environmental Health) that this could cause a problem if the flue did not extend at least 1m from the highest part of the roof. Correspondence submitted through the process of this application has resolved this matter, as it has been demonstrated that the height of discharge from the flue will not cause a nuisance from odour emission. SC Public Protection are satisfied that this will be the case, however recommend that an accelerator cowl is used to support acceleration of the odour emitted upwards and aid its dispersion

6.4.2 It is considered that the positioning of the odour extraction system adjacent to the chimney on the north west facing side elevation is not inappropriate, as its projection is minimal and it is located above head height, starting at 2.1m above ground level. It is additionally set back 2.5m from the front elevation and will not be read in context with it or impact adversely on the positive contribution of the frontage within the Conservation Area. The projection of the flue above the roof is suitably minimised by its location against the chimney stack.

#### 6.5 Land stabilisation

6.5.1 Design calculations and sketches for the raft foundation works undertaken have been submitted for consideration as part of this application. These details demonstrate that construction has taken place in accordance with the stabilisation of the workings by drilling and grouting recommended as Option 1 in the report by Spilman Associates.

#### 6.6 Access

6.6.1 It is noted that the drawings include steps adjacent to the side entrance and raising of levels to create a small ramp to the front entrance. These works are considered 'de minimus' and as such do not require Planning Permission. The provision of level access into the public area of The Fish Shop is to be encouraged.

#### 7.0 CONCLUSION

7.1 For the reasons given above, this application is not considered contrary to adopted policy. Condition nos. 3, 4, 5 and 7 attached to Planning Permission Ref 09/03161/FUL can be removed as the information required by these has been submitted and found acceptable. Condition no. 2 can be varied to refer to the amended plans submitted with this application.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

## 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the

scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS6 Sustainable Design And Development Principles  
CS17 Environmental Networks

Broseley Town Plan 2013-2026.

### RELEVANT PLANNING HISTORY:

13/04809/AMP - Non-material amendment relating to planning permission  
09/03161/FUL. Granted 8<sup>th</sup> January 2014.  
10/01259/DIS - Discharge of conditions 3, 4 and 5 attached to planning permission  
09/03161/FUL. Discharge of Conditions Part Approved dated 11th May 2010.  
09/03161/FUL - Rebuilding of fish and chip shop. Granted 5th February 2010.

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

<p><b>List of Background Papers</b> (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Design calculations and sketches for the raft foundation, received 9<sup>th</sup> September 2014.</p>
<p><b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price</p>
<p><b>Local Member</b> Cllr Dr Jean Jones</p>
<p><b>Appendices</b> APPENDIX 1 - Conditions</p>

## APPENDIX 1

### Conditions

#### STANDARD CONDITIONS

2. The development shall be carried out strictly in accordance with the deposited documents, plans and drawing nos. B171 AS 9 (as built plans and elevations) received on 7th August 2014; SFD12 (joinery details), 0 175/7 (eaves and verge details), SFD11 Rev A (shop front details) received on 8th August 2014; Raft Foundation Details received on 9th September 2014; and the Revised Finishes Schedule received on 26th May 2015.

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

#### CONDITION THAT IS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

8. Other than conditions no. 3, 4, 5 and 7 which are hereby removed, all other planning conditions attached to Planning Permission Ref: 09/03161/FUL dated 5th February 2010 remain in force.

Reason: To define the permission.

### Informatives

1. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
2. The advice of Shropshire Council Public Protection is attached for your information
3. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework

LDF Core Strategy Policies:  
CS6 Sustainable Design And Development Principles  
CS17 Environmental Networks

Broseley Town Plan 2013-2026

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.





Committee and date

South Planning Committee

14 July 2015

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 15/00535/FUL	<b><u>Parish:</u></b>	Alveley And Romsley
<b><u>Proposal:</u></b> Erection of three affordable dwellings to include formation of new access (amended description)		
<b><u>Site Address:</u></b> Proposed Residential Development East Of Church Road Alveley Shropshire WV15 6NP		
<b><u>Applicant:</u></b> Mr Jason O'Donoghue		
<b><u>Case Officer:</u></b> Sara Jones	<b><u>email:</u></b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 376139 - 284301



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

Recommended Reason for Approval

**REPORT**

- 1.0 Determination of this application was Deferred by Members at the Planning Committee South on the 16<sup>th</sup> June 2015 in order to give the applicants an opportunity to amend the design of the proposed dwellings more in keeping with the local area.
- 1.1 Amended plans have been received which are described below. During the debate Members raised the issue of the inclusion of energy efficiency measures to affordable housing. In response to the concerns raised the applicant has made the following comments:
- 1.2 “With the withdrawal of the optional Code for Sustainable Homes on the 27th of March 2015 housing developers in England are expected to comply in all aspects to Building Regulations and in particular the requirements laid out in Part L1A Conservation of Fuel and Power (2013 edition) when designing new dwellings and specifying materials.
- 1.3 With the Government scrapping of the Code for Sustainable Homes, the Homes and Communities Agency now recognise that affordable homes need only meet current building regulations in relation to energy efficiency.
- 1.4 Shropshire Towns and Rural Housing, like many other registered providers, take a fabric first approach to energy efficiency, ensuring that key building elements such as walls, floors and the roof are highly insulated, the buildings are air tight and tested as such, and that thermal bridging (weak spots in the construction where heat may escape) is minimised by using enhanced construction details. These measures reduce energy consumption and so costs for residents. This approach is similar to waste management where the move is towards reducing the amount of waste produced, rather than just increasing recycling because it is better to not produce the waste in the first place.
- 1.5 With our new homes we look to spend the money available on the fabric of the building, which is replaced/ upgraded much less frequently than heating systems or renewables so that less energy is required to heat them from the start; rather than generate energy on them to compensate for less efficient buildings.
- 1.6 Recent developments completed this year have benefitted from Energy Performance Certificates that score in the mid-80s range (Grade B). This is a good energy efficiency score. Existing upgraded Council housing stock has a target energy score of 65. With the heating systems that are installed we look to make sure they are as simple as possible for residents to operate and generally provide zoned heating so that heating in the living area can be operated at a different temperature and at different times to the heating in the bedrooms and other areas, providing the heating benefits of a traditional fire (being able to heat the main living space without having the whole house at the same temperature), whilst having the benefits of a high efficiency boiler and maintaining air tightness.



- 1.7 Shropshire Council, and by association STaR Housing, has limited funds to be able to construct new housing stock from the Council's Housing Revenue Account, so value for money must be considered carefully. Building programmes are often small (this year in the region of 29 homes) and external funds are sought wherever possible to maximise the number of homes that Shropshire Council can build, to meet an ever rising need for affordable units.
- 1.8 The addition of photovoltaic panels to a new build home add considerably to capital costs; these are circa £6,200 for a 3 KW system (some 6% of total unit construction costs). The payback period for such a system is over 20 years, excluding any maintenance liabilities, and it is something that Shropshire Council's/ STaR Housing's construction budget cannot currently sustain. The fabric first approach is therefore the preferred route to save residents money on their fuel bills and to enable limited resources to stretch that bit further to provide additional affordable homes in Shropshire.”
- 1.9 A detailed report from the Energy Saving Trust has also been submitted which illustrates the marginal returns for both the resident and Shropshire Council for installing photovoltaic panels on the homes in question.

## **2.0 THE PROPOSAL**

- 2.1 The proposal originally involved the erection of 3 No. two storey houses, one open market house and two affordable houses for rent. During the course of the application however the proposal has been amended to involve the erection of three affordable dwellings.
- 2.2 The mix of housing has been identified using Shropshire Home Point and are houses with private gardens.
- 2.3 The housing type and need has been established by Shropshire Town & Rural Housing using Shropshire Home Point. This shows that while there is also a need for 1 bed units none of these live locally however half of those requiring 2 bed units do live locally. The need for affordable housing has increased substantially in the last 6 months.
- 2.4 The proposed dwellings would be arranged in a terrace of three stepping down the slope in a similar fashion to the surrounding development. They are proposed to front onto an access road off Church Road and have been designed to sit back from the pavement to facilitate off street parking (two spaces per dwelling) to the front of the dwellings.
- 2.5 Each dwelling has its own rear garden access and the scheme includes the erection of a 1.8 metre high boarded fence around the site and between the proposed dwellings. Where as a consequence of the ground levels small areas of retaining walls are required these are proposed to be faced in brick. The rear gardens would be some 10 – 12 metres in depth and would vary in width the narrowest being some 5 metres. The smallest garden would therefore have an area of some 50 square metres. Bin storage areas for each property have been shown

on the amended scheme to be positioned to the rear of the gardens access to which for the collection vehicles would be via the cul-de-sac off Chapel Lane.

2.6 The scheme considered at the June Committee Meeting has been amended the main changes include the removal of the rendered finish, the external wall finish to all the dwellings now being facing brick; staggering of the front elevation of the units; the introduction of more traditional window design with brick detailing; tiled canopies over the front doors; gabled roof features and hipped ends to the main roofs.

2.7 Previously the main window walls were to the front and rear elevations. The amended scheme however proposes additional windows on the side elevations (mostly on the ground floor) however the scheme includes the introduction of a first floor window in the side elevation (unit No.3) which would serve the first floor landing at the top of the staircase.

2.8 As previously the amended scheme proposes the use of “Secured by Design” white Upvc window frames. Likewise the front doors are proposed to be made of coloured GRP composite (glass reinforced plastic). The roofs of the dwellings are proposed to be tiled with Marley Eternit fibre cement slates (Thrustone “Blue/Black”).

### **3.0 SITE LOCATION/DESCRIPTION**

3.1 The site refers to a grassed area of approximately 682 square metres in area located behind existing housing. The application site is currently a grassed area behind the existing housing development. It appears that when the original planning permission was granted (69/2541 Nov. 1969) this area was envisaged as a play area although no play equipment has been installed. The surrounding area is predominantly characterised by two storey housing. The housing immediately adjacent is family housing with gardens, and to the north west by older person’s bungalows.

3.2 The access to the site is from Church Road via an access road which currently serves an area used for informal parking and an electricity sub-station. The site may also be accessed on foot from Arden Way and Chapel Road.

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

4.1 The proposed development does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as it relates to land owned by the Council.

### **5.0 Community Representations**

- Consultee Comments

5.1 Alveley Parish Council – Objects for the following reasons:  
The site is the only green area at the top end of the village available for younger children to play on and this amenity should not be lost.

The road leading from Church road is too narrow and steep for cars to move in and out safely.

The proposed density of the housing is too great.

The design of the houses in terms of their exterior appearance is poor and is not appropriate in the location given the style of the surrounding houses and bungalows.

There do not appear to be any particular energy reducing features.

5.2 Alveley Parish Council – Notified amendments (06.05.2015.) Re-iterated previous objections regarding principle of residential development on this site and loss of the play space.

5.3 SC Affordable Housing - As this site is providing 2 affordable homes on this this is an over provision in this area. The size and type of the affordable housing has been agreed and will meet the identified need in the area.

Re- consulted – Confirmation that there is a need for 2 bed houses for rent in the area but would be content with either 3 for rent or 2 for rent and 1 low cost home ownership.

5.4 SC Ecology – Recommend informative.

5.5 SC Drainage – Concern that the surface water from the proposed development would be disposed of directly to a main sewer as it can result in increased flood risk elsewhere.

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

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

A plan should be submitted for approval showing exceedance flow routes to ensure that the design has fulfilled the requirements of Shropshire Councils Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

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

- 5.6 SC Highways – No objection recommend condition.
- 5.7 SC Parks & Recreation – Given the need for safe open spaces for recreation for the community and especially local children the loss of this space is not supported.
- 5.8 SC Public Protection – No objection - Confirm that contaminated land conditions will not be required should this application be approved.

- Public Comments

- 5.9 Site notice displayed/dated 06.03.2015. Expired 27.03.2015. Eleven letters sent 24.02.2015. Expired 17.03.2015. Additional letter sent 26.02.2015. Expired 19.03.2015.

- 5.10 Ten representations and a petition signed by 39 local residents received objecting to the application which may be summarised as follows:

Inappropriate location – detrimental impact on the character of the area

Loss of rural view

Loss of safe place for children to play - This small area of green land is an excellent community space for the elderly who are less mobile and for local children to play away from main roads, one of which is an arterial bus route.

The recreational area at the other end of the village is too far and too dangerous for children to travel to without an adult. It allows the children to socialise and exercise together in a safe area where parents can keep a close eye on them.

The children play on the green [years ago the council had plans for play equipment on this land] Children make their own games and activities.

This will also adversely affect the health and mental wellbeing of the surrounding elderly residents; of which there are many.

Elderly residents are less likely to be able to object these plans due to representations having had to be made either personally at meetings (many are unable to leave their houses without assistance) or online (the majority are without internet facilities).

All new builds all over the country incorporate safe green areas for children to play . With the proposed building of these dwellings this would be the exact opposite taking away the only safe area for young children to play.

Additional vehicles and loss of existing parking facilities will exacerbate existing parking problems in the area. Parking in the area is already difficult due to many residents not being able to use their steep drives.

The road is not wide enough and traffic flow is not wide enough to accommodate two cars passing one another and will lead to noise pollution and parking issues.

Going to use the un named road between Arden Way and Church Road as a service road for the new build properties bins. Road has never been used by HGV for services so why are you trying to start now? This is a cul-de-sac and is not suitable.

A small development such as this incurs maximum cost to build and, a build of 10 properties or more will be much more cost effective and then may fall into affordable housing.

There will also be building noise and pollution with this development.

The area would become over populated and would slowly become an urban area instead of a rural village.

We believe that the welfare and health of the community is not being considered in this application as opposed to financial gain.

All applications should have government crime prevention advice to new developments and, after looking at the plans this I feel has not been done satisfactory

- 1) Rear of the properties need to have at least 10 foot steel lockable gate to prevent undesirables loitering.
- 2) Perimeter fences need to be minimum of 10 foot for privacy and to prevent the scaling of them
- 3) Unit 1 & 3 require fencing at the side and front elevation all to be gated and locked

The properties need the above to be done so it is not a rat run where undesirables could escape from police etc.

There are far better areas for the building of properties and I believe that the parish council have all ready recommended at least 10 sites that they feel are suitable for building on.

Layout is poor, design bears no resemblance to any other property in the whole of Alveley.

Totally against the plaster rendering and split roof line, and positioning facing north.

If built , should be all brick and straight roof line, for Alveley people only.

No environmental benefits.

Sam/Dev Plan shows 5.43 years supply for Shropshire, so why do we need these tatty boxes?

Recycling bins: no way can the refuse lorry reach this area. Occupants will have to be strong to drag their bins to Church Road for collection or down to Arden Way and back again. In the meantime, if they are out for any length of time the bins will cause a hazard.

The doctor's surgery is already over-subscribed and cannot cope with anymore patients. The possible loss of the village post office in the near future is a further problem.

Water pressure is regularly poor. The sewage system was never designed for the number of houses it has to cope with, any more added to the present system will cause complicated expensive problems.

The manner in which this submission is being dealt with is discriminative against persons whom do not have internet facilities or are not computer literate. This is clearly an equality and diversity issue when considering the average age of the residents surrounding this site of whom it will effect. I am confident that should a council representative seek a moment with each resident the answer would be a strong objection to the proposed plans.

The local community have not been considered within these planning proposals.

This green space is not only used by children to play and locals to walk dogs but also the space has been used for the air ambulance to land on.

Representation received from Cllr Tina Woodward (Ward Member).

“Having read the Officer's report in my opinion it is clear that the original intention was to allocate this area as a play area under the original planning application 69/2541 November 1969. Although no play equipment was provided it has continued to perform the role of a play area for local children and continues to do so to this day.

This area of land offers very vital open space and is a valued green space which offers a safe place for young children to undertake informal play. It is not surplus to requirements as the top of the village which houses a high number of family homes has no other open space which allows children to meet and play.



At 6.1.8 the report makes reference to the recreation ground and the Severn Valley Country Park. Both of these, although given as being in close proximity require supervised journeys to and from the relevant sites for young children. There is no pavement and only a permissive footpath for a section of the route to the Country Park.

However if the Committee are indeed minded to grant planning on this site, in my opinion, as family homes are to be created it would require a play area to be created at the top of the village by the applicant.

Finally if planning is granted that the Local Lettings Policy is applied to allow local families in need of housing to be housed within their community, as this would make the provision of affordable housing more acceptable locally in my opinion (as at Condition 18 in the Report)."

## 6.0 THE MAIN ISSUES

Principle of development  
Siting, scale and design of structure  
Visual impact and landscaping

## 7.0 OFFICER APPRAISAL

### 7.1 Principle of development

7.1.1 The area east of the River Severn lies in the Green Belt, in which Core Strategy policy CS5, Saved Bridgnorth District Local Plan policy S3 and emerging SAMDev policy MD6 applies. The exceptions are the villages of Claverley, Alveley and Worfield which are inset (i.e. not included) in the Green Belt, and are treated as countryside in which Core Strategy policy CS5, Saved Bridgnorth District Local Plan policy H4 and emerging SAMDev policy MD7 applies. Under Core Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located exception site dwellings and residential conversions (of Heritage assets) and housing for essential rural workers will be permitted.

7.1.2 The Parish Council as part of the Place Plan (Bridgnorth) has identified a need for affordable housing including:

- Smaller bungalows,
- 3 bedroom family homes
- 2 bedroom initial/starter homes to be rented/shared ownership/for sale.
- Warden aided accommodation for the elderly.

Further with respect to the Parish Councils representation to the SAMDev they have stated that residential development shall be infill within the development area.

7.1.3 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework

(NPPF) has been published and is a material consideration that needs to be given weight 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.

- 7.1.4 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.
- 7.1.5 As stated above this site is identified as being treated as countryside. As such any new housing development in the area would be strictly controlled as defined in policy CS5 of the Shropshire Core Strategy. Therefore on the basis of the above the construction of affordable dwellings within the village boundary which is accepted as a sustainable location would be considered acceptable. It is considered that unlike rural exception sites the development does not need to demonstrate the need and benefit for the development proposed and acknowledged that there is clear evidence of high levels of need for affordable housing throughout Shropshire.
- 7.1.6 Core Strategy policy CS6 "Sustainable Design and Development Principles" seeks to ensure that all development protects those features which contribute to local character and the health and well being of communities. Further proposals resulting in the loss of existing facilities, services or amenities is also resisted. The NPPF also confirms that Local Planning authorities should guard against the unnecessary loss of valued facilities and that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
  - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
  - the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.



- 7.1.7 Concern has been expressed about the loss of the “green space” at this end of the village. The importance of well designed open space is acknowledged as it delivers a number of social benefits, including improved health and wellbeing, as well as providing environmental benefits.
- 7.1.8 With respect to this case it is accepted that the grassed area would appear to have been used as an informal recreation area. It is however a relatively small un - equipped play area and which does not add significantly to the visual amenity of the area. The site is adjoined largely by existing housing which has private gardens and the area is not well surveilled as it is situated to the rear of the surrounding properties whose private gardens lie between them and the site. Further it is noted that there is a landscaped play area some 800 metres to the north and access to the Severn Valley Country Park approximately 0.5 miles from the site and also other green spaces in the vicinity of the site at the northern end of the existing development.
- 7.1.9 In response to the concerns raised, the applicants have drawn attention to an existing area of open space that will remain (end of Arden Way towards Chapel Road) which has better surveillance.
- 7.1.10 Given the above Members need to consider whether the loss of this informal recreation/open space area is outweighed by the benefits to the local supply of affordable housing.
- 7.1.11 With respect to the creation of an alternative play space at the top of the village the applicant has responded as follows:

“STaR Housing has investigated this some months ago, and had an agreement in principle from Shropshire Council to be able to gift the triangular piece of land at the junction of Chapel Road to the Parish Council. A drawing was produced that illustrated how the land might be used and a cost plan was calculated that indicated the likely capital costs of such equipment and materials. As STaR Housing has limited budgets to build affordable homes we would not be in a position to either maintain such an area or indeed purchase the equipment. Initially we may have been able to make a contribution if policy restrictions hadn't prevented us from building a market sale unit to subsidise the scheme. Unfortunately developing small infill sites for affordable homes is a costly exercise, having no benefit from economies of scale that larger private developers enjoy.

Discussions were had with the Parish Council about the provision of a play area, and we were told that it was something that the Parish Council could not afford either.”

- 7.2 Siting, scale and design of structure/visual amenity
- 7.2.1 Policy CS6 ‘Sustainable Design and Development Principles’ of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. 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.

- 7.2.2 The area is generally characterised by conventional two storey dwellings and single storey bungalows to the north west. The predominant material is brick, although this is supplemented with areas of UPVC cladding and the older properties to the west of the site are a variety of local stone, brick and render. Roof materials are generally interlocking concrete tiles of a variety of patterns, consisting of dark browns and greys but again the older properties have more variety including rose tiles and slate roofing. The window pattern is generally simple, large paned, casement windows, mostly white UPVC.
- 7.2.3 The site slopes gently down towards the east. The dwellings are proposed to be arranged in a terrace which would reflect the similar arrangement of properties in the vicinity and ensures that the existing parking area which lies opposite the site would be unaffected by the development.
- 7.2.4 Originally the scheme proposed only the middle dwelling having a brick finish, the properties either side being faced with a cream through coloured render. Subsequently the scheme has been amended with two out of the three dwellings having a facing brick finish and the middle unit being rendered in order to visually break up the terrace. As discussed above the scheme has been further amended so that all the walls would be faced in facing brick. The roofs are proposed be tiled with fibre cement slates which it is considered would be more representative of the traditional roof treatments of the area.
- 7.2.5 In terms of boundary treatments it is noted that 1.8m close boarded fences are proposed to be erected around the site and between the units. Where small areas of retaining wall are required these are proposed to be faced in a red brick. These treatments would not be out of keeping with the surrounding properties.
- 7.2.6 New residential development should provide for adequate space between dwellings relative to their scale and achieve a satisfactory relationship to existing development.
- 7.2.7 The submitted drawings indicate that the proposed dwellings would be positioned set back from the pavement to allow off street parking with some planting and bin stores where required.

The properties have been designed so that the main window walls are to the front and rear elevations and whilst the amended scheme includes the introduction of first floor windows on the side elevation of plot 1 and plot 3, a suitable condition has been recommended to include obscure glazing to avoid any undue loss of privacy. The rear gardens would be some 10 – 12 metres in depth and would vary in width the narrowest being some 5 metres. The smallest garden would therefore have an area of some 50 square metres.

- 7.2.8 Plot 1 would be set to the east and approximately 4.10 metres off the mutual boundary with the existing dwellings which front Church Road. Further Plot 3 would be set to the west and some 2.80 metres off the mutual boundary with the rear garden of No.14 Arden Way.
- 7.2.9 Given the above it is considered that sufficient space would be maintained between the existing buildings and the proposed development so as to ensure that the visual amenity of the area is not unduly harmed.
- 7.2.10 There are a number of trees, including a young multi-stem Whitebeam, a young (pole stage) ash and two early-mature Norway maples, located in the eastern corner of the site. The group of trees is shown to be retained and is located as far away from the proposed housing as it could be within the site. The Councils Arboricultural Officer raises no objection to the proposal but states that there is still the potential for damage to be caused to the trees by construction related activities. It is therefore recommended that a suitably worded condition be attached to any grant of planning permission to ensure that submission and approval of a Tree Protection Plan to show how retained trees are to be protected during implementation of the development.
- 7.2.11 The levels across the site would largely remain as existing, with the proposed dwellings following the slope of the ground. An appropriate worded condition to submit the finished floor levels in relation to the existing ground levels would ensure that the proposed buildings would not appear unduly prominent or detrimental to the existing character of this established residential area.
- 7.3 Residential Amenity
- 7.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy seeks to safeguard residential amenity.
- 7.3.2 As noted above the proposed dwellings would be surrounded by existing residential development. The juxtaposition of the proposed dwellings to the existing dwellings would mean that there may be some overshadowing for part of the day however it is considered that given the size of the existing plots this would not be so harmful as to justify refusal of the application on those grounds. With respect to privacy the scheme has been designed to ensure that, subject to an appropriate condition requiring the installation of obscure glazing/fixed light there would be sufficient separation distances to avoid any undue loss of privacy as a consequence of the development. Further it is considered that the scale of the development and separation distances would ensure that there would be no undue loss of residential amenity by virtue of over bearing impacts. Given the above it is considered that no undue loss of residential amenity would ensure.
- 7.4 Highways
- 7.4.1 The scheme indicates the provision of two on site parking spaces for each unit. As noted above there is an area of informal parking that forms part of the access to the site. The proposal would not infringe on this area and as such the proposal would not lead to any loss of existing parking provision.

- 7.4.2 The site is within a residential area proposing a satisfactory provision of on-site parking without impacting on the existing parking provision in the locality. Whilst the development would result in an increase in vehicular use of the existing access onto Church Road, these movements are not considered to unduly impact on the adjoining highway and the Highway Authority therefore raises no objection to the proposal.
- 7.4.3 Concern has been expressed regarding the adequacy of the width of the access road. Whilst it is accepted that the access road is in part not wide enough for two cars to pass this is a relatively small stretch of road, the visibility is good and it is already used to access the parking area. As such it is considered that the modest scale of development proposed would be acceptable.
- 7.5 Drainage
- 7.5.1 The flood zone area that the site is classified under according to the Environment Agency is Flood Zone 1. This would indicate little or no flood risk and are areas where there is a less than 1 in 1000 years 0.1% chance of flooding from either river sources or from the sea in any one year.
- 7.5.2 The information submitted with the application states that the surface water drainage from the proposed development would be disposed of directly to a main sewer. The SC Drainage Team has raised concern regarding this and recommends the use of soakaways in the first instance. However the ground investigation report submitted with the application confirms that the ground conditions are not suitable for soakaways, therefore, an attenuated storm water connection to the mains sewer would be required. As such it is recommended that an appropriately worded pre-commencement condition requiring full details to be submitted would be an acceptable way of dealing with this issue in this instance.
- 7.6 Ecology
- 7.6.1 Core Strategy policy CS17 requires development not to adversely impact upon ecological interests. In this case the development has been reviewed in accordance with the SC guidance notes and ecological triggers. The conclusion is that the site would not meet the trigger which requires an ecological survey.
- 7.6.2 The SC Planning Ecologist has reviewed the information submitted and raises no objection subject to appropriate informatives with respect to nesting birds.
- 7.7 Affordable Housing
- 7.7.1 As noted above the scheme proposes 3 affordable homes. The applicant has been requested to confirm the tenure split, and these details are awaited however it is noted that SC Affordable Housing Team would be content with either 3 affordable rented properties or 2 rented and shared ownership dwelling.
- 7.8 Other Issues
- 7.8.1 Concern has been expressed regarding the appropriateness for emergency and refuses vehicle access. With respect to this it is noted that the site can be accessed from three sides and that amended plans have been submitted which indicate a bin collection point off Chapel Road where there is a suitable turning area.

7.8.2 Concern has also been expressed regarding the boundary treatments and security. With respect to this the scheme has been designed to achieve Secured by Design. In accordance with 10.7.5 of the SBD New Homes 2014 requirements rear and side boundaries are proposed to be 1.8m high close boarded timber fencing, with lockable gates, these return on the frontages just behind the building line.

7.8.3 The lack of visible energy reducing features has also been commented on. In response to this the applicants have stated that the units are designed with a fabric first approach, as this is considered to be best practice in terms of minimising energy use in dwellings. This involves increasing the thermal performance of walls, windows, doors, roofs etc, minimising thermal bridges in the construction and improving air tightness to reduce the amount of energy needed to heat the building in the first place. Rather than compensating for a larger energy requirement with the addition of energy generation add-ons. They note that the investment is in getting the building right to minimise the energy requirement through the fabric which is also lower maintenance and does not break down.

## **8.0 CONCLUSION**

8.1 The proposal is for residential development on a site within the development boundary of the settlement of Alveley. As stated above this site is identified as being treated as countryside and as such any new housing development in the area would be strictly controlled as defined in policy CS5 of the Shropshire Core Strategy. Therefore on the basis of the above the construction of affordable dwellings within the village boundary which is accepted as a sustainable location would be considered acceptable. Planning policies seek to protect the unnecessary loss of valued facilities including existing open space and recreational land. Members must therefore consider whether the loss of this informal recreation/open space area is outweighed by the benefits to the local supply of affordable housing.

8.2 The amended layout, scale and design of the scheme are considered acceptable for the application site taking into account the surrounding built form and features of the area without detriment to the amenities of the existing or future residents. Access is acceptable, sufficient space is provided for parking and turning and it is not considered to result in a detrimental impact on the wider highway network. Overall the proposed development complies with the adopted Shropshire Core Strategy, specifically policies CS5, CS6, CS11, CS17 and CS18. 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.

## **9.0 Risk Assessment and Opportunities Appraisal**

### **9.1 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.

## 9.2 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.

## 9.3 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.

## 10.0 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

## Shropshire Core Strategy and saved Local Plan policies:

CS5 Countryside and Green Belt

CS6 Sustainable Design and Development Principles

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

H4 Residential development small settlements

D6 Access and parking

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

None

<b>List of Background Papers</b>
<b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price
<b>Local Member</b> Cllr Tina Woodward
<b>Appendices</b> APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

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

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

3. This permission relates to the amended plans received 23.06.2015.

Reason: To define the permission for the avoidance of doubt.

4. The tree protection measures shall be maintained in a satisfactory condition throughout the duration of the development. They shall not be moved or removed, even temporarily, without the prior permission of the Local Planning Authority. Within the area defined by tree protection measures there shall be no excavations or alterations of ground levels, no storage of materials, soil or equipment, no passage or fuelling of vehicles, no washing of machinery or equipment, no mixing or discharge of materials toxic to tree health, no site office or welfare facilities and no lighting of fires.

Reason: To protect trees that contribute to the appearance of the site during implementation of the development.

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

Reason: To protect the health and wellbeing of residents in the area.

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

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

7. Details of all the materials to be used externally on the dwellings and hard surfacing hereby approved, shall have been first submitted to and approved by the Local Planning Authority in writing before being used in the development. The development shall be carried out in accordance with the approval details.

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



8. If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the developer should submit in writing for approval by the Local Planning Authority a drainage system.

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

9. Before the obscure glazing is installed in the first windows in the side elevations of Units 1 and 3 (to serve the bathroom and landing respectively) hereby approved, details of the glazing including the level of obscurity shall be submitted to and approved in writing by the Local Planning Authority. The approved glazing shall be implemented before occupation of the dwelling and shall be maintained in perpetuity.

Reason: To ensure that the residential amenity of the occupiers of the neighbouring dwelling and prospective occupiers of the resultant dwelling is not unduly harmed as a consequence of a loss of privacy.

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

10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
  - viii. the routing of construction traffic on the local highway network

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

11. Prior to commencement of development a Tree Protection Plan shall be provided and implemented to the written satisfaction of the Local Planning Authority. The Plan shall show the location and provide the specification for the measures to be taken to protect retained trees from damage or harm during implementation of the development.

Reason: This information is required prior to the commencement of the development as it relates to the protection of trees that contribute to the appearance of the site during implementation of the development as such the details need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

Reason: To ensure satisfactory drainage of the site and to avoid flooding. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

Means of enclosure

Hard surfacing materials

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

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

Implementation timetables

Reason: To ensure the provision of amenity afforded by appropriate landscape design. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

14. Before any development commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority: sections through the site (to a recognised scale) showing existing and proposed levels across the site and immediately adjoining the site; and finished floor levels. The work shall be carried out in accordance with such details as may be approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and to safeguard the amenities of nearby residential properties. This information is required prior to the commencement of the development as it relates to matters which need to be confirmed before the development proceeds in order to ensure a sustainable development.

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

15. The development hereby permitted shall not be brought into use until the car parking areas shown on the approved plans have been provided, properly laid out, hard surfaced and drained, and the spaces shall be maintained thereafter free of any impediment to their intended use.

Reason: To ensure the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

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

16. All hard and soft landscape works shall be carried out in accordance with the approved details and in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- hard surfacing
- fences, gates or walls
- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

18. The dwellings shall not be let or occupied other than either:-
- a. under a tenancy in accordance with the normal letting policy of a Registered Provider;
  - or
  - b. by way of a Shared Ownership lease or equity share arrangement whereby the occupier cannot progress to achieve a greater than 80% of the whole.

Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.

19. In addition to the requirements of the Shropshire Affordable Housing and Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy guidance that may from time to time replace it.

Reason: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.

### **Informatives**

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

Central Government Guidance:  
National Planning Policy Framework

Shropshire Core Strategy and saved Local Plan policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
H4 Residential development small settlements  
D6 Access and parking

SPD on the Type and Affordability of Housing

2. 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.
3. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

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

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

4. You are obliged to contact Shropshire Council's Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the

residential unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://www.shropshire.gov.uk/streetnamingandnumbering>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

5. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

6. In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. An independent 32 amp radial circuit isolation switch should be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

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Committee and date

South Planning Committee

14 July 2015

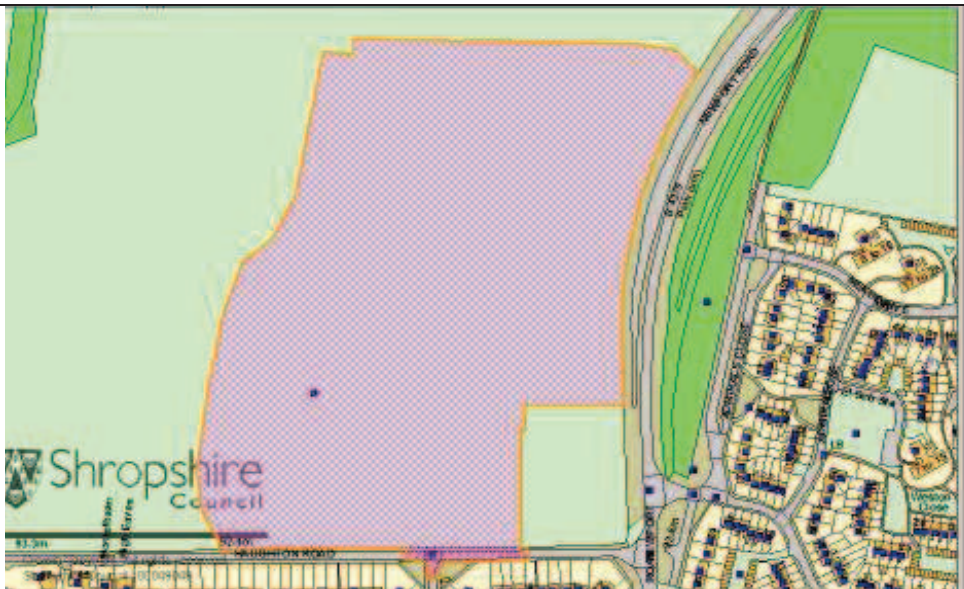
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 15/01390/REM	<b>Parish:</b>	Shifnal
<b>Proposal:</b> Application for approval of reserved matters (appearance, landscaping, layout and scale) pursuant to 12/04646/OUT for the mixed residential development of 184 dwellings		
<b>Site Address:</b> Proposed Residential Development Land N Of Houghton Road Shifnal Shropshire		
<b>Applicant:</b> Taylor Wimpey (Midlands)		
<b>Case Officer:</b> Richard Fortune		<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 374773 - 308704



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This proposal relates to some 6.95 hectares (17.17 acres) of land immediately to the north of the bulk of the current built up area of the town. The application site extends northwards to the M54 boundary, to Newport Road to the east (beyond which there is existing housing development), Haughton Road to the south, and to currently agricultural land to the west which benefits from the same outline planning permission for residential development as the application site.
- 1.2 The South Planning Committee resolved to grant outline planning permission for residential development on some 18 hectares of land, of which the current reserved matters submission forms part, at the February 2013 meeting, subject to a Section 106 Agreement relating to Affordable housing provision; the provision of community land to allow the opportunity for a group nominated by the Council to construct public swimming baths within a specified period and a financial contribution towards a proposed swimming baths (ref 12/04646/OUT). That outline planning permission was issued on the 22<sup>nd</sup> March 2013 following completion of the Section 106 Agreement. Subsequently reserved matters approvals have been granted under officer delegated powers (on the 23<sup>rd</sup> December 2014) for the siting, design, appearance and landscaping of four areas of the site under references 14/00691/REM; 14/00692/REM; 14/01519/REM and 14/01520/REM. Areas of the site not covered by these reserved matters approvals are the south east corner, which is reserved at present for a possible medical centre, and the north eastern portion of the site which is the 'community land' referred to in the Section 106 Agreement where the swimming pool building and allotments would be located.
- 1.3 This proposal is for an alternative scheme of reserved matters to cover essentially the same part of the site as the extant reserved matters approvals 14/00691/REM and 14/00692/REM for the eastern half of the site. These approvals together contain 184 dwellings, which is the same number proposed in this alternative scheme, providing a density of some 33.5 dwellings per hectare. The principle of residential development cannot be re-visited in the consideration of this reserved matters application.
- 1.4 The layout of the proposed development follows the principles of the indicative master plan submitted with the outline application and that accepted with the grant of reserved matters approvals 14/00691/REM and 14/00692/REM.
- 1.5 Along the western side of the site there would be an area of public open space containing two attenuation basins which would form part of the surface water drainage system for the application site and the remainder of the land covered by outline planning permission 12/04646/OUT. (Bovis Homes now have ownership of the western half of the site and a separate reserved matters application for that area is currently under consideration – ref 15/01741/REM). These basins would be predominantly dry with only small areas permanently retaining water to encourage biodiversity. Water levels would rise in them during storm events and only allowed

to permeate slowly into the surface water drainage system. The bulk of the areas of these basins would be capable of a dual recreational use. The central portion of this area of open space, where it would be bisected by a footpath, is shown as a location for a play area (LEAP).

- 1.6 The main access route into the site the site would have a carriageway width of 5.5m, with footpaths either side, and would be designed to connect with the road in the western half of the development site to form a loop linking the two accesses onto Haughton Road already approved as part of the outline planning permission. It would have a curving alignment to close off views and create focal points at junctions to cul-de-sacs, five of which would extend from this road in a westerly direction. The junction areas would be reinforced as focal points by block paved surface treatment. From the western end of the cul-de-sacs would be a series of private drives serving detached dwellings which would face onto the open space along the western side of the site. The proposed development off the eastern side of the main access route, in the area which abuts the eastern site boundary along which a narrow band of public open space containing a footpath would run, would be of a higher density, containing groups of semi-detached and terraced dwellings served by private parking courts situated to the rear of the properties fronting the main access route. The proposed dwellings at the northern end of the site would be on the southern side of the main access road, which would run along the northern site boundary, a would provide passive surveillance of the 'community land' area which is outside of the current reserved matters application site. The properties at the southern end of the site would be separated from Haughton Road itself by a landscaped space and the proposed cul-de-sac to access those properties.
- 1.7 The proposed dwellings would all be two storey and would be a mix of one, two, three and four bedroomed properties. There would be 18 different house types in the proposed scheme. There would be a variety of design features in the dwellings, including some with two storey short gable front projections; single storey dual pitched and monopitched elements to some house designs; full gabled and hipped roofs; dual pitched, mono pitched an flat roofed canopy porches; bay windows; dormer peaks over some windows; brick string courses and brick window heads, sills and quions. There would be chimneys to 22 plots at key focal points within the development, including at junctions, overlooking the public open space to the west and the 'community land' to the north, adjacent to cul-de-sac turning heads and on one private dive cluster. External wall finishes would comprise of three types of main facing brick, a smooth red detail brick, a cream render finish to some elevations of some properties and one type of roof tile in two colour combinations (peat brown and slate grey).
- 1.8 Most properties would have two parking spaces in addition to garages (where provided), although some of the one bedroomed dwellings would each have a single space and share visitor spaces. Where garden boundaries would be adjacent to the public realm they would be enclosed by 1.8m high brick screen walls, with close boarded fencing or fence panels used less public locations. Tree planting is proposed throughout the development, including within the open space fronting Haughton Road where existing hedging would be retained apart from the section to be removed for the approved vehicular access, to the edges of the western open space area along with a new hedge along the western site boundary,

trees and hedging to the eastern boundary with the medical centre site, to the gardens of selected properties which would front the main access road, cul-de-sacs and private drives, hedge planting to some front garden boundaries adjacent to road junctions within the development, and new hedge and tree planting to the linear open space and path along the eastern site boundary. The tree species which it is proposed to use include field maple, silver birch, hawthorn, laburnum, crab apple, wild cherry, oak, willow, mountain ash and lime. Hedge planting would include hazel, hawthorn, holly, dogwood, copper beech, privet, cherry laurel, sloe and guilder rose.

- 1.9 The layout of the site provides for carriageways with adjacent footways to clearly delineate between vehicular and pedestrian routes. Private drives would be shared surfaces where traffic levels and speeds would be low. There would be a clear hierarchy of routes and pedestrian connections through to the open space areas and the residential development land to the west. The application is accompanied by tracked drawings showing how refuse vehicles could manoeuvre through the development and identifies bin collection points for dwellings which would be situated off private drives.
- 1.10 A Planning and Design Statement and Open Space Addendum accompanies the application.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site comprises part of a single agricultural field, located on the northern side of Shifnal. The site is bounded by Haughton Road to the south, which has existing residential development along its southern side, and by Newport Road to the east, beyond which is the Admirals Farm housing development. To the north is the M54, while to the west of the whole field is a farm track associated with Haughton Village Farm, agricultural land and, adjacent to the south western corner of the site, existing dwellings (including a nursing home) and the Haughton village conservation area. The field gate access is in the south eastern corner of the field, at the junction of Haughton Road with Newport Road.
- 2.2 The land is generally level, but slopes gently down from higher land along the northern boundary to the lower land at Haughton Road. There is a more pronounced down ward slope towards Newport Road at the north eastern edge of the site. The site is enclosed by hedgerows, with close boarded fence in the south west corner adjacent to the nursing home, and a low stone wall supplementing the hedging along the southern boundary. There are trees along the northern boundary with the M54 which are outside of the application site.

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

- 3.1 The Town Council has submitted a view contrary to the Officer recommendation and the Division Member has requested that this application be determined by Committee. The Committee Chairman in consultation with The Area Planning Manager has agreed that the application is one to be determined by Committee.

## 4.0 Community Representations

### - Consultee Comments

(Please note that where consultees have made several comments the latest comments are listed first, as these record the outcome of discussions and demonstrate whether any concerns raised earlier have been addressed).

4.1 Shifnal Town Council – No reply received.

4.2 SC Drainage (16-04-15) – Comment: Details required to satisfy the condition on the outline consent.

4.3 SC Trees (18-05-15) – No Objection:

I am happy with the tree and hedge planting information in terms of species choices, size of stock and planting locations / mixes and also the specifications and schedules for the planting operation itself. I would recommend approval of these elements of the landscape details, as per Planting Plans LDS337-01B and -02B (Sheets 1 & 2, Landscape Design Solutions (NW) Ltd, Mar 2015) and the Planting Schedule LDS337(B) PS (Landscape Design Solutions (NW) Ltd, 26/03/15).

However, I note that condition 21 to the outline permission (ref: 12/04646/OUT) required a landscape management plan to be submitted thus:

A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

I could not see in any of the submitted drawings and schedules any information relating to postplanting maintenance of the trees, hedges, shrubs and other soft landscape features. For example items such as: weeding / watering as required to ensure successful establishment and growth of the newly planted vegetation; replacement of any losses during the maintenance period; re-firming of plants and straightening of tree stakes, ties and guards if required; loosening and eventually removal of tree ties and shelters at the end of the maintenance period; and so on.

I suggest this information, along with details of routine on-going operations such as grass cutting, hedge trimming, litter picking etc, should be provided in the form of a maintenance schedule and timetable, in order to fully meet the requirements of the landscape condition attached to the original application.

(Officer Comment: The above are matters for the separate discharge of condition application).

4.4 SC Affordable Housing (27-05-15) – No Objection:

The affordable housing provision as outlined on Plan reference 20127-PL-01G is acceptable and compliant with the requirements of the SPD Type and Affordability

of Housing in terms of mix and tenure. The prevailing target rate for the application site area is 15% and therefore in addition to the on site provision the applicant will need to make a financial contribution for the remaining fraction (0.6).

4.5 SC Conservation (01-05-15) – No Comments:

We have no comments to make in relation to conservation matters.

4.6 SC Public Protection (21-04-15) - Comment:

Noise has been assessed and presented as a potential issue. As a result a mitigation plan is required to demonstrate that the residential properties will be suitably protected from road noise from the motorway to the northern boundary of the site.

No details of mitigation have been proposed. I would suggest the applicant refers to the previously submitted noise assessment for details of the zoning requiring attention. The applicant should base mitigation measures around ensuring that the WHO guidelines for community noise are satisfied at all properties including internal noise levels of 35dB in living spaces in the day, 30dB in bedrooms at night both with windows open or closed with a suitable ventilation system noted. External areas in gardens should be targeted at 50dB and if above should have mitigation provided.

Officer Comment: The above matters have been addressed by conditions 5 and 6 on the outline planning permission and the reserved matters submitted in terms of layout conforms to these requirements. It is not possible to condition or require the submission of a further mitigation measures in assessing the reserved matters submission.

4.7 SC Highways Development Control – No Objection:

**Access**

Vehicle access to the development has been established at outline planning stage, prior to commencement of works on site, a Section 278 Agreement under the Highways Act 1980 should be entered into prior to cover all proposed works on the existing highway.

**Design and Layout**

Shropshire Council as Highway Authority does not raise an objection in principle to the overall layout of the development, the majority of initial comments have been taken on board, however would raise concerns with regard to the level of proposed parking for some dwellings, and location of allocated parking spaces for individual properties.

**Parking and Plot layout**

**Plots 2/3/5**

Allocated parking for the above mentioned plots is located on the opposite side of the carriageway, which could encourage on street parking; it is recommended that consideration is given to amending the proposed house type to allow parking within the curtilage of the property boundaries.

**Plot 136-143 & Plot 160-163**

Allocated parking for the above mentioned plots is one space per plot, supported by visitor parking, it is recommended that consideration is given to increasing the level of proposed parking, specifically for Plots 136-143.



**Construction**

A detailed construction management plan should be submitted prior to commencement of works. Details of phasing and any proposed temporary turning facilities should be submitted be subject to an appropriate planning condition.

**Recommendation**

It is recommended that the following planning conditions are attached to any permission granted;

1. Prior to the commencement of development full engineering details of the new access roads, footways, parking areas, highway surface water drainage, street lighting and carriageway markings/signs shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details with the estate roads, footways, vehicle manoeuvring and turning areas completed to at least base course macadam level and made available for use before the dwellings they serve are first occupied.

Reason: To ensure a satisfactory access to the site and dwellings, in the interests of highway safety.

- 4.8 SC Archaeology (24-04-15) – No Comments:  
We have no comments to make on this application with respect to archaeological matters, only to reiterate the archaeological condition 20 applied to application 12/04646/OUT.  
We have received and approved a written scheme of investigation (WSI) by EDP for an archaeological watching brief, in relation to Condition 20, which can be fully discharged once the programme of archaeological work has been completed and fully reported on in relation to the entire development site under planning permission 12/04646/OUT.
- 4.9 SC Ecology (06-05-15) – No Comments.
- 4.10 SC Parks and Recreation (15-05-15) – Comment:  
Consideration should be given to moving the LEAP away from any water feature.
- 4.11 SC Learning and Skills (12-05-15) – Comment:  
Shropshire Council Learning and Skills reiterates that this development, in aggregation with others in the town, will cause capacity pressures at the local primary schools in the near future. It is therefore essential that the developers of this and any other new housing in the town contribute towards the consequential cost of any additional places/facilities considered necessary at the schools.
- (Officer comment: This is a CIL matter and not one for the reserved matters stage of a development).
- 4.12 SC Waste Management (18-06-15) – No Objections to revisions to bin collection points and vehicle tracking drawings. Comment that the contractors say the details look fine, the only problem would be residents parking in the turning areas.

SC Waste Management (22-05-15): Copy of updated guidance note supplied.

- 4.13 -Public Comments  
3 Objections:
- Concerned that access opposite 15 Haughton Road will make it difficult to get in and out of his property; suggests cross roads adjacent to Worfe Road rather than two 'T' junctions approximately 20 metres apart.
  - Impact of additional traffic on Haughton Road/Haughton Lane junction, Haughton Road towards Telford and Haughton Lane; have seen no proposals to reduce the severity of these problems.
  - Why is no traffic island proposed for the exit onto Haughton Road opposite Worfe Road.
- Sustainable (SUDS) design and maintenance management plan not fit for purpose.
  - Water and sewage disposal off the site is hoping present infrastructure can cope.
  - Wesley Brook is very vulnerable at peak times; blocked sewers in Worfe Road/Haughton Road are not uncommon.
- Proposals for medical centre are meaningless; this safeguarded land will be developed with additional housing.

## 5.0 THE MAIN ISSUES

Principle of development  
Siting, scale and design of structures  
Landscaping and Ecology  
Open Space  
Residential Amenity  
Highway Safety  
Housing Mix  
Sustainability

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 The principle of residential development on this site has been accepted with the grant of outline planning permission 12/04646/OUT. The issue of access onto Haughton Road, junction designs and the associated highway improvements/traffic calming measures was considered at the outline stage and these details are controlled through conditions on the outline consent. The precise foul and surface water drainage details, noise reduction measures to be incorporated in dwellings, the content of a Travel Plan, archaeological investigation, the provision of a landscape management plan, external lighting, provision of bat boxes and artificial birds nests are all matters covered by conditions on the outline consent requiring the approval of details by the local planning authority. A discharge of condition application to cover these matters (ref 15/01399/DIS) is currently under consideration. The matters for consideration in this reserved matters application are solely those relating to the layout, appearance, scale, landscaping and access arrangements within the application site.



## **6.2 Siting, scale and design of structures**

6.2.1 The National Planning Policy Framework (NPPF) at section 7 places an emphasis on achieving good design in development schemes. It cautions at paragraph 60 that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It adds however that it is proper to seek to promote or reinforce local distinctiveness. The themes of the NPPF are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.2.2 The proposed house types would be well proportioned and appropriate for this location. The predominant use of brick and tile, but with some units having rendered elements, and the brick detailing would reflect features found in and around Shifnal. The inclusion of short projecting front gables to some dwellings, in a variety of forms and styles, bay windows, canopy porches, full gabled and hipped roofs, and chimneys on plots at focal points within the development would provide variety and interest to the street scenes. There would be variations in the depth of set back of dwellings from the roads. The block paved surface treatment to some road junctions within the development, to sections of private drives and the curving alignment of road sections would also enhance the street scenes. The proposed walls and fences to garden areas, along with the hedge and tree planting would create an attractive public realm within the development. It is considered that the network of footpaths along the southern and eastern boundaries and through the western area of open space, would create an attractive, accessible environment. The proposed layout would not prejudice the achievement of satisfactory drainage arrangements under the discharge of condition application

6.2.3 There is a requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to have a specific duty to have special regard to the desirability of preserving listed buildings or its setting or any features of special architectural or historic interest which it possesses in the carrying out of statutory functions. The same Act requires special regard to be paid to the preservation or enhancement of the character or appearance of conservation areas and their setting by local authorities in the exercise of statutory functions. There are no listed buildings in close proximity of the application site. The Haughton Conservation Area is some 270 metres from the application site at the closest point and it is considered that the setting of that area would not be harmed by the details contained in this proposal. It is noted that the Conservation Officer has no adverse comments to make on the proposals.

## **6.3 Landscaping and Ecology**

6.3.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. At the outline stage the Council's Planning Ecologist was content that the development would not harm ecological interests and she has no comments to make on these detailed proposals.

6.3.2 Core Strategy policies CS6 and CS17 also seek to protect and enhance those features which contribute to local character, which includes the hedgerows around the application site. The County Arboriculturalist has no objection to the tree and hedge planting proposals within the landscaping scheme, and they are considered appropriate for this location.

6.3.3 It is considered therefore, for the reasons explained in Section 6.2 of this report and paragraphs 6.3.1 and 6.3.2 above, that the proposed development would be appropriate in scale, density, pattern and design as required by Core Strategy policy CS6 and would not detract from the quality of the built environment and landscape setting to this part of Shifnal, satisfying also Core Strategy policy CS17.

#### **6.4 Open Space**

6.4.1 The Council adopted in January 2012 Open Space Interim Planning Guidance. This guidance has been updated and is being incorporated into the emerging Site Allocations and Management of Development Plan (SAMDev) in policy MD2 which advises that the amount of public open space to be provided by a residential development should be calculated on the basis of 30 sqm per bedroom. The existing and emerging guidance allows for sustainable urban drainage (SuDS) areas to be counted as part of the open space in a development where they are shown to be capable of dual use. For example a SuDS pool which does not hold water permanently and has gentle gradients to its banks can function as part of the public open space. In this particular case there would be 586 bedrooms in the development, which would generate a requirement for 17580 sqm of public open space. (In the Lioncourt Homes applications the 2011 Census data showing occupancy levels in the Shifnal North Ward of 2.4 persons per dwelling were accepted in the analysis which, if averaged with the bedroom calculation, result in a requirement for 14,940 sqm. The basis for this approach to calculating the open space is the expression of the standard as 3 hectares of space per 1000 population as set out in the IPG). The public open space areas within the site area covered by this reserved matters submission comprise primarily of the area containing two attenuation basins along the western side of the site (excluding the permanently wet areas); a linear strip adjacent to Haughton Road; and the linear strips adjacent to the eastern site boundaries. Considered in isolation from the remainder of the land which is included in outline planning permission 12/04646/OUT this proposal, and the Bovis scheme also currently under consideration, would fall below the target for the amount of public open space in the interim planning guidance. However, when the area of 'Community Land' is taken into account, and allowing for the land take likely for a swimming pool building and allotments, then the development of the land with outline planning permission as whole could meet the target, in line with the illustrative layout submitted with the outline planning application.

6.4.2 This same issue arose in the consideration of the set of four reserved matters applications which have been approved, which did not include the community land area, but at that time there was no issue with parts of the outline permission site being in different ownerships to secure delivery of the open space for the whole development. The agent was asked to comment on the amount of open space provision with this reserved matters submission and, in response, has submitted an Open Space Addendum report.

6.4.3 The above report notes that for the approved Lioncourt Homes reserved matters application the open space assessment for the whole site showed that those proposals generated a requirement for some 2.88 hectares of open space and the schemes exceeded that figure by providing some 3.5 hectares comprising of 1.6ha of amenity open space, 1.0ha of recreational open space and 0.9ha of natural and semi natural open space. An overlay of the open space plan produced for the Lioncourt schemes with that of the current proposal and that submitted by Bovis Homes also currently under consideration shows that the attenuation basins are reduced in size in the current scheme, creating more amenity space. The comparative open space areas are some 34,149 sqm for the Lioncourt scheme compared to 34,200sqm for the combined Taylor Wimpey/ Bovis schemes. A detailed breakdown open space review advises that:

16,842 sqm of amenity open space would be provided within the central spine of the site and in areas surrounding residential development, which follows the same approach undertaken with the Lioncourt Homes reserved matters approvals. 7,762 sqm of natural and semi-natural open space would be provided in the vicinity of attenuation areas and on the northern border of the site, again following the approach with the Lioncourt Homes reserved matters. 9,556 sqm of recreational open space is provided to the north of the Bovis Homes scheme (and within their application site) and 400 sqm of recreational open space would be provided within the central open space corridor to accommodate a play area funded by CIL.

The above totals approximately 3.5ha, which matches the provision in the Lioncourt Homes approvals

6.4.4 The Open Space Addendum report suggests that other factors to be taken into account in relation to open space is the area that would contain the allotments and, potentially, a swimming pool as the former would have a potential area of some 2075 sqm based on the masterplan with the outline permission, and the latter a land take that would still enable to Community land area to deliver some 7478 sqm to come forward as open space (incorporating the proposed allotment land). The report also makes mention of land outside of the land with outline planning permission, along the eastern boundary of the site with Newport Road and along the northern boundary of the site (adjacent to the M54), which constitutes semi-natural open space adjacent to new residential developments which the Open Space IPG makes reference to having a potential habitat and visual amenity function (Totalling some 17,500 sqm). The location of the site within 170m of the Beech Drive recreation area, with play facilities, sports pitches and BMS tracks is also mentioned.

6.4.5 While the current proposal would deliver 14,965 sqm of open space directly within the application area, against an IPG target of 17,580 sqm, the above context, taking account of the full extent of the land with outline planning permission; the extant reserved matters approval comparisons, and the likelihood that the development proposals for the whole site will be constructed even with the splits in land ownership of the outline permission site between developers, is considered sufficient to demonstrate that the proposal would deliver an appropriate amount of

open space in accordance with Core Strategy policy CS6 and the guidance in the Interim Open Space SPD.

6.4.6 Measures to secure the future maintenance of the open space are through condition 21 of the outline consent.

## **6.5 Residential Amenity**

6.5.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The nearest existing residential properties to the site are those on the southern side of Haughton Road. The nearest for these dwellings would be some 20 metres from the application site boundary, where an area of linear public open space and a cul-de-sac road would run parallel to Haughton Road and the southern end of the open space along the western side of the application site, which would contain the attenuation pools, would abut Haughton Road located. The nearest dwellings in the proposed development would be some 45 metres from the existing dwellings at the closest point. It is considered that these separation distances would not result in any undue harm to the residential amenities of the existing dwellings. The location of the open space areas would not significantly impact on the living conditions of nearby properties.

6.5.2 There would be no residential amenity conflicts in terms of unacceptable overbearing or privacy impacts within the development itself. The positioning and orientation of the proposed dwellings along the northern side of the site, and condition 5 of the outline consent that requires the incorporation of noise reduction measures in accordance with the approved Noise Assessment Report, would ensure there would be no undue harm to the residential amenities of properties in the proposed site layout.

6.5.3 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue has been addressed by a condition (15) on the outline permission restricting hours of working to 07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays, Public or Bank Holidays, and condition 16 requiring the approval of a construction method statement to mitigate the temporary impact.

## **6.6 Highway Safety**

6.6.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:  
“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure 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 reduced. It seeks to achieve safe development and saved Bridgnorth District Local Plan policy D6 states that development will only be permitted where the local road network and access to the site is capable of safely accommodating

the type and scale of traffic likely to be generated. It is acknowledged that there are concerns about the impact of development on the traffic situation within Shifnal and this aspect of the proposal was fully appraised in the consideration of the outline application. All details of the accesses onto Haughton Road and off site improvements to accommodate traffic generated by the development of this site have been addressed under planning permission 12/04646/OUT. The highway considerations in this reserved matters application relate solely to the road and parking layouts within the site.

6.6.2 Highways Development Control are content that the proposed highway layout within the site is acceptable on highway safety grounds and would allow for adequate access by service vehicles. With regard to their observations about the location of the parking to plots 2, 3 and 5, the spaces are close to a cul-de-sac turning head on a road that would serve 12 properties. It is not considered that the proposed arrangements here would lead to conditions detrimental to highway safety. Plots 136-143 and 160-163 would be one bedroomed properties. Plots 160-163 would have four spaces for four properties and two visitor spaces, meeting the parking standards of the former Bridgnorth District Council which are still in force in the south east Shropshire area. In the case of plots 136-143 specifically mentioned, there would be 11 spaces to serve eight properties. This level of provision is one visitor space below the ratio of 1.5 spaces per dwelling normally sought in these situations. However the properties in question are one bedroomed units, which would be situated at the end of a private drive where there would be other informal parking opportunities for visitors. Vehicle speeds would be low and there would be no adverse impact on the public highway. It is not considered that a refusal on the grounds of insufficient off street parking could be sustained in this case.

## **6.7 Affordable Housing and Housing Mix**

6.7.1 Core Strategy policy CS9 (Infrastructure Contributions) highlights the importance of affordable housing as 'infrastructure' and indicates the priority to be attached to contributions towards the provision from all residential development. With regard to provision linked to open market housing development, Core Strategy policy CS11 (Type and Affordability of Housing) sets out an approach that is realistic, with regard to economic viability, but flexible to variations between sites and changes in market conditions over the plan period. In this particular case the applicants are prepared to deliver affordable housing at the 15% prevailing rate applicable at the time the application for reserved matters was submitted. The mechanism to secure this delivery of affordable housing and for it to be affordable in perpetuity is included in the section 106 agreement which forms part of the outline planning permission.

6.7.2 Throughout the whole development there would be 12 one bedroomed properties, 29 two bedroomed properties; 56 three bedroomed properties; and 87 four bedroomed properties. The Council's Affordable housing team are content with the affordable housing mix (12 one bed; 12 two bed; 2 three bed and 1 four bed within the above housing totals), their positioning and tenure of the 27 units of affordable housing within the proposed development. (19 of these affordable dwellings would be for rent, with 5 two bedroomed and 3 three bedroomed properties as intermediate housing). The precise open market dwelling mix is a marketing decision for the applicant, but it is considered that the mix of development proposed



here in the Shifnal context with existing and proposed developments would be in accordance with Core Strategy policy CS11, which seeks to achieve mixed, balanced and inclusive communities.

## **6.8 Sustainability**

- 6.8.1 Core Strategy policy CS6 seeks to ensure that sustainable design and construction principles are incorporated within new development. A Sustainability Statement has been submitted with this application. This statement advises that, with regard to material selection, Taylor Wimpey operate a nationwide timber procurement policy which has at its core a commitment to purchase legally and sustainably sourced timber throughout the whole supply chain; to give preference materials which have a lesser environmental impact than rival products in developing materials specifications, and to source materials from suppliers who have environmental management systems in place which conform to the BES Excellent or Very Good standard. The Green Guide ratings for the Haughton Road development would achieve 'A+' for external walls, roof, ground floor, intermediate floor, and 'A' for internal walls and glazing, with a 'C' rating for party walls.
- 6.8.2 Measures would be taken during construction to reduce pollution by providing impervious bases and bunds to fuel and chemical stores; dust suppression built into specialist cutting equipment, waste containers and skips covered and hard surfaced roads constructed at the earliest time the build programme allows. The Sustainability Statement advises that, although there is no legal obligation to operate a site waste management plan, the applicants intend to operate such a plan in connection with this site. This plan would minimise wastage during the construction phase; retain as much material on site as possible to reduce disposable volumes; reduce packaging of materials with take back agreements.
- 6.8.3 The health and well-being of the occupants would be addressed by each property having a large living/dining space or family space; a room suitable for use as a home office should it be needed in the future; outdoor private space with a designated space for recycling facilities; garaging large enough to store bicycles and gardens large enough for other cycle storage facilities; and a party wall specification to reduce sound transmission between properties. The dwellings would incorporate low flow sanitary ware and eco-sanitary products to achieve a low water consumption rate, instead of compensating for a high usage through grey water recycling or rainwater harvesting. Their calculations are that the development would achieve a lower consumption per person per day than the Government's water efficiency target set out in the Technical Housing Standards Review.
- 6.8.4 The Energy Strategy adopted by the proposed development is to adopt a fabric first solution to sustainable construction, to reduce long term energy consumption and carbon dioxide emissions, in line with Part L of the Building Regulations which signal the Government's preference for developers to implement fabric first solutions to sustainable construction. The Statement submitted comments that the Government has confirmed it will rely on a 'building regulations only' approach to deliver zero carbon homes by 2016. High levels of insulation would be incorporated in ground floors, external walls and roof spaces; the detailed designs would incorporate thermal bridging guidance produced by Government to reduce a significant source of heat loss; energy efficient heating, lighting, extraction and

appliances would be installed/offered.

- 6.8.5 It is considered that the above measures are sufficient to satisfy this element of Core Strategy policy CS6 and the components of the environmental dimension of sustainability set out in the NPPF, relating to the use of natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change including moving to a low carbon economy.

## 7.0 CONCLUSION

- 7.1 The principle of a residential development of up to 400 dwellings on the land with outline planning permission, of which this reserved matters submission for 184 dwellings forms part, along with the access arrangements off Haughton Road has been accepted with the grant of outline planning permission 12/04646/OUT. The proposed scheme in terms of layout, scale, appearance and landscaping would not detract from the wider landscape setting of Shifnal of the immediately locality, including the setting of the Haughton Conservation Area and the heritage assets within it. The amount of public open space within the development, in the context of the whole outline permission site, would be satisfactory in relation to the Council's interim planning guidance on open space. The design of the internal road network would not be detrimental to highway safety and the amount of off road parking would accord with the standards of the former Bridgnorth District Council which still apply to south east Shropshire. The design of the proposed development would have no significant impact on neighbour amenity. The reserved matters scheme would deliver affordable housing at the current prevailing rate for Shifnal.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

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



## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

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

Shropshire Core Strategy and saved Local Plan policies:  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management  
D6 Access and Parking

SPD on the Type and Affordability of Housing  
Open Space IPG

RELEVANT PLANNING HISTORY:

12/04646/OUT Outline application (access) for residential development; erection of a community swimming pool, a medical centre and community allotments, with associated parking, public open space, including balancing pond, and associated earthworks and other ancillary works GRANT 22nd March 2013

13/00273/OUT Outline planning application (all matters reserved) for the development of 3,000sqm office floorspace, with associated parking, earthworks and other ancillary works REFUSE 5th June 2013

14/00691/REM Approval of reserved matters (siting, design, appearance, landscaping) pursuant to permission 12/04646/OUT for the mixed residential development of 83 properties; associated highway works; ancillary works (Phase 1 of residential development) GRANT 23rd December 2014

14/00692/REM Approval of reserved matters (siting, design, appearance, landscaping) pursuant to permission 12/04646/OUT for the mixed residential development of 101 properties; associated highway works; ancillary works (Phase 2 of residential development) GRANT 23rd December 2014

14/01519/REM Approval of reserved matters (siting, design, appearance, landscaping) pursuant to permission 12/04646/OUT for the mixed residential development of 97 properties; associated highway works; ancillary works (Phase 3 of residential development) GRANT 23rd December 2014

14/01520/REM Approval of reserved matters (siting, design, appearance, landscaping) pursuant to permission 12/04646/OUT for the mixed residential development of 119 properties; associated highway works; ancillary works (Phase 4 of residential development) GRANT 23rd December 2014

15/01399/DIS Discharge of conditions 7 (Drainage), 8 (Phasing Plan), 9 (Location of Affordable Housing), 11 (Visibility splays), 13 (Travel Plan), 16 (On-site Construction), 17 (Ecology), 19 (Nests), 20 (Archaeology), 21 (Open Space) on planning permission 12/04646/OUT for outline application (access) for residential development; erection of a community swimming pool, a medical centre and community allotments, with associated parking, public open space, including balancing pond, and associated earthworks and other ancillary works. PCO

erved matters application for the erection of 216 dwellings pursuant to outline permission reference 12/04646/OUT PCO

15/01899/DIS Discharge of Condition 8 (Phasing Plan) relating to planning permission

15/02017/ADV Erection of non-illuminated freestanding Land Acquired promotional board PCO

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

Planning and Design Statement; Sustainability Statement; Open Space Addendum

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Kevin Turley

**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.
2. The new access roads, footways, parking areas, highway surface water drainage, street lighting and carriageway marking/signs shall be fully implemented in accordance with details to be approved in writing by the Local Planning Authority, with the estate roads, footways, vehicle manoeuvring and turning areas constructed to at least base course macadam level and made available for use before the dwellings that they would serve are first occupied.

Reason: To ensure the provision of adequate means of infrastructure and access prior to occupation, in the interests of highway safety.

3. All hard and soft landscape works shall be carried out in accordance with the approved details in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

**Informatives**

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 187.
2. The land and premises referred to in outline planning permission 12/04646/OUT are the subject of an agreement under Section 106 of the Town and Country Planning Act 1990.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
5. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

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Committee and date

South Planning Committee

14 July 2015

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 15/01976/FUL	<b><u>Parish:</u></b>	Cleobury Mortimer
<b><u>Proposal:</u></b> Conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse		
<b><u>Site Address:</u></b> Proposed Dwelling Rear Of 4 Church Street Cleobury Mortimer Shropshire		
<b><u>Applicant:</u></b> Mr Gwilym Butler		
<b><u>Case Officer:</u></b> Emily Napier	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 367390 - 275729

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

Recommended Reason for Approval

**REPORT****1.0 THE PROPOSAL**

- 1.1 Seeks the conversion of a redundant pharmacy store from Use Class A1 to Use Class C3 (Dwelling house)
- 1.2 Some modest works are proposed in order to facilitate the conversion; this is primarily the introduction of windows in place of doors. A porch was proposed however following objections from neighbours, the town council and Shropshire Councils Conservation team this was omitted from the plans.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The property to which this application relates is a modest structure forming a more recent addition to the rear on an existing A1 premise. The structure is a modest single storey extension at the rear of 4 Church Street. 4 Church is a grade II listed building occupying a prominent position on Church Street, within Cleobury Mortimer conservation area. The building is early C18 with later additions, and is constructed principally of brick under a tile roof with decorative ashlar details. The application concerns the single storey outbuilding attached to the rear of the building, previously used as a store room, which is accessed via a central passageway from the front of the building. The outbuilding is considered listed by virtue of being attached to the main listed building, although is a much later mid C20 structure, and does not in itself appear to be of any historic interest. However, works to this part of the building will result in an impact on the main listed building.
- 2.2 There are a number of residential units already accessed via the rear of 4 Church Street, there is one self contained flat adjacent to the building related to this application with a number of windows facing out towards to application building, the primary window that will most likely be visible from the application building serves kitchen/ living room area.

**3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment.

**4.0 Community Representations****4.1 Consultee comments**



**4.1.1 Shropshire Council Conservation** – comments received 22<sup>nd</sup> June 2015

From visiting the site, it does not appear that the conversion will involve any works to the historic fabric of the listed building, and will solely involve works to the mid C20 outbuilding to the rear. The materials and finishes of the building currently have little cohesion with the main listed building, and therefore conversion of the building may be a good opportunity to improve its visual appearance. Therefore, generally no objection is raised to the proposals; however we would recommend that the following amendments could be made:

-As part of the conservation, improvements could be made to the visual appearance of the building by replacing the existing roof covering with either slate or plain clay tiles. This would allow it to blend better with surrounding buildings in the conservation area.

-The existing brickwork is also of little merit; therefore the proposed rendered insulation coating should improve the appearance of the building, and is supported. We would recommend that a system is considered which has a traditional lime finish, which would be appropriate to the adjacent listed building. Details are required of the texture and colour, and also how the render will be finished at ground and eaves level- however this could be secured as a condition.

-It is considered that the proposed porch will be visually intrusive to the courtyard/ passageway area to the rear of the building, and could be omitted in order to retain the existing linear building line.

-The proposed alterations to window openings, and the installation of patio doors to the gable are considered acceptable. All new windows should be flush fitting timber casements (without trickle vents). Joinery details could be secured by condition.

-Further improvements could be made to the setting of the listed building by replacing the existing concrete courtyard/ passageway with appropriate paving or sets.

**Recommendation**

Overall, no objection is raised to the proposed conversion, and providing consideration is made to the above recommendations; it is felt that this should preserve and enhance the character of both the listed building and conservation area, in accordance with parts 66 and 72 of the Planning (Listed Buildings and Conservation Areas act) 1990.

Case officer note: The comments were submitted prior to amendments and it is therefore considered that comments relating to the porch have been resolved.

**Suggested conditions:**

J5- Rainwater goods

J8- Roof details

C2- Material samples (for render coating)

J24-Joinery details

**4.1.2 Shropshire Council Archaeology** – Comments received 12<sup>th</sup> June 2015

The proposed development is located within the Medieval urban form of Cleobury Mortimer (HER PRN 05478) as defined by the Central Marches Historic Towns Survey, a group of tenement plots, south of Church Street (HER PRN 05473) and within a possible Anglo Saxon Minster enclosure tentatively based on stream and minor streets (HER PRN 05468). In light of this the proposed development site may have some archaeological potential and any below ground archaeological remains may to be affected by the construction of the proposed entrance lobby.

**RECOMMENDATION:**

In view of the above it is recommend that an archaeological inspection of the ground works for the proposed entrance lobby be made a condition of any planning permission for the proposed development. An appropriate condition of any such consent would be: -

**Suggested Conditions:**

No development approved by this permission shall commence until the applicant has notified Shropshire Councils Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide him/her with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.

Officer comments: The above condition was recommended prior to the omission of the porch from the proposals.

**4.1.3 Shropshire Council Affordable Housing** – Comments received 28<sup>th</sup> May 2015

Listed Buildings are noted as an exemption in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. Therefore no contribution will be required in this instance.

**4.1.4 Shropshire Council Drainage** – Comments received 27<sup>th</sup> May 2015

No objection informative advised.

**4.1.5 Cleobury Mortimer Parish Council** – Comments received 23<sup>rd</sup> June 2015

Cleobury Mortimer Parish Council OBJECT to both these planning applications due to the impact, especially from the proposed entrance lobby, on the amenity of the neighbours. This lobby would severely reduce the light to the property opposite and is proposed to be built on the communal access area. There are some anomalies in the application paperwork ie the property opposite has windows which will be directly overlooked and there will be works affecting both the interior and exterior of the building which is not noted in the application form. Council is also concerned with the Change of Use which will remove a business property from the town.

## 4.2 - Public Comments

- 4.2.1 Two representations have been received in respect of the application, detailing OBJECTIONS to the proposals, full details are available on the planning file, a summary of the key material considerations raised is provided as follows:  
Impingement of light and privacy if porch and elevation is built by way of its height and proximity to adjacent dwelling.  
Former windows will be lowered, reducing privacy of opposite neighbour  
Bin stores not fundamentally necessary and will be a permanent intrusion into an area specifically designated in leases for an un-encumbered benefit of all occupiers.  
Building would be better used for the purpose it intended.  
Lack of amenity, parking will be exacerbated by the creation of a new dwelling.  
Three properties already occupied here, creation of an additional dwelling will be over crowding given limited access and number of inhabitants already occupying the dwelling space.  
Would have a marked effect on privacy, access for building operatives, emergency services and facilities in the Communal Area previously enjoyed by the present tenants which are included in the deeds to the property.  
Q10 applicant has answered no to works to interior/exterior when the formation of kitchen/ bathroom/ porch and doors and windows will involve such works.  
Q19 applicant has answered no to the question regarding the presence of trees when in fact there is a well established Perry Pear Tree which would affect the development.  
Design and Access Statement doesn't use plural for properties or gardens, could be taken to imply that existing premises are used by fewer people than they actually are.

## 5.0 THE MAIN ISSUES

**Principle of development**

**Siting, scale and design of structure**

**Impact on amenity**

**Impact on character and appearance of Conservation Area**

**Parking**

**Trees**

**Archaeology**

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 The town of Cleobury Mortimer is a historic Market town, within the Shropshire Core Strategy. Policy CS3 advocates support for development within the town that balances environmental constraints whilst helping to meet local needs. The property is located within a central town centre location and subsequently is considered to be a sustainable location, where there is easy access to services, facilities and public transport to the wider County, it is therefore considered that residential development in this location would meet the principles of the NPPF in

that the reliance upon private modes of transport for carrying out day to day activities would be reduced. In this regard it is considered that the principle of residential development within the town of Cleobury Mortimer is supported by the Council.

6.1.2 The Local Planning Authority in approving applications for change of use does not seek to encourage the loss of A1 space in a town centre location. However, the Design and Access statement sets out that the A1 space retained under the proposals will be 25.5sqm including 12.5sqm for storage and staff welfare provisions. The unit has been successfully let as a Barber Shop (A1) and subsequently it is considered acceptable for some storage provision to be lost without jeopardising future A1 facilities.

6.1.3 As the application site is within a designated Conservation Area proposals also need to meet policy CS17: Environmental Networks, which seeks to protect and enhance the historic environment and the character and appearance of the locality. Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 6.2 **Siting, scale and design of structure**

6.2.1 The application originally proposed the addition of a porch to the exterior of the property; this was omitted from the proposals on grounds of the impact on the character and setting of the listed building. Subsequently there are minor alterations proposed to the exterior of the building, these include the addition of doors and windows to facilitate the conversion into a habitable dwelling. In considering the revised proposals it is considered that the alterations are sympathetic to that character and appearance of the existing property and will not unacceptably impact upon the visual amenity of the area. In this regard the proposals are therefore considered acceptable under policy CS6 of the Shropshire Local Development Framework Core Strategy.

## 6.3 **Impact on residential amenity**

6.3.1 Concerns have been raised with regards to the impact on the amenity of neighbouring occupiers, a number of separate issues have been raised in this remit and for clarity each issue shall be assessed separately.

6.3.2 The representations made referred to the impact the proposed porch would have on the light available for the occupier of the opposite dwelling, having had this omitted from the proposals it is considered that given there will be no external additions to the building there will be no impact upon the light available to the occupier of the adjacent dwelling.

6.3.3 The representations made refer to the increased risk of overlooking. There will be three windows on the North Eastern elevation of the property facing towards The officer has considered the proposals and considers that the presence of windows and doors approximately 5.2 metres adjacent to the window on the South Western elevation of the neighbouring property elevation will already create an element of

overlooking if the building was used for its lawful use. Notwithstanding this it is accepted that with a residential occupation it is likely that there may be greater likelihood of continued usage which may increase the amount of overlooking between the two properties. Subsequently the officer considers it appropriate to utilise a condition to ensure that the proposed door and window serving the lobby and window serving the kitchen area on the North Eastern elevation should be conditioned to remain obscure glazed. Given that the main living accommodation will likely gravitate towards the rear French doors it is not considered that the use of an obscure glazed window within this living area will unacceptably harm the amenity that should rightfully be expected to be enjoyed by future occupiers of the property. This condition will ensure that the overlooking between the two properties is reduced substantially to a level considered to be acceptable.

6.3.4 It is considered that the increased footfall using access to the proposed dwelling will be minimal given the dwelling will likely only be occupied by 1-2 people given its proposed size. It is therefore considered that this will have a minimal degree of disturbance to occupiers of dwellings who already utilise the access at 4 Church Street.

6.3.5 Reference has been made in representations to the deeds which allow right of access to all occupants. This is a civil matter and not one that can be taken as a material consideration. With regards to the impact of bin storage facilities, there already exists some form of external storage at the same point on the building, whilst the bin storage will be slightly larger it is not considered that this will create an obstruction that could be argued to unacceptable impact on the amenity of occupiers of dwelling within the vicinity of the site. Furthermore, the visual amenity may be improved by containing waste facilities in a less obvious and prominent manner. Having considered the existence of similar bins within the courtyard area the officer considers that the waste facilities will provide some improvement upon existing.

#### 6.4 **Impact on character and appearance of the Conservation Area**

6.4.1 Given the location of the property and modest external alterations proposed it is not considered that the proposals will alter significantly the character and appearance of the Conservation Area. In this regard it is considered that the proposals will accord with policy CS6 and CS17 of the Shropshire Core Strategy.

#### 6.5 **Parking**

6.5.1 The proposals will create one additional dwelling in a central market town location which is considered to be sustainable in that it is in a well served location with access to key services, facilities and public transport that are required for day to day functioning. In this regard it is considered that the necessity of a car will be reduced. Notwithstanding this it is considered that the addition of a single bedroomed dwelling will not rise to such an increase in parking requirements that it could be considered unacceptable. Subsequently it is considered that the proposals will not increase substantially the parking issues that are believed to be prevalent in the locality to such a degree that it would be considered harmful to highway safety.

## 6.6 Trees

- 6.6.1 There is a tree located at the rear of the site, although this was not noted in the submitted application form it was visible on the Officers site visit and photos submitted by the agent clearly show this tree. It is not considered that the proposals will give rise to substantial harm to the tree, given that there will be no works taking place in the vicinity of the tree that would require disturbance to the tree root area. Furthermore, the tree, being located in a Conservation Area, would require a Tree Protection application in the event of ambitions to prune or remove this tree. It is subsequently considered that the proposals, being for change of use, will not unacceptable harm a protected tree and resultantly it is considered the proposals accord with policy CS17 of the Shropshire Core Strategy.

## 6.7 Archaeology

- 6.7.1 Archaeology requested conditions relating to an archaeological inspection prior to ground works commencing. Having had the porch omitted from the plans the officer has confirmed with Archaeology Officers that this condition is not longer required, it should subsequently be omitted from any decision.

## 7.0 CONCLUSION

- 7.1 It is considered that the proposals will still allow for provision of retail space in a key town centre area. The proposals will incur some increased footfall using the access via 4 Church Street, which is already utilised by a number of other dwellings, however, it is considered that given the dwelling proposed will provide the equivalent of one additional bedroom space the increase in footfall will not be to an extent that could be reasonably argued as being unacceptable. There will be some increased likelihood of overlooking into the neighbouring property given the change in use which would likely incur more frequent usage of space served by the two windows on the North Eastern elevation, however the officer considers that the use of obscure glazing would reduce this likelihood to an acceptable level.
- 7.2 Cleobury Mortimer is a sustainable settlement which can provide a relatively wide degree of services to cater for day to day living requirements, subsequently the reliance upon the private motor vehicle is reduced. Notwithstanding this it is considered that the increase in parking needed on street would be relatively minimal and could not be warranted as an unacceptable increase that would exacerbate current parking situations.
- 7.3 The proposals will not harm the character or appearance of the conservation area and will provide low cost residential accommodation in a sustainable settlement. It is therefore recommended that the application be APPROVED subject to conditions.
- 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

15/01976/FUL Conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

15/01977/LBC Listed Building Consent for works to facilitate the conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

<b>List of Background Papers</b> (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
<b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price
<b>Local Member(s)</b> Cllr Gwilym Butler Cllr Madge Shineton
<b>Appendices</b> APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

2. The development shall be carried out strictly in accordance with the approved amended plans and drawings L (\_\_\_) 001 REV B, L (\_\_\_) 002 REV B, L (90) 000 REV D as received on 26th June 2015.

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

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

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

3. The external materials (for render coating) shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

4. 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 Listed Building.

5. The windows in the North Eastern elevation, with the exception of the window serving the bedroom accommodation shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.

**Informatives**

1. The applicant should consider employing measures such as the following:

Water Butts

Rainwater harvesting system

Permeable surfacing on any new driveway, parking area/ paved area

Attenuation

Greywater recycling system

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

2. This planning permission should be read in conjunction with Listed Building Consent No. 15/01977/LBC, to which further/alternative conditions may be attached.
3. 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.



<p><u>Committee and date</u></p> <p>South Planning Committee</p> <p>14 July 2015</p>
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## 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><u>Application Number:</u></b> 15/01977/LBC	<b><u>Parish:</u></b>	Cleobury Mortimer
<b><u>Proposal:</u></b> Listed Building Consent for works to facilitate the conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse		
<b><u>Site Address:</u></b> Proposed Dwelling Rear Of 4 Church Street Cleobury Mortimer Shropshire		
<b><u>Applicant:</u></b> Mr Gwilym Butler		
<b><u>Case Officer:</u></b> Emily Napier	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 367390 - 275729

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

Recommended Reason for Approval

**REPORT**

**1.0 THE PROPOSAL**

- 1.1 Seeks the conversion of a redundant pharmacy store from Use Class A1 to Use Class C3 (Dwelling house)
- 1.2 Some modest works are proposed in order to facilitate the conversion; this is primarily the introduction of windows in place of doors. A porch was proposed however following objections from neighbours, the town council and Shropshire Councils Conservation team this was omitted from the plans.
- 1.3 The proposals related to this application also require full planning permission related to the change of use of the building, this assessment is made in a separate application under 14/01976/FUL.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The property to which this application relates is a modest structure forming a more recent addition to the rear on an existing A1 premise. The structure is a modest single storey extension at the rear of 4 Church Street. 4 Church is a grade II listed building occupying a prominent position on Church Street, within Cleobury Mortimer conservation area. The building is early C18 with later additions, and is constructed principally of brick under a tile roof with decorative ashlar details. The application concerns the single storey outbuilding attached to the rear of the building, previously used as a store room, which is accessed via a central passageway from the front of the building. The outbuilding is considered listed by virtue of being attached to the main listed building, although is a much later mid C20 structure, and does not in itself appear to be of any historic interest. However, works to this part of the building will result in an impact on the main listed building.
- 2.2 There are a number of residential units already accessed via the rear of 4 Church Street, there is one self contained flat adjacent to the building related to this application with a number of windows facing out towards to application building, the primary window that will most likely be visible from the application building serves kitchen/ living room area.

**3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

- 3.1 Applications made, by or on behalf of, or relating to the property of Members or officers of the Council who hold politically restricted posts or who either directly or indirectly report to the Group Manager Environment.



## **4.0 Community Representations**

### **4.1 Consultee Comments**

#### **4.1.1 Shropshire Council Conservation – comments received 22<sup>nd</sup> June 2015**

From visiting the site, it does not appear that the conversion will involve any works to the historic fabric of the listed building, and will solely involve works to the mid C20 outbuilding to the rear. The materials and finishes of the building currently have little cohesion with the main listed building, and therefore conversion of the building may be a good opportunity to improve its visual appearance. Therefore, generally no objection is raised to the proposals; however we would recommend that the following amendments could be made:

-As part of the conservation, improvements could be made to the visual appearance of the building by replacing the existing roof covering with either slate or plain clay tiles. This would allow it to blend better with surrounding buildings in the conservation area.

-The existing brickwork is also of little merit; therefore the proposed rendered insulation coating should improve the appearance of the building, and is supported. We would recommend that a system is considered which has a traditional lime finish, which would be appropriate to the adjacent listed building. Details are required of the texture and colour, and also how the render will be finished at ground and eaves level- however this could be secured as a condition.

-It is considered that the proposed porch will be visually intrusive to the courtyard/ passageway area to the rear of the building, and could be omitted in order to retain the existing linear building line.

-The proposed alterations to window openings, and the installation of patio doors to the gable are considered acceptable. All new windows should be flush fitting timber casements (without trickle vents). Joinery details could be secured by condition.

-Further improvements could be made to the setting of the listed building by replacing the existing concrete courtyard/ passageway with appropriate paving or sets.

#### **Recommendation**

Overall, no objection is raised to the proposed conversion, and providing consideration is made to the above recommendations; it is felt that this should preserve and enhance the character of both the listed building and conservation area, in accordance with parts 66 and 72 of the Planning (Listed Buildings and Conservation Areas act) 1990.

Case officer note: The comments were submitted prior to amendments and it is therefore considered that comments relating to the porch have been resolved.

### **Suggested conditions:**

J5- Rainwater goods  
J8- Roof details  
C2- Material samples (for render coating)  
J24-Joinery details

#### **4.1.2 Shropshire Council Archaeology – Comments received 12<sup>th</sup> June 2015**

The proposed development is located within the Medieval urban form of Cleobury Mortimer (HER PRN 05478) as defined by the Central Marches Historic Towns Survey, a group of tenement plots, south of Church Street (HER PRN 05473) and within a possible Anglo Saxon Minster enclosure tentatively based on stream and minor streets (HER PRN 05468). In light of this the proposed development site may have some archaeological potential and any below ground archaeological remains may to be affected by the construction of the proposed entrance lobby.

#### **RECOMMENDATION:**

In view of the above it is recommend that an archaeological inspection of the ground works for the proposed entrance lobby be made a condition of any planning permission for the proposed development. An appropriate condition of any such consent would be: -

#### **Suggested Conditions:**

No development approved by this permission shall commence until the applicant has notified Shropshire Councils Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide him/her with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.

Officer comments: The above condition was recommended prior to the omission of the porch from the proposals.

#### **4.1.3 Shropshire Council Affordable Housing – Comments received 28<sup>th</sup> May 2015**

Listed Buildings are noted as an exemption in the SPD Type and Affordability of Housing from the need to contribute to the provision of affordable housing as per Policy CS11 of the Core Strategy. Therefore no contribution will be required in this instance.

#### **4.1.4 Shropshire Council Drainage – Comments received 27<sup>th</sup> May 2015**

No objection informative advised.

#### **4.1.5 Cleobury Mortimer Parish Council – Comments received 23<sup>rd</sup> June 2015**

Cleobury Mortimer Parish Council OBJECT to both these planning applications due to the impact, especially from the proposed entrance lobby, on the amenity of the neighbours. This lobby would severely reduce the light to the property opposite and is proposed to be built on the communal access area. There are some

anomalies in the application paperwork ie the property opposite has windows which will be directly overlooked and there will be works affecting both the interior and exterior of the building which is not noted in the application form. Council is also concerned with the Change of Use which will remove a business property from the town.

## **4.2 Public Comments**

**4.2.1** Two representations have been received in respect of the application, detailing OBJECTIONS to the proposals, full details are available on the planning file, a summary of the key material considerations raised is provided as follows:

- ❑ Impingement of light and privacy if porch and elevation is built by way of its height and proximity to adjacent dwelling.
- ❑ Former windows will be lowered, reducing privacy of opposite neighbour
- ❑ Bin stores not fundamentally necessary and will be a permanent intrusion into an area specifically designated in leases for an un-encumbered benefit of all occupiers.
- ❑ Building would be better used for the purpose it intended.
- ❑ Lack of amenity, parking will be exacerbated by the creation of a new dwelling.
- ❑ Three properties already occupied here, creation of an additional dwelling will be over crowding given limited access and number of inhabitants already occupying the dwelling space.
- ❑ Would have a marked effect on privacy, access for building operatives, emergency services and facilities in the Communal Area previously enjoyed by the present tenants which are included in the deeds to the property.
- ❑ Q10 applicant has answered no to works to interior/exterior when the formation of kitchen/ bathroom/ porch and doors and windows will involve such works.
- ❑ Q19 applicant has answered no to the question regarding the presence of trees when in fact there is a well established Perry Pear Tree which would affect the development.
- ❑ Design and Access Statement doesn't use plural for properties or gardens, could be taken to imply that existing premises are used by fewer people than they actually are.

## **5.0 THE MAIN ISSUES**

### **Impact on the character and appearance of the Listed Building**

## **6.0 OFFICER APPRAISAL**

### **6.1 Impact on the character and appearance of the Listed Building**

6.1.1 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that, when considering whether to grant listed building consent for any works, or whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this context, "preserving", means doing no harm.

6.1.2 The proposals for this building provide necessary works which will improve the buildings function and provide for the use of the building as a residential dwelling which will safeguard the continued use and maintenance of a heritage asset in accordance with policy CS17 of the Shropshire core Strategy and Section 12 of the National Planning Policy Framework. Furthermore it does not appear that the conversion will involve any works to the historic fabric of the listed building, and will solely involve works to the mid C20 outbuilding to the rear. The proposed alterations are considered minor, and will provide necessary improvements to the building, through sympathetic installation of windows and doors, use of render and use of metal rainwater goods which will ensure the building has a more sympathetic appearance and one which is more in keeping with that of the Listed Building.

## 7.0 CONCLUSION

7.1 Overall it is considered that the proposed conversion should preserve and enhance the character of both the listed building and conservation area, in accordance with parts 66 and 72 of the Planning (Listed Buildings and Conservation Areas act) 1990. It is subsequently recommended that the application be **APPROVED**.

## 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

Core Strategy:

#### **CS17 – Environmental Networks**

National Planning Policy Framework:

#### **Section 12 – Conserving and enhancing the historic environment**

#### RELEVANT PLANNING HISTORY:

15/01976/FUL Conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

15/01977/LBC Listed Building Consent for works to facilitate the conversion of redundant Pharmacy Store once associated with a former Pharmacy from Use Class A1 to Use Class C3 Dwellinghouse PDE

<b>List of Background Papers</b> Design and Access Statement
<b>Cabinet Member (Portfolio Holder)</b> Cllr M. Price
<b>Local Member(s)</b> Cllr Gwilym Butler    Cllr Madge Shineton
<b>Appendices</b> APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. The development shall be carried out strictly in accordance with the approved amended plans and drawings L (\_\_\_) 001 REV B, L (\_\_\_) 002 REV B, L (90) 000 REV D as received on 26th June 2015.

Reason: To ensure the satisfactory preservation of the Listed Building.

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

3. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be 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. All doors and windows shall be carried out in complete accordance with the agreed details.

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

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

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

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

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

5. The external materials (for render coating) shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.



### **Informatives**

1. This planning permission should be read in conjunction with planning application No. 15/01976/FUL, to which further/alternative conditions may be attached.
2. 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.

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<u>Committee and date</u>
South Planning Committee
14 July 2015

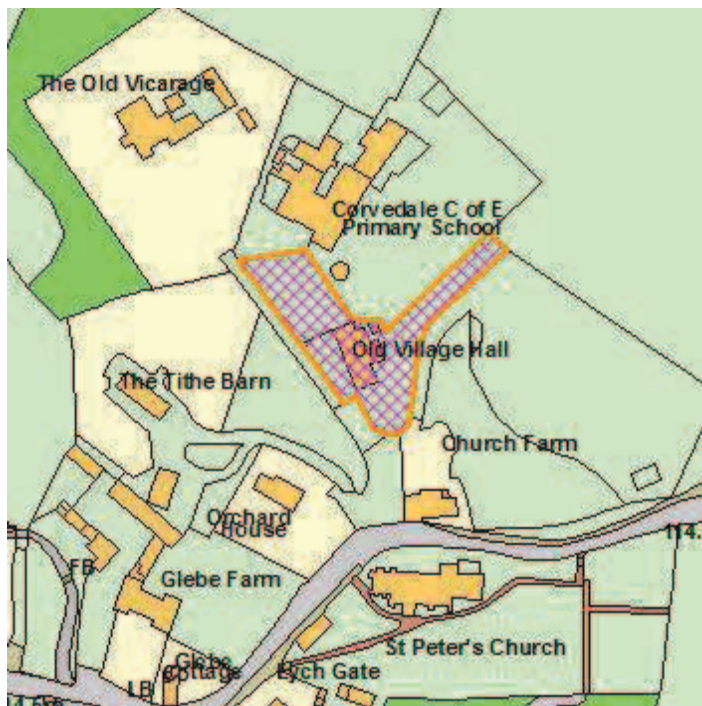
## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 15/02047/FUL	<b><u>Parish:</u></b>	Diddlebury
<b><u>Proposal:</u></b> Erection of extension and alterations to village hall; demolition of previous extensions		
<b><u>Site Address:</u></b> Diddlebury Village Hall Diddlebury Craven Arms Shropshire SY7 9DJ		
<b><u>Applicant:</u></b> Mr Tony Bennett		
<b><u>Case Officer:</u></b> Trystan Williams	<b><u>email:</u></b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>	

**Grid Ref:** 350820 – 285449



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks full planning permission to remodel and enlarge an existing community hall. The scheme includes:

- Raising the eaves to accommodate a new, slightly shallower-pitched aluminium standing seam roof
- Demolishing a previous flat-roofed extension, lean-to and shed to the north side, and erecting in their place a larger extension with catslide roof and central projecting gable
- Re-facing the existing structure with insulated timber cladding
- Installing new, deeper windows with powder-coated steel frames

### 2.0 SITE LOCATION/DESCRIPTION

2.1 Diddlebury Village Hall is set back off the Peaton road within the village conservation area, between Church Farm and Corvedale C of E Primary School. It is a mid-20<sup>th</sup> Century structure with single-skin red brick walls and external piers supporting a lightweight copper roof. Windows have been replaced in UPVC and the largely timber-clad extensions added to the east. The building is surrounded by hardstandings and skirted by public footpaths on either side. Beyond a high hedge to the west are further residential properties whilst to the east are open fields.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with the Council's adopted 'Scheme of Delegation' the application must be determined by the planning committee since it is made by a Council officer acting as agent for the applicant.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee comments

4.1.1 Shropshire Council Historic Environment (Conservation) – no objection:

The upgrading and enhancement of the existing building is supported, and would have a minimal impact on the conservation area. The design and materials are sympathetic to the context, although a condition is recommended to ensure that materials accord with those specified on the application form.

4.1.2 Shropshire Council Historic Environment (Archaeology) – no objection:

No comments in respect of archaeological matters.

4.1.3 Shropshire Council Flood and Water Management – comment:

The incorporation of sustainable drainage systems (SuDS) is encouraged.

4.1.4 Shropshire Council Rights of Way – no objection:

The proposals would not appear to affect the public footpaths running through the site.

4.1.5 Diddlebury Parish Council – support:

The application is supported strongly and unanimously. It should be processed urgently in order that Lottery funding can be secured.

#### 4.2 **Public comments**

4.2.1 None

### 5.0 **THE MAIN ISSUES**

- Principle of development
- Scale, design and impact on historic environment
- Impact on landscape
- Impact on residential amenity
- Other matters

### 6.0 **OFFICER APPRAISAL**

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

6.1.1 The use of the site is well established, and the proposals would improve the quality and flexibility of the existing community facilities. In principle, therefore, the application accords with Part 8 of the National Planning Policy Framework (NPPF), and with those Core Strategy policies concerned with protecting and enhancing rural services.

#### 6.2 **Scale, design and impact on historic environment**

6.2.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places on local planning authorities a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by NPPF Part 12 and Core Strategy Policies CS6 and CS17.

6.2.2 In this case the existing hall is dilapidated and of little architectural merit. The proposals follow a quasi-agricultural theme more befitting of the rural context, and although the building's floor space and volume would be increased slightly the use of contrasting materials would differentiate between the original structure and the extension and break up the overall bulk and massing. Presumably the intention is to allow the extensive timber cladding to weather to a natural silver-grey, whilst for the extension a suitable facing brick can be secured by condition (the application form does not in fact provide specific product details). The powder-coated windows and largely glazed eastern gable, meanwhile, would introduce a contemporary twist and are considered acceptable.

6.2.3 Although the building can be seen from the road its position is such that the development would not appear unduly prominent within the street scene. It would be clearly visible at close range from the adjacent footpaths, but on account of the sympathetic design would not detract from the conservation area.

6.2.4 As noted above neither the Conservation nor Archaeology branches of the Council's Historic Environment Team has any objection.

#### 6.3 **Impact on landscape**

6.3.1 The modest enlargement and remodelling of this existing building within a village setting would not detract from the generally open character or scenic quality of the wider landscape.

#### 6.4 **Impact on residential amenity**

6.4.1 Given the hall's distance from the neighbouring dwellings and the presence of established vegetation and/or other buildings in-between, the development would cause no demonstrable harm to residents in terms of privacy, natural lighting or outlook.

#### 6.5 **Other matters**

6.5.1 The Drainage Engineer's comments can be relayed to the applicant by way of an informative, as can the importance of the adjacent footpaths remaining unobstructed. Regarding ecology, meanwhile, there is no reasonable likelihood of bats or other protected species being affected given the relative modernity of the existing building and the nature of the immediate surroundings.

### 7.0 **CONCLUSION**

7.1 The proposal would support the continued and enhanced provision of rural facilities, the design is satisfactory, and there would be no significant impacts on the historic environment, landscape character, residential amenity, drainage, rights of way or ecology. The application therefore accords with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

### 8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

#### 8.1 **Risk management**

8.1.1 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**

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.



8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

### 8.3 **Equalities**

8.3.1 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 if the decision and/or imposition of conditions are 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.

## 10.0 **BACKGROUND**

### **Relevant Planning Policies:**

National Planning Policy Framework:

Part 7: Requiring good design

Part 8: Promoting healthy communities

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS5: Countryside and Green Belt

CS6: Sustainable Design and Development Principles

CS8: Facilities, Services and Infrastructure Provision

CS15: Town and Rural Centres

CS17: Environmental Networks

CS18: Sustainable Water Management

### **Relevant Planning History:**

SS/1981/321/P/ – Erection of store shed (permitted June 1981)

09/02812/COU – Change of use of land to provide car parking and turning area for community purposes (permitted November 2009)

**List of Background Papers:**

Application documents available on Council website

**Cabinet Member (Portfolio Holder):**

Cllr M. Price

**Local Member:**

Cllr Cecilia Motley

**Appendices:**

Appendix 1 – Conditions and Informatives

## **APPENDIX 1 – CONDITIONS AND INFORMATIVES**

### **STANDARD CONDITIONS**

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

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

2. The development shall be carried out in strict accordance with the approved plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### **CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES**

3. No development shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details and thereafter maintained in the absence of any further specific permission in writing from the local planning authority.

Reason: To safeguard the character and appearance of the Diddlebury Conservation Area, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

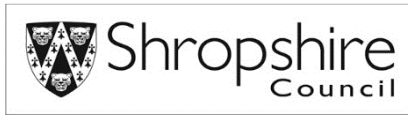
### **INFORMATIVES**

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 21 of the Town and Country Planning (Development Management Procedure) Order 2010 a fee (currently £97) is payable to the Local Planning Authority for each request to discharge pre-start conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. This planning permission does not authorise the obstruction, realignment, reduction in width, resurfacing or other alteration of any public right of way, temporarily or otherwise. Before carrying out any such operation you should consult Shropshire Council's Outdoor Recreation Team and obtain any closure order or further consents which may be required.

3. In order to control/attenuate surface water at source and avoid increasing the risk of flooding at the site or elsewhere, the incorporation of sustainable drainage systems (SuDS) such as soakaways designed in accordance with BRE Digest 365, water butts, rainwater harvesting, permeable paving, attenuation and grey water recycling should be considered.
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.



<u>Committee and date</u>
South Planning Committee
14 July 2015

## Development Management Report

### SCHEDULE OF APPEALS AS AT COMMITTEE 14.7.15

<b>LPA reference</b>	14/00885/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr M J Jones
<b>Proposal</b>	Outline application for mixed residential development and formation of a vehicular and pedestrian access
<b>Location</b>	Proposed Development Land South Of Woodbatch Road Bishops Castle Shropshire
<b>Date of appeal</b>	02.01.15
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	14.04.15
<b>Date of appeal decision</b>	10.06.15
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	14/02632/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Trustees of Old-De-Leys – Miss M M Watson & Mrs C I J Bevan
<b>Proposal</b>	Outline Application for a mixed residential development (to include access)
<b>Location</b>	Proposed Residential Development West Of Lavender Bank Bishops Castle Shropshire
<b>Date of appeal</b>	30.01.15
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	12.05.15
<b>Date of appeal decision</b>	10.06.15
<b>Costs awarded</b>	
<b>Appeal decision</b>	Allowed

<b>LPA reference</b>	14/03424/ADV
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Blakemore Design & Shopfitting Ltd
<b>Proposal</b>	To erect and display three replacement fascia signs; two non-illuminated replacement information boards;
<b>Location</b>	Post Office , 16-20 The Square Clun, Craven Arms, SY7 8JA
<b>Date of appeal</b>	09.01.15
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	12.05.15
<b>Date of appeal decision</b>	18.06.15
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	14/01150/FUL
<b>Appeal against</b>	Conditions
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr P Williams
<b>Proposal</b>	Erection of a 3 bay stable block to include hardstanding and the change of use of land for the keeping of horses.
<b>Location</b>	Land South B4385 Twitchen, Clunbury
<b>Date of appeal</b>	18.03.15
<b>Appeal method</b>	Written Reps
<b>Date site visit</b>	12.05.15
<b>Date of appeal decision</b>	24.06.15
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	14/04930/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mr Rupert Acton
<b>Proposal</b>	Construction of a solar farm of size 10.99ha (circa 255 modules); inverter cabins, transformers, two sub- station cabins, two ancillary equipment cabins; pole mounted CCTV cameras; security fencing; continued use of land for agricultural purposes
<b>Location</b>	Land North Of Henley Common Henley Lane, Acton Scott, Shropshire
<b>Date of appeal</b>	25.06.15
<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>	



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## Appeal Decision

Site visit made on 14 April 2015

by **I Radcliffe BSc(Hons) MCIEH DMS**

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

Decision date: 10 June 2015

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**Appeal Ref: APP/L3245/W/14/3001799**

**Land south of Woodbatch Road, Bishops Castle, Shropshire (Grid Reference: Easting 331702, Northing 288466)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr J M Jones against the decision of Shropshire Council.
  - The application Ref 14/00885/OUT, dated 27 February 2014, was refused by notice dated 27 October 2014.
  - The development proposed is use of land for residential development and formation of a vehicular and pedestrian access.
- 

### Decision

1. The appeal is allowed and planning permission is granted for use of land for residential development and formation of a vehicular and pedestrian access on land south of Woodbatch Road, Bishops Castle, Shropshire (Grid Reference: Easting 331702, Northing 288466) in accordance with the terms of the application, Ref 14/00885/OUT, dated 27 February 2014, subject to the conditions in the schedule at the end of this decision.

### Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. In order to ensure appropriate sewage treatment and protect the river Clun the application was determined on the basis that there would be no more than 9 dwellings on the appeal site. The appellant is content that the appeal is dealt with on this basis. Accordingly, I have also taken this approach.
4. The Town Council suggests that the appellant might not have legal control over all the land required to facilitate the proposed access, alleging that some of the necessary land belongs to the adjoining landowner. However, whilst the adjoining land owner has made written representations on the proposal, no written objection was made by the owner on those particular grounds. The Certificates accompanying the application indicate that the appellant has control over all the land the subject of this appeal and, in the absence of any definitive evidence to the contrary I shall proceed on that basis. If it transpires, in the event, that the appellant does not control all the land, whilst that may have implications for implementation were the appeal scheme to go ahead, that would be a matter for the parties in the first instance.

5. The Town Council has advised that it has made a complaint to the Council about the administration of the planning application. This is a separate matter to the appeal and does not have any bearing on my assessment of the planning merits of the case.
6. A Unilateral Undertaking was submitted with the appeal which I have considered as part of the appeal. It secures a financial contribution towards highway improvements and provides for a proportion of the dwellings to be developed on the site as affordable dwellings. Its terms are addressed in more detail within the decision.
7. In November 2014, after the appeal was lodged, the Government announced changes to its Planning Practice Guidance (PPG). Among other things, those changes indicated that the contribution of affordable housing should not be sought from small-scale developments of ten units or less, where the maximum combined gross floor area is no more than 1000sqm. The parties were given the opportunity to provide further comments on the changes. I have taken the comments received into account in coming to my decision, as well as the amended guidance itself. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy.

#### **Application for costs**

8. An application for costs was made by Mr J M Jones against Shropshire Council. This application will be the subject of a separate Decision.

#### **Planning Policy**

9. The development plan for the area includes the South Shropshire District Local Plan and the Shropshire Core Strategy. The National Planning Policy Framework is also an important consideration. The Local Plan identifies a settlement boundary for the town. Policies CS3 and CS5 of the Core Strategy seek to restrict new open market housing development to within the town's settlement boundary and on sites allocated for development.
10. The appeal site is located adjacent to, but outside, the settlement boundary to the town defined by the Local Plan. As a result, it is located within the countryside, contrary to policies CS3 and CS5 of the Core Strategy. The location of the proposal would therefore be contrary to the development plan.
11. The emerging 'Site Allocations and Management of Development Plan' (SAMDev) has been prepared following public consultation. It provides detail as to the development that the Core Strategy supports in Bishops Castle. The document, strongly supported by the local community, proposes a green field site for new housing development on a different side of the town to the appeal site. No new housing is proposed on the south western side of the town where the appeal site is located. In terms of the number of houses proposed on the appeal site, this would be well below the housing target contained within the SAMDev for the town.
12. The SAMDev is currently the subject of public examination. As a result, the view of the Council is that more than limited weight should be attached to it. The view of the Town Council is that considerable weight should be attached. However, the appellant states that this document is the subject of significant unresolved objections in relation to the location and quantity of housing proposed in the County. Evidence to that effect has been produced. This has not been disputed by the Council. On balance therefore, having regard to

paragraph 216 of the Framework, I attach little weight to this document and its policies. For this reason, and the minimal effect such a small scale of the development proposed would have on the spatial strategy of the SAMDev, the proposal would not prejudice the plan making process. As a result, in accordance with Planning Practice Guidance, the objection from interested parties to the proposal on the basis of prematurity are not justified.

### **Main Issues**

13. The main issues in this appeal are

- the effects of the proposed development on the free flow of traffic and highway safety;
- whether it is necessary for the development to make provision for affordable housing; and,
- whether the proposal would constitute sustainable development within the meaning of the National Planning Policy Framework ('the Framework').

### **Reasons**

#### *Free flow of traffic and highway safety*

14. The proposed access to the site would be provided off Woodbatch Road. Having viewed the submitted plans and the site it would provide exiting vehicles with satisfactory visibility of oncoming vehicles along the road. The Highway Authority has not objected to the access and I agree with that position. The footway, which currently terminates by the eastern edge of the proposed development, would be extended across the front of the site and provide pedestrian access to it. Taking all these matters into account, I therefore find that a safe and suitable access would be created.
15. The appeal site is located on the south western edge of Bishops Castle. The highway route into and out of the town via Kerry Lane serves a significant number of dwellings. In design terms the Council's highway officers accept that it has sufficient capacity for the proposed development, along with the proposed scheme for 9 dwellings at Lavender Bank<sup>1</sup>. On the basis of what I have read and seen I agree with that assessment.
16. The most direct route for vehicles from the appeal site to exit the town, or access the town centre, is via the Woodbatch Road/ Kerry Lane junction. Vehicles proceeding across the junction would travel along Corporation Street to the centre of the settlement and beyond, or turn right along Kerry Lane towards the southern end of the village and the A488. Visibility at this junction for vehicles travelling away from the appeal site in relation to oncoming traffic from the right is poor. However, the appellant proposes to provide an improved visibility splay in this direction. This would improve highway safety by allowing vehicles travelling along Kerry Lane towards the junction to be seen earlier thereby reducing the risk of accidents. By reducing the hesitation of drivers at this junction it would also improve traffic flow. An alternative route, albeit more minor, also exists out of the town or towards its centre along Kerry Green.
17. To address problems with this junction the appellant has submitted a unilateral undertaking contributing £10,000 towards its improvement. This would be a specific scheme that the proposed development would help fund. As a

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<sup>1</sup> Appeal reference APP/L3245/W/14/3001829

consequence, it does not constitute a tariff style contribution, or fall foul of regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended). Highway improvement works are also identified as a priority in the Bishop Castle Place Plan which informs infrastructure investment. The sum provided for in the undertaking, supplemented if needs be as the officer report notes by Community Infrastructure Levy monies, would be sufficient to improve visibility at this junction. In my judgement, the highway contribution is necessary to make the development acceptable in planning terms, directly related to it and fairly and reasonably related in scale and kind.

18. Sections of the route, particularly along Kerry Lane, are narrow in width and have a number of accesses that join it. However, such features can have a calming effect on the speed of traffic. I note in this regard, in support of this view, the absence of data indicating that accidents are commonplace or prevalent along the road. In my assessment, for cars driving along Kerry Lane towards its narrow section, sufficient forward visibility exists to allow oncoming cars to see each other and for one to give way to the other. The other improvements recommended by the appellant's highway report, whilst desirable, are therefore not necessary to make the development acceptable in terms of highway safety or the free flow of traffic.
19. As a result, the contribution towards improving the Kerry Lane / Woodbatch Road junction would pass the tests of paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken it into account this provision of the submitted section 106 agreement.
20. I recognise that there are peaks in traffic flow at school and Sure Start opening and closing times, and that agricultural traffic uses the Lane. Nevertheless, these peaks are short lived and all traffic types are taken into account when assessing highway capacity. As a result, these considerations do not alter my overall assessment.
21. Reference has been made to the possibility of a further housing scheme to the west of the appeal site and that if the scheme before me is found to be acceptable in highway terms a precedent could be set for further development. However, each application is assessed on its merits. If a point is reached where a proposed development would have an unacceptable adverse effect on the local highway network permission would be refused.
22. Taking all these matters into account, I therefore find that the proposal would not result in the free flow of traffic being impeded, and that the proposed access and routes to and from the appeal site would be safe. As a consequence, the standard of amenity for residents in the area would not be materially harmed and there would be no conflict with policies CS7 and CS8 of the Core Strategy. These policies seek safe transport infrastructure and improvements to the local highway network.

#### *Affordable housing*

23. In order to increase the provision of affordable housing the Council has requested contributions secured by a section 106 agreement. The provisions of the submitted agreement in relation to this matter have been assessed having regard to the tests in paragraph 204 of the Framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

24. The undertaking has been drawn up having regard to policy CS11 of the Core Strategy and the Council's supplementary planning document 'Type and Affordability of Housing' (SPD). Policy CS11 and the SPD seek that some of the new houses that would be built contribute to the local stock of affordable housing.
25. In relation to affordable housing, as I explained as a procedural matter, circumstances are materially different in relation to small housing schemes to when the application was determined by the Council. In relation to housing schemes of 10 units or fewer, which have a maximum combined floor space of no more than 1000sqm, it is national policy that contributions for affordable housing should not be sought.
26. The appellant submitted a plan with the application illustrating how the site could be developed for housing. As the application is in outline the appellant is not tied to the detail shown on this plan. However, given that it shows houses with an average floor space of 125sqm I have treated this as indicative of the appellant's intentions and have assessed the application on this basis. As the appellant notes, the proposed development of 9 houses on the site would therefore result in a combined floor space in excess of 1000sqm. As a result, the restrictions in national policy on affordable housing contributions do not apply to the proposed development. In accordance with national policy and the development plan, I therefore find that the affordable housing contribution is necessary to make the development acceptable in planning terms. As the affordable housing would be provided on site in accordance with the development plan and the SPD it would also be directly related to the development and fairly related in scale and kind.
27. As a result, the obligation would pass the tests of paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken into account the affordable housing provision of the submitted section 106 agreement.

#### *Sustainable development*

28. The Framework is an important material consideration. Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development, a consideration that lies at the heart of national planning policy. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.
29. In terms of the environmental role, Bishops Castle is identified by the Core Strategy as a settlement where owing to its range of services and facilities some development is supported. The centre of Bishops Castle is within reasonable walking distance of the appeal site by a variety of routes that avoid using the section of Kerry Lane that does not have a footway. It is also within comfortable cycling distance with routes available that avoid the narrow section of Kerry Lane. The facilities and services that this market town has to offer are therefore readily accessible from the appeal site. In terms of highway safety and the free flow of traffic, as I have already noted, the proposal would result in improvements to a junction and the increase in traffic would be small. The site has limited habitat interest for wildlife and its development would not adversely affect the Clun Catchment, part of which is located within a Special Area of Conservation. The site is not within an area at risk of flooding and a



- sustainable drainage system would reduce surface water flow off the site to green field rates. The risk of flooding off site therefore would not be increased by the proposed development. Adequate sewerage treatment could be provided either by connection to the public sewer or by on site treatment.
30. The appeal site is not visible from the Area of Outstanding Natural Beauty and so the proposed development would not impinge upon it. A green field within the countryside visible from surrounding land, including nearby houses would be developed. However, given that the site is bound on its northern and eastern sides by development the proposed development would appear as a natural extension of the town. Therefore whilst some harm would be caused to the character and appearance of the countryside through the loss of the field to development this harm would be limited. In support of this view I note that the Council does not object to the proposed development in terms of its effect on the landscape and the character and appearance of the area. Subject to the control that would be exerted at reserved matters stage, in terms of layout, scale, appearance and landscaping an attractively designed scheme could be delivered.
31. Turning to the economic aspects of sustainability, the construction of the houses proposed would generate employment. Post completion the spending of the additional households living in the proposed development would benefit the economy of the area. The development of agricultural land, some of which may be of the best and most versatile quality and protected by the Framework, would result in its loss for farming use. However, the site is relatively steeply sloping and so not ideal for modern farming. Having regard to this consideration, paragraph 112 of the Framework and the relatively small size of the site, I therefore find that the loss economically to agricultural production would not be significant.
32. In terms of the social aspect of sustainability, the proposed development would contribute towards meet housing need in the area, including helping address the need for affordable housing. An increase in population would also help social vitality and support a strong community.
33. Taking all these factors into account, I conclude, based upon the overall balance of considerations, that the proposal would be a sustainable development. As a result, it would comply with the objectives of policy CS6 of the Core Strategy which requires that new development is designed in accordance with such principles.

## **Other matters**

### *Housing land supply*

34. The Council's position is that it has 5.47 years of housing land supply. The appellant is of the view that it has a 3.37 year supply. In support of this stance the appellant has submitted detailed evidence<sup>2</sup>. In relation to sites with planning permissions this includes unrealistic delivery rates<sup>3</sup>, specific delivery problems<sup>4</sup> and inaccuracies in the number of units left to be completed on sites under construction. Delivery issues have also been identified with sites in the emerging allocations included in the SAMDev Plan regarding, for example, flood risk and infrastructure requirements. The Council has not refuted the evidence

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<sup>2</sup> Rebuttal of Shropshire Council's 5 year Housing Land Supply Statement, Berrys 19 September 2014.

<sup>3</sup> For example on the site on land north of Houghton Road, Shifnal (ref 12/0646/OUT)

<sup>4</sup> For example, the former dairy site, School Road, Ruyton which is occupied by a business. It is stated that with the value of commercial land is unlikely to be a viable site for housing.



of the appellant in its statement, other than by stating that other Inspectors had not queried the Council's supply. On the basis of the available evidence, for the purposes of this appeal, I therefore find that the Council does not have a 5 year housing land supply.

*Living conditions*

35. The appeal site faces houses on the other side of Woodbatch Road and abuts housing along its eastern boundary. On the basis of the illustrative plans submitted, I have no reason to doubt that there is sufficient space within the site for dwellings to be laid out without harming privacy, reducing light levels or having an overbearing effect on the outlook experienced by the occupiers of neighbouring houses.

*Pressure on local services*

36. The effect of the proposed development on local services has been raised. A Community Infrastructure Levy applies to new development in the County. As a result, financial contributions would be made addressing the effects of the proposed development on local services. As a consequence, I find no harm in this regard.

**Overall Conclusions: The Planning Balance**

37. For the reasons that I have set out earlier the proposal would be contrary to the development plan. This is because it would not comply with policies CS3 and CS5 of the Core Strategy. These policies seek to restrict new housing development to within the town's settlement boundary and on sites allocated for development.
38. Such a contravention is a consideration that normally weighs heavily against a proposal. However, I have found that the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies relevant to housing land supply should not be considered up to date. Policies CS3 and CS5 of the Core Strategy fall into this category.
39. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. I have found that the development would constitute such a development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework is clear. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
40. The location of housing on the appeal site would be contrary to the development plan for the area. In terms of adverse impacts, there would be some harm to the character and appearance of the countryside through the loss of the field to development. As the land may be of the best and most versatile agricultural quality the supply of such land would also be adversely affected, albeit given its relatively small area and gradient not in a significant way.
41. In terms of benefits, the proposed development would be a sustainable development in a location with convenient access to local facilities and services. It would also help address local housing need for affordable housing and contribute towards addressing the undersupply of housing in the County.

Collectively these factors are of significant weight in favour of allowing the appeal. Funding towards improving a junction within the local highway network is also a benefit that weighs in favour of the scheme.

42. My overall conclusion in this case, having considered all the matters raised, is that the adverse impacts of the proposal are limited and they do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore succeed.
43. There is no doubt that there is strong local feeling about this proposal, as reflected by the volume of objections received at every stage. I recognise that this decision will be disappointing for local residents and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents and the Town Council, very important though they are, must be balanced against other considerations. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the Framework and Planning Practice Guidance. For the reasons set out above, that balance of the various considerations leads me to conclude that the appeal should be allowed.

#### *Conditions*

44. For the avoidance of doubt and in the interests of proper planning, otherwise than as set out in this decision and conditions, the development needs to be carried out in accordance with the approved plans in respect of the matters not reserved for subsequent approval. In the interests of protecting the living conditions of neighbouring residents and ensuring that the scale of the development is in keeping with the area, the dwellings need to be restricted to two storeys in height. To protect the River Clun Special Area of Conservation and ensure appropriate sewerage treatment the number of houses on the site needs to be restricted to nine.
45. To minimise the risk of flooding elsewhere further details on sustainable surface water drainage are necessary. In the interests of public health, provision for the disposal of foul water needs to be made. In order to ensure that the development complements its surroundings further details of tree and hedge planting are required and existing hedges protected from damage during construction. To ensure that any new planting becomes well established it needs to be well maintained. In order that appropriate opportunities for inspecting archaeological remains present within the site are provided a Heritage Assessment needs to be carried out.
46. Given the potential for nuisance to nearby residents control needs to be exerted on the arrangement and management of the construction site and the hours of construction. Weekends and bank holidays are particularly valuable and construction noise on such days would be particularly intrusive. Other than on Saturday mornings I have therefore prevented construction on these days. To minimise the disturbance to bats, details of external lighting are required. The provision of facilities for charging plug-in and other ultra low emission vehicles accords with the sustainability objectives of the Framework. As a result, charging points need to be supplied to each property.
47. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

*Ian Radcliffe*

Inspector

**Schedule**

- 1) Details of the appearance, landscaping, layout, and scale, (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan ref 1649 01, Untitled plan showing the northern part of the site and the site access - scale 1:500 @ A3, but only in respect of those matters not reserved for later approval.
- 5) The outline permission hereby approved shall be for a maximum of nine dwellings, as confirmed in the e-mail from Les Stephan Partnership to Shropshire Council dated 15 May 2014.
- 6) The dwellings hereby permitted shall consist of no more than two storeys.
- 7) No building hereby permitted shall be occupied until a sustainable drainage system has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) The proposed foul water drainage shall be installed in accordance with the Drainage and Flood Risk Assessment by D.A. Sluce & Partners, February 2014, prior to first use of the development hereby approved.
- 9) a) Within the first planting and seeding season following the completion of the dwellings hereby permitted, a scheme of new tree and hedge planting shall be implemented within and bordering the grounds of the

dwellings, in accordance with full details to be submitted to and approved by the local planning authority.

b) Any new trees and hedges planted as part of the required planting scheme which, during a period of five years following implementation of the planting scheme, are removed without the prior written approval of the local planning authority or die, become seriously diseased or are damaged, shall be replaced during the first available planting season with others of such species and size as the Authority may specify.

- 10) Existing shrubs and hedges within the margins of the site shall be retained and protected from damage for the duration of the construction works. No such shrubs or hedges shall be removed unless this has first been approved in writing by the local planning authority.
- 11) No development shall commence at the site until a Heritage Assessment has been submitted to and approved in writing by the local planning authority. The Assessment shall take the form of a desk based assessment accompanied by the results of a walk over and a geophysical survey of the site. If the results of the heritage survey indicate that further survey work is required before the development commences then such works shall be undertaken in accordance with the recommendations of the heritage survey.
- 12) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) wheel washing facilities
  - v) measures to control the emission of dust and dirt during construction.
- 13) Demolition or construction works shall not take place outside 08:00 hours to 17:00 hours Monday to Fridays and 08:00 hours to 13:00 hours on Saturday, nor at any time on Sunday or Bank Holidays.
- 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'.
- 15) An independent 32 amp radial circuit isolation switch shall be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket shall comply with BS1363, and shall be provided with a locking weatherproof cover if located externally to the building.

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## Appeal Decision

Site visit made on 12 May 2015

**by I Radcliffe BSc(Hons) MCIEH DMS**

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

**Decision date: 10 June 2015**

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**Appeal Ref: APP/L3245/W/14/3001829**

**Land west of Lavender Park, Bishops Castle, Shropshire (Grid Reference: Easting 331803 Northing 288680)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Trustees of Old-De-Leys - Miss M W Watson & Mr C I J Bevan against the decision of Shropshire Council.
  - The application Ref 14/02632/OUT, dated 12 June 2014, was refused by notice dated 27 October 2014.
  - The development proposed is a mixed use residential development on land off Lavender Bank, Bishops Castle, Shropshire.
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### Decision

1. The appeal is allowed and planning permission is granted for a mixed use residential development on land west of Lavender Bank, Bishops Castle, Shropshire (Grid Reference: Easting 331803 Northing 288680) in accordance with the terms of the application, Ref 14/02632/OUT, dated 12 June 2014, subject to the conditions in the schedule at the end of this decision.

### Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. For ecological reasons, the application was determined on the basis that there would be no more than 9 dwellings on the appeal site. The appellant is content that the appeal is dealt with on this basis. Accordingly, I have also taken this approach.
4. The site visit was scheduled to take place on 14 April 2015. However, as Shropshire Council failed to attend it was carried out on the basis of an unaccompanied visit. This prevented those present from drawing to my attention to features of interest. In the interests of fairness, an accompanied site visit was arranged for 12 May 2015. Shropshire Council attended this site visit. This allowed the Town Council, Shropshire Council, the appellant and a local resident present to draw my attention to features in support of their cases. It is this site visit that has informed this decision.
5. The Town Council has advised that it has made a complaint to the Council about the administration of the planning application. This is a separate matter



to the appeal and does not have any bearing on my assessment of the planning merits of the case.

6. A Unilateral Undertaking has been submitted which I have considered as part of the appeal. It secures a contribution towards the provision of off site affordable housing. Its terms are addressed in more detail within the decision.
7. In November 2014, after the appeal was lodged, the Government announced changes to its Planning Practice Guidance (PPG). Among other things, those changes indicated that the contribution of affordable housing, should not be sought from small-scale developments of ten units or less, where the maximum combined gross floor area is no more than 1000sqm. The parties were given the opportunity to provide further comments on the changes. I have taken the comments received into account in coming to my decision, as well as the amended guidance itself. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy.

### **Planning Policy**

8. The development plan for the area includes the South Shropshire District Local Plan and the Shropshire Core Strategy. The National Planning Policy Framework is an important consideration. The Local Plan identifies a settlement boundary for the town. Policies CS3 and CS5 of the Core Strategy seek to restrict new open market housing development to within the town's settlement boundary and on sites allocated for development.
9. The appeal site is located adjacent to, but outside, the settlement boundary to the town defined by the Local Plan. As a result, it is located within the countryside, contrary to policies CS3 and CS5 of the Core Strategy. The location of the proposal would therefore be contrary to the development plan.
10. The emerging 'Site Allocations and Management of Development Plan' (SAMDev) has been prepared following public consultation. It provides detail as to the development that the Core Strategy supports in Bishops Castle. The document, strongly supported by the local community, proposes a green field site for new housing development on a different side of the town to the appeal site. No new housing is proposed on the south western side of the town where the appeal site is located. In terms of the number of houses proposed on the appeal site, this would be well below the housing target contained within the SAMDev for the town.
11. The SAMDev is currently the subject of public examination. As a result, the view of the Council is that more than limited weight should be attached to it. The view of the Town Council is that considerable weight should be attached. However, the appellant states that this document is the subject of significant unresolved objections in relation to the location and quantity of housing proposed in the County. Evidence to that effect has been produced. This has not been disputed by the Council. On balance therefore, having regard to paragraph 216 of the Framework, I attach little weight to this document and its policies. For this reason, and the minimal effect such a small scale of the development proposed would have on the spatial strategy of the SAMDev, the proposal would not prejudice the plan making process. As a result, in accordance with Planning Practice Guidance, the objection from interested parties to the proposal on the basis of prematurity are not justified.



## **Main Issues**

12. The main issues in this appeal are;

- the effects of the proposed development on the free flow of traffic and highway safety; and,
- whether the proposal would constitute sustainable development within the meaning of the National Planning Policy Framework ('the Framework').

## **Reasons**

### *Free flow of traffic and highway safety*

13. The proposed access to the site would be created by connecting the carriageway and footway to the turning head serving Lavender Bank. The Highway Authority has no objection to its design. I agree with their assessment. On the basis of the submitted information I therefore find that a safe and suitable site access would be created.
14. The appeal site is located on the south western edge of Bishops Castle to the north of the site for which an appeal has been lodged for 9 houses off Woodbatch Road<sup>1</sup>. The route for vehicles from the appeal site and a significant number of houses to exit the town, or access the town centre, is via Kerry Lane. In design terms the Council's highway officers accept that the local highway network has sufficient capacity for the proposed development, along with the proposed dwellings off Woodbatch Road. On the basis of all that I have read and seen I agree with that assessment. Reference has been made to the possibility of a further housing scheme to the west of the Woodbatch Road site. However, each application is assessed on its merits. If a point is reached where a proposed development would have an unacceptable adverse effect on the local highway network permission for that development would be refused.
15. Vehicles proceeding along Kerry Lane could either turn left along Corporation Street to the centre of the settlement and beyond, or continue along Kerry Lane towards the southern end of the village and the A488. Visibility of oncoming traffic at the junction of Lavender Bank with Kerry Lane in all directions is good. Sections of the route, particularly along Kerry Lane, are narrow in width and have a number of accesses that join it. However, such features can have a calming effect on the speed of traffic. I note in this regard, in support of this view, the absence of data indicating that accidents are commonplace or prevalent along the road. In my assessment, for cars driving along Kerry Lane towards its narrow section, sufficient forward visibility exists to allow oncoming cars to see each other and for one to give way to the other.
16. The appellant indicated he would be willing to offer a unilateral undertaking towards highway improvements, but has not submitted an agreement to that effect. However, for the reasons I have given above such an undertaking would not be necessary to make the proposed development acceptable in planning terms. I recognise that there are peaks in traffic flow at school and Sure Start centre opening and closing times, and that agricultural traffic uses the Lane. Nevertheless, these peaks are short lived and assessing the capacity of the Lane includes taking into account agricultural traffic. As a result, these considerations do not alter my overall assessment.

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<sup>1</sup> Appeal reference APP/L3245/W/14/3001799

17. Taking all these matters into account, I therefore find that the proposal would not result in the free flow of traffic being impeded, and that the proposed access and routes to and from the appeal site would be safe. As a consequence, the standard of amenity for residents in the area would not be materially harmed and there would be no conflict with policies CS7 and CS8 of the Core Strategy. These policies seek safe transport infrastructure and, amongst other matters, the preservation of good access to services and facilities.

*Sustainable development*

18. The Framework is an important material consideration. Paragraph 49 of the Framework advises that housing applications should be considered in the context of the presumption in favour of sustainable development, a consideration that lies at the heart of national planning policy. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: environmental, economic and social.
19. In terms of the environmental role, Bishops Castle is identified by the Core Strategy as a town where owing to its range of services and facilities some development is supported. The centre of Bishops Castle is within reasonable walking and easy cycling distance of the appeal site via Corporation Street. This route avoids the narrow section of Kerry Lane that does not have a footway. The facilities and services that this market town has to offer are therefore readily accessible from the appeal site. In terms of highway safety, traffic generated by the proposal would not result in harm. In relation to highway capacity, the increase in traffic as a result of the proposed development would be small and the nearby highway network has sufficient capacity to cater for the traffic it would generate.
20. The findings of the ecological survey of the site accepted by the Council found that no protected species resided on the site and that its flora was of low ecological value. Its development would not adversely affect the Clun Catchment, part of which is located within a Special Area of Conservation. Whilst the water course at the southern end of the site can overflow the site is not at risk of flooding and a sustainable drainage system would reduce surface water flow off the site to green field rates. The proposal therefore would not increase the risk of flooding elsewhere. Adequate sewerage treatment could be provided either by connection to the public sewer or by on site treatment.
21. The appeal site is just visible from the Area of Outstanding Natural Beauty in the distance. In my assessment, the proposal would be sufficiently far away so as not to impinge upon it. A green field within the countryside visible from surrounding land, including nearby houses, as well as from the footpath that cuts across part of the site would be developed. However, given that the site is bound on its southern and eastern sides by development the proposed development would appear as a natural extension of the town. The footpath could also be diverted so that users would continue to walk through open countryside, rather than through the housing proposed for the site. Therefore whilst some harm would be caused to the character and appearance of the countryside through the loss of the field to development this harm would be limited. In support of this view I note that the Council has not objected in its officer report or appeal statement to the proposed development in terms of its effect on the landscape and the character and appearance of the area. Subject

- to the control that would be exerted at reserved matters stage, in terms of layout, scale, appearance and landscaping an attractively designed scheme could be delivered.
22. Turning to the economic aspects of sustainability, the construction of the houses proposed would generate employment. Post completion the spending of the additional households created would benefit the economy of the area. The development of agricultural land, some of which may be of the best and most versatile quality and protected by the Framework, would result in its loss for farming use. However, having regard to paragraph 112 of the Framework, and the relatively small size of the site, I therefore find that the loss economically to agricultural production would not be significant.
23. In terms of the social aspect of sustainability, the proposed development would contribute towards meet housing need in the area, including helping address the need for affordable housing. An increase in population would also help social vitality and support a strong community.
24. Taking all these factors into account, I conclude, based upon the overall balance of considerations, that the proposal would be a sustainable development. As a result, it would comply with the objectives of policy CS6 of the Core Strategy which requires that new development is designed in accordance with such principles.

### **Other matters**

#### *Housing land supply*

25. The Council's position based upon its Housing land Supply Statement is that it has 5.47 year supply. The appellant is of the view that it has a 3.37 year supply. In support of this stance the appellant has submitted detailed evidence, which includes reference to detailed rebuttals of the Council's stated supply<sup>2</sup>. In relation to sites with planning permissions this includes, for example, errors in the number of sites with existing permissions, use of a non implementation rate significantly lower than the historical rate, specific delivery problems and unrealistic delivery rates. Delivery issues have also been identified with sites in the emerging allocations included in the SAMDev. The Council has not refuted the evidence of the appellant in its statement, other than by stating that other Inspectors had not queried the Council's supply. On the basis of the available evidence, for the purposes of this appeal, I therefore find that the Council does not have a 5 year housing land supply.

#### *Affordable housing*

26. In order to increase the provision of affordable housing the Council has requested contributions secured by a section 106 agreement. The provisions of the submitted agreement in relation to this matter have been assessed having regard to the tests in paragraph 204 of the Framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
27. The undertaking has been drawn up having regard to policy CS11 of the Core Strategy and the Council's supplementary planning document 'Type and Affordability of Housing' (SPD). Policy CS11 and the SPD seek that some of the new houses that would be built contribute to the local stock of affordable housing.

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<sup>2</sup> <https://shropshire.gov.uk/media/1203725/matter-2-berrys-app-222-224.pdf>

28. In relation to affordable housing, as I explained as a procedural matter, circumstances are materially different in relation to small housing schemes to when the application was determined by the Council. In relation to housing schemes of 10 units or fewer, which have a maximum combined floorspace of no more than 1000sqm, it is national policy that contributions for affordable housing should not be sought.
29. The appellant submitted a plan with the application illustrating how the site could be developed for housing. As the application is in outline the appellant is not tied to the detail shown on this plan. However, given that it shows houses with an average floor space of 125sqm I have treated this as indicative of the appellant's intentions and have assessed the application on this basis. As the appellant notes, the proposed development of 9 houses on the site would therefore result in a combined floor space in excess of 1000sqm. As a result, the restrictions in national policy on affordable housing contributions do not apply to the proposed development. In accordance with national policy and the development plan, I therefore find that the affordable housing contribution is necessary to make the development acceptable in planning terms. As a sum would be provided for off site affordable housing in accordance with the development plan and the SPD it would also be directly related to the development and fairly related in scale and kind.
30. As a result, the obligation would pass the tests of paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken into account the affordable housing provision of the submitted section 106 agreement.

#### *Living conditions*

31. The appeal site abuts the rear of houses along Lavender Bank along its eastern boundary and the rear of houses along Woodbatch Road to the south. On the basis of the illustrative plans submitted, I have no reason to doubt that there is sufficient space within the site for dwellings to be laid out without harming privacy, reducing light levels or having an overbearing effect on the outlook experienced by the occupiers of neighbouring houses.

#### *Pressure on local services*

32. The effect of the proposed development on local services has been raised. A Community Infrastructure Levy applies to new development in the County. As a result, financial contributions would be made addressing the effects of the proposed development on local services. As a consequence, I find no harm in this regard.

#### **Overall Conclusions: The Planning Balance**

33. For the reasons that I have set out earlier the proposal would be contrary to the development plan. This is because it would not comply with policies CS3 and CS5 of the Core Strategy. These policies seek to restrict new housing development to within the town's settlement boundary and on sites allocated for development.
34. Such a contravention is a consideration that normally weighs heavily against a proposal. However, the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies relevant to housing land supply should not be considered up to date. Policies CS3 and CS5 of the Core Strategy fall into this category.

35. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. I have found that the development would constitute such a development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework is clear. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
36. The location of housing on the appeal site would be contrary to the development plan for the area. In terms of adverse impacts, there would be some harm to the character and appearance of the countryside through the loss of the field to development. As the land may be of the best and most versatile agricultural quality the supply of such land would also be adversely affected, albeit given its relatively small area not in a significant way.
37. In terms of benefits, the proposed development would be a sustainable development in a location with convenient access to local facilities and services. It would also help address housing need for affordable housing and contribute towards addressing the undersupply of housing in the County. Collectively these factors are of significant weight in favour of allowing the appeal.
38. My overall conclusion in this case, having considered all the matters raised, is that the adverse impacts of the proposal are limited and they do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore succeed.
39. There is no doubt that there is strong local feeling about this proposal, as reflected by the volume of objections received at every stage. I recognise that this decision will be disappointing for local residents and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents and the Town Council, very important though they are, must be balanced against other considerations. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the development plan, the Framework and the Planning Practice Guidance. For the reasons set out above, that balance of the various considerations has led me to conclude that the appeal should be allowed.

#### *Conditions*

40. For the avoidance of doubt and in the interests of proper planning, otherwise than as set out in this decision and conditions, the development needs to be carried out in accordance with the approved plans in respect of the matters not reserved for subsequent approval.
41. To protect the River Clun Special Area of Conservation a buffer needs to be created to separate the water course from activity and storage on the appeal site. For the same reason and to ensure appropriate sewerage treatment the number of houses on the site needs to be restricted to nine. In the interests of protecting the living conditions of neighbouring residents and ensuring that the scale of the development is in keeping with the area, the dwellings need to be restricted to two storeys in height. To minimise the risk of flooding elsewhere further details on surface water drainage are necessary. In the interests of public health, provision for the disposal of foul water needs to be made.



42. In order to ensure that the development complements its surroundings further details of tree and hedge planting are required and existing trees and hedges protected from damage during construction. To ensure that any new planting becomes well established it needs to be well maintained. In order that appropriate opportunities for inspecting archaeological remains present within the site are provided a Heritage Assessment needs to be carried out. To enhance biodiversity on the site, roosting facilities for bats should be provided. To protect any wildlife that could be present within the hedged boundary of the site procedures need to be followed. On the basis of the indicative layouts the proposed houses would come into conflict with the route of the footpath. In the interests of securing the public footpath that cuts across the northern part of the site it therefore needs to be diverted.
43. Given the potential for nuisance to nearby residents control needs to be exerted on the arrangement and management of the construction site, including hours of work. To minimise the disturbance to bats, details of external lighting are required. The provision of facilities for charging plug-in and other ultra low emission vehicles accords with the sustainability objectives of the Framework. As a result, charging points need to be supplied to each property.
44. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance. As the Council's suggested condition 16 essentially duplicates condition 8 in the attached schedule it has not been included.

*Ian Radcliffe*

Inspector

Schedule

- 1) Details of the appearance, landscaping, layout, and scale, (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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan ref /01, Site plan ref /02 Rev A but only in respect of those matters not reserved for later approval.
- 5) Prior to the commencement of work on site a 10m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone.
- 6) The outline permission hereby approved shall be for a maximum of nine dwellings.



- 7) The dwellings hereby permitted shall consist of no more than two floors of living accommodation.
- 8) No building hereby permitted shall be occupied until a sustainable drainage system has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) Details of foul water drainage shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first use of the development hereby approved.
- 10) a) Within the first planting and seeding season following the completion of the dwellings hereby permitted, a scheme of new tree and hedge planting shall be implemented within and bordering the grounds of the dwellings, in accordance with full details to be submitted to and approved by the local planning authority.  
b) Any new trees and hedges planted as part of the required planting scheme which, during a period of five years following implementation of the planting scheme, are removed without the prior written approval of the local planning authority or die, become seriously diseased or are damaged, shall be replaced during the first available planting season with others of such species and size as the Authority may specify.
- 11) a) No ground clearance, demolition or construction work shall be commenced on the application site until a scheme of protection measures for the existing trees and hedges within and adjacent to the site has been submitted to and approved in writing by the local planning authority. The submitted tree protection scheme shall include a tree protection plan that reflects the guidance within BS5837:2012. All measures comprised in the tree and hedge protection scheme shall be implemented and retained throughout all of the clearance and construction works on the site.  
b) Where the approved detailed plans indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees or hedges, an Arboricultural Method Statement (AMS), detailing how the approved construction works will be carried out, shall be submitted to the Local Planning Authority for approval prior to the commencement of any development works. The AMS shall include details of when and how the construction works will take place and be managed, and how the trees and hedges will be protected during the works.
- 12) No development shall commence at the site until a Heritage Assessment has been submitted to and approved in writing by the local planning

authority. The Assessment shall take the form of a desk based assessment accompanied by the results of a walk over and a geophysical survey of the site. If the results of the heritage survey indicate that further survey work is required before the development commences then such works shall be undertaken in accordance with the recommendations of the heritage survey.

- 13) As part of the reserved matters details of the location and design of bat boxes, tubes or bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full in relation to each dwelling prior to first occupation.
- 14) All development and site clearance procedures on the site shall be undertaken in line with the Ecological Assessment by Star Ecology dated 2 October 2014.
- 15) No development shall take place until an application is made which secures formal diversion of Footpath 14 Bishop's Castle which crosses the development site. The diverted footpath shall remain open and shall not be obstructed.
- 16) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the timing of the construction works and hours of work on the site
  - ii) the location of any contractor's compound
  - iii) traffic management measures to facilitate the importation of construction materials to the site
  - iv) measures to control the emission of dust and dirt during construction
- 17) 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'.
- 18) An independent 32 amp radial circuit isolation switch shall be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket shall comply with BS1363, and shall be provided with a locking weatherproof cover if located externally to the building.

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# Appeal Decision

Site visit made on 12 May 2015

by **SM Watson BA(Hons) MCD MRTPI**

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

Decision date: 18 June 2015

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**Appeal Ref: APP/L3245/H/14/2229600**

**16-20 The Square, Clun, Craven Arms, SY7 8JA**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Blakemore Design and Shopfitting Ltd against the decision of Shropshire Council.
  - The application Ref 14/03424/ADV, dated 22 July 2014, was refused by notice dated 21 November 2014.
  - The advertisement proposed is 2 replacement fascia signs to front elevation, 2 replacement commodity boards to either side of entrance door, and 1 fascia sign above the door within the entrance porch.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The advertisements have been installed and therefore I am determining this appeal retrospectively.

## Main Issue

3. The main issue is the effect of the advertisements upon the character and appearance of the area and the building to which they are attached.

## Reasons

4. The site is within the Clun Conservation Area and has Grade II Listed Buildings (the Buffalo Head Hotel and 10, 12 (The White Horse Inn) and 14) opposite both principal elevations.
5. The signs are powder coated aluminium which are very smooth and flat in profile and have a plain and stark appearance. The long strip of bright white across the length of the fascia coupled with the red and white signs on either side of, and above, the door, even without illumination, look at odds with the traditional stone building to which they are attached. Moreover, they are inconsistent with other shop signage in the conservation area which tends to be of painted timber.
6. The signs are therefore incongruous with the character and appearance of the Conservation Area. This incongruity is exacerbated by their prominence as the building stands at the end of the street which makes the signage dominant within views from High Street towards The Square. In addition, the effect of the signs is compounded by several other signs on the building that are not

subject of this appeal. The overall impression is that of visual clutter and even the internal sign can be seen with the door open.

7. The signs are also seen within the context of the adjacent listed buildings and therefore they impinge upon, and are detrimental to the setting of these historic buildings.
8. I note the appellant's comments that there were similar signs in place previously but this does not provide justification for another set of harmful signs. I also acknowledge the appellant's argument that the signs are easy to maintain so they would look better for longer but as I have already determined that they look unsuitable, a prolonged life from easy maintenance does not weigh in their favour. I also note the appellant's comments in respect of difficulties in applying alternative types of signage to the stone but I have little detail of these difficulties and as the other businesses in the conservation area have managed to use appropriate signage I am unconvinced that an alternative solution cannot be found.
9. The Council has drawn my attention to Policies CS6 and CS7 of the Shropshire Local Development Framework, Adopted Core Strategy, 2011 which seek to preserve local distinctiveness and heritage assets. Whilst I have taken these policies into account as material considerations, the powers to control advertisements under the Regulations may be exercised only in the interests of amenity and public safety. Consequently, in my determination of the appeal, the Council's policies are not decisive. I am also conscious that paragraph 67 of the National Planning Policy Framework says that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.
10. For the above reasons I conclude that the advertisements harm the character and appearance of the area and the building to which they are attached and the appeal is dismissed.

*Siobhan Watson*

INSPECTOR



## Appeal Decision

Site visit made on 12 May 2015

**by Siobhan Watson BA(Hons) MCD MRTPI**

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

Decision date: 24 June 2015

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**Appeal Ref: APP/L3245/W/15/3003456**

**Land adjacent to Primrose Cottage, Twitchen, Craven Arms, Shropshire, SY7 0HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Paul Williams against the decision of Shropshire Council.
  - The application Ref 14/01150/FUL, dated 14 March 2014, was approved on 29 July 2014 and planning permission was granted subject to conditions.
  - The development permitted is the "erection of a 3-bay stable block to include hardstanding and the change of use of land for the keeping of horses".
  - The conditions in dispute are Nos 5 and 6 which state that: "The stables and land hereby approved shall not be used for any other purpose (including any commercial activities) other than for the keeping of horses for private purposes." (No 5) and "The existing shed shall be used solely for the storage of feed and equipment related to the private keeping of horses on the site." (No 6)
  - The reasons given for the conditions are: "To safeguard the amenities of the locality" (No 5) and "To safeguard the amenity of neighbouring properties" (No 6).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Although not explicitly stated on the appeal form, the appellant confirmed by email that both conditions 5 and 6 are subject of the appeal.
3. The appellant submits that the removal of the agricultural use did not form part of the planning application and that he had applied for a mixed agricultural and equestrian use of the land. The description on the application form was "proposed stable block". However, the Council says that the appellant agreed that the planning application was to change the use of the land from agricultural to equestrian use and therefore it changed the description from that on the application form to the description on the decision notice. There is clearly disagreement between the parties in respect of what was agreed in respect of the description of development. Nevertheless, the Council has changed it so this is the permission that is now before me regardless of whether or not the appellant agreed to such a change.

### **Main Issue**

4. The main issue is whether the requirements of conditions 5 and 6 are reasonable and necessary in the interests of (i) highway safety and (ii) the living conditions of neighbours.

### **Reasons**

5. The appellant says that the conditions prevent the agricultural use of the land and buildings. Section 55 of the above Act excludes from the meaning of development, the use of any land for the purposes of agriculture. However, whether it is lawful for the land to be used as a mixed use of both agricultural and equestrian is not a matter for me to determine under a S.78 appeal. It is therefore open to the appellant to seek a determination under S191/192 of the Act in relation to this matter. My decision on this appeal under Section 78 of the Act does not affect the issuing of a determination under Section 191/192 of the same Act.
6. There are some dwellings adjacent to the site. I also saw at my visit that the road on which the access is located is narrow and at times vehicles appeared to be travelling fast along it. The Council's justification for imposing the conditions is that the application was assessed upon information before them which indicated that the appellant would be using the land and new stables for his own personal use and that the existing building would not be used for stabling. As such, the equestrian use would be a low key one and this was the basis upon which the application was considered. The implications of a more intense use were not therefore examined. The Council's concern is that a more intense use could have implications for highway safety and the living conditions of neighbours; therefore, restricting the use of the site to that for the keeping of horses for private purposes would prevent harm in this respect. Because a commercial or more intense use has not been assessed, I therefore conclude that both conditions 5 and 6 are reasonable and necessary to protect the living conditions of neighbours and to avoid harm to highways safety.
7. The appeal is therefore dismissed.

*Siobhan Watson*

INSPECTOR