

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

Date: Wednesday, 8 July 2015

Committee:
Central Planning Committee

Date: Thursday, 16 July 2015
Time: 2.00 pm
Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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

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

Members of the Committee

Vernon Bushell (Chairman)
Ted Clarke (Vice Chairman)
Andrew Bannerman
Tudor Bebb
Dean Carroll
Roger Evans
Pamela Moseley
Peter Nutting
Kevin Pardy
David Roberts
VACANCY

Substitute Members of the Committee

Peter Adams
Tim Barker
John Overall
Miles Kenny
Alan Mosley
Keith Roberts
Jon Tandy
Mansel Williams

Your Committee Officer is:

Linda Jeavons Committee Officer
Tel: 01743 252738
Email: linda.jeavons@shropshire.gov.uk

AGENDA

1 Apologies for absence

To receive apologies for absence.

2 Minutes (Pages 1 - 18)

To confirm the Minutes of the meetings of the Central Planning Committees held on 21 May 2015 and 18 June 2015.

Contact Linda Jeavons on 01743 252738.

3 Public Question Time

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

4 Disclosable Pecuniary Interests

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

5 Land Adjacent to Holcroft Way, Cross Houses, Shrewsbury, Shropshire (15/00539/OUT) (Pages 19 - 40)

Outline application for residential development to include means of access.

6 Proposed Residential Development Land Off Gorse Lane, Bayston Hill, Shrewsbury, Shropshire (14/00989/OUT) (Pages 41 - 70)

Outline application (all matters reserved) for the erection of 5 dwellings with garages.

7 Proposed Residential Development to the South of Cross Lane, Bayston Hill, Shrewsbury, Shropshire (15/01107/FUL) (Pages 71 - 84)

Erection of 2 no. dwellings and extension to an existing private drive.

8 Poulton Farm, Little Minsterley, Minsterley, Shrewsbury, SY5 0BW (15/00487/EIA) (Pages 85 - 106)

Erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works.

9 Proposed Dwelling Rear of Enterprise House, Main Road, Pontesbury, Shrewsbury (15/00999/FUL) (Pages 107 - 122)

Erection of a dwelling.

10 Land Adjacent to 1B Racecourse Avenue, Shrewsbury, Shropshire (15/01382/FUL) (Pages 123 - 134)

Erection of one terraced dwelling.

11 Schedule of Appeals and Appeal Decisions (Pages 135 - 160)

12 Date of the Next Meeting

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 13 August 2015 in the Shrewsbury Room, Shirehall.

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Committee and Date

Central Planning Committee

18 June 2015

CENTRAL PLANNING COMMITTEE

Minutes of the meeting held on 21 May 2015

2.00 - 3.50 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 Vernon Bushell (Chairman)

Councillors Andrew Bannerman, Dean Carroll, Jane MacKenzie, Pamela Moseley, Peter Nutting, Kevin Pardy, David Roberts and John Everall (Substitute) (substitute for Tudor Bebb)

5 Apologies for absence

Apologies for absence were received from Councillors Ted Clarke and Tudor Bebb (substitute: John Everall).

6 Minutes

RESOLVED:

That the Minutes of the meeting of the Central Planning Committee held on 9 April 2015 be approved as a correct record and signed by the Chairman.

7 Public Question Time

There were no public questions, statements or petitions received.

8 Disclosable Pecuniary Interests

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

With reference to planning applications to be considered at this meeting, Councillors Andrew Bannerman, Jane MacKenzie and Peter Nutting stated that they were members of the Planning Committee of Shrewsbury Town Council. They indicated that their views on any proposals when considered by the Town Council had been based on the information presented at that time and they would now be considering all proposals afresh with an open mind and the information as it stood at this time.

With reference to planning application 15/00724/OUT, Councillors Andrew Bannerman, Vernon Bushell, Dean Carroll and Kevin Pardy stated that they had been contacted by an objector but had given no opinion on the matter and remained open-minded.

With reference to planning application 15/00842/FUL, it was noted that the applicant was a Member of Shropshire Council. All Members, with the exception of Councillor Jane MacKenzie, who left the room in accordance with her declaration set out below, remained in the room during consideration of this item.

With reference to planning application 15/00842/FUL, Councillor Jane MacKenzie declared that she was the applicant and she would leave the room prior to consideration of this item.

With reference to planning applications 15/00490/OUT and 15/00491/OUT, Councillor Pam Moseley declared that she was Shrewsbury Town Council's representative on the Shropshire Playing Fields Association.

With reference to planning application 15/00724/OUT, Councillor Pam Moseley declared that she was acquainted with the Head Teacher of Longden C of E Primary School.

With reference to planning applications 15/00490/OUT and 15/00491/OUT, Councillor Kevin Pardy declared that he was a member of the Shropshire Playing Fields Association.

With reference to planning application 15/00724/OUT, Councillor David Roberts declared that members of his family owned land in the area and he would leave the room prior to consideration of this item.

Local Ward Member

With reference to planning application 15/00724/OUT, Councillor Roger Evans declared that he was a Governor at Longden C of E Primary School.

9 Land Off Horsebridge Road, Minsterley, Shrewsbury, (14/03670/OUT)

With reference to Minute No. 114, the Area Planning Manager introduced the application and with reference to the drawings displayed, drew Members' attention to the location, indicative site layout and sewer plan.

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed an objection from a member of the public. The Area Planning Manager verbally reported that Severn Trent had confirmed via email that both foul and surface water flows could be accommodated in the sewerage system.

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 considered the submitted plans.

RESOLVED:

That, as per the Officer's recommendation, delegated authority be granted to the Planning Services Manager to grant outline planning permission, subject to:

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

10 The Onslow Hotel, Pensfold, Bicton Heath Shrewsbury (14/04195/FUL)

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from the agent.

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 considered the submitted plans.

RESOLVED:

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

- A Section 106 Legal Agreement to secure two affordable dwellings on site and the balance of 0.4 as an affordable housing contribution (AHC);
- The conditions as set out in Appendix 1 to the report of this committee held on 12 March 2015; and
- Additional conditions to ensure that no development takes place until full details of landscape works have been approved in writing by the local planning authority and to ensure the implementation and future maintenance of the approved landscaping.

11 Radbrook Campus, College Gardens, Shrewsbury (15/00490/OUT)

The Principal Planner introduced the application and with reference to the drawings displayed, drew Members' attention to the location and indicative layout. He drew Members' attention to the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from Sport England, Shropshire Playing Fields Association and the College Gardens Residents' Association. A copy of the Minutes of a meeting of the Governors of the Radbrook Foundation held on 14 February 1992 was also circulated, a copy of which would be appended to the signed minutes; and, with reference to these minutes, he explained that if a site had not been in use as a playing pitch for the last five years it

would not have to be referred to the Secretary of State for a decision. He suggested that to ensure provision of a convenient link to the existing walking and cycle network and to encourage sustainability, Condition No. 8 attached to planning application 15/00491/OUT be replicated and also attached to this planning application (15/00490/OUT).

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

Mr P Thomas, representing the College Gardens Residents' Association, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr J Williams, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In response to questions from Members, the Principal Planner reiterated that this was an outline application with only the principle of development and access to be considered. He explained that it was normal practice to attach a condition which indicated that layout was indicative only at this outline stage.

In the ensuing debate, Members considered the submitted plans and expressed the view that when submitting any subsequent planning application for reserved matters the applicant should give consideration to pedestrian safety, density, retention of trees, provision of appropriate recreational and open space, a pitch-sized playing area and allotments.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report;
- An additional condition as set out at condition No. 8 in Appendix 1 to the report of planning application 15/00491/OUT;
- A Section 106 Legal Agreement to secure the relevant affordable housing contribution at the reserved matters stage and a financial contribution towards learning & skills; and
- Any subsequent application for reserved matters to be considered by this Committee.

12 Radbrook Centre, Radbrook Road, Shrewsbury (15/00491/OUT)

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from Sport

England, Shropshire Playing Fields Association and the College Gardens Residents' Association.

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

Members considered the submitted plans.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report;
- A Section 106 Legal Agreement to secure the relevant affordable housing contribution at the reserved matters stage and a financial contribution towards education; and
- Any subsequent application for reserved matters to be considered by this Committee.

13 Proposed Development Land South Of Plealey Lane, Longden (15/00724/OUT)

In accordance with his declaration at Minute No. 8, Councillor David Roberts left the meeting and did not return.

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

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

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

Mr P Arnold, a local resident, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Councillor N Evans, representing Longden Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr M Parrish, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

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

- With reference to the Schedule of Additional Letters, he reiterated that it was the Governors of the school who would make a decision on a planning application and not the Head Teacher;
- Expressed concerns regarding access arrangements;
- Would extend the boundary, constitute overdevelopment and be contrary to the Parish Plan and Site Allocations and Management Development Plan (SAMDev); and
- The school had objected to the diversion of the footpath.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members expressed concerns regarding the narrow, twisting country access roads, which would become clogged by cars at the beginning and end of the school day and considered that the proposed footpath link would not be conducive to pedestrian connectivity from the site and to the services in the village.

RESOLVED:

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

- The proposal would fail to satisfy the three dimensions to sustainable development defined within the National Planning Policy Framework: the economic, social and environmental roles. Given the Council's current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council's housing development requirements of the community and would therefore undermine the strategy for the location of housing. Furthermore, the development would extend into the countryside and would fail to protect or enhance the natural environment by way of a contrived vehicular and disjointed pedestrian access to the services in the village. Accordingly the proposal would fail to accord with the aims and requirements of saved policy H3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and CS17, and emerging Site Allocation and Management of Development Policies MD1 and MD3.

14 37 Regents Drive Shrewsbury (15/00842/FUL)

In accordance with her declaration at Minute No. 8, Councillor Jane MacKenzie left the room during consideration of this item.

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

Members considered the submitted plans.

RESOLVED:

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

15 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 21 May 2015 be noted.

16 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee would be held at 2.00 p.m. on Thursday, 18 June 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

Date:

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**Committee and Date**

Central Planning Committee

16 July 2015

CENTRAL PLANNING COMMITTEE**Minutes of the meeting held on 18 June 2015**

2.00 - 4.41 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Linda Jeavons

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

Present

Councillor Vernon Bushell (Chairman)

Councillors Ted Clarke (Vice Chairman), Andrew Bannerman, Tudor Bebb, Dean Carroll, Roger Evans, Pamela Moseley, Peter Nutting, Tim Barker (Substitute) (substitute for David Roberts) and Alan Mosley (Substitute) (substitute for Kevin Pardy)

17 Apologies for absence

Apologies for absence were received from Councillors Jane MacKenzie, Kevin Pardy (substitute: Alan Mosley) and David Roberts (substitute: Tim Barker).

18 Minutes**RESOLVED:**

That the Minutes of the meeting of the Central Planning Committee held on 14 May 2015 be approved as a correct record and signed by the Chairman, subject to it being noted that Councillor Roger Evans was in attendance as the substitute for the vacancy for his Group.

19 Public Question Time

There were no public questions, statements or petitions received.

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 applications to be considered at this meeting, Councillors Andrew Bannerman and Peter Nutting stated that they were members of the Planning Committee of Shrewsbury Town Council. They indicated that their views on any proposals when considered by the Town Council had been based on the

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

With reference to planning application 15/01395/FUL, Councillor Andrew Bannerman declared that he had pre-determined the issue and one of the promoters had been updating him on the position to date. He would make a statement and then leave the room prior to consideration of this item.

With reference to planning application 13/03197/OUT, Councillor Vernon Bushell declared a personal interest and stated that he had received an email from a former work colleague urging him to support the proposal. He stated that he had not responded to this email nor had any contact with the author and had made no public declaration as to his stance on this application.

Councillor Alan Mosley stated that he was a member of Shrewsbury Town Council and had been present at a meeting of the Planning Committee during consideration of one of the applications to be considered at this meeting.

With reference to planning application 15/01395/FUL, Councillor Alan Mosley stated that he was the local Ward Member for the adjoining Ward and had pre-determined the issue. He would make a statement and then leave the room prior to consideration of this item.

With reference to planning application 15/01395/FUL, Councillor Pam Moseley stated that she was a member of Shrewsbury Town Council which owned part of the land.

21 The Garage, Minsterley, Shrewsbury, Shropshire, SY5 0BW (13/03197/OUT)

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from Shropshire Council's Housing Enabling Officer.

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

Mr D Leeson, representing Minsterley Parish Council, spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr J Hollyman, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Tudor Bebb, 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, the following points were raised:

- Expressed concerns regarding the situation with regard to the location of acid and chemicals on the Müller site;
- Expressed his dissent with the Inspector's previous appeal decision;
- If granted, he requested an additional condition to ensure the site was cleared immediately of ragwort, other weeds and rubbish;
- If granted and prior to any other works taking place and to minimise dust, the entrance and highways should be completed to an appropriately agreed standard and tarmaced.

In response to comments, the Principal Planner explained that, with regard to the ammonia store, the application had been assessed by internal technical consultees, including Public Protection Officers who had raised no objections subject to appropriate conditions as set out in the appeal decision; and Müller would be governed by a separate licence issued by the Environment Agency and this would be deemed to be acceptable. In addition, appropriate conditions to ensure the submission of a Dust Management Statement and details and construction of the road layout prior to any construction or demolition taking place would be attached to any permission; Highway Officers had raised no objections; Müller had not submitted any comments but as an adjoining neighbour would have been consulted; trees and landscaping would be covered at the Reserved Matters stage; and a shorter time period for the submission of Reserved Matters would not be contrary to Development Management Policy MD3. With reference to the suggested informatives, he commented that it would not be appropriate to stipulate that charging point isolation switches should be conditioned and attached to a single application, given that Shropshire Council had made a policy decision not to burden developers with additional requirements during the current financial climate.

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

RESOLVED:

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

- A Section 106 Legal Agreement requiring the submission of a written Viability Appraisal of the Development to allow Shropshire Council to assess the level of affordable housing contribution due from the landowner (if any) if the Total Scheme Surplus is more than a percentage to be agreed by the developer and Shropshire Council;
- Consultation with the Committee Chairman on the Discharge of Condition Application relating to the programme for the implementation of the works on the access;
- An amendment to Condition No. 2 to limit the submission of the Reserved Matters application to a period of two years following approval of this outline application; and
- The conditions as set out in Appendix 1 to the report.

22 Development Site off Shillingston Drive, Berwick Grange, Shrewsbury, Shropshire (15/00673/REM) - TO FOLLOW

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed further comments from the Case Officer, the local Ward Councillor and Berwick Grange Residents.

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 absence of a speaker, Members noted the information as detailed in a statement from Berwick Grange Residents which had been circulated both at and prior to the meeting to all Members and the agent. The statement outlined the detail behind their main concern/objection to the single point of access via Shillingston Drive.

Mr R Hodson, the agent, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees. In response to a question from a Member, he stated that some dialogue had been undertaken with Shrewsbury Town Council and further consultation was planned.

In the absence of the local Ward Councillor, Malcolm Price, the Chairman read out the following statement:

"Please accept my apologies for not being with you in person I would however like to make the following observations regarding the Persimmon application for Shillingston Drive.

I am extremely disappointed to see that Persimmon has not included a second access point to the north of the site. This was clearly the most important issue for the residents of Berwick Grange. If this scheme is allowed to go ahead with only one access point you will effectively have over 500 houses on a dead end (cul-de-sac), one way in and one way out. I can't think of any other estate in Shrewsbury or Shropshire where this has been allowed. There is generally always an alternative. The lack of a second access point to the site is the biggest complaint of the local residents and if it were to be included this would remove the majority of objections.

My understanding is that an emergency access road has got to be installed to the north of the site as part of the scheme and clearly any road that is to be built for emergency services will need to be of a substantial nature and is therefore two-thirds the way to being the same as an adopted road. Although technically not required, I feel it is in the interests not only in the existing residents of Berwick Grange but also the residents who will be purchasing the new Persimmon homes.

The other issue that concerns me is the very close proximity of the dwellings to the pylons and high voltage overhead power lines. Although I can't find any policy to indicate what is a safe distance for properties to be from such installations.

I ask Committee to consider my comments as part of their deliberations before making the final decision on this planning application."

In response to questions from Members, the Principal Planner reiterated that access had already been approved; Highway Officers had raised no objections subject to the provision of an emergency vehicular access; and National Grid had raised no objections.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Some Members expressed concerns with regard to the location and future maintenance of the play area and encouraged the developer to consult and take on board the comments of Shrewsbury Town Council.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report; and
- The Area Planning Manager (in consultation with Shropshire Council's Housing Enabling Team) be given delegated powers to issue the decision subject to the final positioning of affordable units being agreed with the applicant in accordance with the Council's adopted policy.

23 Proposed Development Land West of 12 Little Minsterley, Minsterley, Shrewsbury, Shropshire (15/00808/FUL)

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

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

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Tudor Bebb, 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 commented that the site would be outside the development boundary and contrary to SAMDev.

In response to comments from Members, the Principal Planner reiterated that it would not be appropriate to stipulate that charging point isolation switches should be conditioned and attached to a single application, given that Shropshire Council had made a policy decision not to burden developers with additional requirements during the current financial climate.

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

RESOLVED:

That, as per the Officer's recommendation, delegated authority be granted to the Planning Manager to grant outline planning permission, subject to:

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

24 Shrewsbury Weir Adjacent Underdale Road, Shrewsbury, Shropshire (15/01395/FUL)

By virtue of his declaration at Minute No. 20, Councillor Andrew Bannerman made a statement and then left the room during consideration of this item. During which the following points were raised:

- Subject to appropriate conditions, the proposal was supported by Shrewsbury Town Council, Environment Agency, Natural England and Shropshire Council consultees;
- There would be no negative impact on the flow of the river and fish passage would be improved;
- Many local organisations would be involved and investing in the scheme; and
- Would help towards the reduction of greenhouse gas emissions.

By virtue of his declaration at Minute No. 20 and as the adjoining local Ward Councillor, Councillor Alan Moseley made a statement and then left the room during consideration of this item. During which the following points were raised:

- He acknowledged that many local people had expressed support for the proposal;
- Expressed reservations with regard to the visual impact and especially from the opposite side of the river;
- Questioned the financial sustainability of the project; and
- The submission of a comprehensive and solid Business Plan would be essential before any land release was agreed.

The Technical Specialist Planning Officer introduced the application and with reference to the drawings and photo montage displayed, drew Members' attention to the location and elevations. He suggested two additional conditions relating to landscaping which would ensure the provision, establishment and maintenance of a reasonable standard of landscape.

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

Members noted the additional information as set out in the Schedule of Additional Letters circulated prior to the meeting which detailed amendments to the report.

Mr A Coles, a local resident spoke against the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

Mr D Green, a local resident spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

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

- No pre-application advice had been undertaken;
- Many of the supporters were members of lobby groups and lived elsewhere;
- The community engagement statement was misleading;
- If minded to approve, a condition should be added to ensure proper investigation of the location of the otter holt prior to any works taking place;
- Shropshire Anglers Federation had raised objections;
- Possibility of creating new bank erosion sites which could result in compensation claims/payouts and would be contrary to Core Strategy Policy CS6;
- Construction vehicles would approach the site from Tankerville Street and would impact on the quality of life. He suggested that a Construction Management Statement should be submitted and approved by this Committee;
- There should be no artificial lighting between dusk and dawn; no machinery should be in operation between the hours of 5.00 pm and 8.00 am; and any work on site should take place during working days and between the hours of 8.00 am and 5.00 pm.

Mr M Scutt, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Some Members supported the proposal in principal but suggested deferral to investigate the concerns raised with regard to otters, traffic and by the anglers. A Member suggested an additional condition to ensure removal of redundant equipment if the project failed; and a further Member expressed concerns with regard to noise.

In response to comments and questions, the Technical Specialist Planning Officer reiterated that subject to appropriate conditions no concerns had been raised by Ecology Officers, Environment Agency, Wildlife Trust and Natural England. The design had been amended to incorporate gabion walls and an existing fish pass on the opposite side of the river would remain operational during construction. With reference to traffic, he commented that it would be difficult to agree construction traffic details until contracts had been completed. Once constructed and completed the number of vehicular movements to the site would be minimal. Any working practices/working hours would be agreed through a Construction Methodology Plan.

Public Protection Officers had raised no objections and were confident that noise would not be or become an issue.

RESOLVED:

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

- The conditions as set out in Appendix 1 to the report; and
- The following two additional landscaping conditions:

(i) Landscaping scheme

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

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

Details of protection and maintenance

Implementation timetables

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

(ii) Landscape Maintenance

All hard and soft landscape works shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become 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.

25 Schedule of Appeals and Appeal Decisions

RESOLVED:

That the Schedule of Appeals and Appeal Decisions for the Central area as at 18 June 2015 be noted.

26 Date of the Next Meeting

RESOLVED:

That it be noted that the next meeting of the Central Planning Committee be held at 2.00 p.m. on Thursday, 16 July 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed (Chairman)

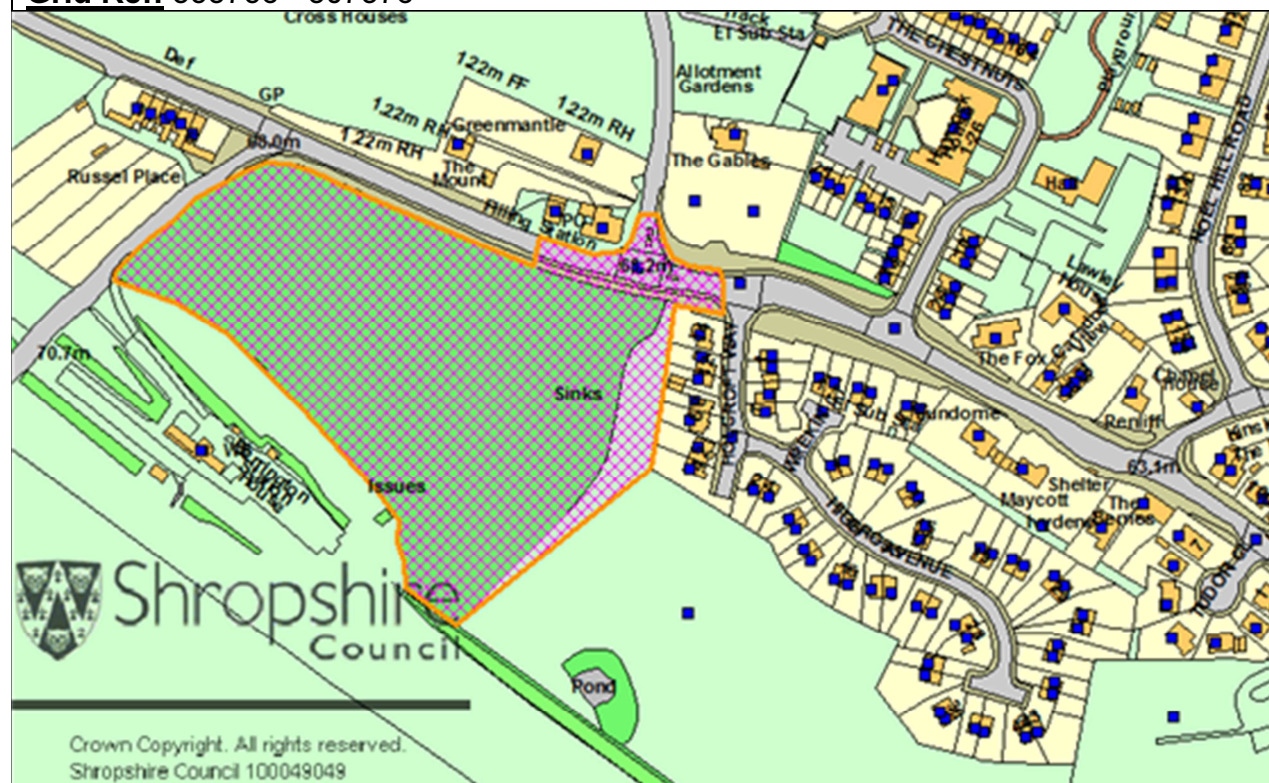
Date:

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16 July 2015

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<u>Application Number:</u> 15/00539/OUT		<u>Parish:</u>	Berrington
<u>Proposal:</u> Outline application for residential development to include means of access			
<u>Site Address:</u> Land Adj. To Holcroft Way, Cross Houses, Shrewsbury, Shropshire			
<u>Applicant:</u> Mr Clive Benfield			
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 353756 - 307376

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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC at the prevailing rate at the time of the application for Reserved Matters, and the provision of an improved and enlarged roundabout on the A458.

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to Outline permission for residential development to include means of access. It is phase 2 of a development approved under application 14/02406/FUL. The indicative layout for that proposal indicated 39 dwellings with access off Holcroft Way. This application indicates an additional 35 dwellings with access via an improved and enlarged roundabout off the main road (A458). The previously approved scheme and the existing properties in Holcroft Way and High Cross Avenue are also proposed to be accessed via this improved roundabout.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies to the North West of the previously approved site and is situated between the A458 to the North East and the disused railway line and converted Station House to the South West. Further to the North West is the minor road to Berrington and the properties in 'Russel Place', which is a terrace of five grade 2 listed buildings situated on the opposite side of this road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposed development is considered to be a major application with complex issues which in the view of the Planning Services Manager in consultation with the committee chairman and vice chairman and the local member should be determined by the relevant Planning Committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 SC Highways DC

Recommendation

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

Background

We understand that this application follows discussions with the local community during the consideration of the adjacent approved site referenced 14/02406/OUT, where requests were made via the parish council for an upgrade to the existing mini-roundabout to a full roundabout. Whilst this infrastructure upgrade was not considered viable or required under the previous application, the applicant has decided to submit this application to extend the area of proposed residential

development which makes the construction of the replacement roundabout financially viable. The proposals include the closing off of the existing Holcroft Way priority junction following the completion of the roundabout, which would provide access to the proposed and existing residential development; given that a number of recent collisions have been recorded at this junction, the proposals should have a positive benefit to road safety along this length of the A458.

We consider that the proposed roundabout should provide traffic management benefits when compared with the existing mini roundabout, including possible lower vehicle speeds along this stretch of the A458. The removal of the Holcroft Way junction will also remove a potential distraction near to the existing zebra crossing, which could improve the conspicuity of this crossing point.

As the proposed roundabout would be a 'retro-fit' onto the existing network, there is likely to be a deficiency in deflection when travelling south-east through the junction (meaning some vehicles will be able to travel in a reasonably straight alignment through the junction). However, we consider that the roundabout will have a greater visual impact to the approaching driver who is more likely to adopt a lower speed when compared with the existing mini-roundabout. Therefore on balance we consider that the proposed junction will yield the positive benefits outlined above.

We understand the layout of the site is reserved for approval at a later stage, should the application be approved.

4.1.2 SC Ecologist

I have read the above application and the supporting documents, including the Ecological Survey Report by Turnstone Ecology dated February 2015

Great crested newts

There is one pond (Pond 1) sited 50m to the south west of the development site. Pond 2 is around 170 m to the south east. Turnstone (2014) carried out six presence/absence surveys for great crested newts (GCN) on these ponds in May and June 2014.

One adult female and one adult male were found in Pond 2. No amphibians were found in Pond 1. No GCN eggs or larvae were found which would have confirmed breeding. Turnstone (2015) recommends precautionary mitigation measures including installation of temporary exclusion fencing for GCN before development and removed on completion of the works. This approach was accepted for the adjacent application 14/02406/OUT which is closer to Pond 2.

Bats

The hedgerows, stream and trees will offer bat foraging and commuting routes for bats. It is important that these are retained and that lighting is sensitively designed. Turnstone (2014) recommends erection of bat boxes and bat bricks.

Badgers

No conclusive evidence of badgers was found in or adjacent to the application site. There is known to be a badger sett over 150m away. Turnstone recommends that a check for badger setts is undertaken at least 8 weeks prior to the start of construction.

Nesting birds

The boundary vegetation is suitable for a variety of nesting birds.

Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

4.1.3 SC Drainage

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

4.1.4 SC Rights Of Way

Public Footpath 2 Berrington runs directly through the proposed site as shown on the attached 1:2500 scale plan. The path will need to be taken into consideration at an early stage in the planning process. The block plan and design and access statement acknowledge the existence of the public right of way stating that it will be retained and routed through areas of public open space within the development. The path currently runs from the dismantled railway line directly north easterly to meet the County Road and it will require a legal diversion to re-route the path to follow the line shown on the Block Plan. The applicants will need to contact the Mapping and Enforcement Team to discuss the necessary diversion. The applicants will also need to apply for a temporary closure of the footpath if it cannot be kept safely open for use by walkers at all times when development commences.

4.1.5 SC Affordable Houses

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

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

If this site is deemed suitable for residential development, then the number, size, type and tenure of the on-site affordable units must be discussed and agreed with the Housing Enabling Team before an application is submitted

4.1.6 SC Learning & Skills

Shropshire Council Learning and Skills reports that this development, in aggregation with any others in the village, may cause capacity pressures at the local primary school in the medium to longer term. It is therefore essential that consideration is made to developers of this and any other new housing in the village making contributions towards the consequential cost of any additional places/facilities considered necessary at the school.

4.1.7 SC Planning Policy

The site is bounded to its north by the A458, to its east by houses at Holcroft Way, to its south by the line of the former railway and station, and to its north-west by Russel Place. The scheme represents the second phase of a larger development, the first phase being on land to the south-east of the site which has already received approval for around 40 dwellings (final numbers to be confirmed at reserved matters stage).

Policy context and the Principle of Development

In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 150 of the NPPF, planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan currently consists of the Core Strategy (adopted in 2011) and the remaining 'Saved' policies from the Shrewsbury and Atcham (SABC) Local Plan (adopted in 2001). In addition, and importantly, the Site Allocations and Management of Development (SAMDev) Plan is at an advance stage and is currently subject to consultation on proposed modifications ahead of likely adoption in September 2015.

Core Strategy

For Shropshire's rural area, policies CS4 and CS5 are particularly relevant. CS4 establishes the intention to focus development in the rural areas into identified community hubs and community clusters, whilst CS5 establishes the policy framework to apply to those areas outside defined settlements in the 'open countryside'. Of importance CS5 focusses residential development in the countryside on affordable dwellings to meet local need; and dwellings to house agricultural, forestry or other essential workers. New open market housing is restricted, except where this is linked to a residential conversion.

SABC Local Plan

'Saved' policy HS3 states that in Cross Houses development will only be granted for residential development proposals subject to a number of criteria being met, including that the development lies wholly within the development boundary. Whilst it is accepted that relatively little weight should be attached to this policy due to its age, it continues to be appropriate to treat this proposal as a departure from the Local Plan given the site's location outside the settlement's development boundary.

Site Allocations and Management of Development (SAMDev) Plan

The Council's SAMDev Plan was submitted for examination in August 2014. The Plan identifies those settlements in the rural area which will act as a community hub or as part of a community cluster following several stages of consultation, and significant involvement from parish councils.

The village of Cross Houses was not identified in the submitted SAMDev Plan, and would therefore be treated as open countryside in policy terms.

The Council have recently received the Schedule of Main Modifications into the submitted version of the Site Allocations and Management of Development (SAMDev) Plan from Inspector Claire Sherrett. The proposed modifications to the Plan have been arrived at following the Inspector's assessment of representations and following public hearing sessions during November and December 2014.

The proposed schedule of main modifications is currently out for consultation until 13th July. Only those areas subject to a proposed modification are subject to consultation. For clarity, there are no proposed modifications which relate to Cross Houses. In light of this it is considered that the SAMDev Plan establishes Cross Houses as a settlement in the open countryside.

The NPPF Paragraph 216 also states that decision makers may also give weight to relevant policies in emerging plans according to: the stage of preparation; the extent of unresolved objections; and the degree of consistency with the NPPF. It is therefore considered appropriate to give significant weight to those parts of the SAMDev Plan not currently subject modification.

It is not considered therefore that the principle for open market residential development in Cross Houses has been established and, given the primacy of the development plan in decision making, significant weight should be attached to this in decision making.

Housing Land Supply

It is considered that Shropshire has a 5.43 years supply of deliverable housing sites, and that in line with paragraph 49 of the NPPF that the housing supply policies of the Local Plan are not out of date.

Other Material considerations

In noting the requirements of the Planning and Compulsory Purchase Act 2004, it is relevant and appropriate to given consideration to other material considerations that could be given weight in decision making.

In this case it is noted that the developer has clearly indicated they would be prepared to provide land and the full construction costs of a redeveloped roundabout on the main A458 road to act as the vehicular access to both phases of the overall proposal. Taking both phases as a whole, it is view of the Highways Authority that this is necessary to make this scheme developable in planning grounds. It is noted that the scheme has support from the Parish Council and that

there is general community support for the proposal to enhance the highway junction. In weighing up the overall planning balance, it is considered that in this instance these are relevant material considerations that should be given weight in decision making.

In weighing up the overall planning balance, if it is considered that the material benefits of the scheme are of a sufficient nature to give support to the scheme, given the proposed highway improvements are both necessary and directly related to the proposal, it is considered necessary to ensure their delivery through a legal agreement, rather than through CIL.

4.2 - Public Comments

4.2.1 **Berrington Parish Council:** Supports this application in principle providing a construction access is constructed before work is started on Phase 1 of the development.

4.2.2 Three letters of representation have been received summarised as follows:

It is inevitable that this development will occur despite the initial resistance by the public and it would have been fairer to have presented both phases from the outset.

The residents of Holcroft Way will be subject to a long period of construction work and the construction of Phases One and Two should be sequential and carried out expeditiously within a three year period.

The construction of the proposed enlarged roundabout and the blocking up of Holcroft Way should be carried out prior to any construction taking place to improve the access to the site by large vehicles and lessen the disruption to the existing residential area.

The roundabout should be constructed prior to commencement for reasons of highway safety because it is considered that the central road markings beyond the roundabout from the Shrewsbury direction are an insufficient deterrent to prevent traffic turning right into Holcroft Way from that direction.

It is appreciated that the Proposed Block plan is indicative but it does not show the blocking up of Holcroft Way whilst the Design and Access Statement does and this should also be conditioned to ensure that it happens.

Requests that a brick wall is extended across the gap with the verges on either side also extended with an access for pedestrians in the centre.

5.0 THE MAIN ISSUES

Principle of development
Highways/Access
Scale, appearance and layout

Trees, Landscaping and Open Space
Ecology
Drainage
Developer contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy policies the National Planning Policy Framework (NPPF) has been published and also needs to be given weight in the determination of planning applications. Paragraph 12 of the NPPF states that:

'Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

- 6.1.2 Paragraph 14 of the NPPF states that:

'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole; or

— specific policies in [the] Framework indicate development should be restricted.'

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

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

and that

'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

- 6.1.3 The key issue in determining this application therefore is whether adopted and emerging policies are considered up to date and what weight should be given to these policies balanced against the weight that can be given to other material considerations. The Council published a revised 5 year land supply statement alongside the submission of the Site Allocations and Management of Development

(SAMDev) Plan in August 2014 which demonstrates that the Council currently has a 5 year land supply. Now that the Council is in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements, policies for the supply of housing should be considered up-to-date.

6.2 Policy considerations

6.2.1 The relevant Local Plan for Cross Houses is the SABC Local Plan and the adopted Core Strategy in addition to the SAMDev DPD. Cross Houses is identified as a HS3 settlement within the SABC Local Plan which identifies that residential development would be acceptable subject to satisfying the following list of criteria:

(i) that the development lies wholly within the settlement as identified by the development boundaries on the proposals map;

(ii) that the development does not detract from the character of the settlement and is of an appropriate scale, design and character sympathetic to the immediate environment;

(iii) that the development does not result in the loss of any land in open use that is considered important to the setting and character of the settlement;

(iv) that adequate provision can be made for essential utilities;

(v) that an adequate and safe means of access exists or can be provided.

It is considered that the proposal meets with (ii) – (v) of the above (to be considered later in the report) but that it does not meet with (i) as the proposed site is outside the development boundary. The proposal would therefore be contrary to this policy and the site is considered to be situated in the countryside.

6.2.2 CS4 of the Core Strategy outlines how villages will be identified as Hubs or Clusters within the SAMDev DPD where additional development will be supported. Cross Houses is not identified as a hub or a cluster settlement. Paragraph 216 of the NPPF indicates that the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.2.3 The Council have recently received the Schedule of Main Modifications to the submitted version of the SAMDev Plan and only those areas subject to a proposed modification are subject to consultation. Planning Policy have confirmed that there are no proposed modifications which relate to Cross Houses and that in light of this it is considered that the SAMDev Plan establishes Cross Houses as a settlement in the open countryside and that significant weight should be attached to this.

6.2.4 SAMDev Policy MD3 is subject to proposed modifications so less weight can be attached to this policy which is subject to consultation. MD3 relates to the delivery of housing development and states the following:

Delivering housing:

In addition to supporting the development of the allocated housing sites set out in Settlement Policies S1-S18, planning permission will also be granted for other sustainable housing development having regard to the policies of the Local Plan, particularly Policies CS2, CS3, CS4, CS5, MD1 and MD7a.

and at 4.16 states the following:

“A key component of the housing land supply is the allocated housing sites identified in the Policies S1-S18, with related development guidelines. ‘Windfall’ development on other sites is also important, both within settlements and in the countryside, including both brownfield and, where sustainable, greenfield sites, having due regard to the policies of the Local Plan. The NPPF sets out a presumption in favour of sustainable development with reference to its economic, social and environmental dimensions.

- 6.2.5 The reason given for the modifications is ‘*to clarify approach to review of the Local Plan and the positive approach to allocations and windfall development*’ and that these particular modifications ‘*reflect national guidance, provide a cross reference and clarify the requirements of the policy. They do not represent a significant change*’.

MD3 as modified supports sustainable windfall development on greenfield as well as brownfield sites both within settlements and in the countryside. However as this policy is subject to proposed modifications less weight can be given to MD3 during this period of consultation on the main modifications. Although significant weight should be given to adopted policy, and emerging policy not subject to modifications, the NPPF presumption in favour of sustainable development is still a material consideration that needs to be considered in weighing up the overall planning balance. This approach is also supported by adopted CS5 which seeks to restrict open market housing development in the countryside but also states the following:

‘development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits’.

In addition to a consideration of whether the proposal represents sustainable development the benefits of the proposal need to be considered and balanced against the conflict with adopted and emerging policy.

6.3 Other Material Considerations

6.3.1 Sustainable development

- 6.3.2 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated,

attractive, safe and reliable communication and transport infrastructure and services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.3.3 Cross Houses is a large village with a range of services including a shop, post office, pub, community centre and petrol filling station and a regular bus service to Shrewsbury and a bus service to the primary schools in Condover or Cressage. The facilities in the village can be accessed on foot or by cycle, and the services, facilities and employment opportunities in Shrewsbury which is a short car journey away can also be accessed by public transport. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over reliance on the private motor car and is more sustainably located than many settlements that have been put forward as Hub and Cluster settlements suitable for development.

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

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

6.3.5 Economic role – The provision of additional houses in this location will support local businesses as future occupiers are likely to access and use local services and facilities in this and neighbouring villages helping them to remain viable. The proposal will provide employment for the construction phase of the development supporting builders and building suppliers. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan. However these benefits are not specific to development in this particular location.

- 6.3.6 Social role – The proposal will provide up to 35 houses which will help boost the housing supply providing a mix of family homes and will also provide much needed affordable housing on site at the prevailing rate at the time of the reserved matters application. Allowing villages to expand in a controlled manner will help provide support for and maintain (and potentially increase) the level of services and facilities available in the village and surrounding area helping them to become more sustainable. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Increasing housing numbers and population will help ensure services remain viable and that villages and rural communities remain or become more sustainable. In addition Cross Houses is one of the larger settlements in Shropshire and up to 35 houses in addition to up to 39 on the site already approved it is not considered to be a disproportionate number that would adversely change the structure and character of the community.
- 6.3.7 Environmental role – The environmental role of sustainability relates to protecting and enhancing the natural, built and historic environment, helping to improve biodiversity and moving to a low carbon economy. The site is grade 2 and 3 agricultural land but has no heritage, cultural or ecological designation. It is considered that the development of this relatively small piece of agricultural land of low ecological value would not be a significant loss. The proposal would not result in any adverse ecological implications or loss of trees but there would be some ecological enhancements of the site including tree and hedge planting and creation of a pond. In addition residential gardens often offer greater biodiversity than managed agricultural land. Although a green field site the development does not represent an intrusion into the countryside as the site is contained by a main road to the North East, the minor road to the North West with houses the other side, the disused railway line and Station House to the South West and the site previously given permission for development and Holcroft Way to the South East.. It is therefore considered that the development of this site (subject to a sensitive layout and design that preserves the setting of the adjacent listed buildings) would protect the natural, built and historic environment. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by a short car journey or public transport to the array of services, facilities and employment opportunities in Shrewsbury.
- 6.3.8 In conclusion it is considered that there would be no adverse impact of the proposal in terms of the three dimensions of sustainable development and that the proposal would fulfil all three roles. However some of the benefits that the proposal will bring (particularly the economic role) are not significant or specific to development of this particular site and could be applied to most developments in any location. At the time of the previous approval on the adjacent site it was considered that the proposed residential development would provide significant benefits in terms of boosting housing supply numbers but that was at a time when significant weight was being given to increasing housing numbers when the SAMDev plan wasn't at such an advanced stage. With SAMDev nearing adoption and sufficient land identified to meet the 5 year land supply less weight is being given to this.

6.3.9 Other benefits

6.3.10 In addition to representing sustainable development other material considerations have to be given weight and balanced against the conflict with adopted and emerging policy.

6.3.11 This proposal is phase 2 of a development already approved for up to 39 houses. At the time of that application there was concern about the impact on highway safety at the junction of Holcroft Way with the main road in proximity to a pedestrian crossing and the roundabout where there have been several accidents and near misses. However there was no objection from Highways and that application was approved subject to conditions securing some highway improvements but it was not considered necessary to require the developer to fund any improvement of the existing roundabout. It would also not have been viable for the developer to do so. However with the submission of this application with potentially up to 75 houses across both sites the provision of an improved roundabout becomes viable. Highways have confirmed that the improvements to the roundabout are required and necessary to make this second phase of the development acceptable in planning terms. Securing the provision of the land and improvements to the roundabout via a S106 agreement (all to be funded by the developer) meets the tests set out in paragraph 204 of the NPPF:

Planning obligations should only be sought where they meet all of the following tests:

*necessary to make the development acceptable in planning terms
directly related to the development; and
fairly and reasonably related in scale and kind to the development*

6.3.12 The roundabout is required to make the development acceptable and is directly related to and fairly and reasonably related in scale and kind to the development proposed. However in addition it brings the added benefits of providing a new and safe access onto the A458 for the existing residents in Holcroft Way and High Cross Avenue and will also help reduce vehicular speeds travelling through this part of Cross Houses and improve existing pedestrian and highway safety in a location which has been identified as hazardous by the parish and local residents. Many residents expressed concern about the difficulty of accessing the main road off Holcroft Way at busy times and also highway safety around the existing roundabout and pedestrian crossing due to speeding traffic on the main road. The roundabout improvements, the provision of a new and safe means of access on to the main road for residents in Holcroft Way and a reduction in traffic speeds approaching the roundabout are considered to be significant benefits of the proposal that are a material consideration when weighing up the overall planning balance.

6.3.14 As this proposal meets the three dimensions of sustainability and will provide significant benefit in terms of improving highway safety it is considered that on balance this outweighs the conflict with both adopted and emerging policy relating to housing land supply. It accords with CS5 representing development that will maintain and enhance countryside vitality and character and will improve the sustainability of this rural community by bringing local economic and community

benefits. In addition if the main modifications to SAMDev MD3 are approved it will also accord with MD3 representing sustainable development on a windfall site that reflects the NPPF presumption in favour of sustainable development. The proposed development is therefore considered to be acceptable in principle.

6.4 Highways/Access

6.4.1 The proposal includes upgrading the existing mini-roundabout to a full roundabout to provide access to both the proposed site and the previously approved site and also to Holcroft Way. Highways have confirmed that this is an acceptable means of access to the proposed development site and given that a number of recent collisions have been recorded at this junction and at the zebra crossing the proposals should have a positive benefit to pedestrian and highway safety along this length of the A458. These include potential lower vehicle speeds and the removal of the Holcroft Way junction which will also remove a potential distraction near to the existing zebra crossing.

6.4.2 Highways have recommended conditions requiring the proposed roundabout junction with the A458 to be constructed prior to the development first being brought into use and on completion of the development connecting the new access road to Holcroft Way and closing off to motor vehicles the existing junction between Holcroft Way and the A458. The Parish support the proposal providing a construction access is provided before work is started on Phase 1 of the development. A few residents have requested that construction of the proposed enlarged roundabout and the blocking up of Holcroft Way should be carried out prior to any construction taking place to improve the access to the site by large vehicles and lessen the disruption to the existing residential area. However Holcroft Way cannot be blocked off and connected to the new estate road and enlarged roundabout until the development is almost complete. However it might be potentially hazardous for all construction vehicles, deliveries and site workers to access both the phase 1 site and the phase 2 site via Holcroft Way so a condition will be imposed requiring a construction management plan being submitted that will include details of access to the site during the construction period. A few residents have also requested that the construction of Phases One and Two should be sequential and carried out expeditiously within a three year period but it is not possible to impose such a condition

6.5 Scale, appearance and layout

6.5.1 This proposal is Outline with all matters other than access reserved for later approval. The indicative layout indicates an estate of predominantly family sized detached houses and semi-detached homes. This is only indicative to illustrate how the site might accommodate the number of dwellings indicated and it is considered that the site could accommodate up to 35 dwellings without appearing cramped or over developed.

6.5.2 The North West part of the site is adjacent to the road to Berrington and is opposite a terrace of listed properties known as 'Russel Place'. The proposed development therefore might affect the setting of these listed buildings and has the potential to impact on these heritage assets. The proposed layout, design and appearance

needs to be considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special regard is given to the desirability of preserving the setting of listed buildings. However as this application is only outline with siting, scale and appearance reserved for later approval the density, siting and design of dwellings is not part of the proposal and would not be fixed by approval of this application. The number of dwellings and the layout could change completely and will be considered fully at the Reserved Matters stage along with scale and appearance and the impact on the setting of the nearby listed buildings.

- 6.5.3 It is considered that a sensitively designed scheme of an appropriate scale and design could be achieved that would not significantly and adversely affect the character and appearance of the locality or the setting of the heritage assets.

6.6 Trees, Landscaping and Open Space

- 6.6.1 A tree survey and arboricultural Impact assessment has been submitted. There is a mature hedgerow along the boundary with the A458 to the North East and the road to Berrington to the North West and a mature hedgerow and trees along the boundary near to the disused railway line to the South West. A small section of hedgerow will be required to be removed to make way for the enlarged roundabout but this will be compensated by new hedge planting. The area between the railway line and the site boundary will remain as it is and provide a green corridor. There are no trees within the site and the land can be developed without impacting on trees along the periphery of the site and on adjacent land subject to tree protection measures.

- 6.6.2 The layout and landscaping shown on the indicative layout submitted includes open space provision around the route of the existing public footpath. For a development of more than 20 houses recreational open space should be provided on site in accordance with the IPG. Any equipped play areas within recreational open space is funded by CIL. The Design and Access statement indicates that enough open space for both the phase 1 and phase 2 developments can be provided on this site as it is preferable to deliver a large, functional area of public open space to serve both developments as outlined in the IPG (rather than having two smaller areas split between both sites). It is considered that the site is developable without the loss of mature trees and the density and layout of the development including detailed landscaping, open space provision and the exact route of the footpath will be considered in detail and determined at the reserved matters stage as will a tree protection plan.

6.7 Ecology

- 6.7.1 An Ecological Survey Report has been submitted and concludes that the development will affect an ecologically poor arable field and that the existing drain will form part of a sustainable drainage system to include open pools. The trees, hedgerows and scrub around the northern, western and southern boundaries of the site will be retained and enhanced. The site is not designated for its wildlife interest

at an international, national or local level and no legally protected plant species were identified or are likely in the habitats encountered. No evidence of protected species was found within or immediately adjacent to the proposed development site during the survey but there are habitats with suitability for bats, nesting birds, Great Crested Newt and reptiles within or adjacent to the site. The habitat protection, enhancement and creation proposed within the report would maintain and increase connectivity and species diversity around the site and provide increased opportunities for a range of flora and fauna. Appropriate conditions and informatics regarding ecological protection and enhancement suggested by the Councils Ecologists will be imposed.

6.8 Drainage

- 6.8.1 A flood risk assessment and drainage proposal have been submitted and identifies that the site is situated within flood zone 1 (the lowest risk of flooding) and is not affected by flooding from rivers but that there is some surface water flooding along the course of the drainage ditch that crosses the site. A sustainable surface water drainage system is proposed that will utilise the existing ditch and will include flow control to release the water into this existing drainage ditch at a slow greenfield rate. Full details of the surface water drainage will be submitted at the Reserved Matters stage as suggested by SC drainage.

6.9 Developer contributions

- 6.9.1 The proposal is outline only but due to the likely number of dwellings affordable housing will be provided on site and the amount will be determined by the target rate at the time of the submission of an application for Reserved matters. This will be secured by a S106 in accordance with CS11 and the Housing SPD. At the current rate of 15% a development of up to 35 houses would include 5 affordable homes on site. The proposal will also be liable for a CIL payment and development of 30 market dwellings would be liable to make contributions at the rate of £80 per square metre floorspace. With an average floorspace of 100sqm per dwelling the development will generate an estimated £240,000 of Community Infrastructure Levy (CIL) monies. 90% of net CIL funds should be spent '*in the settlement in which the development occurs*' and therefore this contribution would be largely invested in Cross Houses. Berrington Parish Council sets its priorities for the use of CIL monies through the annually reviewed Shropshire Place Plan for this area. Additional developer contributions are not required towards education as CIL replaces the need to seek additional developer contributions for education or other infrastructure improvements for example and can be used to target community improvements identified in the LDF Implementation plan and Place plans. However CIL monies cannot be used to fund an aspect of the proposed development that is considered to make it acceptable in planning terms. Therefore as already outlined in paragraph 6.3.11 above the improvement and enlargement of the existing roundabout will be funded entirely by the developer and secured by a S106 agreement.

7.0 CONCLUSION

- 7.1 The NPPF advises that proposed development that conflicts with an up to date local plan should be refused unless other material considerations indicate otherwise. The Council can demonstrate a 5 Year land supply and policies for the supply of housing are therefore considered to be up to date. Significant weight should therefore be given to adopted SABC policy HS3 and policies (not subject to main modifications) within the emerging SAMDev plan and these both identify the site as countryside where development should be restricted under CS5. However CS5 does support *'development proposals on appropriate sites which maintain and enhance countryside vitality and character ... where they improve the sustainability of rural communities by bringing local economic and community benefits'*. Therefore an application cannot be refused simply because it is contrary to policy relating to housing land supply but other material considerations have to be given weight and balanced against the conflict with adopted and emerging policy. Other material considerations include whether the proposal represents sustainable development and whether there are any other significant benefits (or adverse impacts) of allowing the proposal.
- 7.2 There would be no adverse impact of the proposal in terms of the three dimensions of sustainable development and the proposal would fulfil all three roles of sustainability; although it is acknowledged that the economic, social and environmental benefits are not significant. However the proposed improvements to the existing roundabout to make the development acceptable will also bring highway and pedestrian safety improvements to an area already identified as hazardous and will benefit the community. It is considered that the significant benefits to highway and pedestrian safety that this development will bring in addition to the presumption in favour of sustainable development on balance outweighs the conflict with both adopted and emerging policy and the proposed development is therefore considered to be acceptable in principle.
- 7.3 Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in harm to the character and appearance of the locality or the setting of the adjacent terrace of listed buildings. The proposal would not result in the loss of any significant trees, would have no adverse highway or ecological implications subject to conditions being imposed, and landscape details and open space provision will be determined as part of an application for reserved matters. The on-site affordable housing provision and any balance of AHC and the proposed highway improvements will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS5, CS6, CS11, and CS17 and the aims and provisions of the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

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

9.0 Financial Implications

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

the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: SABC saved policy HS3 and Core Strategy policies CS4, CS5, CS6, CS11 and CS17.

RELEVANT PLANNING HISTORY:

14/02406/OUT Outline application for residential development to include means of access GRANT 4th February 2015

11. Additional Information

List of Background Papers: File 15/00539/OUT
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Claire Wild

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

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

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

4. Full details, plans and calculations of the proposed SuDS including information on the proposed maintenance regime for any sustainable drainage system proposed and details of who will take responsibility, should be submitted for approval as part of the first application for reserved matters. The SuDS shall be implemented as approved prior to the first occupation of the dwellings

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to ensure that the drainage system remains in good working order throughout its lifetime.

5. As part of the first application for reserved matters a contoured plan of the finished ground levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

6. As part of the first application for reserved matters a Construction Method Statement shall be 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:
- o vehicular access to the site during construction
 - o the parking of vehicles of site operatives and visitors
 - o loading and unloading of plant and materials
 - o storage of plant and materials used in constructing the development
 - o the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - o wheel washing facilities
 - o measures to control the emission of dust and dirt during construction
 - o a scheme for recycling/disposing of waste resulting from demolition and construction works

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

7. As part of the first application for reserved matters details of the design and construction of any new roads, footways, and accesses together with details of the disposal of surface water shall be submitted to the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

8. As part of the reserved matters details of the location and design of ten bat boxes or bat bricks shall be submitted to the LPA for approval and shall be erected prior to the first occupation of the dwellings.

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

9. No development or earth moving shall take place or material or machinery brought onto the site until Risk Avoidance Measures for great crested newts have been submitted and approved and protective fencing has been erected on site in accordance with the approved Ecological Survey Report by Turnstone Ecology revision 02 report dated September 2014. The approved Risk Avoidance Measures shall be implemented.

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

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

Authority. If the survey indicates the presence of any Badger Setts within 30 metres of the site then prior to the commencement of the development a detailed mitigation plan shall be submitted for the approval of the Local Planning Authority. The mitigation shall be undertaken in accordance with this approved plan.

Reason: To ensure the protection of badgers

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

11. The proposed roundabout junction with the A458 shall be modelled using ARCADY, or other appropriate assessment tool and a Road Safety Audit carried out on the proposed design and details of these assessments shall be provided to the local highway authority for review prior to the commencement of the access works on site.

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

12. The proposed roundabout junction with the A458 shall be fully constructed in accordance with the approved design prior to the development first being brought into use and/or the first occupation of the site.

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

13. Upon completing and opening to the public the proposed roundabout junction with the A458 the new access road shall be connected to Holcroft Way and the existing junction between Holcroft Way and the A458 shall be closed to motor vehicles, in accordance with the approved design.

Reason: In the interests of highway safety.

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

14. Any external lighting on the site shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

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

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

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

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



Committee and date

Central Planning Committee

16 July 2015

Development Management Report

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: Affordable Housing and the SAMDev Plan Main Modifications

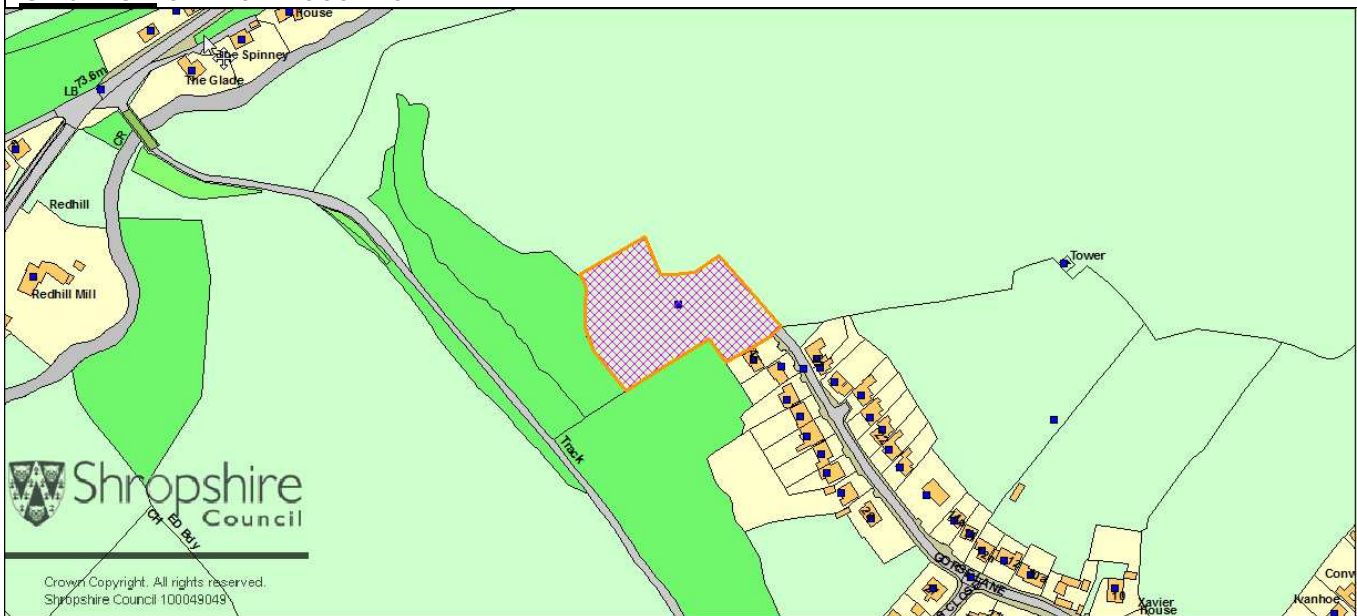
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/00989/OUT	<u>Parish:</u>	Bayston Hill
<u>Proposal:</u> Outline application (all matters reserved) for the erection of 5 dwellings with garages		
<u>Site Address:</u> Proposed Residential Development Land Off Gorse Lane Bayston Hill Shrewsbury Shropshire		
<u>Applicant:</u> G H Davies Farms Ltd		
<u>Case Officer:</u> Joe Crook	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 347207 - 309475



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1.0 Background

- 1.1 The application was presented to Central Planning Committee on the 18th September 2014 receiving a resolution for approval subject to an s106 to secure affordable housing. The s106 was delayed due to the Written Ministerial Statement on the 28th November 2014 which stated that affordable housing contributions should not be sought for sites of 10 dwellings and under 1000m², with lower thresholds for sites in AONBs and designated rural areas. Given the impact this would have on the level of affordable housing contributions in Shropshire the Council considered its position with regard to the WMS. In the meantime the application was effectively on hold. Following on from the Cabinet decision of 21st January 2015, the Council's position on the WMS to continue to give full weight to this Council's policies on affordable housing, was published on 30th January 2015.
 - 1.2 Notwithstanding the WMS, officers maintained the resolution that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of local policy. With the agreement of the applicant, the processing of the S106 was therefore reactivated.
 - 1.3 Since that time there have been further developments with the affordable housing contributions issue, together with advances with the Site Allocations and Management of Development (SAMDev) Plan. The matters are discussed below.
- 2.0 Affordable Housing
- 2.1 Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
 - 2.2 Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In respect of S106 agreements and affordable housing contributions officers acknowledge the following as material considerations in determining this planning application:
 - a) The Written Ministerial Statement (WMS) issued in November 2014 and amendments to the National Planning Practice Guidance (NPPG) which set out a threshold below which affordable housing contributions should not be sought (ie 10 dwellings or less);
 - b) A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, which commented on the Councils' affordable housing contribution position. The Inspector was of the opinion that the WMS provides more up to date national policy and effectively supersedes Policy CS11 of the development plan.
 - 2.3 However, in response to a) and following a subsequent decision by the Cabinet of the Council in January, the Council continues to give full weight to Policy CS11 of the

adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites – (please see the public statement attached as appendix A).

- 2.4 In response to b) Shropshire Council published a further statement confirming its' position in May. A copy of that public statement is also attached as appendix B.
- 2.5 A resolution to grant planning permission, subject to the prior completion of a S106 agreement to secure the affordable housing contribution consistent with CS11 and the Housing SPD was originally reached on 18th September 2014. Whilst the applicant was agreeable to proceed with the signing of a S106 to secure planning permission, the processing of the S106 has been held in abeyance pending a review of the Councils' position as outlined in a) and b) above. Since the issue of the Public Statement in May the S106 has now been signed and the application can progress for approval.
- 2.6 Although the applicant has signed the S106 considered necessary by Shropshire Council, for completeness officers set out below changes in material considerations which affect the current application in light of the Vashlyn appeal decision, including the following clarification:
- The Vashlyn decision is a material planning consideration but it was taken without full consideration of arguments and evidence with regard to the impact of the WMS on the provision of affordable housing in Shropshire, and the Council is seeking to make those arguments in another case before an Inspector on 1 July as a test case, the outcome of which will then become material.
 - The Councils' policy is linked to an adopted core strategy policy (CS11) based on evidence presented to an independent Planning Inspector and tested through an examination process.
 - The policy has been applied and in place since 2012 and there is no compelling evidence to suggest that its application is adversely affecting the delivery of smaller sites.
 - The policy was developed in conjunction with a developer panel to determine a dynamic viability rate relevant to Shropshire.
- 2.7 In summary, therefore material considerations have been identified in the form of the WMS, the NPPG and the Vashlyn appeal decision which affect development plan policy and the ability to seek affordable housing contributions in respect of developments involving 10 dwellings and under. However, as is evident from the discussion above, including appendix a) and b), Shropshire Council maintains its stance at this point in time that the greater weight should be given to adopted development plan policy CS11 and the Housing SPD in decision making. The Council is advancing this argument to the Inspectorate as part of an appeal case which is yet to be heard in July. Until the outcome of that appeal is known as a material test case, then the recommendation therefore remains that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of adopted development plan policy.

3.0 The SAMDev Plan Main Modifications

- 3.1 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications and updates to the 5 year land supply issue.
- 3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 3.3 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.

3.4 The Development Plan

For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011, certain saved policies of the Shrewsbury and Atcham Borough Local Plan 2001 and a range of Supplementary Planning Documents.

- 3.5 Following on from the adoption of the Core Strategy the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 3.6 Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:
- 3.7 Saved SABC Local Plan Policy HS3 - Within the Shrewsbury and Atcham Borough Plan Bayston Hill is defined as Village with Development Boundaries where planning permission will only be granted for residential development subject to all of the following criteria being met:-

- (i) that the development lies wholly within the settlement as identified by the development boundaries on the proposals map;
- (ii) that the development does not detract from the character of the settlement and is of an appropriate scale, design and character sympathetic to the immediate environment;
- (iii) that the development does not result in the loss of any land in open use that is considered important to the setting and character of the settlement;
- (iv) that adequate provision can be made for essential utilities;
- (v) that an adequate and safe means of access exists or can be provided.

- 3.8 Under the 'saved' policies of the Local Plan the settlement has a development boundary, where in accordance with policy HS3 and in accordance with Shropshire Core Strategy policies CS6 and CS11, together with the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing, residential development is acceptable – subject to sustainable objectives, general development control criteria and environmental expectations.
- 3.9 However, at the time of writing it is recognised that the saved Local Plan policy HS3 can only be given limited weight. This policy essentially seeks to restrict housing development to within settlement boundaries and so, in essence, applies a more restrictive approach that is not entirely consistent with the NPPF's presumption in favour of sustainable development. This reduces the weight that can be attached to policy HS3 in the assessment of this case.
- 3.10 Shropshire Core Strategy policies CS1 and CS4 - Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision in the rural areas. It is envisaged that rural areas will become more sustainable through a 'rural rebalance' approach to residential development and that locating development predominantly in community hubs and community clusters will contribute to social and economic vitality. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.
- 3.11 Although contiguous with the built form of the settlement the site lies outside the development boundary. Therefore, the proposal conflicts with adopted Core Strategy policies CS1 and CS4 and falls to be assessed against adopted Core Strategy policy CS5. Policy CS5 states that new development will be strictly controlled in the countryside and only allows for exceptions in housing needs, including those to meet an essential rural business need or local need, none of which apply to this proposal. The proposal therefore also conflicts with CS5. It is considered that policy CS5 is consistent with the objectives of the NPPF to protect the intrinsic character and beauty of the countryside.
- 3.12 (NB: In view of the forgoing the application was advertised as a departure from the adopted development plan, which would indicate that the proposal should not normally be supported for development).

- 3.13 SAMDev policy S16.2(ii) - In terms of the SAMdev Plan Bayston Hill has been identified as a Community Hub, where policy S8.2 will apply. The housing guideline and development strategy for the village was previously reported to Members, ie *'Bayston Hill is a Community Hub with a housing guideline of around 50-60 additional dwellings over the period to 2026, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. The retention of the gap of undeveloped land between Bayston Hill and Meole Brace, Shrewsbury remains an important objective of the strategy for the village. The development of the village is also constrained by the presence of the A49 running through the village and the major quarry to the east. The provision of affordable housing has been identified by the Parish Council as a priority requirement.'*
- 3.14 There are no main modifications in relation to Bayston Hill and no modifications proposed to the development boundary in the location of the application site. Officers are therefore of the view that significant weight can now be given to policy S8.2 of the SAMDev Plan in this regard. As a development is outside the development boundary the proposal would conflict with policy S8.2.
- 3.15 The NPPF and emerging SAMDev policies - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 3.16 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
- 3.17 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. In this context SAMDev policy MD3 is also of relevance to the assessment of this application. Policy MD3 is concerned with 'Managing Housing Development' and sets out some scope for approving sustainable residential development outside development boundaries, subject to certain criteria and compliance with other policies of the development plan. Policy MD3 has been modified to allow for a more flexible approach in line with the Framework. However, as policy MD3 is subject to modifications then, whilst it can be given some weight it cannot be given full weight. Therefore, the presumption in favour of sustainable development as advanced by the NPPF remains as a material consideration. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.
- 3.18 As a Community Hub it is accepted in principle that Bayston Hill is a sustainable settlement and capable of accommodating an appropriate level of new housing development. Whilst it remains to be acknowledged that the approach to direct housing within the development boundary reflects the preferences of the Parish Council and the wishes of the community, the site is considered contiguous with the built form of the settlement and does not represent isolated development. On this basis it is considered

that the proposal can continue to be supported as occupying a sustainable location in principle consistent with the objectives of the NPPF.

3.19 Furthermore, officers would highlight the advanced stage of the application and the following factors which reinforce the sustainable credentials in favour of the application at this point in time:

- The S106 has been signed. The planning permission can therefore be released without delay with affordable housing contribution secured.
- The draft planning permission is limited to a 12 month consent to bring the application to early delivery and contribute to the housing supply.
- Bearing in mind the all the above and until the SAMDev Plan is adopted, officers are of the opinion that the balance of planning considerations still tips in favour of permission.

3.20 Housing Land Supply – The National Planning Policy Framework (NPPF) paragraph 47 sets out an aim of boosting significantly the supply of housing, and the measures how local planning authorities will achieve this. One of those measures is a requirement for LPA's to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. NPPF Paragraph 49 then states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

3.21 In August 2014 the Council published an updated Shropshire Five Year Housing Land Supply Statement confirming the ability to demonstrate a 5 years' supply. This means that the Council's housing supply policies are not considered out of date under paragraph 49 of the NPPF.

3.22 The issue of the 5 year land supply has been the subject of challenge through the appeal process.

3.23 Shropshire Council's position that it has a demonstrable 5 year supply of deliverable housing land has been supported by recent appeal decisions at land adjacent to The Larches, Shawbury Road, Wem (APP/L3245/W/14/3000672) and land south of Brook Cottages, Ford (APP/L3245/A/14/2228348), both of which were determined on the 19th May 2015.

3.24 During these Appeals, the inspector undertook a detailed appraisal of the Shropshire Council 5 Year Housing Land Supply, considering extensive submissions from both Shropshire Council and representatives of the relevant appellants. The Inspector concluded that "it appears that from the Council's perspective, they are able to demonstrate a 5 years supply of deliverable housing land. Consequently paragraph 49 of the Framework is not engaged and local plan policies relevant to the supply of housing land are up-to-date, subject to their consistency with the Framework as set out in paragraph 215".

3.25 Since these comprehensive reviews of the Shropshire Council 5 year housing land supply, there have been a number of other recent appeal decisions within which the 5 year supply has been assessed without the consideration of the detailed evidence, as provided in support of The Larches and Brook Cottages appeals. For this reason those

other appeal decisions are not considered definitive and Shropshire Council maintains that it has a 5 year supply of housing, as evidenced in The Larches and Brook Cottages appeal decisions and appendices attached to the appeal cases.

- 3.26 Consequently Shropshire Council maintains that it has a demonstrable 5 year supply of deliverable housing land and paragraph 49 of the NPPF is not engaged.

4.0 Conclusion

- 4.1 Officers note the recent Ministerial Statement and amendments to the National Planning Practice Guidance, together with the recent Vashlyn appeal decision as material considerations in determining a planning application. However, the Council continues to give greater weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites for the reasons discussed in this report. The applicant has already signed the necessary S106 agreement to secure the affordable housing contribution.

- 4.2 The site is located outside the current Bayston Hill development boundary and is therefore classed as a departure from the development plan, contrary to Core Strategy policies CS1, CS4 and CS5. Furthermore, the site has not been identified as a site for future residential development within the emerging SAMDev Plan, and will therefore be contrary to policy S8.2 when SAMDev is adopted. However, whilst SAMDev is at a stage where significant weight can be given to policy S8.2, the requirements of this emerging policy and those of adopted policies CS1, CS4 and CS5 must be balanced against the NPPF. The NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. Ultimately SAMDev policies will need to comply with the sustainable guidance of the Framework in order to proceed to adoption. In this context SAMDev policy MD3 is also of relevance as it sets out some scope for approving sustainable residential development outside development boundaries and the local criteria that should be applied. However, Policy MD3 is the subject of modification and as such can only be given some weight. The presumption in favour of sustainable development as advanced by the NPPF therefore remains as a material consideration. Taking into consideration the designation of Bayston Hill as a Community Hub and the close relationship of the site with the existing built form of the settlement together with the advanced stage of the application whereby the S106 has been signed and a draft 12 month permission agreed, it is accepted that the site is in a sustainable location and is available now to deliver additional local housing supply in accord with national planning policy priorities relating housing provision and sustainable development.

5.0 Recommendation

- 5.1 The application remains recommended for approval, subject to the prior completion of a Section 106 agreement in relation to the financial contribution for affordable housing and to the conditions set out in Appendix 1 of the original committee report. As the Section 106 agreement has already been signed by the applicant the completion of the Section 106 rests with the Council.

APPENDIX A**Shropshire Council Statement with regard to:
Ministerial Statement of 28th November 2014****Support for small scale developers, custom and self builders**

In a Written Ministerial Statement on 28th November 2014, Brandon Lewis MP, Minister of State for Housing and Planning, announced that the Government was making a number of changes to the national Planning Practice Guidance (PPG) with regard to Section 106 planning obligations. These included the introduction of a threshold beneath which affordable housing contributions should not be sought.

The Ministerial Statement confirms that:

- (a) For sites of 10 units or less and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.
- (b) In designated rural areas (under Section 157 of the Housing Act 1985), authorities may choose to implement a lower threshold of five units or less, beneath which affordable housing and tariff style contributions should not be sought.
- (c) Affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.
- (d) A financial credit, equivalent to the existing gross floor space of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes.

Shropshire Council was particularly concerned by proposals a), b) and d) and through the consultation process in April 2014, put forward a comprehensive evidence response on how these changes would fundamentally affect the Council's ability to deliver much needed rural affordable housing directly on site or indirectly through financial support for Registered Providers (RP's) and as a consequence it would undermine its housing and community sustainability aspirations enshrined within its adopted Core Strategy.

This statement has been met with much consternation from Local Authorities, particularly rural authorities and other respected national organisations representing rural communities and rural housing.

Following the Ministerial Statement and update to the National Planning Practice Guidance the Council placed a report before the Council's Cabinet on 21st January 2015. The Council's Cabinet met and considered a report outlining the consequences of applying the Ministerial Statement of 28th November and the Council's current Type and Affordability of Housing SPD which sets out the Council's policy on the provision of affordable housing on open market developments in Shropshire .

The following decision was made:-

- (a) That the Council lobbies the Minister to review his statement to take account of differing conditions nationally and locally.
- (b) That the Council notes the Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application.

- (c) That the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites.”

Following the decision of the Council’s Cabinet to continue to give full weight to Policy CS11 of the adopted Core Strategy and the Type and Affordability of Housing SPD the Council will continue to seek provision of on-site affordable housing and/or affordable housing contributions for all residential developments of 10 dwellings or less within the Shropshire area and will continue to require developers to enter into s.106 agreements for this purpose.

APPENDIX B**Council Statement – Ministerial statement 28th Nov 2014 and Appeal decision Vashlyn, Kelsalls Lane, Copthorne.**

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council's unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council’s position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue. The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council’s current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council’s position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

Report presented to committee on 18th September 2014:**REPORT****1.0 THE PROPOSAL**

- 1.1 The proposal is an outline application for the erection of 5 dwellings with garages, with all matters reserved.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located at the bottom of Gorse Lane within an open field, with the plot to the south western corner of the field adjacent to the linear residential development on the western side of Gorse Lane. The site is bordered by mature woodland to the site's western and southern boundaries. The topography of the land in this location is such that the open field falls away to the north where it meets the Reabrook and the A5 beyond this.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Following the objections being received from Bayston Hill Parish Council, the Local Member also raised concerns in line with the Parish objections and requested the application be considered for a committee determination. This was agreed by the Committee Chair and Principal Planning Officer.

4.0 Community Representations**- Consultee Comments**

Bayston Hill Parish Council would like to register an **OBJECTION** to the proposed development.

The proposal made on behalf of G H Davies Farms Ltd to erect five new dwellings and garages on land off Gorse Lane, Bayston Hill is objected to for the following reasons:

BAYSTON HILL DEVELOPMENT BOUNDARY

The National Planning Policy Framework clearly states within paragraph 17 that authorities should be 'allocating sufficient land which is suitable for development'. In recent years and during the SAMDEV consultation periods Bayston Hill Parish Council has worked together with residents to identify suitable development sites to accommodate new housing. The proposed site for the above planning application was not included as a suitable site as it sits outside of the recognised development boundary and would involve building on a field that forms part of the gap between Bayston Hill and surrounding settlements, including Shrewsbury.

It is interesting to read in the Planning Statement that 'the boundary for Bayston Hill is now regarded as 'out of date'', by whom exactly? The Bayston Hill Parish Plan quite clearly states that the land in this part of the village should not be developed and although yet to be implemented, the SAMDEV supports protection of this land

and the boundary. There is a very real concern that, if successful, this development will set a precedent for further expansion and will reduce the clear definition between Shrewsbury and Bayston Hill.

Additionally in the Shrewsbury & Atcham Local Plan it was recognised that ‘it is particularly important to protect the area of countryside lying between Bayston Hill and Shrewsbury, even a small amount of development on either side of the bypass in this area would serve to reduce the gap and contribute to the amalgamation of the two settlements.’

HOUSING MIX

Whilst it is acknowledged that large family homes would attract interest due to the popularity of Bayston Hill, there is no local requirement for this type of housing. A high proportion of the properties in Bayston Hill have three bedrooms or more and a need for affordable homes and retirement properties has regularly been identified and is included in the Parish Plan. This has been reiterated at recent consultation events relating to a site which is due to be developed in the near future and which is likely to provide upwards of 35 new homes. Whilst still in the early planning stages it is thought that development of this central village location will put Bayston Hill well above the 60 new houses it has committed to within the SAMDEV.

Utilising the guidance provided by the NPPF, paragraph 17 refers to identifying the housing need which, as mentioned above, a development of five 4 bedroom detached properties quite clearly does not meet.

HOUSING DESIGN

The NPPF clearly states that new dwellings should be of ‘high quality design’ and ‘sensitively done’ to enhance the surrounding area. The Planning Statement for this proposed development has made no reference to the design of the five proposed dwellings, the only information available is that they will all have 4 bedrooms. This is an unsatisfactory basis upon which to make a decision about the proposal. It is impossible to know whether they will fit in with other residential properties in the area and with the local scenery.

With the advent of the Localism Act local communities have been given the right to comment on the design and quality of proposed new developments, this application does not allow Bayston Hill residents this opportunity and as such cannot be deemed a credible application.

The lack of a design statement for the proposed dwellings would suggest that this is another rapidly submitted planning application which is attempting to make use of the current shortfall in the five year housing land supply. In fact the Planning Statement makes several references to it and would appear to be the main argument for the actual proposed development.

SUSTAINABILITY

The Parish Council is fully aware the location of this proposed development makes it an attractive option in view of sustainability and it cannot be denied that it would be fully supported by the village infrastructure. However with the number of new houses due to be built within the village; 33 new affordable dwellings on Pulley Lane and potentially double that on the central village site due to be developed and proposals in for a further 24 large properties, there could be in excess of 100 extra children to be schooled before the additional 5 properties this application proposes. Whilst there are spaces at the Oakmeadow School it is very unlikely that an increase of this number of children would be able to be accommodated.

CONCLUSION

To conclude, Bayston Hill Parish Council is registering an **OBJECTION** to planning application 14/00989/OUT because it is situated outside of the recognised Development Boundary, there is no requirement for this type of housing within Bayston Hill and with it only being an outline application it is impossible to guarantee it will meet the social and environmental needs of Bayston Hill. We are disappointed that this is the third application in quick succession which has obviously been rapidly put together to take advantage of the shortfall in the five year housing land supply. We therefore request that you refuse this planning application in support of Bayston Hill Parish Council and residents.

SC Ecology – Following amended indicative layout plan moving all dwellings and garages over 12 metres from the adjacent wooded area and environmental network, and additional planting no objections were made subject to appropriate conditions and informatives relating to protected species.

SC Drainage – Request drainage details via planning condition in the event the application is approved.

SC Trees – Requested Arboricultural Impact Assessment, which has been considered. Concerns raised regarding trees creating excessive shade of amenity space or otherwise unreasonably interfering with the occupiers enjoyment of the properties leading inevitably to requests for consents to fell. However, no objection in principle and advise condition for full assessment of tree impact, though this may lead to reduced number of properties if remains an issue.

SC Affordable Housing – Currently awaiting proforma.

SC Highways – No objections to the scheme. The proposed scheme would inevitably result in additional vehicle movements along Gorse Lane but it is considered that this residential road has the capacity to accommodate those likely to arise from the occupation of the dwellings proposed.

SC Public Protection – Public Protection hold information which indicates that part of the proposed site is on top of a historical landfill. As a result a condition should be attached relating to site investigation should this application be granted approval.

SC Waste Management – Recommend the developer consult waste management guidance to ensure best practice is used in this regard. Will be attached as an informative.

- Public Comments

The Local Member, Councillor Ted Clarke, commented as follows:

Any new build development on this open site will be detrimental to the character, appearance and landscape of the surrounding area. This proposal for further housing on the upper slope of the steep open field(s) will have considerable visual impact when viewed from the A5 and beyond.

The regrettable encroachment out over the long established Bayston Hill development into the important “green buffer” separating the rural settlement from urban Shrewsbury is quite contrary to both the Bayston Hill Parish Plan and to the unequivocal opinion of previous Local Plan Inspectors.

The proposed open market housing type (four bed detached) also disregards other important information in the painstakingly researched and published BHill PPlan, particularly the community need for additional affordable/social dwellings in this predominantly “owner occupied” area.

The increase in traffic generated by this development will have an adverse impact on the residents of Gorse Lane, particularly at its narrow, very poor visibility junction with Overdale/Pulley/Lansdowne.

Finally, there is also the delicate issue of the recommendations for any future development of Bayston Hill contained in the final draft SAMDEV, which clearly does not support this application . . .

11 objections have been received which made the following comments:

- The site is located outside the Bayston Hill development boundary as shown on the Parish Plan, Shrewsbury and Atcham Local Plan and SAMDev proposals.
- Gorse Lane is unsuitable for the increase in traffic proposed to be utilising the lane to access the development. It is a small, narrow, rural lane with inadequate parking and access.
- The mini-roundabout at the top of Gorse Lane is already unsuitable for the amount of traffic using it.
- There have been issues with the drainage system which have worsened since the new dwellings were built here. There will be more frequent blockages created.
- The proposal does not comply with local planning policies as it is outside the village envelope.
- We fail to see how allowing five houses outside the traditional village boundary will in any way help meet housing needs in Shrewsbury or Shropshire, and if allowed will enable the landowner to come back again and again with plans for more homes there. A precedent will be set.
- The development will adversely affect the adjoining woodland and narrow

valley. These are important as wildlife habitat and have considerable local amenity value.

- What has happened to localism?
- The proposal is contrary to Core Strategy policies CS4 and CS17.
- Under paragraph 17 of the NPPF, environmental sustainability is described as protecting and enhancing our natural, built and historic environment. This is a prominent, elevated site where the houses would stand out like a sore thumb in the countryside when viewed from the Reabrook valley and will be visible for miles around.
- The proposed development fails to satisfy the test of environmental sustainability.
- The proposal is on countryside land outside the Bayston Hill development boundary. This boundary is not out of date as has been confirmed by the latest SAMDev documents.
- The applicant has failed to quote the entire clause within the Shrewsbury and Atcham Local Borough Plan 2001 which states 'the open countryside surrounding the village is a major attraction for many of the residents. This and a strong desire to maintain a separate identity to Shrewsbury, has led to a widely held belief that the village has grown enough and there should be no more housing.
- There is no current requirement for this type of housing in the village. What is required is one/two bedroom properties/bungalows to free up the large number of privately owned family houses currently under occupied.
- The site notice has not been adequately displayed. The instructions indicate that it should be displayed 'where it can be seen by the passing public'. The notice has been displayed at the end of Gorse Lane attached to the gate leading into the field and therefore unlikely to be seen by the passing public.
- There remains overwhelming local support for the maintenance of the village development boundary and refusal for development proposals which breach the gap between Bayston Hill and Shrewsbury.
- A dangerous precedent will be set for more building and will see the loss of the amenity area and wildlife forever.
- The access is not suitable for large lorries and trucks.
- The land is still producing crops annually.
- There are mineshafts in the field.
- The application hasn't been advertised sufficiently.
- The additional traffic from other developments as well as this will amount to unacceptable levels of vehicles using the highway network.
- There will be an adverse impact on properties with traffic passing very close to the existing dwellings.

5.0 THE MAIN ISSUES

Principle of development
Design, scale and visual impact
Impact on neighbouring amenities
Highways and access
Trees
Ecology
Land Contamination
Other issues
ADDENDUM

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

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

‘Housing applications should be considered in the context of the presumption in favour of sustainable development’.

and that

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’

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

- 6.1.4 The site is outside of the Bayston Hill Development Boundary as defined by Saved SABC Local Plan Policy HS3. Shropshire Council has an adopted Core Strategy and CS4 which outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD.
- 6.1.5 Bayston Hill has been included as a 'Community Hub' and the Pre-Submission Draft includes a development boundary. This site is just outside the development boundary for Bayston Hill and therefore allowing this proposal would be contrary to the emerging SAMDev DPD and contrary to the PCs aspirations regarding the location of new development within the village and the protection of the remaining green areas located between Bayston Hill and Meole Brace, Shrewsbury. However prior to the adoption of the SAMDev DPD there is still a strong presumption in favour of sustainable sites for housing where any adverse impacts do not significantly or demonstrably outweigh the benefits of the development as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration.
- 6.1.6 The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development, assessing the visual impact on the open character of the site and whether it is an acceptable scale and design appropriate for the village of Bayston Hill.
- 6.1.7 Bayston Hill is a large village that is located to either side of the A49 that runs in a north-southerly direction, with the larger part of the village located to the west of the A49. There are a range of services and facilities within the village, including a primary school, a precinct of local shops and takeaways, post office, playing fields and a public house and the village is serviced by a regular bus service from Shrewsbury. The site is located at the north western end of the village and it is considered that these services are all within an easy walking distance of the application site. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance or long journeys by private motor car.
- 6.1.8 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its

health, social and cultural well-being; and

an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of five additional houses will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.
- 6.1.10 Social role – Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities and will benefit both the existing and future residents and help meet the needs of present and future generations. As part of the SAMDev consultation process Bayston Hill Parish Council has put the village forward as a Community Hub, with a development boundary drawn around the village and with a housing guideline of around 50-60 additional dwellings to be provided by infilling, groups of houses and conversions of buildings on suitable sites within the boundary over the period up to 2026. No proposed sites are to be allocated. It is considered that the additional 5 dwellings now proposed would not provide any significant additional pressure on services over what is envisaged for Bayston Hill that would render them unable to sustain services for residents.
- 6.1.11 Environmental role – The site has no heritage designation but lies adjacent to an environmental network of trees and wildlife to the west and south. Following consultation with the Planning Ecologist, the scheme has been amended to show that an appropriate buffer can be achieved between the development and the strip of mature trees, and further landscaping will be sought as part of a condition. The open agricultural land itself has little ecological value. The proposal is therefore not considered to adversely impact on wildlife and the ecological value of the site itself could potentially be improved by relevant conditions. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Shrewsbury.

6.2 Design, scale and visual impact

6.2.1 A number of objectors including the Local Member have commented that the site will have a detrimental impact in visual terms given its elevated position which means the scheme will be prominent within its surrounds and visible from some distance given the topography of the land falling away to the north and the proposal projecting into the open field. It is acknowledged that the scheme will not be in keeping with the linear form of the existing development on Gorse Lane, though the site layout plan is only indicative at this stage and the design and layout would be formalised at reserved matters stage. It is also acknowledged that the scheme will project into the existing agricultural fields to the north of Gorse Lane. However, the scheme would be read against the existing development on Gorse Lane and would not therefore appear isolated from Bayston Hill. The positioning of the development would be in the corner of the field and following on from existing modern dwellings at the end of Gorse Lane, and the large trees to the rear would soften the appearance of the proposed dwellings and would help them assimilate within the surroundings, in keeping with the existing properties in this location. On balance it is considered that the scheme would not be overly detrimental to the visual appearance of the site or surrounding area. Whilst the Parish Council have raised concerns regarding a lack of information regarding the dwellings, the design, scale and layout of the development would be formalised at reserved matters stage but detached dwellings in this location are considered to be in keeping with those properties along Gorse Lane, and would not be excessive in this location. As such the proposal is considered to be acceptable in accordance with policy CS6 of the Shropshire Core Strategy.

6.3 Impact on neighbouring amenities

6.3.1 This will be assessed in more detail at reserved matters stage. However, the proposed scheme will be to the north of existing dwellings and will therefore have no adverse impact in terms of sunlight or daylight. The scheme shows that the dwellings can be accommodated on the site well over 21 metres away from existing properties and in this regard there is not considered to be any adverse impact on the existing dwellings in terms of privacy or overbearing impact. As such it is considered that the scheme is achievable without adverse impact on the amenities of neighbouring properties and is acceptable in this regard.

6.4 Highways and access

6.4.1 A number of objectors have raised concerns relating to the access to the dwellings through Gorse Lane and utilising the mini-roundabout at the top of Gorse Lane, stating that the highway network is not capable of accommodating the additional vehicles and that Gorse Lane is too narrow with minimal parking. However, evidently the parking will be accommodated within the site, and following consultation with the Highways Officer there have been no objections raised with the Highways Officer commenting that they consider Gorse Lane appropriate to accommodate the additional traffic from the 5 dwellings proposed, which is not considered to be excessive given the relatively small number of new properties.

6.5 Trees

6.5.1 Following a request from the Trees Officer for an Arboricultural Assessment, this has been considered by the Trees Officer. Whilst there is no objection in principle following this assessment, the Trees Officer has raised concern that, under the current indicative site layout the garden areas of all the plots would be excessively

shaded by the adjacent woodland. The officer has stated that the juxtaposition between trees and dwellings and associated amenity space is an important consideration because incoming occupiers of properties will want trees to be in harmony with their surroundings without casting excessive shade or otherwise unreasonably interfering with their prospects of reasonably enjoying their property leading inevitably to requests for consents to fell.

- 6.5.2 A condition has therefore been requested for further details with regard to the impact on the trees and the relationship with the proposed development, which is only indicative at this stage. The Trees Officer has commented that some form of development can go ahead on the site however, this would require an alteration to the indicative site layout for the reserved matters submission when this is formalised, and possibly require a reduction in the number and / or type of units proposed, taking account of the tree constraints and factors outlined in BS5837 and making provision to accommodate them into the design.

6.6 Ecology

- 6.6.1 Following the initial response from the Planning Ecologist it was requested that further consideration of the adjacent Environmental Network was made. Following the indicative plan being amended to ensure that there was a 12 metre buffer between the woodland and the new dwellings, and additional planting would be included, there were no objections to the scheme subject to conditions and informatives with regard to protected species.

6.7 Land Contamination

- 6.7.1 The comments of the Public Protection Officer are noted with respect to the historical landfill at the site and this will be conditioned accordingly.

6.8 Other issues

- 6.8.1 Whilst it is noted that the objectors to the scheme have commented that the type of housing is not required in Bayston Hill and smaller units such as 2 bed bungalows are necessary to meet demand in the area, this is not considered to be a reason to refuse the scheme and in any case the type and mix of dwellings would be determined upon submission of the reserved matters application. In addition, financial contribution will be made with regard to affordable housing in the area.
- 6.8.2 Residents have commented that there have been issues with the drainage system and some blockages. However, this is a matter for the sewerage undertaker.
- 6.8.3 Concerns have been raised relating to the development setting a precedent for housing on the field. However, the Local Authority can only consider what is submitted and would consider any further applications at the time of submission.
- 6.8.4 Comments have been made relating to the site notice being sited at the front of the site on a gate fronting onto Gorse Lane, and this is inadequate for the passing public. Furthermore inadequate number of letters have been sent out. However, the advertisement of the application has been in accordance with the Council's approved procedure, and the positioning of the site notice on the gate facing into Gorse Lane at the front of the site has been viewed by the Planning Officer on site and is deemed appropriate for purpose and viewable to passing public.

6.8.5 A S106 will secure a financial contribution towards the provision of affordable housing in accordance with the Shropshire Viability Index as set out in the adopted SPD.

6.8.6 Officers note the recent Ministerial statement (WMS) and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (see the public statement of the Council 'as published on the website 30/01/15')

7.0 CONCLUSION

It is acknowledged that approving this development would be contrary to the Parish Councils wishes for the village of Bayston Hill and the development would be outside of the development boundary for the village. However a priority of the NPPF is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development, which would be visually read with the existing built environment on Gorse Lane. The proposal is considered to represent a sustainable housing development close to facilities and services, and the existing infrastructure is sufficient to support the proposed development. There is not considered to be an adverse impact with regard to neighbouring amenities, highway safety or access, protected species or trees. As such it is recommended that members support this application and grant planning permission in line with the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure affordable housing in accordance with the Councils adopted policy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

HS3 - Housing in Villages with Development Boundaries

RELEVANT PLANNING HISTORY:

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

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the scale, appearance, layout, landscaping and access shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

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

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

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

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

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

The means of enclosure of the site
The levels of the site
The means of access for disabled people
The drainage of the site
The finished floor levels

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5.
 - a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by competent person and be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
 - b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the

site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

6. No part of the development hereby approved shall be commenced until an updated Arboricultural Impact Assessment reflecting the finalised proposed layout and including an Arboricultural Method Statement and Tree Protection Plan prepared in accordance with BS 5837 (2012) has been submitted and agreed in writing with the Local Planning Authority. Thereafter the development shall be carried out strictly in accordance with the recommendations within these reports.

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

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

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

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

8. A minimum of two 2F Schwegler Bat Boxes, or woodcrete equivalent bat box suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on

the site prior to first use of the building hereby permitted as shown on a site plan. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

Informatives

1. It is vital new homes have adequate storage space to contain wastes for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Any access roads, bridges or ramps need to be capable of supporting our larger vehicles which have a gross weight (i.e. vehicle plus load) of 32 tonnes and minimum single axle loading of 11 tonnes. It is recommended that the developer look at the guidance that waste management have produced, which gives examples of best practice. This can be viewed at:
<http://new.shropshire.gov.uk/media/102056/Supplementary-Planning-Guidance-domestic-waste-storage-and-collection.pdf>
2. The application form states that surface water drainage from the proposed development is to be disposed of via a sustainable drainage system (SuDS). No details of the proposed SuDS have been provided. Full details, plan and calculations of the proposed SuDS should be submitted for approval as part of the reserved matters. This should illustrate how the development will comply with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone / site area and Shropshire Council's Interim Guidance for Developer, and how SuDS will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures such as the following:
 - ' Surface water soakaways (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, or cater for the 1 in 10 year storm event, in which case a flood conveyance drawing for exceedance flows should also be submitted for approval. Flood water should not be affecting other buildings or infrastructure.)
 - ' Swales
 - ' Infiltration basins
 - ' Attenuation ponds
 - ' Water Butts
 - ' Rainwater harvesting system
 - ' Permeable surfacing on any new driveway, parking area/ paved area
 - ' Attenuation
 - ' Greywater recycling system
 - ' Green roofs

Details of the use of SuDS should be indicated on the drainage plan.

3. A contoured plan of the finished road levels should be provided as part of the reserved matter together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.
4. Part of the land on the western half is on a historic landfill site. A detailed ground investigation should be carried out to determine if there is any contaminant in the landfill site. Evidence is required ensuring that no migration of surface water to the landfill site takes place.
5. Consent is required from the service provider to connect into the foul main sewer.
6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

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

7. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

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Committee and date

Central Planning Committee

16 July 2015

Development Management Report

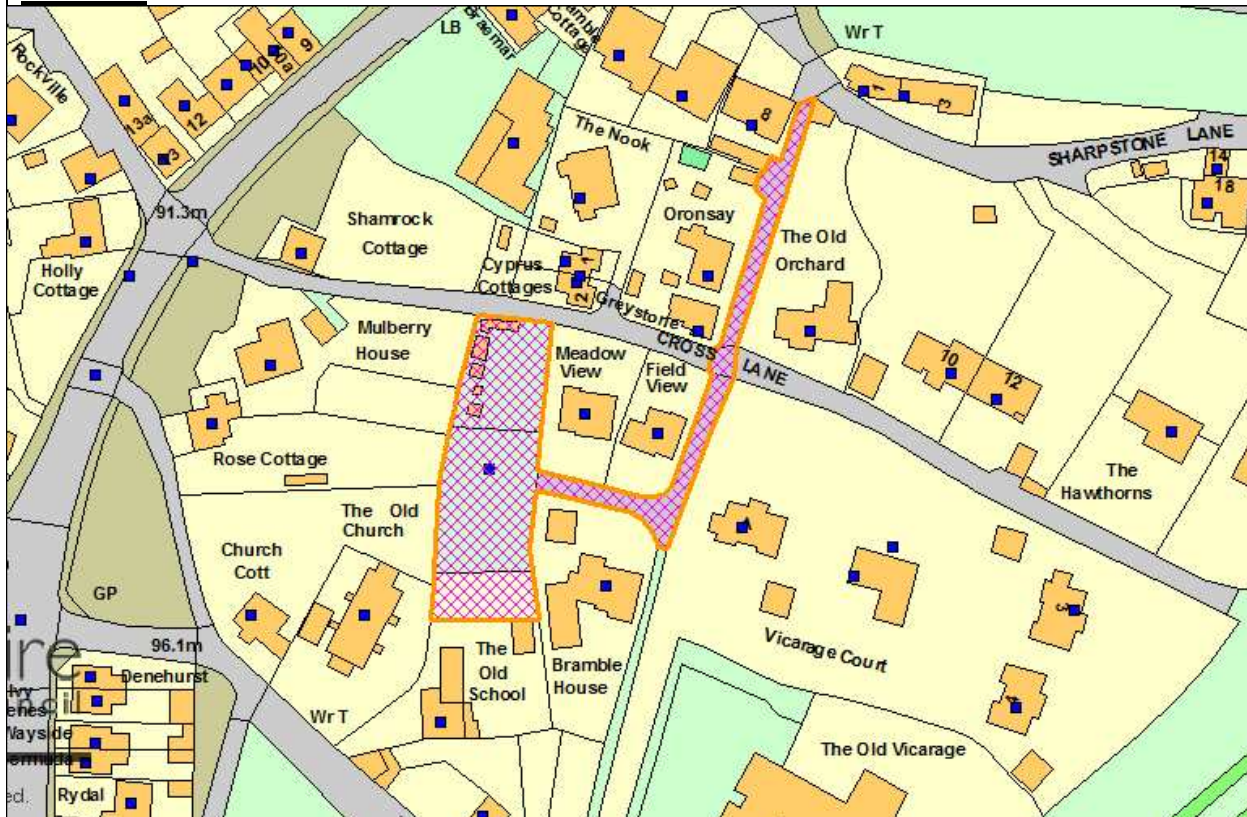
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 15/01107/FUL	<u>Parish:</u>	Bayston Hill
<u>Proposal:</u> Erection of 2 no. dwellings and extension to an existing private drive		
<u>Site Address:</u> Proposed Residential Development To The South Of Cross Lane Bayston Hill Shrewsbury Shropshire		
<u>Applicant:</u> Rev Tim Lomax		
<u>Case Officer:</u> Aileen Parry		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 348745 - 308874



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC in accordance with the Councils adopted policy.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the erection of two open market, four+ bed dwellings and an extension to an existing private drive off of Cross Lane Bayston Hill Shrewsbury.
- 1.2 The agent has advised that the dwellings will be constructed from red brick with a plain clay roof; with features of the houses including timber porches, decorative chimneys, timber barges and fascia boards, and dormer windows. They have also advised that the existing hedgerows along the boundaries are to be retained, with the exception of the short section where the access crosses into the site, in the centre of the site a small number of trees are to be removed and replaced with suitable native species tree planting and that the trees at the southern end of the site along the boundary are to be retained.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site lies within the development boundary of Bayston Hill and occupies a plot adjacent to and bounded by Cross Lane to the north and residential housing to the south, east and west. Access is proposed to be off an existing private driveway off of Cross Lane and a small lane leading down to Sharpstone Lane. Both lanes are of the type unmade single track lanes approximately one cars width. The site is gently sloping and currently screened in part along the front, rear and sides by high hedges.
- 2.2 Access to and from the nearby A49 which is approximately 70 metres to the west of the site will be via the single track lane to Sharpstone Lane and then the A49., The A49 connects Bayston Hill to Shrewsbury to the north and Ludlow / Leominster to the south as well as the A5 Shrewsbury By-pass to the north.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Bayston Hill Parish Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

- 4.1 - Consultee Comments

4.1.1 SC Drainage

No objection. Drainage details, plan and calculations could be conditioned if

planning permission were to be granted along with informatives.

4.1.2 SC Affordable Houses

The proforma attached shows an incorrect calculation, the formula should be 0.3×100 (as it is capped at 100sqm) $\times 900$ which gives a contribution of £27,000.

4.1.3 SC Ecology

No objection. Conditions and informatives recommended.

4.1.4 - SC Archaeology

No objection. Overall, the archaeological potential of the proposed development site itself is therefore considered to be low. Condition recommended.

4.2 - Historic England Advice

The proposed development is within the setting of the 'The Burgs' Scheduled Ancient Monument (UID: 1003016), a small multivallate hillfort. As such non-designated archaeology associated with the hillfort may be within the proposed development boundary. The advice of the Local Authorities archaeological advisor should be sought and implemented in full.

4.3 - Parish Council

Bayston Hill Parish Council Planning Committee met on 13 April 2015 and voted by a majority to object to this application on the following grounds:

The type of housing proposed is not appropriate for the setting and will have an adverse effect on neighbouring properties. The type of housing proposed is not required in Bayston Hill. There is a shortage of affordable properties in the village, but there is not a shortage of executive housing. There are concerns about the access which is via an unadopted road. The road is in a poor state of repair. When planning permission was granted in 2011 for the building of three homes off Cross Lane, it was on condition that the road would be brought up to an acceptable standard, but this work has never been done. If more houses are built and more vehicles use this unadopted road, it will have an even more adverse effect on the road surface.

4.4 - Public Comments

Eight neighbours have been consulted and a site notice forwarded for display. Officers have photographic evidence that the notice has been displayed.

Three objections have been received. The points raised include:

- Adverse effect on residential amenity
- Closeness to and effect on listed buildings
- Over development of land
- Loss of green space and hedgerows
- Loss of facility
- Potential for future loss of privacy
- Road not suitable and increased traffic
- Old village character further eroded.

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Impact on neighbouring amenities
Impact on setting of heritage asset
Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination sessions in November & December and these are being published for a 6 week consultation. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications. Given the stage of advancement of this Plan, it is considered that considerable weight can be given to the proposed policies within it.

6.1.2 Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the 'Revised Preferred Options' stage and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

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

The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where significant weight can be attached.

6.1.3 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 Council's Core Strategy the National Planning Policy Framework

(NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

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

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

and that:

'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'

6.1.5 However, following the submission of the SAMDev Final Plan to the Planning Inspectorate in August 2014, 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 the 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. The NPPF sets out that the priority is therefore to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so.

6.1.6 Bayston Hill is coming forward as a Community Hub with a housing guideline of around 50-60 additional dwellings over the period to 2025, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. This site is within Bayston Hill Development Boundary and considered as infill by officers and therefore complies with the emerging SAMDev principles in this respect.

There is currently a 'presumption in favour of sustainable development' and the need to boost the housing supply (a government priority) is a significant material consideration when determining planning applications for housing. It is considered that the key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Bayston Hill.

- 6.1.7 The application site is situated in the old village part of Bayston Hill, and is within the Bayston Hill Development Boundary as shown on the Inset Map attached to the SABC Local Plan. The principle of residential development within the boundary is acceptable under saved SABC Local Plan Policy H3: Housing in villages with development boundary.

It is therefore considered that the site is situated in a sustainable location with regard to both accessibility and proximity to essential day to day services in Bayston Hill, Meole Brace and Shrewsbury without having an over reliance for long journeys by private motor car.

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

- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

and

- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of two additional houses will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes creates a stimulus to the economy and addresses the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing.

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

present and future generations.

6.1.11 Environmental role – The site forms part of a garden SC Ecology has provided conditions and informatives. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Bayston Hill and Shrewsbury.

6.1.12 Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development.

6.2 Siting, scale and design of structure

6.2.1 It is considered that the site is an appropriate location for two additional dwellings as it is situated within the Bayston Hill Hub and development boundary.

6.3 Impact on neighbouring amenities

6.3.1 Only one listed building has been identified using the in house Conservation mapping system which is The Old Church. Measurements indicate that there will be a distance of approximately 11.5m from the back of The Old Church to the nearest new dwelling. The agent has provided that the existing hedgerows along the boundaries are to be retained, with the exception of the short section where the access crosses into the site. Officers also consider that with the retention of this natural screening and there being considered to be sufficient distance between the proposal and neighbouring properties that any impact on or to residential and area amenity will be minimal.

6.4 Impact on setting of heritage asset

6.4.1 SC Historic Environment Archaeology has raised no objection to the proposal and neither has English Heritage. The proposed development site is deemed to hold a low archaeological potential, but a condition will be placed on any planning permission granted.

6.5 Highways

6.5.1 Formal comments to be reported by additional representations.

6.6 Affordable Housing

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council's unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council's position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue.

The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council's current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self-interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council's position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non-compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

7.1 It is appreciated that by approving this proposal for full planning permission for the erection of a single dwelling would be contrary to the Parish Councils wishes. The NPPF sets out that the priority is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is an appropriate location for two additional dwellings as it is situated adjacent to existing housing and within the Development Boundary of Bayston Hill Hub. The proposal is also considered would no or little environmental or ecological implications and would not adversely impact on residential amenity of neighbours.

7.2 It is considered that the proposal represents sustainable development as the site is within Bayston Hill and therefore considered as infill. It is within range of local services within Bayston Hill, Meole Brace and Shrewsbury. The development will therefore not result in an over reliance on the private motor car. It will provide two additional dwellings and will help support existing facilities and services therefore promoting 'strong, vibrant and healthy communities'. The existing infrastructure is considered sufficient to support the proposed development and the proposal will provide an Affordable Housing Contribution (AHC) and will be liable for the required CIL payment.

7.3 It is therefore recommended that members support this application and grant planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure an AHC in accordance with the Councils adopted policy and a unilateral undertaking regarding highways.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies: CS4, SABC H3

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

Cabinet Member (Portfolio Holder)
--

Cllr M. Price

Local Member(s)

Cllr Jon Tandy

Cllr Ted Clarke

Cllr Jane Mackenzie

Appendices

APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The development site is known to have archaeological interest.

4. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. SuDS Applicability for the site is Attenuation. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval.

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

Should soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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

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

5. Prior to the first occupation of the dwellings a minimum of three artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

6. Prior to the first occupation of the dwellings details of a minimum of one bat box 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 box must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

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

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

8. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

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

Informatives

1. As part of the SuDS, 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

Green roofs

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

2. Consent is required from the service provider to connect into the foul main sewer.
3. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

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

All 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.

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Committee and date

Central Planning Committee

16 July 2015

Development Management Report

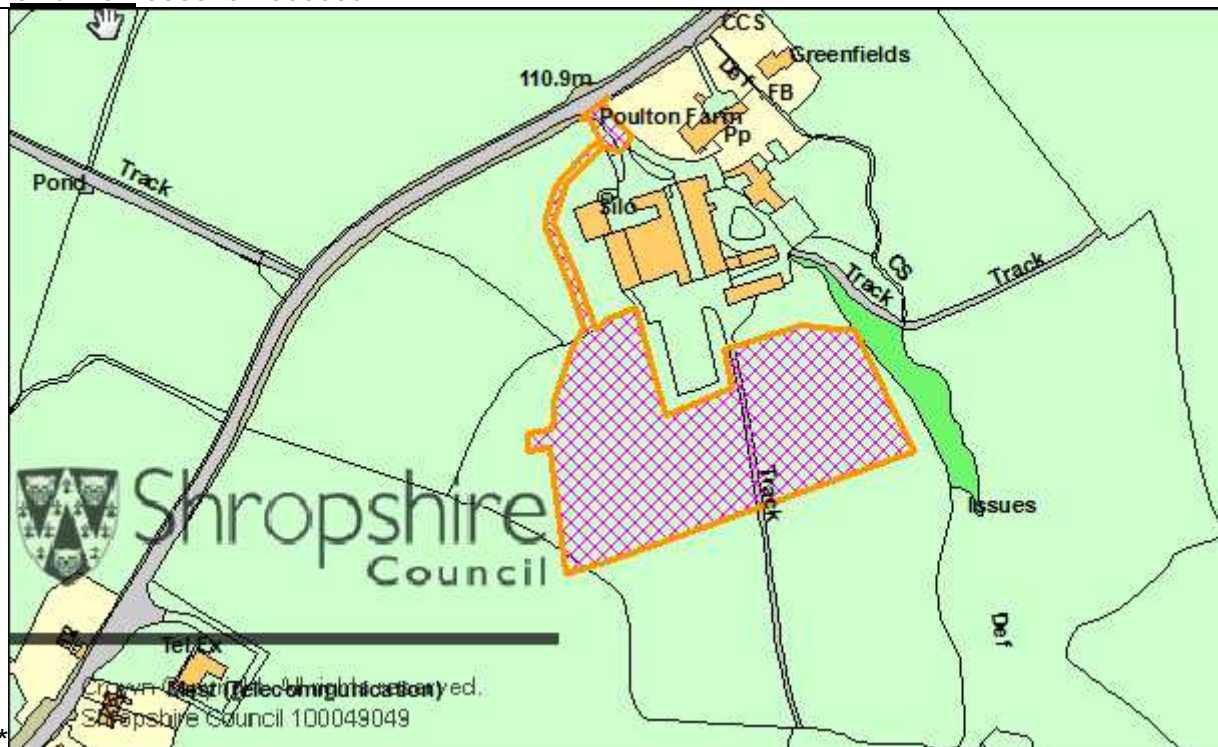
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 15/00487/EIA	<u>Parish:</u>	Minsterley
<u>Proposal:</u> Erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works		
<u>Site Address:</u> Poulton Farm Little Minsterley Minsterley Shrewsbury SY5 0BW		
<u>Applicant:</u> D P & M A Jones		
<u>Case Officer:</u> Philip Mullineux		<u>email:</u> planningdmnw@shropshire.gov.uk

Grid Ref: 338345 - 305589



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

REPORT

1.0 THE PROPOSAL

- 1.1 Application proposes construction of 2 no. intensive broiler poultry sheds and 3 feed bins, ancillary works, improvements to existing access, and associated landscaping works on land to the rear of Poulton Farm, Little Minsterley, Minsterley, Shrewsbury, SY5 0BW.
- 1.2 The application is accompanied by an Environmental Statement which includes a planning policy statement, heritage assessment, odour impact assessment, ammonia report, noise assessment, transportation assessment, landscape visual impact assessment, flood and drainage assessment and ecological report. Also accompanying the application is a set of proposed elevation and floor plans, site location plan and block plan.
- 1.3 The application falls into the remit of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (as amended) Schedule One development, and therefore an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 100, 000 birds on site. As such the application was advertised by the Council as Development accompanied by an Environmental statement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site equates to an area of 1.16 hectares, being grade 3 agricultural classification land, and is located to the rear of an existing working farmstead, comprising of a farmhouse and range of traditional and modern farm buildings. The farming unit amounts to 45 hectares, (110 acres), owner occupied land with a further 61 hectares, (150 acres) on a farm business tenancy. The enterprise is mainly livestock rearing comprising of a sheep and beef cattle with a small amount of corn grown for consumption by livestock reared on the farming unit.
- 2.2 The development site itself is set on slightly undulating ground which in general slopes upwards from the existing buildings towards the south of the site. The land then slopes up towards Poles Coppice and the edge of the Shropshire Hills AONB. Pontesbury is located to the north-east. (approx.1.3 km in distance), To the north the land drops down towards the Rea Brook and Minsterley is located to the south-west. The nearest dwelling to the farmstead is located approx. 150 metres away and this dwelling is occupied by the applicant's parents who have an interest in the farming business.
- 2.3 The buildings will each measure 115.82 metres by 26.61 metres (360ft x 80ft) and 5.76 metres high and will be situated directly adjacent to the existing farm buildings at Poulton Farm. The buildings are to be of standard construction, comprising portal

frame and profile sheet cladding, and will be fully insulated to reduce energy consumption. Access to the site will be gained from the existing farm access off the adjacent A488 highway.

- 2.4 The broilers will be brought in as day old chicks at a 50-50 mix of males and females. The 36 day growth period will lead to birds being around 2kg in weight by clear out. The chicks will be brought in from a hatchery with the average crop cycle being 35-36 days plus the clean-out period. At the end of the growing period they will be collected and transported to a processing plant.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The proposal is for 'schedule 1' EIA Development and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation.

4.0 Community Representations

- 4.1 **Minsterley Parish Council** raises no objections, their response indicating that 'there must be a stipulation that the screening to the south covers the sheds'.

4.2 Consultee comments.

- 4.3 **Historic England (English Heritage) raises no objections.** They comment indicating that the development will impact upon the setting of the Scheduled Ancient Monument known as Callow Hill Camp: a small multivallate hillfort (UDS: 1019828) and that they are currently working with the owners of the hill fort to reduce tree cover on the Scheduled Ancient Monument which will make it more prominent in the landscape and increase the impact of the proposals on the monument. The response indicates that if the proposed development is approved, planning conditions should be applied which require the prior approval of design details and finished in order to minimise the visual impact on the Scheduled Ancient Monument.

- 4.4 **Natural England – No objection following receipt of additional comments 23rd June 2015.**

Withdrawal of objection

Natural England previously advised that further information was necessary in order to undertake a Habitat Regulations Assessment (HRA) in relation to this proposal, we note that your authority has received this information and undertaken a HRA. Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of information provided, Natural England concurs with this view.

Nationally designated sites – withdrawal of objection

This application is in close proximity to Marton Pool Chirbury, Minsterley Meadows, The Stiperstones & the Hollies and Earl's Hill & Habberley Valley Sites of Special Scientific Interest (SSSIs). Natural England is able to remove its objection based on the comments of your ecology team who have assessed the impacts of ammonia on

designated sites and consider that effects arising from the proposal are considered below the threshold for which the Environment Agency considers significant.

- 4.5 **SC Planning Ecologist** raises no objections. The response recommends conditions to be attached to any approval notice issued and that a copy of the Habitat Matrix report is attached to any Committee report for planning consideration.
- 4.6 **SC Drainage** raises no objections subject to conditions.
- 4.7 **SC Highways** raises no objections the response indicates that the existing farm site benefits from a direct access to the A488 principal road, where the junction sightlines have recently been improved considerably following the purchase of land from the applicant and the construction of the new footway/cycle route by the local highway authority to link Pontesbury and Minsterley. Given this direct access and the existing agricultural use, this would appear to be an ideal site for the proposed diversification by constructing the broiler units. We have examined the transport assessment provided with the application and we agree with the conclusions drawn that there should be no adverse highway impacts resulting from this proposal. Some outline details have been provided regarding the alterations to the access, however the construction details will require approval before work can commence on site and hence a road design condition is recommended above. Also, whilst it appears there is sufficient space provided for turning vehicles on the site, no turning movement information has been provided so again a pre-commencement condition for this is required to confirm these details.

The response recommending conditions to be attached to any approval notice issued in relationship to road design, parking/turning/loading and on site construction and an informative in relationship to a S184 license.

- 4.8 **SC Fire and Rescue Service** raises no objections.
- 4.9 **SC Archaeology** have responded to the application with no objections subject to conditions stating:

‘The proposed development comprises two poultry sheds to be sited immediately south of the existing farmstead at Poulton Farm. The proposed development site is located c. 550m north of the Scheduled Monument of Callow Hill Camp (NHLE ref. 1019828). Poulton itself has been included on the Historic Environment Record as a deserted/ shrunk medieval settlement (HER PRN 03667). The Heritage Impact Assessment submitted with the application states that this settlement is first recorded in the late 13th century, with later documentary sources indicating that it is always likely to have remained a small settlement. However, the extent of any below ground archaeological remains associated with this settlement remains unknown. The proposed development site is therefore considered to have low-moderate archaeological potential.

RECOMMENDATION:

A Heritage Impact Assessment by Richard K Morriss & Associates has been submitted with the application to satisfy the requirements set out in Paragraph 128 of the NPPF. In their consultation response of 10 March 2015 English Heritage state

that they consider the proposed development will impact on the setting of the Scheduled Monument, taking account of ongoing management works to reduce scrub and tree cover over it. They therefore recommend appropriate conditions requiring prior approval of materials and finishes are included on any planning permission, so that visual impact on the monument is reduced through design measures. An appropriate standard condition is advised below.

In view of the recommendations contained in the Heritage Impact Assessment, and in line with Paragraph 141 of the NPPF, it is advised that a programme of archaeological work be made a condition of any planning permission for this part of the proposed development. This would comprise an archaeological watching brief during all ground works. An appropriate condition of any such consent would be: -

4.10 SC Historic Built Environment raises no objections the response indicating:

This proposal affects the farmstead known as Poulton Farm, north east of Minsterley, which includes no designated heritage assets however which has been identified by the Councils Historic Farmsteads Characterisation Project. The farm house dates to the early 19th Century and the farmstead is comprised of a mix of remaining traditional agricultural buildings with a series of modern farm buildings of some size. The poultry units proposed would be sited to the rear (south) of the farmstead.

Principles of Scheme:

As we would normally require, a Heritage Impact Assessment has been prepared by Richard Morris and we are generally content with its conclusions.

RECOMMENDATION:

Generally no objection subject to the inclusion of relevant conditions on external detail, materials and finishes to ensure that the external appearance of the development is satisfactory and to protect the setting of nearby heritage assets

4.11 SC Public Protection raises no objections. The response states:

‘Having considered the noise and odour assessments I am satisfied that it is possible to control these particulars in order that no significant detrimental impact is noted at nearby residential properties. As a result, and in line with the National Planning Policy Framework paragraph 122, as the development itself is an acceptable land use in terms of pollution from noise and odour I have no conditions to propose as the environmental permit, issued and regulated by the Environment Agency, must be assumed to operate effectively in controlling these aspects of the development. I would advise that the environment agency are consulted and are asked to ensure that where the noise assessment states that specific mitigation measures will be applied to tunnel ventilation, page iv of the noise assessment submitted as part of this planning application, that these elements are considered and clarified prior to the permit being granted to ensure no detrimental impact from these sources.’

4.12 Public Comments

4.13 One letter of objection has been received from members of the public. Key issues raised can be summarised as follows:

- The doors of the proposed building face the rear of no's 1-14 Little Minsterley and there is very little landscaping proposed to protect the houses from noise and smell.
- The proposed native hardwood tree planting will take many years to form an effective screen.
- The odour report submitted has not taken any readings from the front or rear of no's 1-8 Little Minsterley which are among the nearest properties and sit in a shallow valley below the proposed buildings.
- Relocating the doors to the opposite end of the proposed buildings or relocating the development to the North East side of Poulton Farm would vastly reduce disturbance to neighbours.
- If the proposed development were to be sited in the field to the North East of the farm adjacent to the A488, the nearest property would be Woodhouse Farm approximately 391m away, whereas in the proposed location the nearest property is 13/14 Little Minsterley, 321m away.
- The proposed development will have a significant impact on no's 1-14 Little Minsterley in the long term and using an alternative site would vastly reduce the impact on neighbours.

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Siting, scale and design of the development and impact on surrounding landscape character and built environment including heritage assets.
- Residential amenity and public protection.
- Ecological impacts
- Public highway access.

6.0 OFFICER APPRAISAL

6.1.1 The Planning Policy Framework, (NPPF), emphasises in paragraph 28 on Supporting a prosperous rural economy, that planning policies should support economic growth in rural areas, in order to create jobs and prosperity by taking a positive approach to sustainable new development and promote the development and diversification of agriculture and other land based rural businesses.

6.1.2 Policy CS5: Countryside and green belt in the Core Strategy states that new development will be permitted where it improves the sustainability of rural

communities where development diversifies the rural economy including farm diversification schemes. The policy further states that large scale agricultural related development will be required to demonstrate that there are no unacceptable adverse environmental impacts.

- 6.1.3 Policy CS6: Sustainable design and development principles emphasises how development must be designed to a high standard using sustainable design principles and make the most effective use of land whilst safeguarding natural resources.
- 6.1.4 Policy CS13: Economic development, enterprise and employment, puts emphasis on diversifying the Shropshire economy, supporting enterprise and seeking to deliver sustainable economic growth and in rural areas recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy and in particular areas of economic activity associated with agricultural and farm diversification.
- 6.1.5 The policies referred to above clearly support appropriate agricultural economic growth and diversification in context to the local environment.
- 6.1.6 The development in principle is considered an appropriate form of farm diversification in relationship to the agricultural business concerned, proposing construction of two broiler units for the housing of up to 100,000 broilers on site at any one time as a form of diversification in relationship to a family owned and managed mainly stock rearing unit which amounts to 106 hectares. As such the principle of the development is considered acceptable and in accordance with relevant national and local planning policies as outlined above.
- 6.1.7 The location for the development is to the rear of an existing farmstead in the control of the applicants, the site considered the most appropriate location for the development, and as such the sequential site selection in relationship to all relevant planning issues is considered acceptable subject to satisfactory consideration to other planning issues as considered later in this report.
- 6.2 **Siting, scale and design of the development and impact on surrounding landscape character and built environment including heritage assets.**
 - 6.2.1 The applicants have submitted in support of the application, as part of the Environmental Statement, a Landscape and Visual Impact Assessment and Heritage Assessment as advised by Paragraphs 118 and 128 of the NPPF and these have been considered in relationship to the proposed development.
 - 6.2.2 The development construction proposes two steel profile and clad broiler units each measuring 115 x 26.61 metres floor space with a height of 5.76 metres. The application also proposes three feed silo's to be located between the two broiler units. As such it is acknowledged that the development is large scale which will have an impact on the surrounding landscape.

- 6.2.3 The location for the development is to the rear of the existing farmstead on a site reasonably well screened by surrounding natural vegetation and with additional landscape mitigation in the form of tree and hedge planting, it is considered that the development can be incorporated into the landscape without a significant detrimental impact. Information in support of the application indicates that the proposed broiler units themselves will be finished in dark green profile sheeting, (colour code BS12B29), and with consideration to the location this is considered acceptable. However no indication is given in relationship to the external colour of the feed silos. These by the nature of their height and scale can appear conspicuous in the landscape and as such it is recommended that a condition is attached to any approval notice issued in order to ensure the whole of the development is finished in the dark green colour as suggested. This it is considered will address issues as raised by the Conservation Manager, (Built Environment), with regards to external construction of the development, who in response to the application acknowledges that the proposal will not have a significant detrimental impact on heritage assets. (Further discussion on heritage assets and impacts is discussed below). Impact on the surrounding built environment is therefore considered acceptable.
- 6.2.4 It is acknowledged that Natural England in their initial response to the application raised concerns with regards to impacts on nearby SSSI's and there is also the Scheduled Ancient Monument of Callow Hill Camp (NHLE ref. 1019828), which is located within 550 metres of the site. Natural England later withdrawing their objection with adequate consideration given in relationship to a Habitat Regulations Assessment, detail in relationship to which is attached to this report.
- 6.2.5 Impacts on surrounding heritage assets which includes the Callow Hill Camp SAM are considered acceptable to which the proposed development has to be also considered against Shropshire Council policies CS6 and CS17 and with national policies and guidance including PPS5 Historic Environment Planning Practice Guide and section 12 of the National Planning Policy Framework (NPPF). Special regard has to be given to the desirability of preserving the setting or any features of special architectural or historic interest which it possesses as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.6 On the basis of the information submitted in support of the application as contained within the Environmental Statement, and with consideration to the responses from English Heritage, the Conservation Manager Built Environment and Archaeology, with conditions attached to any approval notice issued as recommended by the Council's Conservation Manager, (Built Environment and Archaeology), and with further landscape mitigation in the form of native vegetation planting, the development on balance is considered acceptable, in relationship to the surrounding landscape, which includes reference to the built and historic environment and the nearby Shropshire Hill Area of Outstanding Natural Beauty. The proposal is considered to be satisfactory in relationship to the NPPF, Shropshire Core Strategy policies CS5, CS6 and CS17, the Council's SAMDev and as such addresses Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.3 Residential amenity and public protection.

- 6.3.1 The proposed development is located some 175 metres from the nearest residential dwelling outside connection with the farmstead. The National Planning Policy Framework in paragraph 122 states that 'local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.
- 6.3.2 The applicants will need to obtain from the Environment Agency an Environmental Permit in order to operate the site, this will control issues in relationship to residential amenity. The Environment Agency's response to the application raises no objections indicating that they have received an environmental permit application from the applicants and that this will cover issues such as on site noise, emissions and waste generated on site and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of the Environmental Permit. The response also refers to planning advice as set out in the NPPF. Management operations are as outlined in the EA response as indicated in paragraph 4.5 of this report. The EA response indicates that they have provided the applicants with an initial ammonia screening assessment as part of a pre-permit application consultation and that their report concludes that, based on the information provided, the applicant would not need to submit detailed modelling on environmental issues with their EP application'. As noted earlier in this report Natural England do not raise any objections.
- 6.3.3 Whilst the concerns of the member of the public in relationship to the proposed development is acknowledged, it is considered that Information submitted in support of the application, as part of the Environmental Statement is considered acceptable in relationship to residential amenity as it is noted that none of the statutory consultees raise any objections on this matter and it is noted that SC Public Protection have responded to the application indicating that based on the information submitted in support of the application that there will be no significant adverse impact on the amenity of the area and that the environmental permit issued and regulated by the Environment Agency will control these elements.
- 6.3.4 However the permit issued and monitored by the Environment Agency only covers on site activities and therefore feed deliveries to the site and manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such with proximity to the site, of dwellings outside of the applicants control, it is recommended that conditions are attached to any approval notice issued restricting times for feed deliveries and that any manure removed off site is done so in sealed and covered containers/trailers.
- 6.3.5 On balance the proposal is considered acceptable in relationship to surrounding residential amenity issues subject to the applicants obtaining an environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy and the National Planning Policy Framework on issues in relationship to

residential amenity and public protection.

6.4 Ecological impacts.

- 6.4.1 The application is accompanied by an ecological assessment and the conclusions to the reports are considered satisfactory. A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 2 for reference purposes.
- 6.4.2 Natural England and SC Ecology raise no objections and recommend the attachment of conditions to any approval notice issued with regards to a wildlife protection plan, nesting provision for small birds, and on site landscaping. Also recommended are the attachment of informatives' in order to remind the applicants/developer with regards to the provisions of the Wildlife and Countryside Act 1981, external lighting, trench excavation, storage of construction materials and badger protection
- 6.4.3 On ecological issues the proposal is considered acceptable and in accordance with Policy CS17: Environmental Networks of the Shropshire Core Strategy and other relevant local plan policies as well as the National Planning Policy Framework.

6.5 Other matters.

- 6.5.1 Impacts on public highways and transportation matters are considered acceptable. The development will have direct access from land in the applicants control onto the A488 public highway and it is considered that this highway is capable of absorbing the additional traffic as a result of the proposal.
- 6.5.2 As such the findings of the Transport Assessment submitted in support of the application are considered acceptable and it is acknowledged that the application proposes some minor highway improvements and with conditions attached as recommended by the Highways Manager in response to the application the development on this matter is considered acceptable and in accordance with the NPPF and relevant local plan policies on transportation and highway matters.

7.0 CONCLUSION

- 7.1 The proposal is for two intensive broiler units and supporting infrastructure which will house up to 100,000 birds on site, as part of an appropriate farm diversification venture for the existing family farming business.
- 7.2 The development raises no adverse concerns from any of the statutory consultees to the application and with no objections from the local Parish Council, whilst concerns as raised by the member of the public are acknowledged and have been considered, the proposal will require an Environmental Permit issued and monitored by the Environment Agency in order to operate and this will control issues in relationship to residential amenity, noise and environmental matters.
- 7.3 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered acceptable.

7.4 As such the proposed development is considered acceptable and in accordance with relevant policies as set out in the Shropshire Core Strategy, the National Planning Policy Framework and other relevant planning guidance. The recommendation is therefore one of approval subject to conditions as attached to this report.

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.

10.0 Relevant Planning Policies.

10.1 National Planning Policy Framework. (key sections are considered to be):

- Building a strong competitive economy.
- Supporting a prosperous rural economy.
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment.

10.2 Shropshire Core Strategy

Policies CS4, CS5, CS6, CS7, CS13, CS16, CS17, CS18.

10.3 Shropshire SAMDev.

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. The attenuation drainage system must be designed in accordance with the proposed drainage strategy set out in the flood risk and drainage statement and drainage layout plan, dwg. no. PFDL- 100.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

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

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

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

Reason: To ensure a satisfactory access to the site.

6. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for the parking of vehicles of site operatives and visitors loading and unloading of plant and materials storage of plant and materials used in constructing the development the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities measures to control the emission of dust and dirt during construction a scheme for recycling/disposing of waste resulting from demolition and construction works

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

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

Reason: The development site is known to have archaeological interest

9. No development or clearance of vegetation shall take place until a scheme of landscaping is submitted and agreed in writing by the local planning authority and these works shall be carried out as approved. The submitted scheme shall make particular reference to the southern and western sides of the site and shall include:

- a. Planting plans, including wildlife habitat and features (e.g. bird and bat boxes, bat lighting plan)
- b. Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- c. Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate. Native species used to be of local provenance (Shropshire or surrounding counties)
- d. Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- e. Implementation timetables
- f. Long term management plan.

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

10. Notwithstanding the approved plans the external colouring of the development hereby approved shall be to colour code juniper green BS12B29 or other dark colour approved in writing with the Local Planning Authority prior to any development on site.

Reason: In consideration of landscape and visual impact and to comply with Policies CS5, CS6 and CS17 of the Shropshire Core Strategy.

11. Manure will be moved off site in sealed and covered trailers.

Reason: In consideration of the amenity of the surrounding area.

12. No feeding stuffs will be delivered to the site outside the hours of 8am - 6pm Monday - Saturday or at any times during bank holidays.

Reason: In the interests of surrounding residential amenity

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

13. A total of 2 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

14. A total of 1 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

15. The development hereby permitted shall not be undertaken other than in accordance with the procedures as set out in the Noise Management Plan submitted as part of the Environmental Impact Assessment.

Reason: To protect local and residential amenity from adverse noise impact.

Informatives

1. Any alteration work required to the access on existing highway will require a s184 licence from the local highway authority before work can commence on site. Details of the process for obtaining a licence can be found on the following web page: [http://shropshire.gov.uk/street-works/streetworks-application-forms/apply-for-vehicle-access-\(dropped-kerb\)/](http://shropshire.gov.uk/street-works/streetworks-application-forms/apply-for-vehicle-access-(dropped-kerb)/)
2. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). Any mature trees within the hedgerows may have potential for roosting bats. If mature trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees. If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

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. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped (badgers). If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.
5. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

(Appendix 2).

Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

15/00487/EIA
Poulton Farm
Little Minsterley
Minsterley
Shrewsbury
SY5 0BW
Erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works.

Date of completion for the HRA screening matrix:

14th April 2015

HRA screening matrix completed by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

Table 1: Details of project or plan

Name of plan or project	15/00487/EIA Poulton Farm Little Minsterley Minsterley Shrewsbury SY5 0BW Erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works.
Name and description of Natura 2000 site	European Designated Sites within 10km: The Stiperstones & The Hollies SAC Midland Meres & Mosses - Phase 1 Ramsar NB For completeness the SSSI's within 5km and local sites within 2km are listed below: SSSI's within 5km Snailbeach Mine Minsterley Meadows

	Hope Valley The Stiperstones & The Hollies Earl's Hill & Habberley Valley Huglith Mine Granham's Moor Quarry Local Sites within 2km Poles Coppice and Lees Coppice Cow Pasture Marsh Granham's Moor Quarry (Non SSSI) Eastridge Wood Poles/Lees Coppice
Description of the plan or project	Erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works.
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	Not Applicable – Where no likely significant effect of the proposals is noted on a European Designated Site (see modelling from the Environment Agency) then consideration of the in-combination effects test is not recommended by Natural England or Environment Agency. Shropshire Council is taking advice from EA and NE throughout the Habitat Regulation Assessment Process.

Statement

This site has had pre-application advice from Environment Agency reference EPR/RP3237WWW/A001 for 120,000 broiler places.

Natural England has been formally consulted on this current planning application and has responded dated 13th March 2015 with an objection based on lack of information.

SC Ecology has contacted the Environment Agency in order to receive a copy of their Ammonia Screening Assessment. Kevin Heede has provided this on the 1st April 2015.

The relevant thresholds have been agreed between Natural England and Environment Agency for use with the Environment Agency detailed emissions model:

- Emissions of ammonia under 4% of the critical level for a European Designated Site (within 10km)
- Emissions of ammonia under 20% of the critical level for a SSSI (within 5km)
- Emissions of ammonia under 50% of the critical level for a local wildlife site or ancient replanted woodland (within 2km)

If any emission on a European Designated Site is over these thresholds then a full appropriate assessment would be required. Any emission under these thresholds is not considered 'significant' by Environment Agency and Natural England and is considered to have no in-combination effects.

All designated sites have screened out below the critical level of ammonia. The EA has stated that detailed modelling is not required to support this application.

The Significance test

Based on the Ammonia Screening output which has been provided by the Environment Agency, and using the modelling and thresholds agreed by Environment Agency and Natural England, there is no likely significant effect of the proposed activity under planning application 15/00487/EIA at Poulton Farm, Little Minsterley, Minsterley Shrewsbury SY5 0BW for the erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works on any European Designated Site.

The Integrity test

There is no likely effect on the integrity of any European Designated Site from planning application 15/00487/EIA at Poulton Farm, Little Minsterley, Minsterley Shrewsbury SY5 0BW for the erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works.

Conclusions

The Habitat Regulation Assessment screening process has concluded, supported by the evidence from Environment Agency, that there is no likely significant effect and no likely effect on integrity of the European Designated from planning application reference 15/00487/EIA at Poulton Farm, Little Minsterley, Minsterley Shrewsbury SY5 0BW for the erection of 2 no. poultry sheds and feed bins, ancillary works, improvements to existing access, and associated landscaping works on any European Designated Site.

An Appropriate Assessment is not required and there is no legal barrier under the Habitat Regulation Assessment Process to planning permission being issued in this case.

Natural England must be formally re-consulted on this application and response received prior to a decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

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

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

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

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

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

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

Habitat Regulation Assessment Outcomes

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

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

Duty of the Local Planning Authority

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

Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Tudor Bebb
Appendices APPENDIX 1 – Conditions Appendix 2 - HRA



Committee and date

Central Planning Committee

16 July 2015

Development Management Report

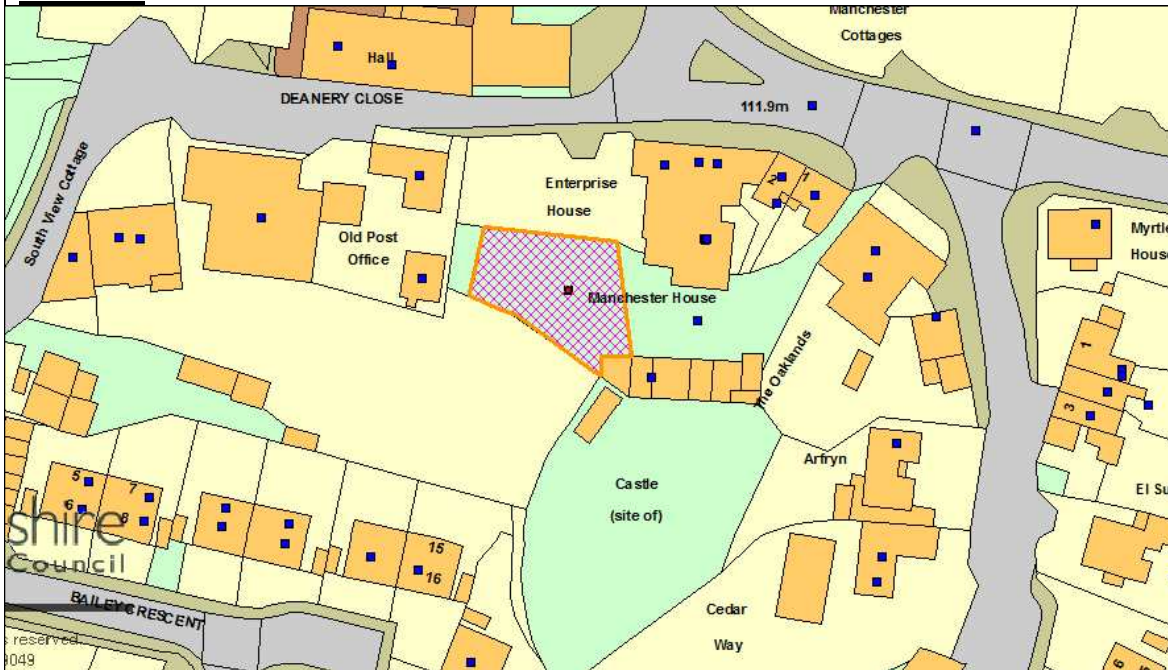
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 15/00999/FUL	<u>Parish:</u>	Pontesbury
<u>Proposal:</u> Erection of a dwelling		
<u>Site Address:</u> Proposed Dwelling Rear Of Enterprise House Main Road Pontesbury Shrewsbury		
<u>Applicant:</u> Mr Darren Haycock		
<u>Case Officer:</u> Aileen Parry		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 340100 - 306037



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant AHC in accordance with the Councils adopted policy .

REPORT

1.0 THE PROPOSAL

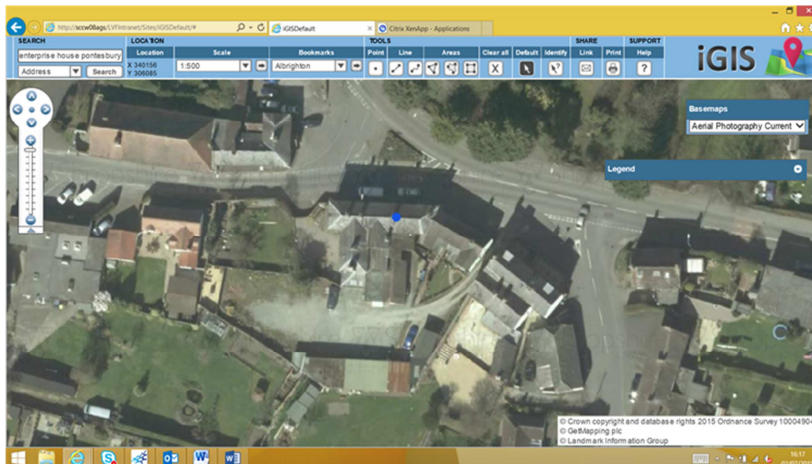
- 1.1 The application seeks full planning permission for the erection of a single storey, two-bed dwelling of contemporary design with access via the existing access off Main Road, Pontesbury.
- 1.2 The application form outlines that the walls would be constructed of render and timber cladding with a profile metal roof with timbers windows and doors. The existing brick wall and timber fence boundary treatment will be retained with a rolled stone vehicular access and block paved hard standing lit with LED lighting. The application form indicates that the site currently provides 10 car parking spaces with two spaces retained for the proposed dwelling. The proposal will connect to the existing mains sewer with surface water discharged to a proposed soakaway.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is situated in the village of Pontesbury, approximately 10 kilometres south west of Shrewsbury. There are no conservation areas within Pontesbury.
- 2.2 The proposal site lies as far north as possible in the site to the north west of the Ringwork and tower keep castle Scheduled Ancient Monument and to the west of the grade II listed The Oaklands on Main Road and to the east is the grade II listed South View Cottages. The curtilage of South View Cottages extends to the boundary of the site, which is to the south of the proposal site. Other buildings along Main Road and Deenery Close also constitute non-designated heritage assets.
- 2.3 The applicant has advised in his supporting statement that the site was last used as a parking area for a former electrical company and that the site is bounded on all sides by residential properties. The single storey design has been chosen to remove overlooking issues and to minimise the impact on neighbouring properties and their gardens. The applicant is not currently a homeowner and intends to build the house for his own family to live in. Also the property has been orientated south with windows at low level, this is to maximise solar gain and to avoid issues with neighbouring properties.
- 2.4 Site photos for current application:



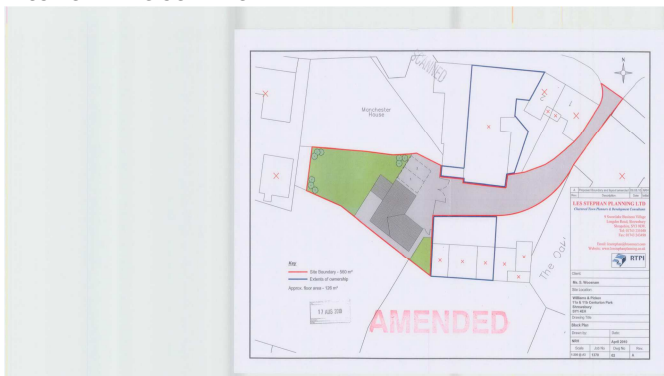
Aerial view taken from SC iGIS system:



2.5 Site History

SA/98/0047 - Change of use of land to car park (part retrospective). **Permitted.**

10/02243/OUT - Outline application for the erection of a dwelling to include means of access. **Refused** on grounds that the proposed site will be subject to overlooking from adjacent residential properties to the detriment of the occupiers of the proposed dwelling and would be contrary to Policy GP1 of the Shrewsbury and Atcham Local Plan.

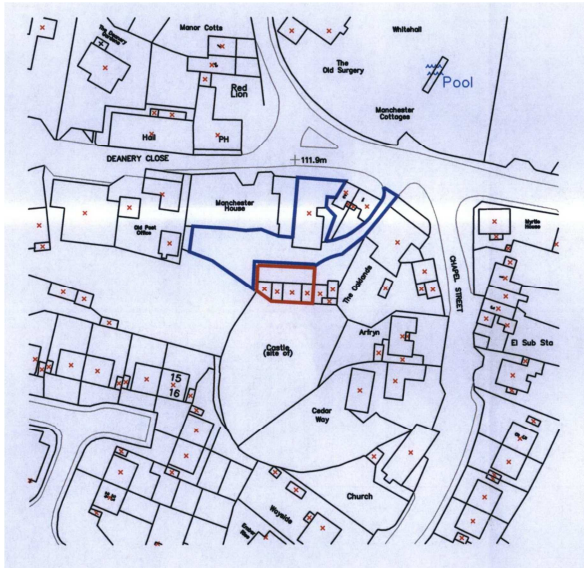


Proposed plan for 10/02243/OUT showing proposal sited to the centre of the site and nearer the Scheduled Ancient Monument as well as nearby neighbours.

Preapp10/02243 – advice provided that a contemporary designed dwelling on this site would be acceptable as there are no public views of the site and is not seen

along a traditional street scene. Preferred option of two - single storey with no windows provided on north and west elevations. Full application invited.

11/03542/FUL - Erection of extension to existing garage block. **Permitted.**



3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Pontesbury Parish Council have submitted a view contrary to Officers recommendation for approval based on material planning reasons where these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 SC Historic Environment Conservation

No general objection to the scheme subject to consideration of the response from the Archaeology Officer and inclusion of detail conditions.

4.1.2 SC Affordable Housing

No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.1.3 SC Drainage

No objection. The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

4.1.4 SC Historic Environment Archaeology

No objection. If planning permission is granted it is recommended that English Heritages advice regarding the siting of the building is followed in full. Recommend

that a phased programme of archaeological work be made a condition of any planning permission for the proposed development.

4.1.5 SC Ecology

No comment for this application. No triggers have been met for comments to be provided.

4.2 Pontesbury Parish Council

The Parish Council opposes this application. The reasons of privacy and overlooking which led to the refusal of previous applications on this site are equally valid today. Also, we share the views of neighbours, that the design plans lack sufficient detail to make a fair assessment of the impact on neighbouring listed buildings.

4.3 English Heritage

If the Local Planning Authority is minded to grant permission the proposed building should be sited as far north in the plot as possible, thus retaining as far as possible an open area immediately around the monument.

The advice of the Local Planning Authorities archaeological adviser should be sought, and implemented in full, regarding non-designated heritage assets.

4.4 Public Comments

12 neighbours have been consulted and a site notice forwarded for display. Four objections have been received. The main points include:

- Lack of the required detailed information
- Privacy & View
- Design, Layout and density of building
- Drainage
- Archaeology
- Planning history
- Future occupancy
- Visual impact
- Noise and privacy
- Effect on listed building and conservation area
- Landscaping
- Utility services
- Impacts on neighbouring properties lower ground levels

5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Impact on setting of heritage asset
- Impact on neighbouring amenities

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. The SAMDev Plan Inspector has now confirmed the proposed main modifications to the plan following the examination sessions in November & December and these are being published for a 6 week consultation. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications. Given the stage of advancement of this Plan, it is considered that some weight can be given to the proposed policies within it.

6.1.2 Shropshire Council has an adopted Core Strategy and CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the 'Revised Preferred Options' stage and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

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

The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where significant weight can be attached.

6.1.3 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. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'.

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

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

and that:

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’

- 6.1.5 However, following the submission of the SAMDev Final Plan to the Planning Inspectorate in August 2014, 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 the 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. The NPPF sets out that the priority is therefore to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so.

- 6.1.6 Minsterley and Pontesbury are coming forward as key centres and as such it is important to assess any potential impacts from edge and out of centre proposals. This site is within Pontesbury and therefore complies with the emerging SAMDev principles in this respect. In S12 Pontesbury is to continue to provide facilities and services to the wider rural hinterland and new housing is to be delivered through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites.

There is currently a ‘presumption in favour of sustainable development’ and the need to boost the housing supply (a government priority) is a significant material consideration when determining planning applications for housing. It is considered that the key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Pontesbury.

- 6.1.7 The application site is situated in the village of Pontesbury, approximately 10 kilometres south west of Shrewsbury and is within the Pontesbury Development Boundary as shown on the Inset Map attached to the SABC Local Plan. The principle of residential development within the village boundary is acceptable under saved SABC Local Plan Policy H3: Housing in villages with development boundary. It is therefore considered that the site is situated in a sustainable location with regard to both accessibility and proximity to essential day to day services without having an over reliance for long journeys by private motor car.

- 6.1.8 However ‘sustainable development’ isn’t solely about accessibility and proximity to

essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

and

- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.1.9 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide local employment for the construction phase of the development supporting small local builders and building suppliers. The provision of one additional house will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes creates a stimulus to the economy and addresses the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.
- 6.1.10 Social role – Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations.
- 6.1.11 Environmental role – The site forms part of a car park at the rear of Enterprise House. Its proposed siting is such that it is as far north in the plot as possible, which helps to retain as far as possible an open area immediately around the Scheduled Ancient Monument. SC Ecology has confirmed that the site does not meet any triggers and officers therefore consider that the proposal would have no adverse impact on wildlife. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Shrewsbury, Minsterley and Bishops Castle.

6.1.12 Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development.

6.2 Siting, scale and design of structure

6.2.1 It is considered that the site is an appropriate location for one additional dwelling as it is situated adjacent to existing houses and within Pontesbury. And as stated in 6.1.7 above, the site is within the Pontesbury Development Boundary.

6.3 Impact on setting of heritage asset

6.3.1 SC Historic Environment Archaeology has raised no objection to the proposal and neither has English Heritage providing that the siting of the building is as provided by English Heritages response. The applicant has positioned the proposal within the site as far north as is practicable without impeding on neighbouring properties or the Scheduled Ancient Monument. A phased programme of archaeological work will be made a condition of any planning permission granted for the proposal so that any archaeological features and deposits associated with the castle that survive are recorded.

6.4 Impact on neighbouring amenities

6.4.1 Officers consider that the reasons for refusal of a previous application on the grounds of overlooking from neighbouring properties to the proposed dwelling, as detailed in section 2.4 above, do not apply as the proposal is of a different and modern design and its orientation is such that any overlooking will be minimal therefore maintaining the privacy and amenity of the proposed dwelling and that of neighbouring properties.

6.5 Affordable Housing

The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.

This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.

A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council’s unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.

The Council notes that the High Court is currently considering its judgement in the

judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council's position.

A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue.

The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council's current position, based upon a robust policy position endorsed by Cabinet, will continue.

The Copthorne planning decision and subsequent public observations from various self-interests have added considerable uncertainty and hesitation into the planning approval process that the Council is considering options to address as a matter of urgency.

In the event that after a full examination of the Council's position, an Appeal or Judicial Review challenge leads to the Council changing its current stance, it is important to note that resolutions to approve that are subject to outstanding s106 agreements at that time, will have to be fully reconsidered afresh by Council in light of current local and national policies.

Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non-compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

It is appreciated that by approving this proposal for full planning permission for the erection of a single dwelling would be contrary to the Parish Councils wishes. The NPPF sets out that the priority is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is an appropriate location for one additional dwelling as it is situated adjacent to existing houses. The proposal would also have no adverse environmental or ecological implications and would not impact on residential amenity of neighbours.

It is considered that the proposal represents sustainable development as the site is within Pontesbury and therefore considered as infill. It is within the centre of Pontesbury where there are a range of local services within easy walking distance and a regular bus service to Shrewsbury and Bishops Castle. The development will therefore not result in an over reliance on the private motor car. It will provide an

additional dwelling and will help support existing facilities and services therefore promoting 'strong, vibrant and healthy communities'. The existing infrastructure is considered sufficient to support the proposed development and the proposal will provide an Affordable Housing Contribution (AHC) and will be liable for the required CIL payment.

It is therefore recommended that members support this application and grant planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure an AHC in accordance with the Councils adopted policy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance: NPPF

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies: CS4, SABC H3

RELEVANT PLANNING HISTORY:

SA/83/0965 Formation of new vehicular access. PERCON 20th March 1984

SA/82/0191 Alterations and additions of a flat roof store and the erection of a flat roof first floor kitchen above existing store. PERCON 16th April 1982

SA/96/0772 Installation of new shopfronts in connection with alterations to existing retail unit. PERCON 23rd October 1996

SA/96/0257 Change of use to a hot food take away. REFUSE 25th April 1996

SA/79/0636 Formation of vehicular access WDN 28th January 1981

11. Additional Information

[View details online:](#)

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

Cabinet Member (Portfolio Holder)
--

Cllr M. Price

Local Member

Cllr Tudor Bebb

Appendices

APPENDIX 1 - Conditions

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The site is known to hold archaeological interest.

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 area.

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

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

6. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

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

7. The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Reason: To minimise the risk of groundwater flooding.

8. 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. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. A catchpit should be provided on the upstream side of the proposed soakaways.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system/ existing small pool should be designed so that storm events of up to 1 in 100 year + 20% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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

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

9. 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.

Informatives

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

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

Water Butts

Rainwater harvesting system

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

Greywater recycling system

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

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Committee and date

Central Planning Committee

16 July 2015

Development Management Report

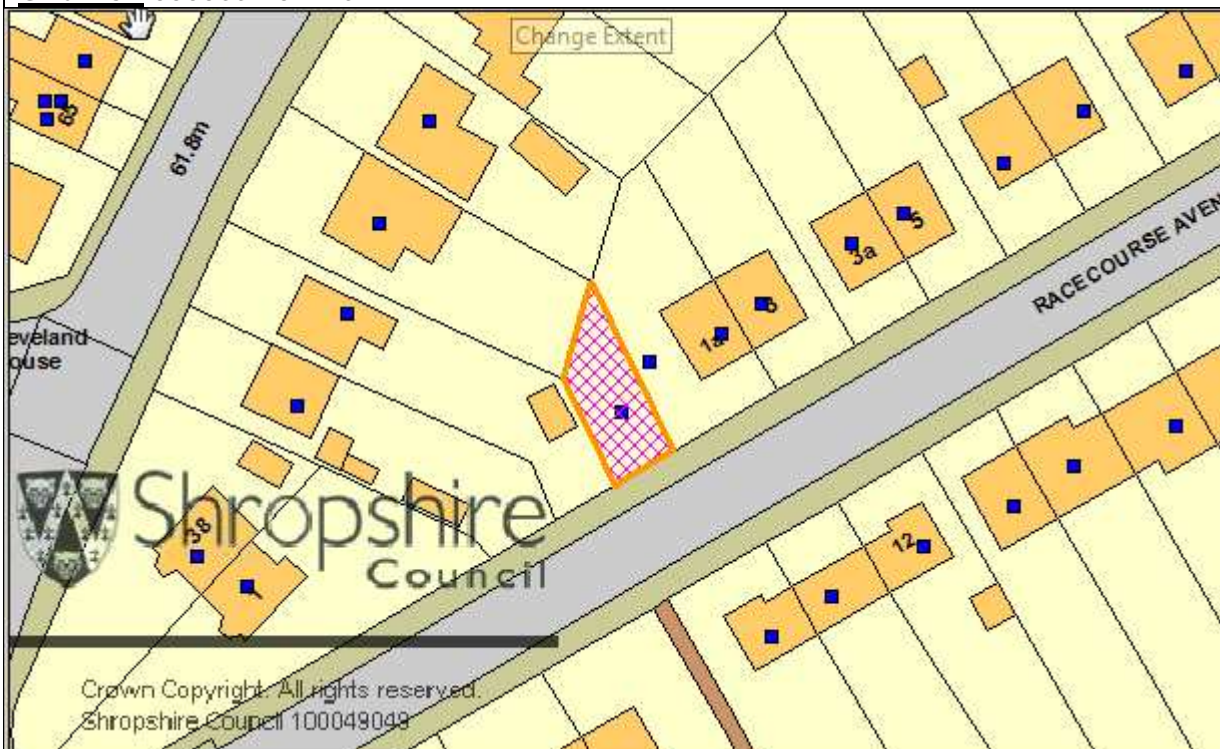
Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 15/01382/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of one terraced dwelling		
<u>Site Address:</u> Land Adjacent To 1B Racecourse Avenue Shrewsbury Shropshire		
<u>Applicant:</u> Monkmoor Fish Bar		
<u>Case Officer:</u> Kate Whitfield	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 350369 - 312791



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Recommendation:- Refuse

Recommended Reason for refusal:

Whilst the application site is a sustainable location and a proposed open market dwelling would be acceptable in principle, the Local Planning Authority considers that the site itself is unsuitable for this type of development. It would result in a cramped and contrived form of development which detracts from the character and appearance of the local area and is out of keeping with the general pattern of development. The proposal therefore fails to comply with Shropshire Council Local Development Framework Core Strategy policy CS6.

REPORT**1.0 THE PROPOSAL**

- 1.1 This proposal relates to the erection of a one bedroom open market dwelling with associated front and rear garden area and parking space.
- 1.2 The two storey dwelling will have a floorspace of 41.32 square metres. The new property will be constructed from Baggeridge 'Old English' brick and reclaimed clay tiles with uPVC windows and doors.
- 1.3 The siting and design of the proposed dwelling was amended during the course of the application and amended plans submitted.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application refers to land which is currently part of the residential curtilage of No. 1B Racecourse Lane, which is located in the Monkmoor area of Shrewsbury. The land lies to the south east of this dwelling, which itself is a recently built house, attached to the south eastern side of an original semi-detached property at 1A Racecourse Lane. No 1B Racecourse Lane is a two storey dwelling constructed from brick with a tiled, hipped roof.
- 2.2 Racecourse Lane is a residential street with a combination of traditional style semi-detached and terraced properties on either side of the road. To the north the site backs onto the rear gardens of properties on Monkmoor Road and to the south west lies a detached garage building lying in the rear garden of the property at no. 42 Monkmoor Road, which extends right down to Racecourse Lane itself. A large Beech tree lies at the bottom of the garden of this property and on the boundary with the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Local Member has requested that the application be determined by the Planning Committee. This request has been agreed by the Chair and Vice Chair of the Planning Committee and the Principal Planning Officer/Service Manager with responsibility for Development Management.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.2 Shropshire Council's Flood and Water Management Team :

Informative: A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Shropshire and Staffordshire Sustainable Drainage Systems (SuDS) Handbook.

4.3 The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.

4.4 Preference should be given to drainage measures which allow rainwater to soak away naturally. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort.

4.5 Shropshire Council's Affordable Housing Officer :

As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

4.6 The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

4.7 The current affordable housing contribution rate for this area is 20% and as such a proposal for 1 new open market dwelling would be liable to make a contribution equivalent to 1 x 0.20 of a whole affordable unit (1 x 20%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area.

4.8 As part of the application process the applicant should be requested to complete a new Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

4.9 Shropshire Council Highways Development Control (*Comments made on plans initially submitted*):

The Highway Authority raises an objection to the granting of consent and offers the following reason for refusal.

4.10 'No satisfactory facilities are being provided within the curtilage of the site for off-street parking. Moreover, if the development is permitted, the parking provision for the previous adjoining approved residential unit will also not be provided. As a consequence, it is considered that the development, if permitted, would be likely to result in the parking of vehicles on the adjoining highway to the detriment of the free flow and safe movement of traffic using Racecourse Avenue.'

- 4.11 Comments: The site is located on the outskirts of the town centre, on the northern side of Racecourse Avenue, an unclassified road subject to a local speed limit of 30 mph. The proposed dwelling will be within a line of semi-detached/terraced style properties. A number of these existing properties lining Racecourse Avenue have off road parking provision.
- 4.12 The proposal is seeking for the approval for a further residential unit on the original plot of land to 1A Racecourse Avenue with the application site removing the approved parking and turning facilities in connection with the previous approval for 1B under permission 10/05582/FUL. If permitted this would effectively result in three separate residential units where there had previously been one.
- 4.13 The supporting information states that the proposal 'designed to make allowance for off road parking' but the submitted plans do not show any new provision or the relocation of the approved parking in connection with 1B. In line with guidelines and the saved policy 'Appendix 2' from the SABC Local Plan, the development should be providing 1.5 parking spaces per residential unit.
- 4.14 In addition, the development if approved would make similar applications difficult to sustain an objection to and would also result in the non-compliance of the previously approved scheme under 10/05582/FUL. The Highway Authority would not be supportive of an amended application for 1B to regularise the removal of the parking provision for the same reason given above.
- 4.15 *Subsequent Comments Received 9 June 2015 :*
With regards to the above application to which we raised an objection on the grounds of insufficient parking/removal of an existing parking space for the adjacent dwelling, I confirm that we have now reviewed the revised layout provided by the applicant (attached) which includes three parking spaces for the two dwellings. The revised layout deals with the issues we previously raised and provides an acceptable level of parking for this location. We therefore withdraw our previous objection to the scheme.
- 4.16 **Shropshire Council Tree and Woodland Amenity Protection Officer:** Having read the submitted tree report and plans I am satisfied that the important amenity tree can be adequately protected. It is requested that a condition is applied to state that the submitted Tree Protection Plan should be erected to the satisfaction of the LPA prior to commencing any approved development related activities on site. In addition, if any specialized construction work within the Root Protected Area (RPA) takes place a Arboricultural Method Statement (AMS) shall first be submitted detailing how any approved construction works will be carried out.
- 4.17 **Shropshire Council's Ecologist:** No comments on the application.
- 4.18 **Public Comments**
- 4.19 **Shrewsbury Town Council:** No objections to the proposal.
- 4.20 The application has been advertised by notices at the site and the 5 nearest residential properties have been individually notified. Two representations have been received in response to this publicity.

4.21 Both representations raise concerns about the proximity of the proposed dwelling to a Beech Tree located within the garden area of the neighbouring property to the south west.

4.22 A query is also raised over whether the dwelling will have any parking.

5.0 THE MAIN ISSUES

- ☐ Principle of development of the site for new housing.
- ☐ Siting, scale and design of the proposed dwelling and impact on the visual amenity of the surrounding area.
- ☐ Impact on the residential amenity of neighbouring properties.
- ☐ Other matters – Arboricultural Matters, Access & Parking, Drainage, Affordable Housing Contribution.

6.0 OFFICER APPRAISAL

6.1 Principle of Development of the site for new housing.

6.1.1 Applications for planning permission must be determined in accordance with the adopted development plan (Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6.1.2 The adopted development plan for Shropshire is the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and any saved policies from the preceding 'local plan', which in this case is the Shrewsbury and Atcham Borough Council Local Plan. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.

6.1.3 The application site is located within the urban area of Shrewsbury. Core Strategy Policy CS2: Shrewsbury - Development Strategy, states that Shrewsbury will provide the primary focus for housing development within Shropshire, aiming to achieve a minimum of 60% of the housing target on previously developed land over the plan period. In terms of emerging policy it is also noted that the application site lies within the development boundary for Shrewsbury as set out in the Pre-submission Draft SAMDev Plan published on 17th March 2014.

6.1.4 The application will result in a presumably 'affordably priced' one bedroom dwelling. In terms of location the site is within a predominantly residential area of Shrewsbury, relatively close to the town centre and with good transport links and local facilities. It is a sustainable location for new dwellings and therefore the re-development of the site to provide an additional property would be potentially acceptable in principle under Policies CS2 and CS11 of the Core Strategy, which identifies Shrewsbury as the primary focus for housing development for Shropshire.

6.2 Siting, scale and design of the proposed dwelling and impact on the visual amenity of the surrounding area.

- 6.2.1 Proposals for new housing need to meet the sustainable design and development principles that are identified in policy CS6. This policy states that development should be appropriate in scale, density, pattern and design, take into account the local context and character of an area and should also safeguard residential and local amenity.
- 6.2.2 Racecourse Avenue is characterised by semi-detached and rows of short terraces, mostly with front garden areas and side driveways. There is a strong building line and a regular alignment of buildings. Planning permission was previously granted for the addition of the dwelling to the south western end of an original semi-detached dwelling at 1A Racecourse Avenue. This property has recently been completed and is considered to fit well into the street scene, matching a similar terrace of three properties opposite. There was adequate space for this dwelling to be accommodated without any detrimental impact on the overall character and appearance of the street scene.
- 6.2.3 The proposed new dwelling will be adjoined to this recently built property, expanding the terrace to four dwellings. Design amendments were made during the course of the application to meet the concerns of consultees. The dwelling was moved back in the site to ensure that it would not have a detrimental impact on the Beech tree and to ensure that off street parking provision could be provided for both this new dwelling and the dwelling at 1B Racecourse Avenue, which would have lost its side driveway as a result of the proposal. However, notwithstanding these amendments, it is considered that the application site cannot satisfactorily accommodate a further additional dwelling. The addition of another property in this location will appear noticeably cramped and contrived when viewed in the street scene and the design will result in a house which is out of keeping with the established character and pattern of development along Racecourse Avenue.
- 6.2.4 In addition, in order to provide the required off street parking, it is proposed to give over a large part of the frontage of both the new dwelling and the previously built dwelling at 1B Racecourse Avenue to provide 2 parking spaces, one for the new dwelling and one for no. 1B. Whilst the Highways Officer has confirmed that the spaces meet the minimum size for a vehicle they would be tightly spaced between the front elevation of the properties and the pavement. This frontage parking is not a characteristic of the street scene along Racecourse Avenue. It is considered to be detrimental to the character and appearance of the street scene and is considered to be a design issue which gives a strong indication of the over development of the site.
- 6.2.5 By virtue of its siting, scale and design the proposed dwelling is therefore considered to represent an over development of the site, which would have a detrimental impact on the street scene and the character and appearance of the area. The proposal is therefore considered to be contrary to the aims of Core Strategy Policy CS6.

6.3 Impact on the residential amenity of neighbouring properties.

- 6.3.1 The proposed dwelling will be built level with the newly built dwelling at 1B Racecourse it will be attached to. As a result it should not have any impact on the light or outlook of this property. The recently built dwelling at 1B Racecourse Avenue has been built with a first floor window in the south eastern side elevation, which would directly overlook the rear patio of the proposed dwelling. This window serves a bedroom, however, a condition is on the 2010 permission for this bedroom window to be obscure glazed and this has been complied with.
- 6.3.2 The site is cramped and the proposed dwelling will lie very close to the rear boundary of the site, however, it is noted that the rear window in the proposed new dwelling only serves a bathroom, with the bedroom window being located at the front of the property. Therefore the scheme will not lead to any direct overlooking onto the rear garden of the property backing onto the application site. The rear of the new dwelling will be approximately 20 metres from the rear of the actual properties in Monkmoor Road and it is therefore considered that the proposal will not appear obtrusive or overbearing to these dwellings.
- 6.3.3 There are no properties lying directly to the south east of the application site and it is not considered that the proposed addition of an extra dwelling on the end of this terrace of three properties would have any detrimental impact on the residential amenity of any other neighbouring properties. The proposal is therefore deemed to be acceptable in terms of its impact on residential amenity.
- 6.4 Other Matters : Arboricultural Matters, Access & Parking, Drainage, Ecology, Affordable Housing Contribution.**
- 6.4.1 **Arboricultural Matters :** A large Beech Tree in the garden of the neighbouring property lies close to the front boundary of the site. An Arboricultural Report was therefore requested to assess the possible impact on this tree. Following submission of this report, and the submission of amended plans to site the proposed dwelling further away from this tree, the Tree Officer advised that the proposals would be acceptable and that with adequate tree protection measures it should be possible to protect the tree from being detrimentally affected by the proposed dwelling.
- 6.4.2 **Access & Parking :** Originally no off road parking provision was indicated for the new dwelling. In addition, the plans resulted in the newly built dwelling at No. 1B Racecourse Lane losing its allocated parking area to the side. The Highways Officer advised that this would not be acceptable, however, amended plans were received during the course of the application which enabled 2 parking spaces to be included within the scheme. This resolved the Highways Officer's objection, however, as detailed above this has resulted in design issues which are not considered to be acceptable.
- 6.4.3 **Drainage :** Surface water drainage would be provided via the main sewer. No additional information has been requested in relation to this by the Council's Drainage team and due to the small scale of the dwelling it is not considered that any further details would be required for prior approval.

- 6.4.4 **Ecology** : Council Ecologists have confirmed that no protected habitats or species are likely to be affected by the proposed works. An ecological assessment is therefore not deemed to be necessary.
- 6.4.5 **Affordable Housing Contribution** :
Policy CS11 supports the provision of an integrated and balanced mix of new housing development. It also states that new open market housing must make a contribution to the provision of local needs affordable housing. The Applicant has agreed to this and the contribution would be secured through the provision of a S106 Agreement, with the final contribution amount to be determined by the prevailing percentage target rate at the date of a full or reserved matters application.
- 6.4.6 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on 28th November announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000 m²), or 5 units or less in designated protected rural areas, the aim being to boost housing supply on smaller sites by removing “burdensome obligations”.
- 6.4.7 This statement and the subsequent adoption into the National Planning Practice Guidance is a material consideration that the Local Planning Authority now has to take into consideration and is clearly at odds with Shropshire’s adopted Core Strategy (Policy CS11) which requires that all new open market residential development makes an appropriate contribution to the provision of affordable housing.
- 6.4.8 A report was submitted to the Cabinet of the Council on the 21st Jan 2015 and the Council’s unanimous decision was to take into account the WMS as a material planning consideration but to continue to apply the adopted Core Strategy and SPD.
- 6.4.9 The Council notes that the High Court is currently considering its judgement in the judicial review of the WMS brought by West Berks/Reading Councils, which may further inform Shropshire Council’s position. A recent appeal decision (APP/L3245/A/14/2218662 - Vashlyn, Kelsalls Lane, Copthorne, Shrewsbury, Shropshire, SY3 8LU, unexpectedly considered and commented on the Councils position which has since been widely propagated as a defining judgement. This is arguable and these are overly simplistic and subjective views on a decision where the Council had not provided detailed narrative, evidence or reasoning as the applicant had agreed to the Affordable Housing Contribution and was not challenging the Council on this particular issue.
- 6.4.10 The Council considers therefore that although this is an important case, it is not a binding precedent and it is a potentially flawed decision against which the Council is considering a formal challenge. As a consequence, the Council’s current position, based upon a robust policy position endorsed by Cabinet, will continue.

6.4.11 The Council therefore continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites.

6.4.12 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.

7.0 CONCLUSION

7.1 Whilst the application site is a sustainable location and a proposed open market dwelling would be acceptable in principle, it is considered that the site itself is unsuitable for this type of development. It would result in a cramped and contrived form of development which detracts from the character and appearance of the local area and appears out of keeping with the general pattern of development. The proposal therefore fails to comply with Shropshire Council Local Development Framework Core Strategy policy CS6 and delegated refusal is recommended.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

Risk Management

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

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

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

HUMAN RIGHTS

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

1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

EQUALITIES

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

9.0 FINANCIAL IMPLICATIONS

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework :

Part 6 : Delivering a wide choice of high quality homes.

Part: 7: Requiring Good Design

Core Strategy and Saved Policies:

Shrewsbury & Atcham Borough Local Plan (June 2001) Policies :

T14 : Parking Standards Outside the River Loop and Appendix 2.

CS2 : Shrewsbury – Development Strategy

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

Supplementary Planning Document (SPD) on the Type and Affordability of Housing
(adopted September 2012)

RELEVANT PLANNING HISTORY: None.

List of Background Papers : Application Reference 15/01382/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Miles Kenny
Appendices APPENDIX 1 - Conditions

Informatives

1. Despite the Council wishing to work with the applicant in a positive and proactive manner as required in Paragraph 187 of the National Planning Policy Framework, the proposed development is contrary to the policies set out in the officer report and referred to in the reasons for refusal, and as such it has not been possible to reach an agreed solution in this case.

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Committee and date

Central Planning Committee

16 July 2015

Schedule of Appeals and Appeal Decisions

LPA reference	14/02223/OUT
Appeal against	Appeal Against Refusal
Appellant	Ms T Wood
Proposal	Outline application (access for approval) for the development of one (open market) dwelling
Location	Proposed Dwelling Rear Of Home Farm Barns Pulverbatch Shrewsbury
Date of application	19.05.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	21.08.2014
Date of appeal	12.12.2014
Appeal method	Written Representations
Date site visit	31.03.2015
Date of appeal decision	10.06.2015
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	14/02625/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr Littlewood
Proposal	Outline application for the erection of 1No dwelling (all matters reserved)
Location	Land West Of Bakehouse Yard Withington Shrewsbury
Date of application	13.06.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	05.08.2014
Date of appeal	30.01.2015
Appeal method	Written Representations
Date site visit	02.06.2015
Date of appeal decision	15.06.2015
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	14/03374/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr Daniel Boulton
Proposal	Erection of one dwelling and detached double garage
Location	Proposed Dwelling Adjacent Adlestrop Cardington Church Stretton Shropshire
Date of application	29.07.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	08.12.2014
Date of appeal	16.02.2015
Appeal method	Written Representations
Date site visit	12.05.2015
Date of appeal decision	22.06.2015
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	14/05208/FUL
Appeal against	Appeal Against Refusal
Appellant	Mr T Priestley
Proposal	Erection of an apartment block of four 1 bedroom apartments following demolition of existing garages
Location	Development Site Harcourt Crescent Shrewsbury
Date of application	21.11.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	13.02.2015
Date of appeal	23.03.2015
Appeal method	Written Representations
Date site visit	01.06.2015
Date of appeal decision	12.06.2015
Determination time (weeks)	
Appeal decision	DISMISSED
Details	

LPA reference	15/00724/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs D Jones
Proposal	Outline application for residential development (to include access) (revised scheme)
Location	Proposed Development Land South Of Plealey Lane Longden Shropshire
Date of application	13.02.2015
Officer recommendation	Approval
Committee decision (delegated)	Committee
Date of decision	28.05.2015
Date of appeal	10.06.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/03171/OUT
Appeal against	Appeal Against Refusal
Appellant	Mrs L Stone
Proposal	Outline application for the erection of two dwellings to include access
Location	Land North Of Sunnyfields Withington Shrewsbury
Date of application	15.07.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	09.10.2014
Date of appeal	17.06.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/01983/OUT
Appeal against	Appeal Against Refusal
Appellant	Morris Homes (Midlands) Limited
Proposal	Outline application for residential development of up to 125 dwellings (all matters reserved)
Location	Development East Of Nobold Lane Longden Road Shrewsbury
Date of application	01.05.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	18.12.2014
Date of appeal	01.04.2015
Appeal method	Inquiry
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

LPA reference	14/02367/OUT
Appeal against	Appeal Against Refusal
Appellant	Mr & Mrs M Gould
Proposal	Outline application for residential development for 12 dwellings to include access (amended description)
Location	Land North Of Preston Gubbals Road Bomere Heath Shrewsbury
Date of application	30.05.2014
Officer recommendation	Refusal
Committee decision (delegated)	Delegated
Date of decision	24.11.2014
Date of appeal	22.05.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Determination time (weeks)	
Appeal decision	
Details	

Appeal Decision

Site visit made on 31 March 2015

by C Sproule BSc MSc MSc MRTPI MEnvSc CEnv

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

Decision date: 10 June 2015

Appeal Ref: APP/L3245/W/14/3001334

Site positioned directly to the north of The Old Granary, Pulverbatch

- 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 Ms T Wood against the decision of Shropshire Council.
 - The application Ref 14/02223/OUT, dated 14 May 2014, was refused by notice dated 21 August 2014.
 - The development proposed is an outline application for the development of a single open market dwelling with all matters reserved except the proposed access provision.
-

Decision

1. The appeal is dismissed.

Main Issues

2. These reflect matters within the Council's reason for refusal and are: a) the effect of the proposed development on the character and appearance of the countryside, having particular regard to the Shropshire Hills Area of Outstanding Natural Beauty (AONB) ; and, whether the proposal would be a sustainable form of development in relation to service provision and employment opportunities.

Reasons

Planning policy

3. The appeal site lies within open countryside that is also an AONB. The Council's reason for refusal refers to *Shropshire Local Development Framework: Adopted Core Strategy* – March 2011 (CS) policies CS4, CS5, CS6 and CS17.
4. CS policy CS4 aims to ensure that in the rural area, communities will become more sustainable by matters that include not allowing development outside certain settlements unless the proposal meets CS policy CS5. CS policy CS5 seeks to strictly control new development in accordance with national policy protecting the countryside and Green Belt. CS policy CS5 is permissive of development proposals on appropriate sites that maintain and enhance countryside vitality and character where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly when these relate to the matters listed in the policy.

5. CS policy CS6 seeks to create sustainable places, through development of high quality design using sustainable design principles, to achieve an inclusive and accessible environment that respects and enhances local distinctiveness and which mitigates and adapts to climate change. It seeks to ensure that all development, amongst other things: protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and features that contribute to local character; and, makes effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water.
6. CS policy CS17 requires development to identify, protect, enhance, expand and connect Shropshire's environmental assets to create a multifunctional network of natural and historic resources. It seeks all development to contribute to local distinctiveness, having regard to matters that include landscape, biodiversity and heritage assets.
7. Paragraph 14 of the National Planning Policy Framework ('the Framework') confirms the presumption in favour of sustainable development to be at the heart of the guidance. For decision-taking, the paragraph notes the presumption to mean: approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or out-of-date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies of the Framework indicate that development should be restricted. Footnote 9 of the Framework confirms the 'specific' policies to include those relating to AONBs.
8. Framework paragraph 115 states that great weight should be attached to conserving landscape and scenic beauty in AONBs, which along with National Parks have the highest status of protection in relation to landscape scenic beauty.

Character and appearance

9. Pulverbatch and the appeal site are within rolling agricultural countryside that includes occasional development, and is comprised of a patchwork of fields with wooded areas and steeper slopes rising to hilltops. These features result in a landscape that displays the natural beauty that would be expected in a locality designated as an AONB.
10. The proposal would provide outline planning permission for a new open market dwelling to be constructed to the north and west of other development in this part of Pulverbatch. Matters reserved in respect to this outline proposal include scale, layout, appearance, and landscaping. Therefore, any indicative (reserved) details provided at this stage reasonably would be expected to change in a final scheme.
11. At present the appeal site forms part of a much larger field. An access and an area of field would remain between the appeal site and the dwellings at The Old Granary and within the converted barns next to it. These dwellings are to the south and east of the appeal site, and at a lower level. A large area of field would remain between the appeal site and development to the east.

12. A track extends south westwards from a junction on the opposite side of the road from the southernmost extent of the appeal site. Detached dwellings, including a number that have been built recently, are present along the southern side of the track, with a house that application drawings indicate to be 'The Coppice' standing at the junction and in close proximity to the appeal site.
13. Even so, the layout of existing and proposed landuses around this junction would ensure that a house on the appeal site would stand apart, and be visually distinct, from the development within Pulverbatch, including The Old Granary and the dwellings next to it. The rising topography would emphasise this, along with the open field area immediately to the east of the appeal site. Development within the village has, for the most part, a characteristic close-knit form that extends along the main road passing through the centre of the settlement. The positioning of the appeal site would cause any future dwelling to depart from this characteristic layout, even if the architecture of the dwelling were to be sympathetic to that found in the locality.
14. The appeal proposal would introduce built residential development with an access, and roadside curtilage that would be of significant scale, onto agricultural land that currently contributes to the natural beauty of the AONB. In this respect the appeal scheme would erode the rural character of the locality, and fail to conserve and enhance the natural beauty of the area. This conflicts with CS policies CS6 and CS17 and the objectives of Framework paragraph 115, and attracts great weight against the proposed development.

Sustainable development

15. It is a clear objective of the Framework to boost significantly the supply of housing, with paragraph 49 of the document stating "...*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites...*". In considering this housing application within the context of the presumption in favour of sustainable development,¹ Framework paragraph 7 confirms there to be environmental, economic and social dimensions to sustainable development.

Economic

16. Developing a new home would result in some economic benefit through the economic activity associated with its construction and occupation. In accordance with Framework paragraph 19, economic growth through the provision of construction jobs and the sale of construction materials, and expenditure during occupation of the house, attracts significant weight in this case.

Social

Personal circumstances

17. Appeal documentation includes a 54 person petition that highlights the appellant has lived in the locality for almost 30 years and would like to stay in the community, but due to health and age issues the present home 'is

¹ Including as described by Framework paragraph 14

becoming too challenging' and as a consequence, the appeal proposal is sought.

18. The Grounds of Appeal: note that the appellant needs to live in a less isolated location, whilst remaining in the local area; and refer to Planning Practice Guidance in relation to *Housing for older people*.² It is not evident why the range of existing market housing in Pulverbatch would fail to meet the appellant's needs, or to what extent this option has been explored by the appellant. In the absence of this, it is not apparent that the appeal scheme would be a small scale development that would maintain the vitality and support the development of sustainable rural communities. Indeed, it may be possible and preferable to have such development within areas outside the AONB.

Provision of land for housing

19. The appeal proposal concerns countryside, rather than Green Belt land. Both the wording and structure of CS policy CS5 clearly distinguish between countryside, and the additional controls in relation to Green Belt land that are the subject of a distinct and separate section of the policy. Therefore, CS policy CS5 would be a relevant policy to this case for the supply of housing in relation to development in countryside that is not Green Belt land. Matters listed in CS policy CS5 as improving the sustainability of rural communities by bringing local economic and community benefits do not include new open market housing on green field sites.
20. The Council's position within the Officer Report on the application was 5.47 years housing land supply, and existing (CS) planning policies for the supply of housing are not out of date.³ Appeal documents include an update for the Five Year Housing Land Supply Statement for the end of November 2014 following the Examination Hearings in relation to the Council's Site Allocations and Management of Development (SAMDev) Plan. The update Statement concludes there to have been 5.43 years housing land supply in late November 2014 and explains how this was derived.
21. Appended to the Grounds of Appeal is a paper, dated 24 November 2014, which questions the Council's calculation of its 5 year housing land supply. This, for example, notes: differing approaches to whether adopted and national planning policy seeks a phased or annualised approach to housing requirement; there to be a 30% non-delivery rate of housing permissions in the north that is approximately three times that elsewhere in the Council's area; sites have been included in the Council's housing land supply that have a resolution to grant planning permission subject to planning obligations being entered into; the Council's approach updates only supply figures, rather than requirement at the same time; and, the nature of remaining objections expressed at the SAMDev Plan Examination Hearings. While the Examination Inspector may have commented on national policy during a hearing, no report is referred to regarding the conclusions drawn from the hearings.
22. Attention has been drawn to the Church Pulverbatch Parish Plan (2012), in relation to which 68% of respondents were noted to have answered 'Yes' or

² Reference ID: 2a-021-20150326

³ Paragraph 6.1.4 of the Council Officer's report on the application refers to the Council's Five Year Housing Land Supply Statement of 12-Aug-14

'Maybe' in favour of new housing over the next ten years, with support for new houses as in-fill or on the edge of settlements.⁴ As noted above the proposal would be on the edge of this settlement, but slightly apart and distinct from its characteristic form. Indeed, in objecting to the appeal proposal the Parish Council highlighted its objection, and the weight of expressed opinion against the scheme.

23. The evidence in this case is not clear in relation to whether the Council has a 5 year supply of deliverable sites for housing. This is reflected in the Grounds of Appeal from December 2014, which state that *Shropshire Council's 5 year housing supply is at best marginal and currently subject to robust argument*. However, there is no ambiguity regarding the appellant's subsequent final comments, which are that the Council cannot demonstrate a 5 year supply of deliverable sites for housing.
24. In any event and regardless of the position in relation to housing land supply, and therefore the weight attributed to CS policy CS5, in this case CS policies CS17 and CS6 carry the full weight of adopted development plan policies. The weight the appellant seeks to place on the Parish Plan is considered within this context, and other considerations which include the Framework.
25. The appeal scheme would contribute toward boosting the supply of housing, which is specifically identified as a matter relevant to the social role of sustainable development.⁵ In doing so it would only provide one dwelling, but the resulting social benefits nonetheless provide considerable weight in favour of the proposal.

Service provision

26. The appeal site is noted to be 6 miles to the south west of Shrewsbury. The proposed dwelling would be a short walk from bus stops in Pulverbatch, which are downhill from the appeal site.⁶
27. The bus service from Pulverbatch connects to other villages in the area and the shops and services within Shrewsbury. The service is noted to provide 7 buses per day in each direction, with no evening or Sunday service.⁷ Local convenience stores, post offices, a village hall, public houses and a primary school are noted to be available en-route to Shrewsbury. Nevertheless, anyone resident within the proposed dwelling would have to travel for shops and services, and if this were to be by bus it would be dependent on the continuation of the service. If the resident were not to travel out of Pulverbatch, the shops and services would need to be provided to them within the village. In these respects, the proposed dwelling would be an isolated rural home, even though it would be next to an established settlement.
28. The internet is increasingly one of the means by which rural communities can be connected to shops and services. While this may assist someone with reduced mobility, or without personal transport, that person would remain remote from many of the services on which they reasonably would be expected to rely.

⁴ The Parish Council notes there to have been a 55.4% response rate

⁵ Framework paragraph 7

⁶ Section 2.0 of the Grounds of Appeal estimate the closest bus stop to be 400 feet (which is approximately 120m) from the site entrance

⁷ Paragraph 6.2.2 of the Council Officer's report on the application

29. It is the local planning authority's view that the gradient between the bus stops and the appeal site would be challenging for someone in ill health. The gradient is not particularly steep, but it may be off-putting to someone with reduced mobility.
30. The appeal proposal would be expected to support services within neighbouring villages. However, any occupier of the appeal proposal would have a choice of service centres, and especially if these were to be convenient as part of a travel pattern to work, school or other frequent destination. Such circumstances would be likely to reduce the potential benefit of the appeal scheme to services in the vicinity of Pulverbatch. Consequently, the likely level of support associated with the occupation of a single dwelling would only provide limited weight in favour of the proposal.

Environmental

31. Paragraph 7 of the Framework is clear that the environmental role of planning should contribute to protecting and enhancing the natural, built and historic environment, and using natural resources prudently. There is arable farmland in the area, and while the Officer's report on the application notes the appeal site to be Grade 3 agricultural land, it does not indicate the site to be best and most versatile agricultural land, the economic and other benefits of which Framework paragraph 112 indicates account should be taken of.
32. However, the appeal scheme would construct a new dwelling in a location that reasonably would be expected to require the use of additional resources for travel to shops and services, and this attracts significant weight against the proposal. Also, in this location the consideration of the environmental role of sustainable development must take into account the great weight against the appeal scheme that results from the failure to conserve and enhance the natural beauty of the area.⁸

Other matters

Suitability of the site access

33. The highway outside the appeal site is a narrow rural road. Observed traffic levels reflected this, and the quiet character of the settlement.
34. The Highway Authority raised no concerns regarding the proposed location and use of the site access. Its siting and design would provide suitable visibility splays for the nature of the road and traffic conditions on this approach to Puvlerbatch. The site is of sufficient size for the layout to enable vehicles to enter and leave the proposed access in a forward gear. Concerns have been raised regarding the width of the site access which would appear to allow a two way flow of vehicles from the development, but it does not include turning radii on either side which, given the narrowness of the road, would reduce the effective width of the access. In any event, it would be an adequate width for the development that is the subject of this appeal.
35. Given the nature of the highway and the traffic movements along the road and at the junction outside the appeal site, the proposed access would provide a safe and suitable means of entering and leaving the development.

⁸ As confirmed by Framework paragraphs 14 and 115

Precedents

36. Attention has been drawn to the Council's determination of planning applications 14/03338/OUT and 14/01951/OUT. Full details have not been provided regarding these developments, and it has not been adequately explained why they would be relevant to this appeal. In any event, each application and appeal is considered on its own merits. Consequently, the determination of planning applications 14/03338/OUT and 14/01951/OUT, and the recent construction of other dwellings in the locality, do not set a precedent in relation to the appeal scheme.

Planning obligations

37. The Council Officer's Report on the proposed development notes CS policy CS11 to address contributions toward affordable housing, which would have been £13,500 in this case. Between the determination of the planning application and the lodging of the appeal, a Written Ministerial Statement regarding *Small-scale Developers* was released on 28 November 2014. It is now reflected in Planning Practice Guidance in relation to when contributions for affordable housing should not be sought. These include from developments of 10-units or less, except in designated rural areas such as an AONB where the local planning authority has decided to apply a lower threshold of 5 units or less.⁹
38. The appeal documentation includes an unexecuted unilateral undertaking in relation to the proposed development. The Council has not submitted an appeal statement in this case, and in completing the appeal questionnaire it makes no mention of CS policy CS11 as a relevant development plan policy in regard to this appeal. The Council's *Type and Affordability of Housing Supplementary Planning Document* (SPD) has been supplied, which includes extracts from CS policy CS11. Both the CS and SPD were adopted prior to the Written Ministerial Statement and the associated Planning Practice Guidance.
39. The appeal scheme is below the relevant national policy threshold for contributions toward affordable housing. Within the context of the development proposed, Planning Practice Guidance referred to above and national policy as set out within the Written Ministerial Statement are considerations that indicate in this instance a decision should be made other than in accordance with CS policy CS11.

Conclusion

40. Nevertheless, the appeal scheme also conflicts with CS policies CS5, CS6 and CS17 and related parts of the Framework. CS policy CS17 addresses: the AONB and matters relevant to specific Framework policy that seeks to restrict development within such a designated area; and CS policy CS6, which supports CS policy CS17 through its relevant provisions. Accordingly, and regardless of the position in relation to housing land supply, CS policies CS17 and CS6 carry full weight in this case.
41. Matters that weigh in favour of the appeal proposal, including the scope of possible planning conditions, have been found not to outweigh the great weight attributed to the identified harm, failures and policy conflict. The adverse impacts of allowing the appeal would significantly and demonstrably outweigh

⁹ Planning Practice Guidance reference ID: 23b-012-20150326

the benefits when assessed against the policies of the Framework taken as a whole. The proposal would not be a sustainable form of development and therefore, the appeal should be dismissed.

Clive Sproule

INSPECTOR

Appeal Decision

Site visit made on 2 June 2015

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 15 June 2015

Appeal Ref: APP/L3245/W/15/3005281

Bakehouse Yard, Withington, Shrewsbury SY4 4QA

- 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 Littlewood against the decision of Shropshire Council.
 - The application Ref 14/02625/OUT, dated 12 June 2014, was refused by notice dated 5 August 2014.
 - The development proposed is erection of single dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline and the application form makes it clear that all matters are reserved for future consideration. It is on this basis that I have determined the appeal.
3. During the course of the appeal, the Council submitted evidence relating to the 5 year supply of deliverable housing sites within Shropshire. Whilst some of this information post dates the decision on the planning application, the appellant has been given the opportunity to comment on it. The appellant is concerned that much of this information did not form part of the determination of the application. Whilst this may be so, the Council's position on its supply of deliverable housing sites is constantly evolving. I am obliged to make my decision on the basis of the submitted evidence. It is important that in making my decision I had access to the most recent and relevant information available on this issue. Accordingly, I have had regard to the evidence submitted in respect of this matter in my decision.

Main Issue

4. The main issue is whether a new dwelling in this location would be acceptable having regard to the principles of sustainable development.

Reasons

5. The appeal site comprises an area of pasture land adjacent to the dwelling 'Bakehouse Yard' and its garden. There is no dispute between the main parties that both the appeal site and the village of Withington are classed as open countryside for planning policy purposes.

6. Within the countryside, Policy CS5 of the Adopted Core Strategy (Core Strategy) strictly controls new development, in accordance with national planning policies protecting the countryside. The policy identifies dwellings to house agricultural, forestry or other essential workers and other affordable housing/accommodation to meet a local need as exceptions to this strict control. National planning policy as contained within the National Planning Policy Framework (the Framework) advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
7. The appellant's desire to move into a smaller, more manageable dwelling within the village would not fall within any of the exceptions set out within Policy CS5 of the Core Strategy or the special circumstances set out in paragraph 55 of the Framework. Accordingly the proposal would conflict with local and national planning policies in respect of new dwellings in the countryside.
8. The appellant submits that the Council cannot demonstrate a 5 year supply of deliverable housing sites and that it is relying on some sites allocated within the emerging Site Allocations and Management of Development Plan, which has not yet been adopted by the Council. Where a 5 year supply of deliverable housing sites cannot be demonstrated, the Framework advises that relevant policies for the supply of housing cannot be considered up-to-date (in this case Policy CS5).
9. The Council's updated Shropshire Five Year Housing Land Supply Statement (HLSS) dated November 2014 indicates that in late November 2014, there was a 5.43 year supply of deliverable housing sites in the County. I have no substantive evidence before me to dispute this figure. The Council can demonstrate a 5 year supply of deliverable housing sites and accordingly Policy CS5 of the Core Strategy is up-to-date.
10. Notwithstanding my findings above, the Framework makes it clear that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 7 of the Framework advises that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 55 advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example where there are groups of smaller settlements, development in one village may support services in villages nearby.
11. The economic role of sustainability includes contributing to building a strong, responsive and competitive economy. The proposal would help to boost the supply of housing within the area, albeit this would be limited given the nature of the proposal. Construction and trade jobs would also be created. The scheme would attract Community Infrastructure Levy contributions which could be used towards opportunities identified in the Place-Plan/Parish Plan. I have no reason to doubt that future occupiers of the new dwelling would use the facilities within the village and those within nearby villages and towns. However, the contribution one new dwelling would make to supporting such services would be unlikely to be discernible. Furthermore, whilst there would be economic benefits associated with the proposal, these benefits would be so regardless of where the new house was constructed. I therefore attach limited weight to these matters in my overall conclusion.

12. The social role of sustainability includes supporting strong, vibrant and healthy communities with accessible local services. There is no dispute between the main parties that Withington has a limited number of services. Reference is made to a village hall, church, public house, village green and bus stop. The villages of Roddington and Upton Magna offer a wider range of services, including shops, employment opportunities, a primary school and other community facilities. The appellant submits that there is a free school bus from Withington to the primary school in Upton Magna. There is also a daily school bus service (524) which runs from the public house in the village to Shrewsbury bus station on week days. This is not disputed.
13. On my site visit I observed that roads serving the village and within it were largely narrow with no street lighting, pavements or cycleway. As a result there would be a high probability of occupiers of the new dwelling travelling to shops and services in nearby villages and towns by private car. For those people that did not have access to a private car, these services and facilities would not be accessible, particularly taking account of the limited public transport serving the village. The local road conditions would make walking or cycling to the services and facilities in nearby villages unattractive to most people.
14. As a result of my findings above, I find that local services and facilities, apart from the village hall, public house, church and village green within the village would not be readily accessible from the appeal site. The new dwelling would result in an increased reliance on the private car to access even basic day to day services. It would be of limited appeal to those who did not enjoy that type of personal mobility. This would be in conflict with the social and environmental roles of sustainability.
15. The appellant has referred me to other developments in the area including an affordable home in the village and changes of use of buildings to residential use. I am not aware of the individual circumstances of these cases and I am therefore unable to ascertain if they are directly comparable to the scheme before me. Reference has also been made to development in Uffington. Again, I have not been provided with substantial details of these cases, and being within a Community Cluster, they are not directly comparable to the appeal proposal. In any event, I am obliged to determine the appeal proposal on its individual merits and this is what I have done. Accordingly I have attached limited weight to the cases referred to in my decision.
16. The Framework is clear that the three roles of sustainability are mutually dependent; they should not be undertaken in isolation. The scheme would conflict with the social and environmental roles of sustainability for the reasons given above. This harm is not outweighed by the limited economic benefits that would arise, or the contribution that the scheme would be made towards affordable housing in the area. I therefore conclude that the proposal would not result in sustainable development for which the Framework indicates there is a presumption in favour.
17. In reaching this conclusion, I have taken into account the appellant's personal circumstances and his desire to remain in the village, in a home that would be constructed to a high lifetime standard. I have also had regard to the village being served by high speed fibre broadband. However, these matters do not comprise the special circumstances necessary to justify a new isolated home in

the countryside, or a development that is not sustainable which conflicts with both local and national planning policies.

Conclusion

18. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR

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: 22 June 2015

Appeal Ref: APP/L3245/W/15/3006315

Land adjacent to Adlestrop, Cardington, Church Stretton SY6 7HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Boulton against the decision of Shropshire Council.
 - The application Ref 14/03374/FUL, dated 25 July 2014, was refused by notice dated 8 December 2014.
 - The development proposed is the erection of a detached dwelling and garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - whether the housing proposal would comply with the Core Strategy and the Site Allocations and Management of Development Document (SAMDev) in terms of its location and its effect on the character and appearance of the area; and,
 - whether the proposal would be a sustainable development and the extent of the housing land supply in the County.

Reasons

Location

3. Cardington is a compact rural settlement. The spatial approach of the Core Strategy is to focus housing development within Shrewsbury, market towns and key centres. Policy CS4 of the Core Strategy advises that in rural areas the remaining houses will be accommodated in Community Hubs and Community Clusters. Outside of these hubs and clusters within the open countryside policy CS5 of the Core Strategy strictly controls new development and open market housing is not supported.
4. As part of the SAMDev consultation process Cardington did not come forward as a Community Hub or Cluster. In accordance with the wishes of the local community this document places Cardington and the land that surrounds it within the open countryside. The SAMDev is at an advanced stage and the subject of examination. However, there remain unresolved objections to it. Although none have been brought to my attention that relate to the categorisation of Cardington as within the open countryside, only a moderate amount of weight can therefore be attached to this document.

5. In terms of its location and relationship to Cardington, the appeal site is located within an agricultural field approximately 90m to the east of The Royal Oak Public House which is on the outer edge of this compact village. As a result, taking into account the emerging SAMDev, I therefore find that the appeal site is located within the open countryside and outside the built framework of the village. As the proposed development would be new build and not an essential countryside worker's dwelling, or an affordable house, its location would therefore be contrary to the objectives of policy CS5 of the Core Strategy.
6. Reference has been made to Planning Practice Guidance and its advice against blanket policies restricting housing development in rural areas unless their use can be supported by robust evidence¹. The development plan in recognising the rural location of Cardington supports affordable housing to meet local needs and other limited forms of residential development. Cardington and the other smaller villages within the open countryside are therefore able to expand to meet the need of local people who are unable to afford their own homes. Housing is also supported for those who by the nature of their work have to live in the open countryside. Whilst the opportunities for open market housing are limited to building conversions, I do not consider that housing development is restricted within the open countryside anymore than it is reasonable to do. For these reasons, I therefore find that the approach of the Core Strategy maintains and enhances the vitality of rural communities and so is consistent with paragraph 55 of the National Planning Policy Framework ('the Framework') in this regard.

Character and appearance

7. The Framework is an important material consideration. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in decision taking. The appeal site is located within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in an AONB and that in such areas landscape and scenic beauty have the highest status of protection.
8. The appeal site is located within a field of pasture which neighbours Adlestrop, a residential dwelling. The landscape of the surrounding countryside is characterised by lowland agricultural fields nestling within bare, rugged hills. The general openness and lack of development is a feature of the landscape and assists in conserving the scenic beauty of the area. As the site is pasture land, free of built development, its openness and greenness contributes to the special character of the AONB.
9. The proposed development of a detached house and double garage would result in the loss of countryside and urbanise the site. The domestic paraphernalia that occupation would generate would add to this urbanising effect. As a result, the proposed development would have a marked adverse effect on the character and appearance of the AONB. Extensive screening along the highway would mean that there would be only glimpsed views of the site from the road along the site access. However, the house would be visible in views from the public right of way in the field to the east of the site. Further planting to screen the proposed house has been suggested secured by condition. This though would be at odds with the open character of the

¹ Planning Policy Guidance – Rural Housing, Permalink ID 50-001-20140306

agricultural field of which the appeal site forms a part. As I have noted such fields are characteristic of the lowland area of the AONB. The proposed house has been attractively designed. Nevertheless, this would be insufficient to overcome the significant adverse effects that I have described.

10. For all of these reasons, I therefore conclude that the proposed development would harm and thus fail to conserve the landscape and scenic beauty of the AONB. This would be contrary to the objectives of policies CS5 and CS17 of the Shropshire Core Strategy, and the Framework. These policies, amongst other matters, seek to protect the character and appearance of the countryside, including the AONB.

Sustainable development

11. Sustainable development is at the heart of the Framework. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. 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. Paragraph 55 of the Framework provides specific guidance in relation to the sustainable development of new housing in rural areas. It advises that new housing in such areas should be located where it can maintain or enhance the vitality of rural communities.
12. Paragraph 55 of the Framework goes on to give an example of how maintaining or enhancing the vitality of rural communities could be achieved. It advises that where there are groups of smaller settlements development in one may support services in a village nearby. Cardington itself has very limited facilities and services; a church; village hall and public house. Between the villages within five miles of the appeal site there are pre-school nurseries, primary schools, two farm shops, a gift shop, plant nursery, stone carving studio and some outdoor leisure facilities. There are also some public houses, tea rooms and tourist accommodation. However, there is no evidence that these services are struggling. Church Stretton is the nearest town with a wide range of basic services and is only slightly further away. As a result, in my view, future residents of the proposed development, other than in relation to pre-school nurseries and primary schooling, would be more likely to visit Church Stretton than take a circuitous route through nearby villages where only a few needs can be met. For these reasons, I therefore find that the proposed development would be unlikely to significantly support services in nearby villages.
13. In terms of the environment, I have found that the proposed development would demonstrably harm the character and appearance of the AONB. In terms of its location, the appeal site is within the open countryside. As I have noted Church Stretton, which is the nearest settlement that can provide a basic range of facilities to meet day to day needs, is slightly over five miles away. This is too far to cycle and the bus service is infrequent. Notwithstanding supermarket home delivery and the school bus service, future residents of the proposed development would be heavily dependant on the car to access basic services and facilities. As a result, they would be likely to travel significantly greater distances than those who live within the sustainable types of settlements promoted by the Core Strategy. The appeal site is therefore poorly located in terms of sustainability.

14. The dwellings would use renewable energy in the form of solar panels and would incorporate sustainable drainage. In terms of design and construction, the houses would be built to meet code level three of the Code for Sustainable Homes. Socially, the provision of a new home would make a small contribution to addressing housing need in the County. It would also provide a home for a local family with links to the area who would contribute socially to the locality. In relation to the economy, the construction of the house and its fitting out would generate some employment. Post completion the slight increase in spending power in the locality as a result of an additional household would assist in a small way businesses in the wider area.
15. Nevertheless, these positive aspects of the proposal would not overcome the isolated car dependant location of the development, and the harm that would be caused to the character and appearance of the AONB. Both these negative features of the proposed development would continue long after the economic benefits of constructing the development have faded. I therefore conclude, based upon the overall balance of considerations, that the proposal would not be a sustainable development. It would therefore be contrary to the Framework and policy CS6 of the Core Strategy which requires that new development is sustainable.

Housing land supply

16. There is disagreement between the parties as to whether or not the Council can identify a five year supply of deliverable housing sites. Where it cannot, paragraph 49 of the Framework states relevant policies for the supply of housing should not be considered up to date. I find that the evidence that has been provided to me on this matter is inconclusive.

Other matters

17. Cardington is the appellant's home village. He and his wife work in the area and he has strong connections to it. Whilst I have taken these matters into account, I am mindful of the advice contained in Planning Practice Guidance² that in general planning is concerned with land use in the public interest. For these reasons, I attach little weight to this consideration in favour of the appeal.

Conclusions

18. The appeal site would be located within the open countryside, contrary to the objectives of policy CS5 of the Core Strategy. Given that it would fail to conserve the landscape and scenic beauty of the AONB, and would be poorly located in terms of sustainability, it would be an unsustainable development. It would therefore also be contrary to the objectives of policies CS6 and CS17 of the Core Strategy.
19. In terms of the supply of deliverable housing sites, I have found that the evidence is inconclusive. Nonetheless, even if there is not such a supply, the contribution of the proposed dwelling towards addressing this issue would fall a long way short of outweighing the harm to the character and appearance of the AONB and the fact that the proposal would not be a sustainable development. Having regard to paragraph 14 of the Framework, the adverse impacts of the proposed development, in relation to its unsustainable location and harm to the character and appearance of the AONB, would significantly and demonstrably

² Planning Policy Guidance – Determining a planning application, ID 21b-008-20140306

outweigh the benefits of the proposal. It would also be contrary to the specific policy in paragraph 115 of the Framework which places great weight on the protection of AONBs.

20. The Council seeks a contribution towards affordable housing. In November 2014, the Government announced changes to its Planning Practice Guidance. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy. Among other things, those changes advise that contributions towards affordable housing should not be sought from small-scale developments of ten units or less. The tests in paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits, it is not necessary to assess what is sought against these requirements.
21. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

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Appeal Decision

Site visit made on 1 June 2015

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 12th June 2015

Appeal Ref: APP/L3245/W/15/3008507

Development Site, Harcourt Crescent, Shrewsbury, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Thomas Priestly against the decision of Shropshire Council.
 - The application Ref 14/05208/FUL, dated 17 November 2014, was refused by notice dated 13 February 2015.
 - The development proposed is the demolition of existing garages and erection of apartment block containing four single bedroom apartments.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the appeal stage amended plans were submitted. These revise the internal layout of the apartments and the position of some of the windows. Both the Council and third parties have had the opportunity to comment on these revised plans as part of the appeal process and many third parties have done so. I therefore consider that no party would be prejudiced by my determining the appeal on the basis of the amended plans.
3. A number of concerns have been raised regarding ownership of land, potential covenants on the land, and rights of access. I can see no reason why an approval of planning permission would negate or supersede any private legal rights relating to land ownership. Whilst covenants may have implications for the implementation of the scheme, I have made my decision based only on the planning merits of the case.

Main Issues

4. The main issues in the appeal are the effect of the proposed development on:
 - the character and appearance of the area; and
 - The living conditions of nearby residents with particular regard to noise and disturbance, privacy and outlook.

Reasons

Character and appearance

5. The appeal site is located to the rear of properties on Crowmere Road and Harcourt Crescent and forms part of an existing garage court. The surrounding

area is largely residential in nature and comprises mainly a mixture of houses and bungalows. To the rear of the site lies Belvedere High School. As the garage court is surrounded by dwellings, the site is not visible from the adjacent roads.

6. The proposed apartment block would be a two storey building of a contemporary design with a shallow mono-pitch roof. Whilst the residential properties in the area are of a traditional design with pitch roofs, on approaching the site, the apartment block would be seen in the context of the existing flat roof garages and the large flat roof school building situated to the rear. As a result, it would not appear as an incongruous or alien feature that was out of character with the area.
7. Whilst the proposed building would have no relationship with the street and so would not enliven the street scene, its location would not cause any harm to the character and appearance of the wider area.
8. The communal space around the building would be limited in size and much would be utilised to provide car parking space. Nevertheless given the relatively limited communal space around the adjacent maisonettes, the proposal would not appear cramped or out of keeping.
9. All in all, I consider that the proposed development would not harm the character and appearance of the area. In this regard therefore it would accord with Policy CS6 of the Shropshire Core Strategy (adopted March 2011) (SCS) which requires development to have a high quality of design which, amongst other things, takes account of the local context and character.

Living Conditions

10. The proposed building would be located approximately 17m from the rear elevation of the maisonettes, and around 35m from the rear elevations of the closest houses on Crowmere Road. These distances would be sufficient to ensure that the building itself did not have an unacceptable impact on the outlook from the windows on the rear of these properties. Although the building would be close to the boundaries of rear gardens on Crowmere Road, I consider that given the length of the gardens, the building would not have an overbearing impact or create an un-neighbourly sense of enclosure to these gardens.
11. However, the proposal would also involve the erection of a boundary fence between the site and the closest maisonettes which are currently unenclosed. This would only be around 5.5m from the rear elevation of the closest maisonettes. Although the height of the fence is not shown on the plans, in order to maintain privacy, it would need to be a reasonable height. I am in no doubt that a high fence, so close to the rear windows on the ground floor would dominate the outlook from these windows and create a harmful sense of enclosure.
12. I accept that the proposal would remove three garages that currently stand in front of these windows, but these garages are set further away from the windows than the fence would be. Moreover, there are gaps between the garages whilst the fence would be a continuous feature. As such the garages do not have the same impact on the outlook of the windows as the proposed fence would do.

13. The appellant has pointed out that the fence could be erected along the boundary without the need for planning permission. Be that as it may, I have no substantive evidence to indicate that there is a significant probability that the fence would be constructed should this appeal be dismissed.
14. The proposal would have a number of windows on the elevation facing the maisonettes. However, as noted above, provided the proposed boundary fence was of sufficient height, it would be sufficient to prevent any overlooking between ground floor windows. In addition, the repositioning of the windows on the first floor means there would be no overlooking as the only window at this level would be above the stairs.
15. On the western elevation the existing boundary treatment would prevent any overlooking from the ground floor windows. However, at first floor level there is a window serving the main living area for flat 4 and as this is the only window serving the room it would not be appropriate for it to be obscure glazed. Notwithstanding this, given the orientation of the proposed window to the boundary, only limited parts of the garden would be overlooked, and the privacy of the majority of the garden would be maintained. So overall, I am satisfied the proposal would not have a detrimental impact on the privacy of neighbouring occupiers.
16. At present although the majority of the garages are used by local residents, the appellant has indicated that some of those on the appeal site are used by local tradesmen for storage of equipment and materials. Local residents have highlighted that parking is not allowed in the area other than in the garage itself and thus it is likely that residents only put their car into the garage when they have finished using it each day. Whilst the appellant has suggested that the local tradesmen make frequent trips to the garages, evidence from the residents that overlook the site is that most only visit once or twice a week. Consequently, traffic movements in the area are likely to be limited and the traffic noise minimal.
17. The proposed development would have parking within the site and as a result it is likely to significantly increase the amount of vehicular movements within the garage court area. Given the close proximity of the parking area to the rear elevations of the maisonettes, the increase in traffic movements would inevitably increase the noise and disturbance experienced by the occupiers of these properties from car engines, the opening and closing of car doors and from music being played within cars. In my view, it would make the noise levels in this rear communal area more akin to that of a front garden. This would be particularly noticeable and intrusive in the summer months when the outside area is likely to be used more intensively, and windows left open to improve ventilation. In this respect the proposed development would have an unacceptable impact on the living conditions of the nearby residents.
18. Overall, although I consider the appeal scheme would not result in a loss of privacy, it would have a detrimental impact on the living conditions of nearby residents with particular regard to outlook, and noise and disturbance. As such, in this respect, it would conflict with policy CS6 of the SCS which, amongst other things, seeks to ensure that development protects residential amenity.

Other Matters

19. In the light of changes made to Planning Policy Guidance in November 2014, it is disputed by the parties whether the proposal would be required to make a contribution towards the provision of affordable housing. However, as I am dismissing the appeal for other reasons, I have not determined whether this contribution is necessary.

Conclusion

20. Despite my findings regarding the impact of the development on the character and appearance of the area, these matters do not outweigh, or negate, my concerns about the effect of the development on the living conditions of nearby residents. As a result of this, I consider the appeal proposal would be unacceptable.
21. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR