



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

Date: Wednesday, 25 November 2015

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

**Date:** Thursday, 3 December 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  
Jon Tandy

**Substitute Members of the Committee**

Peter Adams  
Tim Barker  
John Everall  
Miles Kenny  
Mackenzie  
Alan Mosley  
Keith Roberts

Your Committee Officer is:

**Linda Jeavons** Committee Officer

Tel: 01743 257716

Email: [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the Central Planning Committee held on 8 October 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 Development Land West Of Oakfield, Nesscliffe, Shrewsbury, Shropshire (14/03797/OUT) (Pages 7 - 30)

Outline application for the erection of 6 No dwellings (to include access).

## 6 The Music Hall, The Square, Shrewsbury, Shropshire, SY1 1LH (15/04618/LBC) (Pages 31 - 42)

Alterations in connection with erection of a free standing pillar sign and external signage over 2 no. windows affecting a Grade II\* Listed Building.

## 7 The Music Hall, The Square, Shrewsbury, Shropshire, SY1 1LH (15/04619/ADV) (Pages 43 - 54)

Erect and display one free standing sign, two window box signs, and one hanging sign.

## 8 The Laburnums, Hookagate, Shrewsbury, Shropshire, SY5 8BH (15/04748/FUL) (Pages 55 - 62)

Erection of detached garage.

## 9 Schedule of Appeals and Appeal Decisions (Pages 63 - 84)

## 10 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, 7 January 2016 in the Shrewsbury Room, Shirehall.



## Committee and Date

Central Planning Committee

3 December 2015

## **CENTRAL PLANNING COMMITTEE**

**Minutes of the meeting held on 8 October 2015**

**2.00 - 4.06 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

**Responsible Officer:** Linda Jeavons

Email: linda.jeavons@shropshire.gov.uk Tel: 01743 257716

### **Present**

Councillor Vernon Bushell (Chairman)

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

### **59 Apologies for absence**

Apologies for absence were received from Councillors Tudor Bebb and Peter Nutting (Sub: Tim Barker).

### **60 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the Central Planning Committee held on 10 September 2015 be approved as a correct record and signed by the Chairman.

### **61 Public Question Time**

There were no public questions, statements or petitions received.

### **62 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, Councillor Andrew Bannerman stated that he was a member of the Planning Committee of Shrewsbury Town Council. He indicated that his views on any proposals when considered by the Town Council had been based on the information presented at that time and he 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 15/03580/FUL, Councillor Dean Carroll stated that he was the Chairman of the Student Accommodation Task and Finish Group and reserved his right to vote on this item.

With reference to planning application 15/00779/REM, Councillor Roger Evans stated that he had been present during discussions with residents and had attended and given evidence at a Public Inquiry.

With reference to planning application 15/03019/COU, Councillor Jon Tandy stated that his Brother-in-Law owned the neighbouring farm. He would make a statement and then leave the room prior to consideration of this item.

**63 Development Land West of 11 Pengrove, Shrewsbury, Shropshire (15 02219 FUL)**

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and access.

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

Members considered the submitted plans and some expressed concern regarding the loss of a large portion of the green corridor and questioned the adequacy of the visibility splays. Other Members acknowledged that highway, drainage and flooding issues would be addressed by appropriate conditions and the principle of development on this site had been established as a result of a recent appeal decision. In response to questions, the Team Manager – Development Management explained that a S106 Legal Agreement would ensure an appropriate affordable housing contribution, and provided clarification on the proposed landscaping/planting and the footprint and layout of this and the previous application.

**RESOLVED:**

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

- A Section 106 Legal Agreement to secure an appropriate affordable housing contribution;
- The conditions as set out in Appendix 1 to the report; and
- The following additional condition:

No construction and/or demolition work shall be undertaken 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.

**64 Land at Barker Street, Shrewsbury, Shropshire (15/03580/FUL)**

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members’ attention to the location, layout and access.

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 in the Schedule of Additional Letters circulated prior to the meeting.

In accordance with the Council Procedure Rules (Part 4, Paragraph 6.2) Councillor Claire Wild spoke in support of the proposal but did not vote. During which she raised the following points:

- The University would be a welcomed addition to Shrewsbury and had been well supported and embraced.
- There had been only 17 objections to this application;
- Her only issue was with the façade but she acknowledged that this would be conditioned and could be “worked-through” with the Architect; and
- She urged approval.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Andrew Bannerman, as local Ward Councillor, made a statement, left the table, took no part in the debate and did not vote on this item. During his statement the following points were raised:

- He welcomed the University which would be an asset to the town of Shrewsbury;
- He questioned why Councillors had not been involved or given the opportunity to view plans during the pre-application stage and his request for any plans to be considered by a Design Review Panel had been denied;
- He questioned if the accommodation in its entirety would be required by September 2016 and even if there was an increase in take-up he doubted whether all the accommodation would be needed so soon; and
- The integrity of the streetscape would be compromised and he suggested deferral so that more consideration could be afforded to the design. The Civic Society had raised concerns regarding the design which could have been addressed by a Design Review Panel.

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. Members acknowledged and welcomed the benefits that a University would bring to the area but expressed concerns regarding the design of this accommodation (and made specific reference to the frontage and side elevations) and its impact on the streetscape; the proposed location and number of bin storage areas; and the lack of short-stay parking and a managed drop-off area. In response to questions/comments from Members, the Team Manager – Development Management explained that the timetable for the development of the

accommodation would not be a planning consideration and conditions relating to bin storage, vehicular access, parking and demolition/working hours could be amended or added.

**RESOLVED:**

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

- The conditions set out in Appendix 1 to the report;
- Condition No. 10 to be amended to ensure that the Travel Plan Statement covers appropriate vehicular access during the 'dropping-off' and 'picking-up' period;
- Bin store provision to be re-assessed and placed in close proximity to each block of student accommodation;
- Further consideration to be given to the design and form of the front elevations, and any consequential alterations to side elevations, by the imposition of an appropriate condition, and, if Historic England raise any ongoing issues relating to the discharge of that condition, then this application be brought back to this Committee for further consideration; and
- The following additional condition:

No construction and/or demolition work shall be undertaken 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.

**65 Development Land at Mousecroft Lane/Longden Road, Shrewsbury, Shropshire (15/00779/REM) - TO FOLLOW**

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and access.

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

In the ensuing debate, Members considered the submitted plans and noted the comments of all speakers. The Team Manager – Development Management provided clarification on the proposed use and location of the open space; reiterated that CIL monies would contribute towards the provision of education and infrastructure; and explained that the size and location of affordable housing had been agreed with the Housing Association and the aspiration of 'pepper-potted' affordable housing might not be the most practical solution from a management perspective.

**RESOLVED:**

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

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

No development or clearance of vegetation shall take place until a Wildlife Protection (mitigation) plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) An appropriately scaled plan showing 'Wildlife/habitat Protection Zones' where construction activities are restricted and where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) A timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife could be harmed (such as the bird nesting season);
- d) Persons responsible for:
  - i) Compliance with legal consents relating to nature conservation;
  - ii) Compliance with planning conditions relating to nature conservation;
  - iii) Installation of physical protection measures during construction;
  - iv) Implementation of sensitive working practices during construction;
  - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
  - vi) Provision of training and information about the importance of 'Wildlife protection zones' to all construction personnel on site.

All construction activities shall be implemented in accordance with the approved details and timing of the plan unless otherwise approved in writing by the local planning authority.

Reason: To protect features of recognised nature conservation importance.

(At this juncture, Councillor David Roberts left the meeting and did not return.)

**66 Batchcott Hall, Batchcote, Church Stretton, Shropshire, SY6 6NP  
(15/03019/COU)**

In accordance with his declaration at Minute No. 62, Councillor Jon Tandy left the room during consideration of this item.

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 Tim Barker, as local Ward Councillor and on behalf of Smethcott Parish Council, made a statement, left the

room, took no part in the debate and did not vote on this item. During his statement the following points were raised:

- Would result in overdevelopment of the site resulting in minimal amenity space.

Mr T Hunt, the applicant, spoke for the proposal in accordance with the Council's Scheme for Public Speaking at Planning Committees.

The Team Manager – Development Management introduced the application and with reference to the drawings displayed, he drew Members' attention to the location, layout and access.

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

**RESOLVED:**

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

**67 Schedule of Appeals and Appeal Decisions**

**RESOLVED:**

That the Schedule of Appeals and Appeal Decisions for the Central area as at 8 October 2015 be noted.

**68 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, 5 November 2015 in the Shrewsbury Room, Shirehall, Shrewsbury, SY2 6ND.

Signed ..... (Chairman)

Date: .....





Committee and date

Central Planning Committee

3 December 2015

## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 14/03797/OUT	<b>Parish:</b>	Great Ness
<b>Proposal:</b> Outline application for the erection of 6 No dwellings (to include access)		
<b>Site Address:</b> Development Land West Of Oakfield Nesscliffe Shrewsbury Shropshire		
<b>Applicant:</b> Mr TE Jones		
<b>Case Officer:</b> Philip Mullineux	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 338281 - 319117



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**Recommendation: Grant planning permission subject to conditions as set out in Annex 1 and any amendments as considered necessary by the Head of Planning Services and the completion of a Section 106 agreement in accordance with the Town and Country Planning Act 1990 in order to secure an affordable housing contribution.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application is made in outline with all matters other than access reserved for future consideration on land to the rear of properties known as Oak Field and Breidden House, Nesscliffe. The application originally sought permission for the erection of 8 dwellings, and was later amended for the erection of 6 dwellings as a result of concerns about an adjacent watercourse which is in an area classed as flood zone 3 in accordance with the Environment Agency flood risk data maps.
- 1.2 Access to the site will be provided from a private estate road via an adjoining development. The proposed development therefore could be considered to constitute a second phase of development. (13/02901/REM Reserved Matters application (scale) pursuant to Outline application reference 12/00821/OUT for residential development – Approved 3rd July 2014 (for 10 dwellings).
- 1.3 The application is accompanied by a site location plan, block plan, ecology report, arboricultural report and a design and access statement.
- 1.4 The application includes an agreement from the applicant to provide the necessary financial contribution towards local needs affordable housing as required by Policy CS11 of the Shropshire Core Strategy.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 Nesscliffe is located approximately 5 miles south west of Baschurch and 9 miles north west of Shrewsbury.
- 2.2 The application site is situated within the residential element of the village, to the rear of Oak Field and Breidden House, which are located on the opposite side of the main road to the Nesscliffe Hotel.
- 2.3 Access to the site is currently via a track along the side of the hotel car park, which is also used as a public footpath/bridleway. The site fronts on to the western side of the old A5 in the settlement of Nesscliffe. To the north of the site is a small pond. Alongside the site's western side there is also a pond and open agricultural land.
- 2.4 The site as a whole measures 0.34ha and is classified as grade 3 agricultural land.
- 2.5 The number 70 bus service runs through Nesscliffe, Monday to Saturday, linking the village with Oswestry and Shrewsbury. The nearest bus stop to the development site is located approximately 160 meters north.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Parish Council have objected to the scheme and the local Ward Member has requested that the application be considered by the Planning Committee. The Chair/ Vice Chair in conjunction with Officers consider that the concerns raised are material considerations and that the application warrants consideration by the planning committee.

**4.0 Community Representations**

4.1 Great Ness and Little Ness Parish Council object to the proposed development, the response states:

The Parish Council objects to this application for the following reasons:

1. The proposal is not on a preferred site for development in the parish.
2. The development is not infill but backfill, which the Parish Council has always opposed in the parish.
3. The proposed access is highly questionable and clearly inappropriate for vehicle access to and from the development. At best, the access is barely satisfactory for pedestrians never mind vehicles.
4. Environmental concerns were identified, in particular the protected trees and the stream that runs by the development.
5. Infrastructure structure concerns were expressed around drainage and sewage, as the site is prone to flooding.

**4.2 Consultee Comments**

4.3 The Environment Agency raises no objections. The response refer to:

Based on our 'indicative' Flood Map for Planning and the revised red line site boundary (as shown on the Location Plan, Drawing No. SA16952/01, Rev. A, dated July 2014) the proposed development site appears to be located within Flood Zone 1. The planning application form states that the site is 0.34ha in size. On this basis, we would refer you to our area 'Surface Water Management Advice Note' and recommend that you consult with the Lead Local Flood Authority (LLFA) i.e. your Council's Flood and Water Management team with regards to surface water matters

4.4 **SC Highway Manager** - raises no objection to the granting of outline consent. The response recommends:

Conditions

1. Prior to the commencement of development full engineering details of the means of access to the site including the access approved under application 12/00821/OUT shall be submitted to and approved in writing by the Local Planning Authority; the access shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied. Reason: To provide a satisfactory means of access to the site in the interests of highway safety.
2. Details of the parking and turning areas shall be submitted as part of the first reserved matters application. The approved scheme shall be satisfactorily completed and laid out prior to any of the dwellings being occupied. The approved parking and turning areas shall thereafter maintained at all times for that

purpose.

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

4.5 **SC Land Drainage Manager** raises no objections. The response states:  
The following drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted:

1. On the EA Flood Map, the land adjacent to the watercourse on the western boundary is in Flood Zone 2 and 3 and on the Pluvial flood map, it is also at risk of surface water flooding and a Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted for approval.

A FRA should include, as a minimum:

Assessment of the Fluvial flooding (from watercourses)

Surface water flooding (from overland flows originating from both inside and outside the development site)

Groundwater flooding

Flooding from artificial drainage systems (from a public sewerage system, for example)

Flooding due to infrastructure failure (from a blocked culvert, for example)

Flood compensation storage, finished floor levels and evacuation plan should be detailed.

Reason: To ensure that it complies with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

2. 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. 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.

SuD's applicability for the area is Infiltration PLUS Treatment as the development lies within a groundwater Source Protection Zone 3. Surface water run-off must be treated through a filtration unit prior to entering the soakaway.

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

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.

3. 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.

4. Informative: 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 access, driveway, parking area/ paved area

Attenuation

Greywater recycling system

Green roofs

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

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

5. Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water Flows and Loads: 4 should be used to determine the number of persons for the proposed development i.e. for a 4 bedroom dwelling, the population equivalent should be 6 and the sizing of the septic tank and drainage fields should be designed to cater for a minimum of 6 persons and in accordance with the Building Regulations H2 Paragraph 1.18. These documents should also be used if other form of treatment on site is proposed.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

4.6 **SC Affordable Housing Manager** raises no objections. The response states:

Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.7 **SC Trees** raise concerns about the application, the response indicates:

There are a number of trees on or adjacent to this site, predominantly around the boundaries. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees,

hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 5 individual trees, which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. The categories allocated to the trees have been reviewed and it is agreed that these are appropriate, however see comments below regarding sub categories.

It is noted that the AIA has provided only limited detail on the poplar plantation immediately adjacent to the west boundary of plot 5 or commented upon the potential for these trees to exert an influence over this plot. Given the ultimate size and growth rate of this species of tree, coupled with the fact that the trees are to the west of the site I consider that it is reasonable to assess the potential for these trees to impact on the residential amenity of the proposed dwelling in the future.

Trees O1 & O2, two large oak trees, describe in the report as over mature have been examined and it was observed that not only are they significant landscape features, they also display a number of characteristic associated with veteran trees, as describe in Reed (2000). It is therefore consider that these specimens should be allocated the sub categories 1, 2 & 3 in recognition of their contribution in terms of landscape value, conservation value and heritage value.

Given the age and condition of tree O1 & O2 it is considered to be more appropriate to calculate the root protection areas for these trees in accordance with the advice provided in “Veteran Trees a guide to good management” published by English Nature (now Natural England) which recommends that the RPA for a Veteran Tree should be based on the area of a circle 15 times the diameter of the stem, or 2 metres beyond the maximum extent of the canopy, whichever is greater and that this are should not be capped.

This would considerably extend the RPA into the area shown as being utilised for construction of the dwelling and result in a considerable portion of the RPA being impacted by construction work, should this site layout be adopted.

It is also noted that the RPA for O1 has been plotted as a circle. BS 5837 states that ‘The RPA for each tree should initially be plotted as a circle centred on the base of the stem. Where pre-existing site conditions or other factors indicate that rooting has occurred asymmetrically, a polygon of equivalent area should be produced. In this case the presence of the adjacent track, clearly well established and used, immediately to the south of O1, will have influenced the development of the root system as the soil beneath the track will be highly compacted and not amenable to root development. Based on the principals of root development and the factors that affect the morphology of a root system, it is appropriate to consider that the root system of O1 will have developed more extensively into the easily exploited soils to the north.

Concerns are also raised regarding the potential for trees O1 & O2 to impact on residential amenity of the proposed dwellings situated in the eastern part of the field.

Advice given in BS 5837 notes that:

“A realistic assessment of the probable impact of any proposed development on the trees and vice versa should take into account the characteristics and condition of the trees, with due allowance for space for their future growth and maintenance requirements.”

And advises that the following factors are given consideration:

Shading  
Privacy and Screening  
Direct Damage  
Future Pressure for Removal  
Seasonal Nuisance

Tree O1 & O2 are large, over mature specimens of some 24 metres in height with spreading canopies. The proposed layout seeks to site two residential dwellings, plots 1 & 4, approximately 15 metres from these trees. Owing to natural land levels, the base of the trees will be elevated above the base of the dwellings, unless a considerable amount of fill is imported to the site. This will exaggerate the size of the trees, relative to the dwellings, leading to the trees exerting an overbearing and dominating impact on the dwelling. The trees are in late maturity and have already suffered a number of branch failures. Placing residential dwellings in close proximity to trees of this nature could lead to feelings of insecurity for the occupiers and there is a very high probability that there will be requests to fell or inappropriately prune the trees. Two of the plots have a large portion of their garden areas over hung by the crowns of O1 & O2 respectively. This will obstruct light to these areas and create a situation where by leaf litter and debris falling from the tree become problematic for the owners.

The report notes that the trees are protected by a TPO, and that the Council can control the work to the trees, however the Council is obliged to take into account all circumstances and consider the impact to the person and the reasonable enjoyment of their property when making a decision about works to protected trees. It is a fundamental principal of BS 5837, that site layout seeks to accommodate significant trees within a development and that good design is used to prevent conflicts between trees and future occupiers from arising.

Finally, it can be seen that, when viewed in conjunction with the current approved application to the south, tree O1 will become enclosed within the site. This is a situation that should be avoided and attention is drawing to section 4.5.11 of BS5837, in respect of the retention of veteran trees.

It is recognised that this is an outline application, and the above comments are based on the layout indicated on the proposed block plan. It is possible that a re-design of the site, reducing unit numbers to allow more separation between the

trees and the proposed dwellings would satisfactorily address the above concerns. It is also recommended that the potential impact on residential amenity at plot 5 is assessed and addressed if required.

A previous response indicated:

There are a number of significant trees and hedges on or adjacent to this site, including two large, mature oak trees protected by a Tree Preservation Order. The proposed development has the potential to cause damage to these trees to a point where they can not be safely retained or to create a situation whereby the trees exert a negative influence over the reasonable enjoyment of the proposed dwellings, resulting in request to remove or prune the trees by incoming occupiers or otherwise impact on the trees and natural feature that contribute to the public amenity of the area.

To properly assess these impacts and implications and the consequences for the landscape and public amenity of the area and the wider environment an Arboricultural Assessment, prepared in accordance with BS 5837: 2012 must be provided with the application.

It is expected that any proposed development would make provision to retain any trees identified as significant or potentially significant in the terms of public amenity or provide substantial justification and mitigation where their removal is proposed.

As this is an outline application, it is expected that the AIA would demonstrate that there is adequate space for the proposed number of dwellings and associated infrastructure and services.

If this information is not forthcoming it must be considered that the proposed development will have a substantial negative impact on the adjacent trees and the wider amenity and it would be recommended that the application be refused as it would be contrary to the principals of the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17.

4.8 **SC Planning Ecologist** with consideration to further information received raises no objections. The response recommends conditions in respect of bats, nesting birds and an adjacent watercourse and informatives' in respect of great crested newts, badgers, bats and nesting birds be attached to any approval notice granted for development on site.

4.9 **Public Comments**

4.10 Seven letters of objections from four separate households have been received from members of the public. Key issues raised can be summarised as follows:

- Development proposal will be harmful to the surrounding rural character.
- Cumulative impacts with other recently approved developments in Nesscliffe.
- Proposal overall represents unsustainable development.
- Nesscliffe has already exceeded its housing guideline number of 30 dwellings



in accordance with the Council's SAMDev.

- Building houses at this location will de-value existing dwellings.
- Detrimental impacts on ecological issues as well as a tree with a Tree Preservation order.
- Concerns about public highway access which is considered dangerous.
- Concerns about over head power lines
- Detrimental impacts on surrounding residential amenity.
- Although the site is designated as flood zone 1 it is know to flood frequently
- No consultations with locals in respect of the proposal..
- Proposal represents development of a green field site outside of the recognised development boundary.

## 5.0 THE MAIN ISSUES

- Principle of development.
- Siting, scale and design.
- Visual impact and landscaping
- Trees
- Ecology
- Drainage
- Public highway access.

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 In accordance with 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 needs to be given weight in the determination of planning applications.

6.1.2 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.

### 6.1.3 The Development Plan

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

6.1.4 Following on from the adoption of the Core Strategy in 2011, the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev) and that plan is now at an advanced stage and now attributed

significant planning weight. The SAMDev Plan Inspector has 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 and the Inspector's final report has been received which raises no concerns with regards to the modifications process and SAMDev is now at its final phase awaiting formal adoption by the Council. The recommendation for adoption of SAMDev is scheduled for 17<sup>th</sup> December 2015 meeting of the full Council. Therefore very substantial weight can now be given to SAMDev policies in planning decisions.

- 6.1.5 In terms of SAMDev Plan, S16:2 Community Hub and Cluster Settlements states that in addition to meeting the requirements of Policy CS4, development in Community Hub and Community Cluster settlements should have regard to the policies of any Neighbourhood Plans and guidance in any community-led plan or parish plan adopted by Shropshire Council. The development of the allocated sites identified on the Policies Map should be in accordance with Policies CS6, CS9 and CS11, Policies MD2, MD3 and MD8, and the development guidelines and approximate site provision figures set out in this schedule.
- 6.1.6 The SAMDev indicates Nesscliffe as a Community Hub in the Great and Little Ness Parishes under Policy S16.2(iv), with a housing guideline of around 30 additional dwellings over the period to 2026. This will be delivered through the development of the site allocated for housing, which is identified on the Policies Map, together with development by infilling, groups of houses and conversions of buildings which may be acceptable on suitable sites within the village. Further to The Nesses Parish Plan (2004) and subsequent Housing Needs and Development Survey (2011), developments of a maximum of 10 houses and predominantly 2 and 3 bedrooms are sought by the Parish Council with the protection of the setting of Nesscliffe Hill being an important objective of the strategy for the village.
- 6.1.7 It is noted that Policy S16.2 of SAMDev did not attract any modifications.
- 6.1.8 As a Community Hub it is accepted, in principle, that Nesscliffe is a sustainable settlement and capable of accommodating an appropriate level of new housing development. The application 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 should be supported as occupying a sustainable location in principle, consistent with the objectives of the development plan and the NPPF.
- 6.1.9 It is noted that the Local Parish Council object to the proposed development indicating that the proposal is not on a preferred site for development in the parish and that in their opinion the development is not infill but backfill, which the Parish Council has always opposed in the parish.
- 6.1.10 The site is located on the western boundary of the built up area of the village to the rear of existing dwellings that have frontages with the public highway running through the settlement. To either side of the application site are sites of recent planning approvals for residential developments, to which the site subject to this

application can be considered as 'infill' and as such the development site does not appear isolated in the landscape and will lead to a natural rounding off of the settlement in this specific location.

- 6.1.11 One of the Inspector's overall modifications to the SAMDev policies, made amendments to ensure a more flexible, responsive supply of housing land is maintained throughout the plan period. Therefore the figure of 'around 30' new dwellings over the period to 2026 as quoted in SAMDev S16.2(iv) is a guideline only to which a flexible approach must be attached to numbers.
- 6.1.12 The Parish Council has expressed a desire to see development come forward on its preferred site together with some windfall sites. The development on this windfall site which is clearly adjacent to the main built up area and situated in a sustainable location, would not compromise these objectives or undermine the principles of SAMDev in this regard.
- 6.1.13 The proposal also has to be considered in relationship to the NPPF, to which paragraph 14 states:

'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.'

- 6.1.14 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev, as this has not gone through the full adoption process as it is awaiting formal adoption by the Council. However, having been found sound by the Inspector, very substantial weight can

now be attributed to the SAMDev.

- 6.1.15 Sustainable sites for small scale housing such as the site subject to this application 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. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.16 It is acknowledged that the site is outside the development boundary within the adopted Shrewsbury and Atcham Borough Local Plan in accordance with which this site would not be supported for development. However, adopted local plan policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.
- 6.1.17 The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below, in relationship to the NPPF.
- 6.1.18 **Assessment of Sustainability**  
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.
- 6.1.19 The proposed site will result in residential development being located adjoining the settlement of Nesscliffe on site to which there are recent planning approvals for sites on either side of the application site. To the east of the site is existing residential development. The site has easy access into Nesscliffe to which it is noted the SC Highways Manager raises no objections to the proposed development. The settlement is considered a sustainable settlement with a range of local facilities and services. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over

reliance on the private motor car.

6.1.20 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.

6.1.21 Economic Consideration

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

6.1.22 Social Considerations

The proposal will potentially provide up to 6 houses which will help towards the national housing shortage. In addition to boosting the supply of open market housing the proposal will provide a contribution affordable housing on site at the prevailing rate at the time of the reserved matters application. The current rate of 15% would provide an affordable housing contribution for local affordable housing. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. It is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement.

### 6.1.23 Environmental Considerations

The site forms a paddock and has no heritage, cultural or ecological designation. (Impacts in relationship to heritage assets in the surrounding area considered acceptable). It is considered that the loss of this piece of agricultural land is not significant and the proposal would not result in any adverse ecological or environmental implications and the proposal would provide some ecological enhancements of the site in relation to additional boundary planting. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by public transport to the array of services, facilities and employment opportunities in and around Nesscliffe.

6.1.24 The balance of material consideration remains one of boosting housing supply in locations that are considered to be sustainable and where overall they comply with the SAMDev policies. The proposed site is considered to be in accordance with the sustainable objectives that are set out in the National Planning Policy Framework by providing economic, social and environmental benefits, whilst also considered to be in accordance with the general thrust of policy as set out in the SAMDev. Accordingly, it is considered that the principle of a residential development in this location is acceptable.

## 6.2 Siting scale and design.

6.2.1 Given that the application is submitted in outline with all matters other than access reserved for future consideration there are few elements with regard to the proposal that can be assessed at this stage.

6.2.2 It is clear that access to the proposed development is considered acceptable by the SC Highways Manager and whilst comments made by the Parish Council and the public about this constituting back land development, which should be avoided. There has never been a blanket presumption against back land development per se, but it has always raised a primary consideration with regard to the impact of the proposal on resident's amenity in the original properties beside which it is intended to gain access, and indeed on any adjoining frontage properties.

6.2.3 The Inspector noted in an appeal in relationship to an adjacent site (Planning approval reference PINS ref 2208947 and site subsequently approved for development subject to approval ref: 15/00740/OUT):

“that although the pattern of development in Nesscliffe is largely linear, I observed development in depth at The Crescent and to the rear of Glasands, and in this context the proposed development would not be out of keeping. The density of housing on the site and its integration with existing built development would be an issue to be addressed at the reserved matters stage.”

6.2.4 It is considered there would be sufficient space to accommodate an access to serve potential development within the site and colleagues in Highways Development Management have not raised issue with this as a detail. The access

could allow adequate separation from the existing immediate neighbour to the east. In addition there would be adequate distance from the rear of existing properties fronting the highway to the site to ensure that adequate levels of amenity and privacy are properly maintained. It would be possible to provide a form of residential development on the site which could be appropriate in terms of its layout, scale and relationship to surrounding development. This would clearly need to take into account the presence of existing mature trees as commented upon by the SC Tree Officer in his response to the application and ecological issues such as a nearby badger sett on the boundary of the site and the need to retain all boundary trees as much as feasible and ecologically necessary.

### 6.3 Visual impact and landscaping

6.3.1 As indicated earlier in this report all matters other than access is reserved for future consideration. The application site falls away from the adjoining neighbouring properties to the east.. The slope is quite significant and inevitably would mean that any new dwellings on the application site would be at a lower level than existing properties and their visual impact would be reduced accordingly. The same applies to the view of the site from the main highway through the village which would only be possible along any new access drive.

6.3.2 It may be possible that development on the site could be visible to some small degree from the Nesscliffe bypass, but this is only likely to be of any significance in winter, as there is a substantial tree screen between the highway and the site. In any case development on site would be viewed in relationship to the backdrop of existing development. . It is considered that it would be feasible to design a residential development for the site which would be acceptable in terms of its visual impact and effect on the local landscape.

### 6.4 Trees

6.4.1 Concerns have been expressed about trees which form part of the site and impacts upon them as a result of development on site and as such the SC Tree Officer was consulted on the application.

6.4.2 The boundaries of the site do contain some fine specimens of mature trees, there are two Oak trees that are subject to a tree preservation order. Some of the trees are considered to be of veteran status. (Trees of mature and significant interest).

6.4.3 As commented upon by the SC Tree Officer it is a fundamental principal of BS 5837, that site layout seeks to accommodate significant trees within a development and that good design is used to prevent conflicts between trees and future occupiers from arising. It is recognised that this is an outline application, and the tree officer comments are based on the layout indicated on the proposed block plan. It is possible that a re-design of the site, reducing unit numbers to allow more separation between the trees and the proposed dwellings would satisfactorily address concerns as raised as the site layout plan submitted in support of the application is for indicative purposes only. Issues such as layout and potential impacts on residential amenity of any future dwellings on site will be a matter for consideration at the reserve matters stage. There is also the fact that

the significant trees on site are covered by Tree Preservation Order legislation.

6.4.4 Therefore whilst it is acknowledged that there are some fine specimens of trees on site which give a positive contribution to the character of the surrounding landscape and these trees must be protected for their long term future, it is considered that the findings of the Arboricultural Impact Assessment submitted in support of the application are broadly acceptable subject to satisfactory layout and consideration to residential amenity which are matters for consideration at the Reserved Matters stage. As such the proposal at this stage is considered to comply with relevant planning policies in relationship to impacts upon the existing significant vegetation on site.

## 6.5 Ecology

6.5.1 The application is accompanied by an ecological assessment and its findings are considered satisfactory. The SC Planning Ecologist raises no objections on ecological issues recommending conditions and informatives' are attached to any approval notice issued in order to ensure adequate protection in relationship to biodiversity issues.

6.5.2 With consideration to the site location and mitigation measures offered and conditions and informatives' as recommended by the Council's Planning Ecologist it is considered that the proposal is acceptable in relationship to ecological matters and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy and Policy MD12 of the SAMDev and the NPPF in relationship to biodiversity and ecological matters.

## 6.6 Drainage

6.6.1 Core Strategy Policy CS18 requires all new development to integrate measures for sustainable water management to reduce flood risk. The application form indicates that surface water will be disposed of using soakaways and foul drainage via a septic tank.

6.6.2 The Environment Agency were consulted on the application and raises no objections, the response indicating the site itself as being in flood zone 1 in accordance with the EA flood risk data maps, (lowest risk category). The Council's Land Drainage Manager also raises no objections, the response indicating that an adjacent ditch is located in flood zones 2 and 3 and prone to flooding, however the response indicating the development as satisfactory with conditions attached to any approval notice issued in relationship to surface water drainage and detail in relationship to foul drainage as proposed.

6.6.3 It is considered that drainage matters can be addressed satisfactorily and it is recommended that conditions with regards to surface water drainage and foul drainage are attached to any approval notice subsequently issued in order to ensure that drainage issues are addressed satisfactorily in order to ensure there is no exacerbation in relationship to drainage matters on site or the surrounding area.



6.6.4 Whilst the concerns on drainage matters as raised by the Local Parish Council and members of the public are noted, with consideration to the comments as made by the Environment Agency and the SC Land Drainage Manager in responses to the application the proposed development is considered acceptable on drainage matters and in accordance with Policy CS18 of the Shropshire Core Strategy, SAMDev and the NPPF.

## 6.7 **Public highway access.**

6.7.1 Concerns have been raised by the Local Parish Council and members of the public with regards to public highway access into and out of the site.

6.7.2 The application includes as part of the outline detail, means of access, which is proposed via an estate road running through the approved development site adjacent to the southern side of the site alongside which is an existing access track to which the development as proposed subject to this application represents a second phase of development. The estate road crosses a footpath, however this would remain open and unaffected by the development as proposed as the public footpath does not cross the site area where it is proposed to construct any dwellings.

6.7.3 The development alongside the southern side of the application site has a valid planning approval for 10 dwellings and it is noted that the Highways Manager raises no objections to the proposed development subject to conditions with regards to engineering detail of the means of access and detail in relationship to parking and turning area being attached to any approval notice issued.

6.7.4 With consideration to the detail submitted in support of the application on highways matters, the adjacent approved development and comments as made by the Highways Manager, the proposal is considered acceptable on highway matters and in accordance with Policies CS6 and CS7 of the Shropshire Core Strategy, SAMDev and the NPPF in relationship to highways and transportation issues.

## 7.0 **CONCLUSIONS**

7.1 On balance It is considered that there are no overall physical impediments to the development of the site and that, notwithstanding the concerns of some adjacent residents and the Parish Council, it would be possible to design a form of residential development for the site which would not have a significant adverse impact on the surrounding built and natural environment or any interests of acknowledged importance.

7.2 It is acknowledged that there are some significant mature trees on site and these must be protected for future prosperity. However it is considered that a suitable layout and scale can be achieved in relationship to the principle of development on site even if it means a reduction in suggested housing numbers, this being a Reserved Matters consideration. Ecological and drainage issues otherwise considered satisfactory. Means of public highway access are also considered

acceptable.

7.3 As such the principle of development on this site is considered acceptable as overall the development as proposed is considered sustainable development in accordance with the three strands of sustainable development as outlined in the NPPF and discussed earlier in this report. Nesscliffe considered a sustainable location as put forward by the Parish as part of SAMDev for additional residential development.

7.4 The proposal is therefore supported and it is recommended that planning permission should be granted subject to the conditions as attached to this report and any modifications or amendments as considered necessary by the Head of Planning Services and completion of a S106 Legal Agreement to secure the provision of affordable housing and CIL provision, in accordance with the Councils adopted policies.

## 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 key planning policies in consideration of this application include:**

- 10.1 The National Planning Policy Framework
- 10.2 The Shropshire Core Strategy Policies CS4, CS5, CS6, CS7, CS8, CS9, CS11 CS17 and CS18.
- 10.3 SAMDev. Policies MD1, MD3, MD7a.MD12, MD13, S16.2(iv).
- 10.4 Shropshire Supplementary Planning Document – Developer contributions
- 10.5 Shrewsbury and Atcham Borough Local Plan saved policies.

### **Site history.**

11/03917/FUL Erection of two detached houses with balconies to front elevation; erection of detached triple garages and formation of estate road WDN 1st March 2012

12/00821/OUT Outline application for residential development to include means of access (amended description) GRANT 15th February 2013 (Adjacent site).

13/02901/REM Reserved Matters application (Scale) pursuant to Outline application reference 12/00821/OUT for residential development GRANT 3rd July 2014 (Adjacent site).

14/03797/OUT Outline application for the erection of 6 No dwellings (to include access) PCO

SA/77/0973 Erection of two dwellings and alterations to existing vehicular access.  
REFUSE 20th December 1977

#### 11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr David Roberts
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Appendices APPENDIX 1 - Conditions
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**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 2015 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 three years from the date of this permission.

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

3. The development hereby permitted shall 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. 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**

5. 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.

6. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
  - a) Means of enclosure, including all security and other fencing
  - b) Planting plans, including wildlife habitat and features (e.g. bat brick, bird box)

- c) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- d) 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).
- e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works (Please note - if mature trees are to be removed, additional bat activity survey work will be required to be submitted for approval at reserved matters stage).
- f) Implementation timetables

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

7. Prior to the commencement of work on site a 5 metre buffer shall be fenced off parallel to the ditch along its length put in place within the site to protect the ditch during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on a site plan.

Reason: To protect features of recognised nature conservation importance.

8. 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. Percolation tests and the sizing of the soakaways must 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 must be submitted for approval. SuDs applicability for the area is Infiltration PLUS Treatment as the development lies within a groundwater Source Protection Zone 3. Surface water run-off must be treated through a filtration unit prior to entering the soakaway. Surface water should pass through a silt trap or catchpit just prior to entering the soakaway to reduce sediment build up within the soakaway.

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.

9. 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 must 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.

10. Prior to the commencement of development full engineering details of the means of access to the site including the access approved under application 12/00821/OUT shall

be submitted to and approved in writing by the Local Planning Authority; the access shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied.

Reason: To provide a satisfactory means of access to the site in the interests of highway safety.

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

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

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

12. A total of 2 woodcrete artificial nests/bird bricks suitable for small birds such as swallow, sparrow, swift shall be erected on the site prior to first occupation of the buildings hereby permitted.

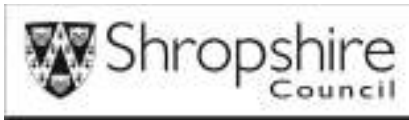
Reason: To ensure the provision of nesting opportunities for wild birds

13. A minimum of 2 woodcrete bat boxes/integrated bat bricks 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.

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Committee and date

Central Planning Committee

3 December 2015

## Development Management Report

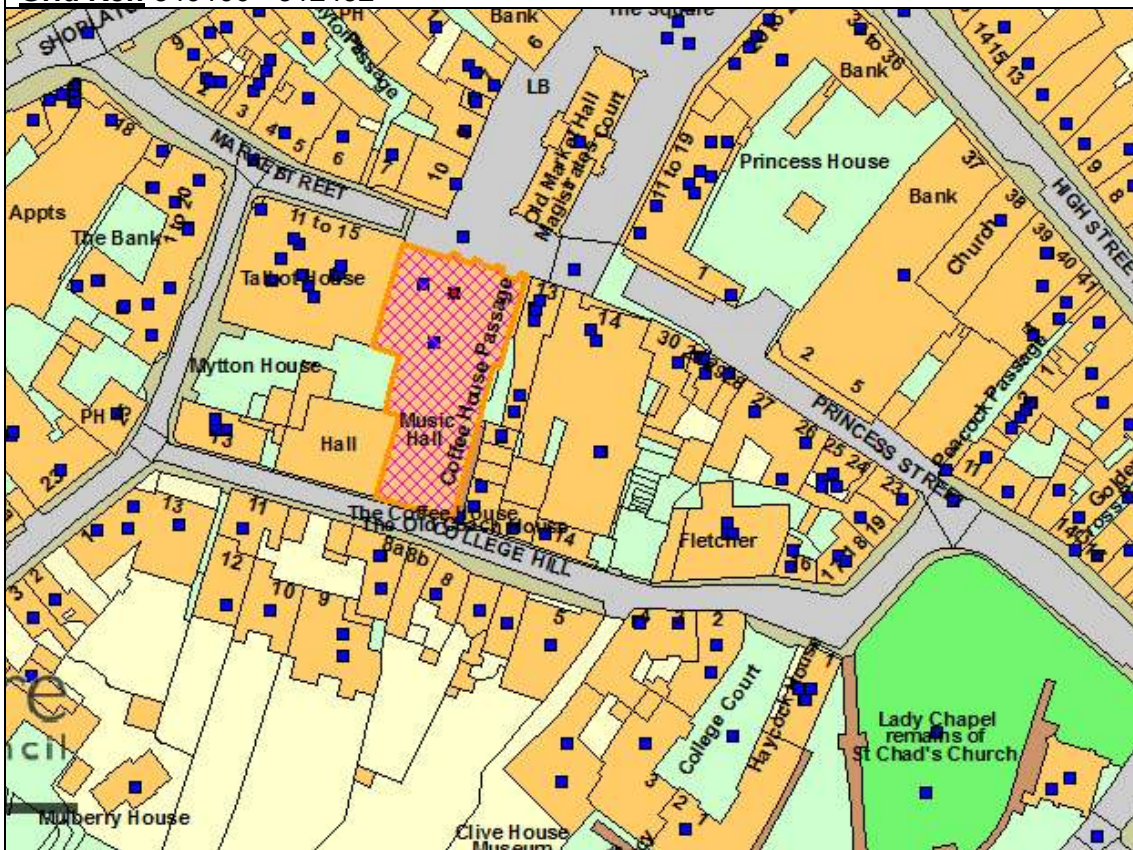
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 15/04618/LBC	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Alterations in connection with erection of a free standing pillar sign and external signage over 2 no. windows affecting a Grade II* Listed Building		
<b>Site Address:</b> The Music Hall The Square Shrewsbury Shropshire SY1 1LH		
<b>Applicant:</b> Mr Craig Varley		
<b>Case Officer:</b> Alison Tichford	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 349100 - 312432



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**Recommendation:- Grant Permission subject to no outstanding objections from statutory consultee's following completion of statutory consultation, receipt of satisfactory final plans and drawings, information being agreed as to the fixings for the window boxes, and the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

#### 1.1 Listed Building consent is sought for:

- the erection and display of two non- illuminated external window boxes with advertising
- one free-standing pillar advertisement
- one protruding advertisement sign

to one section of the ground floor at The Music Hall, The Square, Shrewsbury, a Grade II Listed Building

#### 1.2 The proposal seeks to provide commercial advertising signage for a ground floor unit within the Music Hall, to be leased by Balfours.

The first element is for 2 window boxes to sit over the sill at the base of the 2 windows to the east of the front door of the Music Hall, such that the windows themselves are free of signage. The box signs will sit on the window sill, and be fixed to the window frame. The window boxes will have a front panel with a background colour of Balfours corporate dark blue PMS539 with white and pale blue PMS 5424 lettering detailing the name of Balfours. This panel will be 122cm long and 25cm in height.

(This replaces a previous proposal to have 2 composite board signs to be fixed to the frame/sash boxes of the sash windows, and sitting over the middle three panes of the top row of window lights on the 2 windows, and measuring approximately 129cm wide and 61cm in height.)

The second element is for a free standing composite alloy L shape pillar advertisement, to be fixed with a steel footplate to the pavement at the eastern end of the front elevation to the Music Hall adjacent to Coffee House Passage. The pillar will measure approximately 360cm tall, 60cm wide, and 60cm deep. Two dibond alloy composite face panels in Balfour's corporate PMS 539 dark blue with Balfour's name in white and pale blue PMS 5424 lettering will be fixed to a steel frame (50cm by 50cm) which will not be visible once the sign is installed.

The third element is for a protruding dibond sign attached to a traditional bracket as a hanging sign. This sign is proposed to be 70cm wide, 50cm tall, and 5cm in depth. The sign will have with a background colour of Balfours corporate dark blue PMS539 with white and pale blue PMS 5424 lettering detailing the name of Balfours.

#### 1.3 The application is accompanied by an application for Advertisement Consent (reference 15/04619/ADV)

#### 1.4 Not forming part of this application, but adding additional information to its consideration are the property advertisements proposed to be displayed internally.

It is envisaged that one property will be displayed in each pane of the bottom 2 rows of windows. The advertisements will be illuminated by LED lighting. These advertisements will have deemed consent under the

## **2.0 SITE LOCATION/DESCRIPTION**

### **2.1** The proposal is associated with the leasing of the vacant ground floor unit within the front east side of the Music Hall, The Square, Shrewsbury.

The former Music Hall, originally constructed in 1839 as a civic hall, is Grade II listed, and contains within it the Grade 2\* listed Vaughan's Mansion. It is a substantial historic building in a prominent position facing The Square, directly opposite the Grade I listed Old Market Hall.

The refurbished Music Hall with its new main public use as a Museum contributes strongly and positively to the street scene and wider views within The Square. The building also houses a Museum Shop and a café.

The area is within the Town Centre Special Character Area which forms part of the larger Shrewsbury Conservation Area.

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

### **3.1** The scheme does not comply with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution, as it falls within the following exception.

“Applications made by the Council or in relation to land owned by the Council which are not in-line with statutory functions.”

The Music Hall is owned by The Council, and the rental of part of it by an estate agency is outside the Council's statutory functions.

## **4.0 COMMUNITY REPRESENTATIONS**

### **4.1 Consultee Response**

#### **4.1.1** Shropshire Council Archaeology team has been consulted.

#### **4.1.2** Shropshire Council Conservation team has been consulted, and made comments as follows.

Our team had provided pre-application advice on a similar scheme to introduce commercial signage relevant to this ground floor space within the building.

We had commented that any signage would need to be fully and easily reversible, and that any sign fixings must not damage the fabric of the building and be of a scale that would not dominate the front elevation or the street scene, and not detract from the principal use of the building as a public museum and arts venue. While we were not opposed to small scale signage placed externally within the two

ground floor sash windows, there should be no permanent fixing over the windows and therefore a sprung type installation should be considered.

We have more recently met on site with the applicant and have suggested several modifications to the scheme to reduce the potential dominance of the signage and create a more pedestrian friendly branding for the new occupant of this space. The proposed stand-alone advertising column is recommended to be reduced in height to approximately the height of the central meeting rail within the adjacent sash window, and the proposed text on the column will be reduced in size. The window signage is recommended to be limited to the main middle glazing of the windows only and the proposed coloured panels on either side of the signs within the fixed glazing is recommended to be removed from the scheme. We also suggested that any internal window advertising is kept to a minimum and in a neat and uncluttered format. The advertising should remain non-illuminated as proposed to preserve the overall visual amenity within the Conservation Area. Details of any internal signage at the internal hall entrance to the unit should match existing fixed signage associated with the interior space of the Museum as also discussed on site.

Provided these modifications are made to the current proposal we have no objection to the scheme as subject to the submission of revised plans it is considered that the proposed signage will preserve the character and appearance of the Conservation Area and should have a very low level of impact on the special character of the listed building and its setting in accordance with local and national policy and Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Recommendation**

Revised drawings are required as discussed on site however overall no objection subject to satisfactory revised drawings being submitted in conjunction with a sensitive and reversible fixing of the signs as agreed.

### **Further to Conservation Recommendation**

Revised drawings were received, but were not approved by Historic England (see below).

Further discussion with the applicant led to a further revised proposal as outlined above. This proposal is to be discussed with Historic England on 25 November and Committee will be updated before the scheduled meeting.

As regards the latest proposal, Conservation Team has commented that they see no need for both a hanging sign and a free standing pillar such that only one of these should be agreed.

**4.1.3** The six National Amenity Societies have been consulted and Committee Members will be updated as to any responses before the scheduled meeting.

**4.1.4** Historic England (West Midlands) has been consulted.

### **Summary**

Historic England objects to the application as submitted, but the applicants should

be invited to revise the proposal.

### **Historic England Advice**

The Music Hall is a historic building of considerable significance in its own right, and as a major feature in the conservation area: its front elevation also affects the setting of the grade I listed Old Market Hall.

The proposed external signs would be an alien feature in the carefully designed architectural composition of this high quality public building. The signs above and in front of the windows would obscure those architectural elements, whilst the proposed vertical sign in the corner is completely inappropriate to this formal location.

It appears to us that the reasonable needs of the applicants to announce their presence here could be met equally effectively but with far more subtlety and a higher visual quality. For example, it would be possible for their name to be on the roller blinds that hang down behind the upper panes of the windows, perhaps carefully back-lit. There may also be the possibility for some brand-identity on lower level furnishings behind the windows.

### **Recommendation**

Historic England therefore objects to this application, and recommends that listed building consent for it should not be granted. We recommend that the applicants should be invited to revise their proposals on the lines outlined above. I would be very willing to join in a meeting with yourselves and the applicants to discuss this matter.

We would welcome the opportunity of advising further. Please consult us again if any additional information or amendments are submitted. If, notwithstanding our advice, you propose to approve the scheme in its present form, please advise us of the date of the committee and send us a copy of your report at the earliest opportunity.

### **Further to Historic England's response**

Revised proposals have been submitted as outlined above, and are to be discussed with Historic England on 25<sup>th</sup> November. Members will be updated as to the outcome before the scheduled meeting.

## **4.2 Public Response**

**4.2.1** Shrewsbury Town Council has been consulted.

**4.2.2** A site notice has been displayed since 9<sup>th</sup> November, and an advertisement detailing the proposal has been placed in "The Shropshire Star". Ten neighbouring properties have been informed of the application. To date there have been no representations received as a result of this publicity.

**4.2.3** The local Member for Quarry and Cotton Hill has made an objection as follows:

I understand that, having at last found what looks like a suitable tenant for this

space, the Council is keen to give them a good advertisement. However this is one of the most prominent sites in town. There is already more advertising for the Stop Cafe outside the Music Hall than for the Museum. To give 3 large signs to Balfours seems to be excessive and further reduces the external impact of the Museum and Gallery.

Of the three signs, the corner pillar is the least obtrusive and the most imaginative, providing ample advertising from two directions. The window signs, being external, obstruct the coherence of the windows, as viewed from the Square as well as overbearing the Museum and Gallery. Other businesses have put signs on the inside of windows in listed buildings, but not on the outside.

There also appear to be extra bars on the outside of these windows. Have they been there long?

So I am registering an objection to this application as shown

## **5.0 THE MAIN ISSUES**

### **Principle of development**

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

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

#### **6.1.1** The proposed site is situated within the Shrewsbury Conservation Area and affects a listed building and has the potential to impact on these heritage assets

The proposal therefore has 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).

Special regard has to be given to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses and preserving or enhancing the character or appearance of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

#### **6.2.1** The application site is in an important historic building and in a prominent location facing another Listed Building within the heart of Shrewsbury Town Centre. The building has some fine architectural detailing, and it is therefore important that any proposed external advertisement signage complements the building, as well as doing nothing to the detriment of the setting of the Market Hall opposite, and that it is appropriate within the Conservation Area.

There are three elements to the proposed signage.

Firstly, the two window boxes to be fixed over the sill of the two windows to the east of the front door of the Music Hall.

Secondly, a free standing composite alloy L shape pillar advertisement, to be fixed to the pavement at the eastern end of the front elevation to the Music Hall adjacent to Coffee House Passage. The pillar will sit in the corner between The Music Hall and no. 13 The Square, so as not to present any obstructions or hazards to pedestrians. Its positioning in the corner between the two buildings will give the impression of a square pillar.

Thirdly, a protruding hanging sign, to be fixed to the wall of the Music Hall.

Existing bicycle racks in front of the windows are to be removed and repositioned elsewhere in The Square.

The need for advertising was discussed with the Conservation Team before a planning application was made, as outlined above, with especial concern that any advertisements should not be fixed to the stonework of the building.

Not forming part of this application but adding additional information to its consideration are the property advertisements proposed to be displayed internally. It is envisaged that one property will be displayed in each pane of the bottom 2 rows of windows. These advertisements will have deemed consent under the

External signage to this Listed Building is not ideal, as the architectural features to the front elevation will best be appreciated without external additions. Similarly, the Market Hall would be best appreciated in a setting without the presence of external signage. However, the NPPF recognises that the risks of neglect and decay of heritage assets are best addressed through ensuring that they remain in active use that is consistent with their conservation. Ensuring such heritage assets remain used and valued is likely to require sympathetic changes to be made from time to time.

The signage proposed is easily removable without permanent damaging effect to the building, although there will need to be some removal of fixtures from the stonework.

It is considered that there is no need for the number of advertisement signs proposed in the revised proposal, and that the protruding sign would be more appropriate to a smaller shopfront than to the grand facade of the Music Hall. However, the standing pillar and the two window boxes are a low key response to the need to advertise, and are considered an acceptable addition to the listed building and to the setting of the Market Hall.

There are several A board signs displayed outside the entrance to the Music Hall which do detract from its appearance but which advertise the museum and café. There are no fixed external advertisements to the windows west of the Music Hall door, but there has been some internal decoration.

The setting of the Market Hall in the Square should not be unduly compromised by these advertisements. It already faces on to large signage of the Job Centre, and there is a mixture of styles of signage all around The Square.

## **7.0 CONCLUSION**

**7.1** The proposed window boxes and freestanding pillar advertisements will protect the historic character and appearance of the Listed Building, as well as ensuring its active use in a manner consistent to its conservation, and are considered to accord with the requirements of the adopted Core Strategy Policies CS6 and CS17, as well as with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Recommend delegated powers are granted to Area Planning Manager to approve the window boxes and freestanding pillar once outstanding matters are resolved. Recommend refusal of the protruding sign.

## **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 of 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 – 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

### RELEVANT PLANNING HISTORY:

09/03307/LBC Alterations to doorway affecting a Grade II\* Listed Building GRLBC 8th January 2010

13/03889/COU Application under Section 73a of the Town and Country Planning Act 1990 for the Change of use from D1 (Non-residential institutions) to A1 (Retail) GRANT 7th November 2013

15/03720/FUL Change of use from A1 to A2 WDN 24th September 2015

15/04618/LBC Alterations in connection with erection of a free standing pillar sign and external signage over 2 no. windows affecting a Grade II\* Listed Building PDE

15/04619/ADV Erect and display one free standing sign and two fascia signs PDE

SA/80/0716 Erection of an external fire escape staircase to be positioned at rear of information centre, demolition of small area of parapet wall above kitchen, the formation of 2 new door openings and alterations to existing stair layout. PERCON 29th September 1980

SA/81/0908 Alterations to form new entrance and coffee bar. NOOBJC 22nd October 1981

SA/85/0375 Erection of a communications aerial for Civil Defence Headquarters. NOOBJC 11th June 1985

SA/86/0088 Removal of existing old entrance doors facing The Square and the forming of a new stone window with timber sash windows. NOOBJC 11th March 1986

SA/81/0909 Demolition of two buildings to provide additional car parking facilities. NOOBJC 22nd December 1981

SA/80/0926 Provision of flagpole holders fixed to front facade with 3 No. flagpoles for displaying various flags at various times through the year. Size of flags will vary depending upon the event being celebrated. For Shrewsbury and Atcham Borough Council. NOOBJC 18th November 1980

SA/80/0925 3 Flagpoles to display various flags. NOOBJC 24th October 1980

SA/92/0225 Street lighting improvements at the following locations within Shrewsbury Town Centre. 3, 69, 12, 62, 19, 22 and 28 Mardol, 22, 25, 37, 10A St John's Hill, 6 and 3 Cross Hill, 16 Swan Hill, Swan Hill House, 6, 3 Swan Hill, 1 Swan Hill Court, 13A, 8A College Hill, Music Hall - rear of College Hill, 2 College Hill, 9 Shoplatch, 2-5 Princess Street, 2-3 Milk Street, 20 Belmont, 11, 4, 13 Belmont, St. Winefride's Convent - College Hill, 5 Belmont, Granville House - Belmont Bank, Sycamore House - Belmont Bank, 3 and 4 Belmont Bank, Cornhouse Restaurant - St. Julian's Friars, The Acorn - St. Julian's Friars, 24 St. Julian's Friars, 40 and 45 High Street, 16A Princess Street, 5 Shoplatch, 6 Market Street, Hole in the Wall - Mardol Head, 1 Gullet Passage, 7 The Square, Music Hall, 72 Wyle Cop, Lion Hotel - Wyle Cop, Mews Apartments - Barracks Passage, 70 Wyle Cop, Oxleys Florist - Wyle Cop, 5 Belmont Bank. PERCON 1st July 1992

SA/95/1046 Application for listed building consent to provide secondary glazing for sound reduction to three existing windows in the auditorium. PPNREQ 18th October 1995

SA/95/0835 Application for listed building consent for the installation of secondary glazing to two existing windows. NOOBJC 27th October 1995

SA/08/1274/DDM Internal and external alterations to include part demolition in connection with change of use of Music Hall from D2 to D1 affecting a Grade II and Grade II\* Listed Building PERCON 9th December 2008

SA/08/1273/DDM Restoration and change of use of Music Hall from D2 to D1 to include museum, tourist information centre, cafe and education facilities PERCON 19th November 2008

SA/03/1066/DDM Listed Building application for removal of partition wall on first floor, affecting a Grade 2\* Listed Building PERCON 30th September 2003

SA/02/0628/DDM Internal alterations to existing stage lighting affecting a Grade 2 Listed Building PERCON 12th July 2002

SA/02/0202/DDM Listed building application for internal and external alterations including new entrance doors, replacement handrails, alterations to male and female toilets affecting a grade 2 listed building PERCON 29th April 2002

SA/02/0200/DDM Full planning permission for the installation of automatic entrance doors, cafe lift for wheelchair access and external raised area with dwarf stone wall and metal barrier rail PERCON 5th April 2002

SA/01/1144/DDM Application for listed building consent for internal alterations to include installation of fire doors and improvements to fire escape to rear of cinema, affecting a grade 2 listed building. PERCON 23rd November 2001

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)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Andrew Bannerman
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Appendices APPENDIX 1 - Conditions
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## **APPENDIX 1**

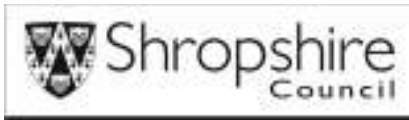
### **Conditions**

#### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)
  
2. The development shall be carried out strictly in accordance with the approved plans and drawings as detailed below.  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

### **Informatives**

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.
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Committee and date

Central Planning Committee

3 December 2015

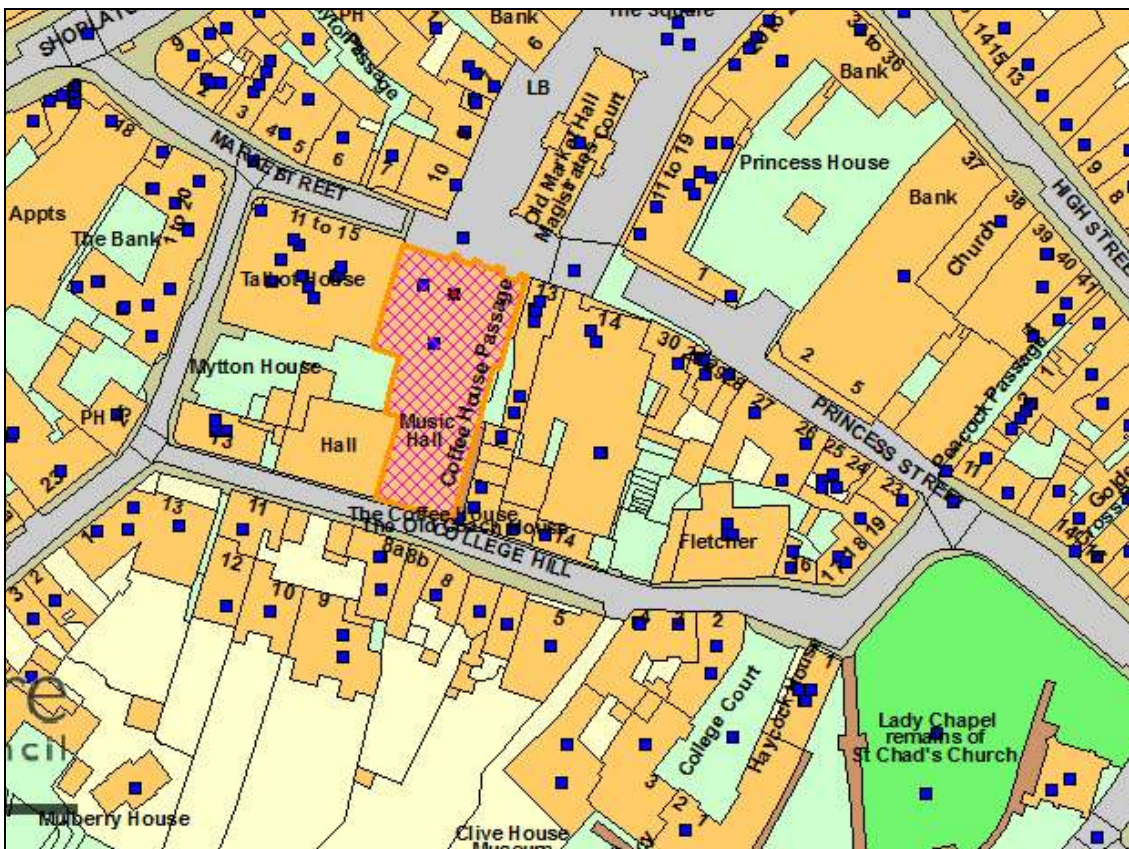
## Development Management Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 15/04619/ADV	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erect and display one free standing sign, two window box signs, and one hanging sign.		
<b>Site Address:</b> The Music Hall The Square Shrewsbury Shropshire SY1 1LH		
<b>Applicant:</b> Mr Craig Varley		
<b>Case Officer:</b> Alison Tichford	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	



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**Recommendation:- Grant Permission subject to no outstanding objections from statutory consultee's following completion of statutory consultation, receipt of satisfactory final plans and drawings, information being agreed as to the fixings for the window boxes, and the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

#### 1.1 Advertisement consent is sought for:

- the erection and display of two non- illuminated external window boxes with advertising
- one free-standing pillar advertisement
- one hanging advertisement sign

to one section of the ground floor at The Music Hall, The Square, Shrewsbury, a Grade II Listed Building

#### 1.2 The proposal seeks to provide commercial advertising signage for a ground floor unit within the Music Hall, to be leased by Balfours.

The first element is for 2 window boxes to sit over the sill at the base of the 2 windows to the east of the front door of the Music Hall, such that the windows themselves are free of signage. The window boxes will sit on the sill, and be fixed to the wooden sill. The window boxes will have a front panel with a background colour of Balfours corporate dark blue PMS539 with white and pale blue PMS 5424 lettering detailing the name of Balfours. This panel will be 122cm long and 25cm in height.

(This replaces a previous proposal to have 2 composite board signs to be fixed to the frame/sash boxes of the sash windows, and sitting over the middle three panes of the top row of window lights on the 2 windows, and measuring approximately 129cm wide and 61cm in height.)

The second element is for a free standing composite alloy L shape pillar advertisement, to be fixed with a steel footplate to the pavement at the eastern end of the front elevation to the Music Hall adjacent to Coffee House Passage. The pillar will measure approximately 250cm tall, 50cm wide, and 50cm deep. Two dibond alloy composite face panels in Balfour's corporate PMS 539 dark blue with Balfour's name in white and pale blue PMS 5424 lettering will be fixed to a steel frame (50cm by 50cm) which will not be visible once the sign is installed.

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#### 1.3 The application is accompanied by an application for Listed Building Consent (reference 15/04618/LBC)

#### 1.4 Not forming part of this application, but adding additional information to its consideration are the property advertisements proposed to be displayed internally.

It is envisaged that one property will be displayed in each pane of the bottom 2 rows of windows. These advertisements will have deemed consent under the Town and Country Planning (Control of Advertisements) Regulations 2007.

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- 2.1** The proposal is associated with the leasing of the vacant ground floor unit within the front east side of the Music Hall, The Square, Shrewsbury.

The former Music Hall, originally constructed in 1839 as a civic hall, is Grade II listed, and contains within it the Grade 2\* listed Vaughan's Mansion. It is a substantial historic building in a prominent position facing The Square, directly opposite the Grade I listed Old Market Hall.

The refurbished Music Hall with its new main public use as a Museum contributes strongly and positively to the street scene and wider views within The Square. The building also houses a Museum Shop and a café.

The area is within the Town Centre Special Character Area which forms part of the larger Shrewsbury Conservation Area.

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

- 3.1** The scheme does not comply with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution, as it falls within the following exception.

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## **4.0 COMMUNITY REPRESENTATIONS**

### **4.1 Consultee Response**

- 4.1.1** Shropshire Council Archaeology team has been consulted and had no comments to make.

- 4.1.2** Shropshire Council Conservation team has been consulted, and made comments as follows as regards the initial proposal received.

Our team had provided pre-application advice on a similar scheme to introduce commercial signage relevant to this ground floor space within the building.

We had commented that any signage would need to be fully and easily reversible, and that any sign fixings must not damage the fabric of the building and be of a scale that would not dominate the front elevation or the street scene, and not detract from the principal use of the building as a public museum and arts venue.

While we were not opposed to small scale signage placed externally within the two ground floor sash windows, there should be no permanent fixing over the windows and therefore a sprung type installation should be considered.

We have more recently met on site with the applicant and have suggested several modifications to the scheme to reduce the potential dominance of the signage and create a more pedestrian friendly branding for the new occupant of this space. The proposed stand-alone advertising column is recommended to be reduced in height to approximately the height of the central meeting rail within the adjacent sash window, and the proposed text on the column will be reduced in size. The window signage is recommended to be limited to the main middle glazing of the windows only and the proposed coloured panels on either side of the signs within the fixed glazing is recommended to be removed from the scheme. We also suggested that any internal window advertising is kept to a minimum and in a neat and uncluttered format. The advertising should remain non-illuminated as proposed to preserve the overall visual amenity within the Conservation Area. Details of any internal signage at the internal hall entrance to the unit should match existing fixed signage associated with the interior space of the Museum as also discussed on site.

Provided these modifications are made to the current proposal we have no objection to the scheme as subject to the submission of revised plans it is considered that the proposed signage will preserve the character and appearance of the Conservation Area and should have a very low level of impact on the special character of the listed building and its setting in accordance with local and national policy and Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**Recommendation::**

Revised drawings are required as discussed on site however overall no objection subject to satisfactory revised drawings being submitted in conjunction with a sensitive and reversible fixing of the signs as agreed.

**Further to Conservation Recommendation**

Revised drawings were received, but were not approved by Historic England. (see 15/04618/LBC).

Further discussion with the applicant led to a further revised proposal as outlined above. This proposal is to be discussed with Historic England on 25 November.

As regards the latest proposal, Conservation Team has commented that they see no need for both a hanging sign and a free standing pillar such that only one of these should be agreed.

**4.2 Public Response**

**4.2.1** Shrewsbury Town Council has been consulted but has not yet responded.

**4.2.2** A site notice has been displayed since 9<sup>th</sup> November, and an advertisement detailing the proposal has been placed in “The Shropshire Star”. Ten neighbouring properties have been informed of the application. To date there have been no representations received as a result of this publicity.



**4.2.3** The Local Member for Quarry and Coton Hill has made an objection as follows:

I understand that, having at last found what looks like a suitable tenant for this space, the Council is keen to give them a good advertisement. However this is one of the most prominent sites in town. There is already more advertising for the Stop Cafe outside the Music Hall than for the Museum. To give 3 large signs to Balfours seems to be excessive and further reduces the external impact of the Museum and Gallery.

Of the three signs, the corner pillar is the least obtrusive and the most imaginative, providing ample advertising from two directions. The window signs, being external, obstruct the coherence of the windows, as viewed from the Square as well as overbearing the Museum and Gallery. Other businesses have put signs on the inside of windows in listed buildings, but not on the outside.

There also appear to be extra bars on the outside of these windows. Have they been there long?

So I am registering an objection to this application as shown

**5.0 THE MAIN ISSUES**

**Principle of development**  
**Impact on visual amenity**  
**Effect on Public Safety**

**6.0 OFFICER APPRAISAL****6.1 Principle of development**

**6.1.1** These advertisements are considered to be alterations to a Listed Building, and as therefore needing express consent under the Planning (Listed Buildings and Conservation Areas) Act 1990. This requirement is dealt with under separate reference 15/04618/LBC.

As regards the requirements of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 the proposed signs require express consent, and should be considered by the local planning authority in terms of amenity and public safety.

Policy CS6 states that development should conserve and enhance the built and historic environment and be appropriate in its scale and design taking account of local character and context. Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration, ie. that any development should protect and enhance the diversity, high quality and local character of Shropshire's historic environment and should not adversely affect the heritage value and function of these assets.

**6.2 Impact on visual amenity**

**6.2.1** The application site is in an important historic building and in a prominent location facing another Listed Building within the heart of Shrewsbury Town Centre. The

building has some fine architectural detailing, and it is therefore important that any proposed external advertisement signage complements the building, as well as doing nothing to the detriment of the setting of the Market Hall opposite, and that it is appropriate within the Conservation Area.

The elements of the proposed signage requiring express advertisement consent are as follows.

Firstly, the free standing composite alloy L shape pillar advertisement, to be fixed to the pavement at the eastern end of the front elevation to the Music Hall adjacent to Coffee House Passage. The pillar will sit in the corner between The Music Hall and no. 13 The Square, so as not to present any obstructions or hazards to pedestrians. Its positioning in the corner between the two buildings will give the impression of a square pillar.

Secondly, the protruding hanging sign, to be fixed to the wall of the Music Hall.

Finally, the proposed signs to be fixed to cills of the ground floor windows

Existing bicycle racks in front of the windows are to be removed and repositioned elsewhere in The Square.

The need for advertising was discussed with the Conservation Team before a planning application was made, as outlined above, with especial concern that any advertisements should not be fixed to the stonework of the building.

Officers found initial plans submitted for the advertisements unsatisfactory, and met with the applicant to discuss alterations. Following these discussions, revisions were made, including a reduction in the height of the freestanding pillar, but these revisions did not meet objections raised subsequently by Historic England and the Local Member, such that further revisions were then made to produce the proposal as described above.

External signage to this Listed Building is not ideal, as the architectural features to the front elevation will best be appreciated without external additions. However, the signage proposed is easily removable without permanent damaging effect to the building.

It is considered that there is no need for the number of advertisement signs proposed in the revised proposal, and that the protruding sign would be more appropriate to a smaller shopfront than to the grand facade of the Music Hall. However, the standing pillar and the two window boxes are a low key response to the need to advertise, and are considered an acceptable addition to the listed building and to the setting of the Market Hall.

There are several A board signs displayed outside the entrance to the Music Hall which do detract from its appearance but which advertise the museum and café. There are no fixed external advertisements to the windows west of the Music Hall door, but there has been some internal decoration.

The setting of the Market Hall in the Square should not be unduly compromised by these advertisements. It already faces on to large signage of the Job Centre, and there is a mixture of styles of signage all around The Square.

It is considered that the appearance of the proposed signage will not be detrimental to the surrounding historic environment or the wider visual amenity afforded by it.

### **6.3 Effect on Public Safety**

**6.3.1** The pillar advertisement will be secured into a corner position between the Music Hall and its neighbour to the east. The proposed protruding sign is envisaged to be attached either between the two windows, or between the main door and the first window to the east. It would be attached at a high level to coincide with the maximum height of the main door to the Music Hall. The signage will not be particularly visually prominent within its environment and there is minimal motor traffic in this area. It is considered that there will be a negligible impact on public safety.

## **7.0 CONCLUSION**

**7.1** By its siting and design the proposed window boxes and freestanding pillar advertisements are not considered to be detrimental to the visual amenity of the property or the surrounding historic environment, nor to public safety. The proposal is therefore considered to accord with the requirements of the adopted Core Strategy Policies CS6 and CS17. Recommend delegated powers are granted to Area Planning Manager to approve the window boxes and freestanding pillar once outstanding matters are resolved, subject to Listed Building Consent also being granted. Recommend refusal of the protruding sign.

## **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 of 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 – 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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

D11 - Advertisements

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

09/03307/LBC Alterations to doorway affecting a Grade II\* Listed Building GRLBC 8th January 2010

13/03889/COU Application under Section 73a of the Town and Country Planning Act 1990 for the Change of use from D1 (Non-residential institutions) to A1 (Retail) GRANT 7th November 2013

15/03720/FUL Change of use from A1 to A2 WDN 24th September 2015

15/04618/LBC Alterations in connection with erection of a free standing pillar sign and external signage over 2 no. windows affecting a Grade II\* Listed Building PCO

15/04619/ADV Erect and display one free standing sign and two fascia signs PDE

SA/80/0716 Erection of an external fire escape staircase to be positioned at rear of information centre, demolition of small area of parapet wall above kitchen, the formation of 2 new door openings and alterations to existing stair layout. PERCON 29th September 1980

SA/81/0908 Alterations to form new entrance and coffee bar. NOOBJC 22nd October 1981

SA/85/0375 Erection of a communications aerial for Civil Defence Headquarters. NOOBJC 11th June 1985

SA/86/0088 Removal of existing old entrance doors facing The Square and the forming of a new stone window with timber sash windows. NOOBJC 11th March 1986

SA/81/0909 Demolition of two buildings to provide additional car parking facilities. NOOBJC 22nd December 1981

SA/80/0926 Provision of flagpole holders fixed to front facade with 3 No. flagpoles for displaying various flags at various times through the year. Size of flags will vary depending upon the event being celebrated. For Shrewsbury and Atcham Borough Council. NOOBJC 18th November 1980

SA/80/0925 3 Flagpoles to display various flags. NOOBJC 24th October 1980

SA/92/0225 Street lighting improvements at the following locations within Shrewsbury Town Centre. 3, 69, 12, 62, 19, 22 and 28 Mardol, 22, 25, 37, 10A St John's Hill, 6 and 3 Cross Hill, 16 Swan Hill, Swan Hill House, 6, 3 Swan Hill, 1 Swan Hill Court, 13A, 8A College Hill, Music Hall - rear of College Hill, 2 College Hill, 9 Shoplatch, 2-5 Princess Street, 2-3 Milk Street, 20 Belmont, 11, 4, 13 Belmont, St. Winefride's Convent - College Hill, 5 Belmont, Granville House - Belmont Bank, Sycamore House - Belmont Bank, 3 and 4 Belmont Bank, Cornhouse Restaurant - St. Julian's Friars, The Acorn - St. Julian's Friars, 24 St. Julian's Friars, 40 and 45 High Street, 16A Princess Street, 5 Shoplatch, 6 Market Street, Hole in the Wall - Mardol Head, 1 Gullet Passage, 7 The Square, Music Hall, 72 Wyle Cop, Lion Hotel - Wyle Cop, Mews Apartments - Barracks Passage, 70 Wyle Cop, Oxleys Florist - Wyle Cop, 5 Belmont Bank. PERCON 1st July 1992

SA/95/1046 Application for listed building consent to provide secondary glazing for sound reduction to three existing windows in the auditorium. PPNREQ 18th October 1995

SA/95/0835 Application for listed building consent for the installation of secondary glazing to two existing windows. NOOBJC 27th October 1995

SA/08/1274/DDM Internal and external alterations to include part demolition in connection with change of use of Music Hall from D2 to D1 affecting a Grade II and Grade II\* Listed Building PERCON 9th December 2008

SA/08/1273/DDM Restoration and change of use of Music Hall from D2 to D1 to include museum, tourist information centre, cafe and education facilities PERCON 19th November 2008

SA/03/1066/DDM Listed Building application for removal of partition wall on first floor, affecting a Grade 2\* Listed Building PERCON 30th September 2003

SA/02/0628/DDM Internal alterations to existing stage lighting affecting a Grade 2 Listed Building PERCON 12th July 2002

SA/02/0202/DDM Listed building application for internal and external alterations including new entrance doors, replacement handrails, alterations to male and female toilets affecting a grade 2 listed building PERCON 29th April 2002

SA/02/0200/DDM Full planning permission for the installation of automatic entrance doors, cafe lift for wheelchair access and external raised area with dwarf stone wall and metal barrier rail PERCON 5th April 2002

SA/01/1144/DDM Application for listed building consent for internal alterations to include installation of fire doors and improvements to fire escape to rear of cinema, affecting a grade 2 listed building. PERCON 23rd November 2001

#### 11. Additional Information

[View details online:](#)

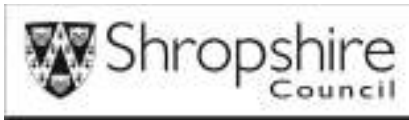
List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Andrew Bannerman
Appendices APPENDIX 1 - Conditions

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

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.  
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
5. No advertisement shall be sited or displayed so as to—
  - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
  - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicleReason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
6. This consent shall operate for a period of 5 years from the date of this decision.  
  
Reason: In the interests of amenity
7. This development shall be carried out strictly in accordance with approved plans, photographic proposals and drawings as specified below.  
  
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with approved details.

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Committee and date

Central Planning Committee

3 December 2015

## Development Management Report

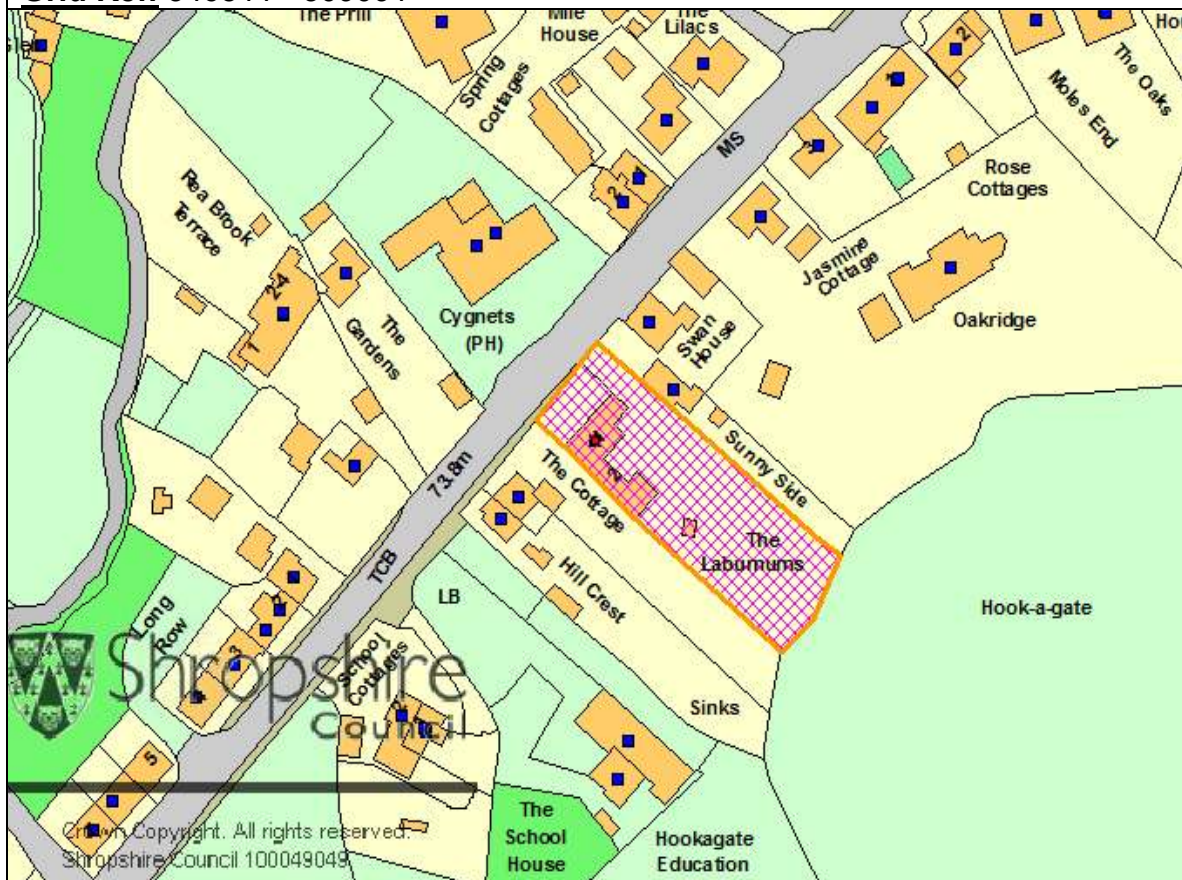
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 15/04748/FUL	<b>Parish:</b>	Longden
<b>Proposal:</b> Erection of detached garage		
<b>Site Address:</b> The Laburnums Hookagate Shrewsbury Shropshire SY5 8BH		
<b>Applicant:</b> Mr K Roberts		
<b>Case Officer:</b> Aileen Parry	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 346511 - 309091



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

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission for the erection of a new detached garage. The garage is proposed to be approximately 8.5 metres long by 5.0 metres wide and 3.86 metres ridge height.
- 1.2 Materials to be used are vertical timber cladding for the walls, slate for the roof and UPVC doors and windows.

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

- 2.1 The Laburnums, Hookagate, Shrewsbury is a detached three storey property within a modest/large plot in the village of Hookagate. The property is over 100 years old and according to the applicant the property has not been extended in any way since before 1948.
- 2.2 From Planning records the site has previously benefitted from the issuing of a Certificate of Lawfulness for the erection of a two storey extension including the insertion of a Juliet balcony under Schedule 2, Part 1, Class A and Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) which was issued under 14/02938/CPL.

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

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the applicant is an elected member of the Council and therefore the application must be determined by Planning Committee. In addition the Parish Council have submitted a view contrary to officers.

### **4.0 COMMUNITY REPRESENTATIONS**

- 4.1 - Consultee Comments  
Trees  
Waiting on comments at the time of writing this report.
- 4.2 - Longden Parish Council  
After discussion it was agreed that the Parish Council do not support this application. It is too large and the proposed appearance is out of keeping with the

surrounding buildings

#### 4.3 - Public Comments

Three neighbours have been consulted. No public comments have been received at the time of writing this report.

### 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Impact on Residential Amenity

### 6.0 OFFICER APPRAISAL

#### 6.1 Principle of development

6.1.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

Policy CS17 of the Shropshire Local Development Framework Core Strategy states that development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

It is considered that the proposal is acceptable in principle.

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

6.2.1 It is considered that the proposed scale, design and appearance of the garage will respect the existing character of the dwelling and will not result in an adverse visual impact in or on the locality. The proposed garage will be built from materials which will be sympathetic to the existing character of the property, whilst it will be sustainably constructed meeting the current Building Regulation standards as a minimum.

#### 6.3 Impact on Residential Amenity

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. The proposal is considered will not to have an adverse impact on the character or context of the dwelling or the surrounding area.

The proposal will lie behind a set of large wooden gates at the back left of the existing dwelling and in excess of 12 metres from the highway. Also, the land slopes up and away from the highway with the dwelling itself siting in an elevated position. It is considered that there will be minimal impact on the neighbouring properties and street scene. Officers note that there have been no concerns raised by neighbours during or after the public consultation period.

## 7.0 CONCLUSION

**The principle of the development is considered to be acceptable and it is also considered to meet the requirements of Shropshire Core Strategy Policies CS6 and CS17. It is therefore recommended that members support this application and grant planning permission with additional conditions that may be recommended by our SC Trees Officer once their consultee comments have been received.**

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

- ② 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.
- ② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 FINANCIAL IMPLICATIONS

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

## 10. BACKGROUND

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

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

### Relevant Planning History:

14/02938/CPL Lawful Development Certificate for the proposed erection of a two storey extension; including insertion of a Juliet balcony LA 26th August 2014

## 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 Roger Evans
Appendices APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

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

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

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

3. The external materials and their colour shall be provided strictly in accordance with the details indicated in the submitted application form and on the approved plans.

Reason: To ensure a satisfactory appearance to the development and in the interests of the visual amenities of the area.

### **Informatives**

1. Your application is viewable online  
<http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.
2. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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Committee and date

Central Planning Committee

3 December 2015

## Development Management Report

### Schedule of Appeals and Appeal Decisions As at 3 December 2015

<b>LPA reference</b>	14/01331/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	W H Holloway & Son
<b>Proposal</b>	Outline application (access for approval) for mixed use residential development of 18 dwellings
<b>Location</b>	Proposed Residential Development North Of A458 Wattlesborough Heath, Shrewsbury.
<b>Date of application</b>	26.03.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated Refusal
<b>Date of decision</b>	22.12.2014
<b>Date of appeal</b>	04.03.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	07.10.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/01704/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs D Jones
<b>Proposal</b>	Outline application for the erection of 35 dwellings to include means of access, together with resiting of school football pitch, provision of extended school car park and new school access (amended description).
<b>Location</b>	Proposed Development Land South Of Plealey Lane, Longden.
<b>Date of application</b>	15.04.2014
<b>Officer recommendation</b>	Approval
<b>Committee decision (delegated)</b>	Committee Refusal
<b>Date of decision</b>	25.11.2014
<b>Date of appeal</b>	15.04.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.09.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	14/05310/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	J Warner & Son
<b>Proposal</b>	Outline application for the erection of two live/work units to include means of access
<b>Location</b>	Land North Of Kinton Business Park, Kinton, Shrewsbury.
<b>Date of application</b>	25.11.2014
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated Refusal
<b>Date of decision</b>	28.01.2015
<b>Date of appeal</b>	24.03.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	02.11.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED – COSTS REFUSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/00724/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr & Mrs D Jones
<b>Proposal</b>	Outline application for residential development (to include access) (revised scheme)
<b>Location</b>	Proposed Development Land South Of Plealey Lane, Longden.
<b>Date of application</b>	13.02.2015
<b>Officer recommendation</b>	Approval
<b>Committee decision (delegated)</b>	Committee Refusal
<b>Date of decision</b>	28.05.2015
<b>Date of appeal</b>	10.06.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	16.09.2015
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	15/00720/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr David Hodnett
<b>Proposal</b>	Outline application for three detached residential dwellings to include associated access.
<b>Location</b>	Land To The South Of Baschurch Road, Bomere Heath, Shrewsbury.
<b>Date of application</b>	18.02.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated Refusal
<b>Date of decision</b>	04.08.2015
<b>Date of appeal</b>	01.10.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	14/00467/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mrs M Hardwick
<b>Proposal</b>	Outline application (access for approval) for mixed residential development
<b>Location</b>	Land At Longden, Shrewsbury.
<b>Date of application</b>	03.02.2014
<b>Officer recommendation</b>	Approval
<b>Committee decision (delegated)</b>	Committee Refusal
<b>Date of decision</b>	24.03.2015
<b>Date of appeal</b>	25.09.2015
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	15/01382/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Monkmoor Fish Bar
<b>Proposal</b>	Erection of one terraced dwelling
<b>Location</b>	Land Adjacent To 1B Racecourse Avenue, Shrewsbury.
<b>Date of application</b>	27.03.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Committee
<b>Date of decision</b>	17.07.2015
<b>Date of appeal</b>	14.08.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

<b>LPA reference</b>	15/03168/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	Mr J Elcock
<b>Proposal</b>	Outline application for a single dwelling to include means of access (revised scheme)
<b>Location</b>	Proposed Dwelling South Of Ashdale Cottage, Condover, Shrewsbury.
<b>Date of application</b>	24.07.2015
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated Refusal
<b>Date of decision</b>	22.09.2015
<b>Date of appeal</b>	19.10.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	
<b>Details</b>	

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# Appeal Decision

Site visit made on 17 August 2015

**by Thomas Shields MA DipURP MRTPI**

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

**Decision date: 07 October 2015**

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**Appeal Ref: APP/L3245/W/15/3005488**

**Land adjacent to Wattlesborough Village Hall, Wattlesborough, Shrewsbury, Shropshire**

- 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 M Holloway (W H Holloway and Son) against the decision of Shropshire Council.
  - The application Ref 14/01331/OUT, dated 25 March 2014, was refused by notice dated 22 December 2014.
  - The development proposed is described as the erection of 18 dwellings to include 3 affordable and 4 bungalows.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was submitted to the Council in outline form with access to be determined, and with all other detailed matters reserved for later consideration. I have dealt with the appeal on the same basis, treating the plans that show the layout of the site as illustrative.

## Main Issues

3. The main issues in this appeal are firstly; the effect of the proposed development on the character and appearance of the area, and secondly; whether the proposed development would result in an accessible form of development having regard to national and local planning policies.

## Reasons

### *Main Issue 1 - character and appearance*

4. The appeal site is part of a much larger field, separated from the A458 along its southern boundary by hedgerow. It adjoins the side and rear boundaries of the village hall and a pumping station enclosure, and the rear boundaries of a row of dwellings to the west on Heath Drive. Other than this limited amount of development, the land to the north side of the A458 is predominantly of an expansive open rural landscape character. The pattern of development to the south side of the A458 is predominantly linear and dispersed, having a mix of residential and commercial properties located generally towards the road frontage with gaps revealing the open rural landscape between and beyond.

5. The proposal would introduce 18 dwellings into the field to the rear of the village hall, pumping station, and the small row of houses on Heath Drive. Given the location and scale of the proposal in the context of its receiving environment I consider that it would be conspicuously out of character with the pattern of existing development in the area, and would visually detract from the open and rural appearance of the landscape. As such it would result in significant harm to the character and appearance of the area.
6. I acknowledge that the detailed design and materials of the proposal could at reserved matters stage be controlled to ensure compatibility with existing buildings in the area. Also, that the retention of the boundary hedgerow and trees on site and additional landscaping would mitigate views of the development to a degree. I also note the appellant's view that the proposal would not have any adverse impact on wildlife or ecology. However, the development would nonetheless remain widely visible from the public realm. Consequently, these factors would not overcome the significant harm I have identified.
7. To conclude on the first main issue, the proposed development would result in significant harm to the character and appearance of the area in conflict with Policies CS6 and CS17 of the Shropshire Core Strategy (2011) (SCS) which, taken together, seek to ensure that new development respects and enhances local distinctiveness; conserves and enhances the natural environment; and is appropriate in scale, density, pattern and design, taking account of the local context and character. It would thereby also conflict with a core principle of the National Planning Policy Framework (2012) (the Framework)<sup>1</sup> which sets out that account should be taken of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.

*Main Issue 2 - accessible development*

8. A core planning principle of the Framework<sup>2</sup> is to focus development in locations which are or can be made sustainable. In order to achieve sustainable development in rural areas paragraph 55 states that housing should be located where it will enhance or maintain the vitality of rural communities; recognising that development in one village may support services in another nearby. Also, Framework paragraphs 30 and 37 indicate that new residential development is more likely to be sustainable in locations where there would be alternative modes of transport to schools, services and facilities.
9. SCS Policy CS4 reflects the sustainability aims and objectives of the Framework, outlined above, by seeking to focus new development into Community Hubs and Clusters. These will be identified in the emerging Site Allocations and Management of Development Plan (SAMDev). The Council state that Wattlesborough Heath, and the nearby settlement of Halfway House, are not identified in the SAMDev as forming part of a Community Hub or Cluster. However, the settlements strategy in the SAMDev, prior to its adoption, is of little weight in reaching my decision.

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<sup>1</sup> Paragraph 17, 4<sup>th</sup> bullet

<sup>2</sup> Paragraph 17, 11<sup>th</sup> bullet

10. I note the services and facilities in the area<sup>3</sup> cited by the appellant. However, taking account of different age groups and the various needs of the population I consider that these are somewhat basic and limited in range. In addition, the nearest primary and secondary schools are approximately 5km and 14km distance away respectively. There is no information before me regarding school bus services that might serve the development. That notwithstanding, I consider it highly likely that future occupiers with school age children will rely heavily on travel by private car.
11. I acknowledge a safe crossing point can be provided for the proposed development. However, there would nonetheless remain a considerable walking distance between the appeal site and the nearest bus stop in order to access the greater range of facilities and services available at other further distant settlements. As such, the bus service would be an unattractive option for occupiers of the appeal site, particularly in poor weather conditions, and for parents with young children, or people with disabilities. Given these factors, together with the limited range of services and facilities available within walking distance of the appeal site, I am reinforced in my view that future occupiers of the proposed development would rely heavily on the use of private motor cars, resulting in a substantial increase in unsustainable journeys.
12. Overall, I conclude that the proposed development would not create an accessible form of development. As such, it would conflict with SCS Policies CS4 and CS6 which seek to create sustainable communities by focussing development in accessible locations. It would also conflict with the aims and objectives of paragraphs 30, 37 and 55 of the Framework.

#### *Other matters*

13. A completed and signed Section 106 Obligation has been submitted. It would provide 3 of the proposed 18 dwellings as affordable housing units, consistent with the Council's adopted requirements in SCS Policy 11, and its supporting justification for such provision. It would appear to meet the relevant national policy tests set out at paragraph 204 of the Framework. I will therefore take account of it in reaching my decision.
14. The parties have referred to other development sites and appeals. While there may be some similarities between those and the appeal before me, they are not directly comparable to this appeal. Accordingly, as I am required to do so, I have determined the appeal proposal on the basis of the evidence before me.

#### **Conclusion**

15. Paragraph 49 of the Framework indicates that housing applications should be considered in the context of the presumption in favour of sustainable development.
16. Paragraph 7 sets out three dimensions to sustainable development; social, economic and environmental. It states at paragraph 8 that these roles should not be undertaken in isolation, because they are mutually dependent.
17. I have found in respect of the two main issues that the proposal would result in significant harm to the character and appearance of the area, and that it would not be an accessible form of development. As such it would create an

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<sup>3</sup> Grounds of Appeal, Appendix 7

unsustainable pattern of development. It would therefore fail to meet the environmental dimension of sustainable development set out at paragraph 7 of the Framework.

18. I acknowledge that the proposed dwellings would contribute, albeit temporarily, to local economic activity through construction employment, and from spending by future residents of the proposed dwellings. Also, the contribution that the proposal would provide through the Community Infrastructure Levy would also be beneficial to the economy of the area. These and other economic benefits are set out in detail in the appellant's evidence<sup>4</sup>. They are not disputed by the Council and I have no reason to take a different view. I also acknowledge that the proposal would provide social benefits in the form of affordable housing and a mix of housing types to meet local housing needs.
19. However, whilst these benefits would meet the social and economic dimensions of sustainable development, they would be significantly and demonstrably outweighed by the adverse impacts I have previously described when assessed against the policies in the Framework taken as a whole. I therefore conclude overall that the proposed development would not amount to sustainable development. Moreover, there is no convincing evidence before me which would lead me to conclude that the benefits outlined above could not be achieved elsewhere without resulting in the harm I have identified.
20. I note the appellant's contention that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and that hence the presumption in favour of sustainable development at paragraph 14 is engaged. However, given that I have found that the proposal would not be sustainable development, the presumption does not apply regardless of whether or not a 5 year supply exists.
21. For all the above reasons, I conclude that the appeal should be dismissed.

*Thomas Shields*

INSPECTOR

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<sup>4</sup> Grounds of Appeal, Appendix 6



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## Appeal Decisions

Site visit made on 5 August 2015

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 16 September 2015**

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**Appeal A - Ref: APP/L3245/W/15/3017918**  
**Land at Plealey Lane, Longden, Shrewsbury, SY5 8EX.**

- 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 and Mrs D Jones, H Ratcliff, C Salmon, S Jones and Mr and Mrs P Jones against the decision of Shropshire Council.
  - The application Ref. 14/01704/OUT, dated 14 April 2014, was refused by notice dated 18 November 2014.
  - The development proposed is the erection of 35 dwellings to include means of access together with re-siting of school football pitch, provision of extended school car park and new school access.
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**Appeal B - Ref: APP/L3245/W/15/3084321**  
**Land at Plealey Lane, Longden, Shrewsbury, SY5 8EX.**

- 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 and Mrs D Jones, H Ratcliff, C Salmon, S Jones and Mr and Mrs P Jones against the decision of Shropshire Council.
  - The application Ref. 15/00724, dated 12 February 2015, was refused by notice dated 21 May 2015.
  - The development proposed is residential development.
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### Decisions

**Appeal A - Ref: APP/L3245/W/15/3017918**

1. The appeal is dismissed.

**Appeal B - Ref: APP/L3245/W/15/3084321**

2. The appeal is dismissed

### Procedural and preliminary matters

*Appeal A*

3. The proposal in Appeal A was described in the planning application forms as 'residential development'; however it is clear from the covering statement submitted by the appellants' agent that other development was proposed including a new access, a parking area for the adjacent school and a re-sited

school playing pitch. These developments were included in the Council's description of the proposal along with a specification that the proposal was for 35 dwellings. I have therefore used this description in the appeal proposal as it is more accurate and I considered the appeal on this basis.

### *Both appeals*

4. The proposals are both in outline format but with access arrangements to be considered at this stage. The other detailed aspects of the 'layout', 'scale', 'landscaping' and 'appearance' are reserved for subsequent approval.
5. Unilateral Undertakings dated 27 July 2015 and signed by the appellants, and made under Section 106 of the Act, have been submitted as part of the appeal documents. In general terms the Undertakings covenant the appellants to make provision for affordable housing as part of the development, in accordance with the Council's Supplementary Planning Document on affordable housing, and the provision of the school car park and school playing field and related ancillary development. I have had regard to the Undertakings as a material consideration subject to my comments in paragraphs 33 and 34 below.

### **Main Issues**

6. The main issues are:
  - Whether the proposals accord with the development strategy for the area;
  - The effect on the character and appearance of the area;
  - Additionally in appeal A, the effect on existing mature trees;
  - Whether the proposals constitute sustainable development.

### **Reasons**

#### *Background*

7. In general terms the appeal sites lie on the western edge of the village of Longden and to the south of Plealey Lane; north of an unmetalled lane; and west of the Longden C of E Primary School and its playing field. The site in appeal B involves a smaller part of the site in appeal A. Most of the site forms part of an open field which lies in an elevated position with the land rising up from both lanes. There is a public footpath to the west of the school grounds which runs adjacent to the playing field on part of the eastern edge of both application sites.
8. In both schemes it is proposed to obtain access from Plealey Lane from where an access road would sweep in a gentle curve into the field and provide access to the housing site. However, in appeal A the access road would continue to a new parking area of some 51 spaces intended to serve the school. Further, the scheme also proposes to partially re-site the school playing field to accommodate the parking area. In appeal B, the existing school playing field is undisturbed and land adjoining the south of it is proposed to be an area of public open space.
9. The Council says that at the moment Longden consists of 129 dwellings. The appellant says that Appeal A is intended to provide 35 dwellings, (a revision to

the initial outline proposal for 50 dwellings). In appeal B, the permission is sought for a maximum of 20 dwellings. I note that in both cases the planning officer recommended approval for the schemes but the decision of the Planning Committee was to refuse permission for the reasons given.

*Accord with development strategy*

10. The development plan for this area comprises the Council's Core Strategy adopted in 2011 (CS), saved policies in the Shrewsbury and Atcham Local Plan (2001) (Local Plan) and the emerging Shropshire Site Allocations and Management of Development Plan (SAMDev) Development Plan Document.
11. Taking these in turn in relation to the appeal site, the Local Plan indicates in saved policy HS3 that Longden is defined as a village where development will be permitted subject to specific criteria being met, including that the development site is wholly within the village boundary. The Council has not produced a copy of such a village plan for these appeals but given the open nature of the application sites I presume that neither formally lie within the village boundary. Both proposals are therefore in conflict with this aspect of the 'old' development plan
12. This policy generally accords with the provisions of the National Planning Policy Framework, 2012 (the Framework) which indicates in paragraphs 54 and 55 that sustainable development should be promoted in rural settlements to reflect local needs and therefore the policy should continue to have some weight.
13. The Core Strategy adopted in 2011 sets out a spatial vision for the county until 2026 and makes provision for the development of 27,500 new homes. As part of the strategy the CS allows for development in rural areas through 'Community Hubs' and 'Community Clusters' as defined in Policy CS4. The policy sets down criteria for development within these hubs and clusters. Outside of these defined places, Policy CS5 indicates that development will be strictly controlled in the countryside and the Green Belt.
14. The SAMDev DPD was submitted to the Secretary of State in 2014 and following Examination by an Inspector the Council has produced Main Modifications which are intended to make the DPD sound. The Council has consulted on these modifications in the period until 13 June of this year.
15. Policy S16.2(xi) of the SAMDev identifies Longden as a settlement within a wider Community Cluster and the policy states that "development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the villages with a housing guideline of approximately 10-50 additional dwellings over the period to 2026. Of these dwellings, 25-30 are to be in Longden village with the remainder spread evenly amongst the other Cluster settlements." The policy also makes reference to the Longden Parish Development Statement (2013) (LPDS) produced by the Parish Council which indicates that no individual site should be of more than 10-15 houses and a preference for lower cost 2-3 bedroom properties.
16. The Council says that the Inspector has decided not to propose any Main Modifications to the Policy S16.2(xi) and in the absence of unresolved objections to the policy it should be given significant weight in decision making. Therefore, although the SAMDev has not been formally modified and adopted, I

agree that significant weight can be given to the policies not identified as requiring modification in accordance with the guidance in paragraph 216 of the Framework.

17. Overall on this issue, within this adopted and emerging development plan framework, I find that a housing development on a suitable site within or around the village would, in principle, contribute to the context of between 25 and 30 houses overall would generally accord with the emerging development strategy for sustainable development in Shropshire for the period until 2026.
18. However there is an issue regarding the scale of any individual development sites. The appellant says that the limitation proposed in the LPDS is not a formal Neighbourhood Plan and should not be given weight. Nevertheless, it is referred to in the actual policy S16.2(xi) and therefore commands some weight. As the outline proposals stand the scheme in appeal A would be likely to exceed the local development strategy in the SAMDev and the limitation in the LPDS. While the lesser scheme in Appeal B would take up the majority of the development total for the village envisaged in the SAMDev but exceed the scale limitation for one site as envisaged in the policy with reference to the LPDS.

#### *Housing Land supply*

19. Coupled with the development strategy is the issue of housing land supply (HLS). The Framework indicates in paragraph 47 that in order to boost significantly the supply of housing, local planning authorities should identify a five year supply of sites for housing assessed against their housing requirements with additional buffers including where there is a record of persistent under-delivery of housing. Moreover, paragraph 49 indicates that policies for the supply of housing should not be considered up-to-date if the authority cannot demonstrate a five year supply of deliverable sites.
20. The Council indicates that its HLS position statement published in August 2014 concluded that the Council could demonstrate 5.47 years supply of deliverable housing land for Shropshire. This position regarding HLS was challenged and contested at the Examination hearings into the SAMDev in November 2014 by many developers and landowners. Further, in other local appeals before me the Council also refers to an update on HLS published in June 2015 which continues to assert that this supply is maintained. The update also refers to recent appeal decisions<sup>1</sup> where the issue was explored at hearings and the Inspectors concluded that a five years supply was demonstrated.
21. I have placed some weight on these decisions as they involved a considered analysis of the housing requirements and housing supply made in January and February 2015. However, in the current cases the appellant's team have submitted a further detailed assessment made by 'Berrys' in June 2015. This provides a rebuttal of the Council's HLS and in summary concludes that the methodology in the Council's approach to dealing with the deficit in delivery is incorrect and that the estimate of housing supply is overestimated by a detailed appraisal of individual sites. Accordingly it is submitted on behalf of the appellants that at the moment only a 4.28 year supply can be demonstrated. This conclusion has not been challenged by the Council in these appeals.

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<sup>1</sup> APP/L3245/W/14/2228348 and APP/L3245/W/14/3000672

22. The issue of whether the emerging SAMDev makes sufficient provision to accommodate the housing requirement set out in the Core Strategy is principally a matter for the Inspector in his/her assessment of whether this part of the development plan is sound. However, in the meantime, the evidence submitted in this case casts doubt on the ability of the Council to now demonstrate a five year supply of land for new housing.
23. Normally, should I find that a five year supply of land for new housing cannot be demonstrated, such a state would result in the provisions of paragraph 49 of the Framework being engaged and the relevant 'housing supply' policies being found to be 'out of date' but in terms of development plan policy, it is only the emergence of this 'new' policy S16.2(xi) that puts 'flesh on the bones' of the Core Strategy at a local level and supports in principle some development outside of the existing built-up area of Longden.
24. In these circumstances, it is appropriate that I give most weight to the application of policies in the adopted Core Strategy and the guidance in the Framework.

*Character and appearance*

25. In assessing the effect of the development proposed on the character and appearance of the area I considered the impact of the development proposal from around the environs of the school playing field together with views of the site from Plealey Lane and the lane to the south of the larger site. I also note that the appeal sites are not subject to any special landscape designation.
26. Taking into account that the proposals are in outline form at this stage with all matters reserved other than access, I consider that in both appeals the main bulk of new development proposed would be visible on the crest of the higher land. As such it would be very noticeable on the skyline when viewed from the west along Plealey Lane and from the lane to the south. In both appeal schemes, development would appear prominent and isolated in the rural landscape and, for the most part, would not have the benefit of any backdrop of buildings in the existing village. I consider this visual impact to be significantly harmful to character and appearance of this area of countryside and the rural setting of the edge of the village and this visual impact is unlikely to be materially reduced by landscaping in the short and medium term.
27. I also agree with the Council's concern that the position of the access would extend significantly into open countryside and would enclose other open land. This would contribute to the appearance of isolation and prominence of both schemes. I find that the general nature of the sites proposed does not complement the existing pattern of development of the village which I noted at my site visit was largely based on frontage development along lanes with limited development in depth to the rear.
28. In relation to the policies in the Core Strategy I find that the nature of the land proposed for development has the physical characteristics of being countryside, rather than a mainly village and built-up environment, and to which Policy CS5 applies. This policy indicates strict control over new development and the proposed houses do not fall within any of the stated exceptions.
29. Further, I find both of the appeal schemes put forward would not be well integrated into the existing landform or the established pattern of the village

but would appear isolated and prominent. This impact would be significantly harmful to the character and appearance of the area. As such the development proposed would not protect, restore, conserve or enhance the natural and built environment and would not be appropriate in its local context. It would therefore not meet the criteria of 'Sustainable Design and Development Principles' set out in Policy CS6 and in particular those listed under the fourth bullet point.

#### *Effect on trees*

30. In relation to the second reason for refusal in respect of Appeal A, the Council's concern relates to the potential loss of mature trees within the site which are said to make a high contribution to the landscape character of the area. I considered these trees at my site visit.
31. Although the proposed new car park for the school in Appeal A would be sited close to one mature tree I am satisfied that the layout indicated need not harm most of the trees on the edge of the existing playing field. Further, in terms of the other isolated mature trees within the application sites, I am satisfied that the layout of the proposed housing schemes can be designed to avoid conflict with these specific mature trees and such a requirement could be conditioned in a landscaping scheme.
32. In terms of the effect of the visibility splay from the proposed access on an existing mature tree (which is now protected by a Tree Preservation Order) adjacent to Plealey Lane, I note the details submitted with Appeal B where the pavement would be sited on the side of the tree away from the highway. The presence of the trunk of the tree would interfere with visibility for road users to some degree but the highway authority officer advises that the location of the tree would not be material impediment to highway safety. I am therefore satisfied that both schemes make reasonable provision at this outline stage for the mature trees to be retained.

#### *Other matters*

33. Both appeals schemes are now accompanied by Unilateral Undertaking signed by the appellants. The Undertakings covenant the appellants to make provision, if planning permission is granted, for affordable housing in accordance with the Council's Supplementary Planning Document on affordable housing together with changes to the position of the school playing field and provision of a footway. The Council has expressed concerns about some of the details of the Undertakings and about its ability to require works to be completed outside of the land owned by the appellants. However, if I was minded to allow the appeals I am satisfied that the Undertakings could be amended to overcome these concerns, or in the absence of this, a negatively worded condition could be imposed in relation to the completion of the pedestrian footway.
34. Overall, I am satisfied that the provision for affordable housing offered is put forward to meet the terms of development plan policy and supplementary guidance and is necessary to make the development acceptable in planning terms. The provision is directly related to the development and is fairly and reasonably related to the development in scale and kind. I therefore find that the tests of the Community Infrastructure Levy Regulations 2010 and the requirements set out in paragraph 204 of the Framework (2012) are met.

35. Some of the letters of objection to the developments put forward by local people raise concern about the new houses overlooking their own properties and resulting in a loss of privacy. However, even with the outline plans I am satisfied that the likely separation distance between existing and new houses would be so great that there need not be direct over-looking.
36. Residents also raise concerns about additional traffic on local roads and the possibility of the land being a habitat for protected species. However there is no substantive evidence before me to demonstrate that these aspects are a fundamental issue in this area. I note that the highway authority did not raise objection to the proposal on the grounds of the adequacy of the local road network.

*Planning Balance and whether sustainable development*

37. Bringing together my conclusions on the main issues I have found that the emerging part of the development plan, the SAMDev, supports in principle the provision of some new development in Longden in the period until 2026 it restrains development to some 25-30 dwellings in total and the linked guidance in the Longden Parish Development Statement (LPDS) would limit the development on any individual site to no more than 10-15 dwellings and both of the appeal schemes would exceed this restriction.
38. However, the evidence submitted in this case by the appellant's team casts doubt on the ability of the Council to demonstrate a five years supply of deliverable housing sites. In the absence of information on the proposals for housing supply in the SAMDev being considered 'sound' following Examination, greater weight should be given to the assessment of the scheme in relation to the policies in the adopted Core Strategy and in relation to the national Framework.
39. The parties agree that in general terms Longden is a sustainable location for some new development but I have found that both of the schemes proposed would involve the development of land with the physical characteristics of an open countryside setting rather than be clearly part of or akin to the built up area of the village. I have also found that the development proposed in either scheme would not, in principle, be well integrated into the landform but would be isolated from the village and would be prominent and imposing in the rural landscape. For these reasons I conclude that the proposal does not accord with Policies CS5 and CS6 of the Core Strategy
40. In terms of the Framework, the proposal has to be regarded in the context that the government seeks to significantly boost the supply of houses and encourages sustainable development. Both housing proposals would support the social and economic dimensions of sustainable development by contributing to the life of the village and supporting local services and both proposals have scope to make provision for affordable housing and public open space. In appeal A, the proposal would also provide a large new parking area for the school and the resolution of parking congestion at the school is said to be an aim of the LPDS, (although I note that the proposals are not supported by the School Governors).
41. Nevertheless, on the evidence before me and my observations at my site visit, I consider that the visual and physical impact that the development would cause would result in significant local landscape harm. On this basis, I find

that both proposals would not accord with the environmental role needed to ensure sustainable development when the Framework is read as a whole.

42. On balance I conclude that the benefits of each proposal considered separately do not outweigh the significant adverse effects that I have identified in the context of paragraph 14 of the Framework and that the lack of accord with the provisions of the adopted development plan is not outweighed by any other consideration. I will therefore not allow the appeals.

#### Conclusions

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

*David Murray*

INSPECTOR



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# Appeal Decision

Site visit made on 28 September 2015

**by S. Ashworth BA (Hons) BPI MRTPI**

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

**Decision date: 2 November 2015**

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**Appeal Ref: APP/L3245/W/15/3009723**

**Land at Kinton Business Park, Kinton, Nesscliffe, Shrewsbury SY4 1AZ**

- 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 J Warner & Son against the decision of Shropshire Council.
  - The application Ref 14/05310/OUT, dated 24 November 2014, was refused by notice dated 28 January 2015.
  - The development proposed is erection of two live/work units to include access.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by J. Warner & Son against Shropshire Council. This application is the subject of a separate Decision.

## Preliminary matters

3. The application was made in outline with only access sought for approval at this stage. I have dealt with the appeal on that basis.
4. There is no suggestion in the appeal documents that the proposed units are necessary for purposes in connection with the neighbouring business park. As such I have dealt with the appeal on the basis that the proposal is for two open market live/work units.

## Main Issue

5. The main issues in this case is whether the proposed development would be consistent with the principles of sustainable development having regard to the National Planning Policy Framework (the Framework) and the development plan.

## Reasons

6. The proposal seeks permission for two live/work units to be sited on grazing land close to the Kinton Business Park. The appellant has indicated that the majority of the floorspace will be identified for business use. Access to the site would be via a purpose built road which serves the business park.
7. The development strategy contained within the Council's adopted Core Strategy 2011 (Core Strategy) is to focus new residential development within Shrewsbury, market towns and other key centres. Within rural areas

- development will be located predominantly within community hubs or community clusters as set out in the emerging Site Allocations and Management of Development Plan (SAMDev). Policy CS4 of the Core Strategy allows development in Community Hubs and Community Clusters that helps rebalance rural communities by providing facilities, economic development or housing for local needs, is of a scale that is appropriate to the settlement, and satisfies Policy CS6.
8. Policy CS5 seeks to strictly control development in the countryside, particularly the development of new housing, although it provides for a number of exceptions including small-scale new economic development diversifying the rural economy. Policy CS6 seeks to promote sustainable design and development.
  9. Kinton is being promoted as a community cluster settlement in the Shrewsbury area, within the SAMDev. Development in this cluster is limited to the infilling/conversion of buildings on suitable sites with a housing guideline of approximately 10-15 dwellings over the plan period. However this relates to purely residential development.
  10. There are no specific policies within either the Core Strategy or the SAMDev relating specifically to live/work units. Nevertheless, the Framework sets out a presumption in favour of sustainable development which, it advises, has three dimensions: economic, social and environmental. In the absence of any specific policy relating to the provision of live/work units in the countryside, it is appropriate to assess the proposal against those three dimensions and the Framework taken as a whole.
  11. Paragraph 21 of the Framework supports 'flexible working practices such as the integration of residential and commercial uses within the same unit'. I have taken into consideration the views of the Inspector in the case referred to me<sup>1</sup> and accept that live/work units can be an appropriate response to the promotion of economic development in rural areas in principle. As such the proposal would have some economic benefit in terms of the establishment of a small scale employment use, economic benefits during the construction period and on-going economic support for local facilities.
  12. In terms of its social role, the site is located adjacent to the existing settlement and is linked to it by a public footpath. The development would provide a degree of social support to the local community and its services. The occupants of the development would not have to travel to their place of work and there are some facilities, including a day nursery within walking distance of the site. This is a benefit of the scheme. However, local services and facilities are very limited and occupants would be dependent on the car for visits to a larger range of services in nearby towns, particularly given the lack of public transport options.
  13. The social role of sustainability also includes providing the supply of housing required to meet the needs of present and future generations. The Council states that it can demonstrate a five year supply of housing land and I do not have any evidence to dispute this. Consequently the site is not necessary to meet the County's housing requirements. In addition, as outlined above, the SAMDev envisages the need for around 10-15 dwellings in the six settlements

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<sup>1</sup> APP/Q3115/A/13/2208529

in this particular cluster across the plan period. The Council advises that planning permission has already been granted for 6 houses in Kinton alone. Although the SAMDev is not yet adopted as policy, I am unconvinced that there is a need for further housing in this particular location to meet the community's needs in terms of health, social and cultural well-being. Consequently, although some social benefits are recognised, the scheme would not be entirely sustainable in social terms.

14. The environmental dimension of sustainability includes contributing to protecting and enhancing our natural, built and historic environment. At paragraph 17, the Framework sets out as a core principle that planning should take into account the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts and recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
15. The settlement of Kinton has a generally linear character, with properties accessed off the main road through the village. The Kinton Business Park, is an exception to this being accessed off a purpose built road that crosses open land. Nevertheless, the built development forms a strong and definitive boundary between the settlement and the open countryside that abuts it. The proposed units would be sited at the rear of Kinton Farm within the area of open countryside and would be visible across open land. Visually the buildings would not relate well to the pattern of development and as such the development would not take into account the role and character of the different areas. Moreover, the units would have the effect of extending the built up area into the countryside to the detriment of its character.
16. Whilst I accept that the site lies close to the Kinton Business Park, it is physically separated from it by an open area of land. Moreover, the proposed development would be visually unrelated to the large scale units on the Business Park and would extend built development further into the open countryside than the business units do at present.
17. For these reasons, whilst I acknowledge that there are benefits to the proposal, it does not constitute sustainable development when considered against the Framework taken as a whole. Consequently the proposal would not accord with the aims of Policies CS4, CS5 or CS6 of the Core Strategy which seek to promote sustainable development.

### **Conclusion**

18. For this reason, and taking into account all other matters raised, the appeal is therefore dismissed.

*S Ashworth*

INSPECTOR

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## Costs Decision

Site visit made on 28 September 2015

**by S. Ashworth BA (Hons) BPI MRTPI**

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

**Decision date: 2 November 2015**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/15/3009723 Land at Kinton Business Park, Kinton, Nesscliffe, Shrewsbury SY4 1AZ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by J Warner & Son for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of two live/work units.
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### **Decision**

1. The application for a full award of costs is refused.

### **Reasons**

2. Paragraphs 16-030 of the Planning Practice Guidance (PPG) states that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellants consider that the Council has behaved unreasonably in this case by preventing or delaying an application which they consider should have been permitted having regard to its accordance with the development plan, national policy or other material considerations. Furthermore they consider the Council offered vague, generalised or inaccurate assertions about the proposal's impact which were unsupported by objective analysis. In particular the appellants consider that the Council relied on housing policies which were not relevant to the proposed live/work units and disregarded an appeal decision which had accompanied the application<sup>1</sup>.
4. As discussed in the appeal decision, there are no specific policies within the development plan that relate to the provision of live/work units. Neither employment policies nor policies relating to the supply of housing are directly relevant as the proposal is a combination of the two uses. The Council has cited housing policies in their reason for refusal however it seems to me that these policies are not entirely determinative. However, the decision does not rest on these policies alone, but also takes into account general policies for development contained within the Core Strategy and advice within the National Planning Policy Framework. As such I do not consider permission was delayed as a result of failure to have regard to relevant policy and national guidance.

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<sup>1</sup> APP/Q3115/A/13/2208529

5. As demonstrated in the officer's report, the application was clearly assessed against the guidance of the National Planning Policy Framework with regard to sustainability. The reasoning in the report is clear and neither vague nor generalised. The appellants and the Council fundamentally disagree on the matter of sustainability and therefore the issue could only have been dealt with by way of an appeal.
6. The Council does not appear to have taken into account the decision of the Inspector in the case outlined above which is a material consideration. This amounts to unreasonable behaviour. However, I am unconvinced, given the weight of the Council's conclusions on the other aspects of sustainability as set out in the officer report, that even had that appeal decision been taken into account, the conclusion would have been different.
7. Consequently whilst I have found some unreasonable behaviour on the part of the council, it has not resulted in any unnecessary or wasted expense to the appellant. Accordingly the application for costs is dismissed.

*S Ashworth*

INSPECTOR