



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

Date: Monday, 18 January 2016

Committee:
North Planning Committee

Date: Tuesday, 26 January 2016
Time: 2.00 pm
Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

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

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

Members of the Committee

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

Substitute Members of the Committee

Nicholas Bardsley
Karen Calder
Steve Charmley
Peter Cherrington
Andrew Davies
Ann Hartley
Simon Jones
Brian Williams
Thomas Biggins
Roger Hughes
VACANCY

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 22nd December 2015, attached, marked 2.

Contact: Shelley Davies on 01743 257718.

3 Public Question Time

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

4 Disclosable Pecuniary Interests

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

5 Land West Of London Road, Woore, Shropshire (15/04397/REM) (Pages 7 - 22)

Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Plots 1 to 10).

6 Valnorver, 26 Leek Street, Wem, Shropshire (15/04233/FUL) (Pages 23 - 48)

Erection of 2no dwellings with garages and access.

7 32 Upper Church Street, Oswestry, Shropshire, SY11 2AE (14/04694/FUL) (Pages 49 - 62)

Erection of nine dwellings with associated external works following demolition of existing dwelling.

8 Morton Ley Farm, Morton, Oswestry, Shropshire, SY10 8BG (15/04477/EIA) (Pages 63 - 84)

Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.

9 Appeals and Appeal Decisions (Pages 85 - 110)

10 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday 23rd February 2016 in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date

North Planning Committee

26 January 2016

NORTH PLANNING COMMITTEE

Minutes of the meeting held on 22 December 2015

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

2.00 - 3.22 pm

Responsible Officer: Shelley Davies

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257718

Present

Councillor Arthur Walpole (Chairman)

Councillors Paul Wynn (Vice Chairman), Joyce Barrow, John Cadwallader, Gerald Dakin, Steve Davenport, Vince Hunt, David Lloyd, David Minnery and Peggy Mullock

89 Apologies for Absence

An apology for absence was received from Councillor Pauline Dee.

90 Minutes

RESOLVED:

That the Minutes of the meeting of the North Planning Committee held on 24th November 2015 be approved as a correct record and signed by the Chairman.

91 Public Question Time

There were no public questions, statements or petitions received.

92 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.

The Solicitor advised Members that the Site Allocations and Management of Development Plan (SAMDev) was adopted by full Council on 17th December 2015 and was now part of the Council's adopted local plan along with the Core Strategy. Therefore policies from the old Borough and District Local plans which had been saved were now no longer in force and should not now be given any weight.

It was explained by the Solicitor that Section 38(6) Planning and Compulsory Purchase Act 2004 stated that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The local plan was the starting point for decision taking and this now applied to SAMDev. However it was important to note that interpretation of the development plan was a matter

of law which means reading policies as a whole and interpreting policy objectively in accordance with the language used and in its proper context.

Members were reminded that the National Planning Policy Framework (NPPF) was national policy and remained a material consideration, to which it was clear from appeal decisions significant weight must be attached. For example, the NPPF's presumption in favour of sustainable development and aim of significantly boosting housing supply remain important material considerations.

The Solicitor added that the reports before Members today should therefore be read in this context and references to old saved policies should be disregarded and SAMDev should be treated as part of the local plan, although all of the reports already ascribe very significant weight to SAMDev due to the very advanced stage it had reached prior to writing the reports.

93 Land Adjacent to Woodbury, Hengoed, Oswestry, SY10 7EU (13/02994/OUT)

RESOLVED:

Application withdrawn by the Applicant.

94 Land At Rhosygadfa, Gobowen, Shropshire (15/03975/FUL)

The Principal Planning Officer introduced the application for the construction of a solar farm to include solar panel arrays, substation inverters, a primary substation, and perimeter stock fencing. It was explained that the application was a resubmission of a previous application for a solar farm for which planning permission was refused by Members in July 2015, and which now seeks to address the previous reasons for refusal.

Mr Brian Case, on behalf of local residents spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Councillor Huw Ellis, on behalf of Selattyn and Gobowen Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Nick Williams, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

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

- He considered the previous reasons for refusal were still valid;
- The area was used by the local community for recreational activity; and
- This was not a productive use of agricultural land which was required for food production.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Robert Macey addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- The amended scheme does not address the issues of massing and scale of the site;
- The requirement of a 5 metre buffer and 3 metre hedge suggests that it was not an appropriate location for this type of development; and
- The strength of feeling from the local community was evident in the report.

Councillor Joyce Barrow read out a statement from Councillor Steve Charmley, the adjoining ward local member. A number of points were raised including the following:

- The size of the development was inappropriate for the location and would have a huge impact on local residents;
- The proposal would have no benefit to the local area; and
- The proposal was industrial development on prime agricultural land.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of members expressed their support for the officer's recommendation.

RESOLVED:

That planning permission be granted subject to the conditions set out in Appendix 1.

95 Burlton Lane Farm, Myddle, Shropshire, SY4 3RE (15/04781/EIA)

The Principal Planning Officer introduced the application for the erection of extensions to existing free range poultry buildings and erection of egg packing unit. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Having considered the submitted plans, members unanimously expressed their support for the officer's recommendation.

RESOLVED:

That delegated powers be given to the Head of Planning Services to grant approval, subject to:

- A satisfactory response from Natural England; and
- The conditions as set out in Appendix 2 and any modifications to these conditions if considered necessary by the Head of Planning Services.

96 Former Store, Walnut House, Little Ness Road, Ruyton Xi Towns, Shropshire (15/04348/FUL)

The Principal Planning Officer introduced the application for the change of use of existing store/office to dwelling. Members' attention was drawn to the information contained within the Schedule of Additional letters.

Councillor Ros Slowley, on behalf of Ruyton XI Towns Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Stuart Thomas, Agent on behalf of the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

In accordance with Rule 6.1 of the Council Procedure Rules contained in Part 4 of Shropshire Council's Constitution, Councillor Nick Bardsley addressed the Committee as the local ward Councillor, during which a number of points were raised including the following:

- Planning consent had been granted for approximately 100 additional dwellings in Ruyton XI Towns but these permissions had not been implemented so no weight should be given to a need for more planning permissions;
- Developers need to implement the planning permissions they have been granted; and
- The proposal was development in open countryside.

Having considered the submitted plans and listened to the comments made by all of the speakers, the majority of Members expressed their support for the officer's recommendation, subject to an additional condition to ensure the development was ancillary to the main dwelling.

RESOLVED:

That planning permission be granted subject to the conditions set out in Appendix 1 and the following additional condition:

The change of use of the building to residential use shall only be used as accommodation for family members, including extended family, of the owners and occupiers of Walnut House and shall not at any time be sold, let or otherwise disposed of as a separate unit of residential accommodation.

Reason: To ensure proper control of the development and to avoid any future undesirable fragmentation of the curtilage as the building subject to the application is not considered to be of historic or architectural merit.

97 Appeals and Appeal Decisions

RESOLVED:

That the appeals and appeal decisions for the northern area be noted.

98 Date of the Next Meeting

It was noted that the next meeting of the North Planning Committee would be held at 2.00 p.m. on Tuesday 26th January 2016, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed (Chairman)

Date:

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Committee and Date

North Planning Committee

26th January 2016

Item

5

Public

Development Management Report

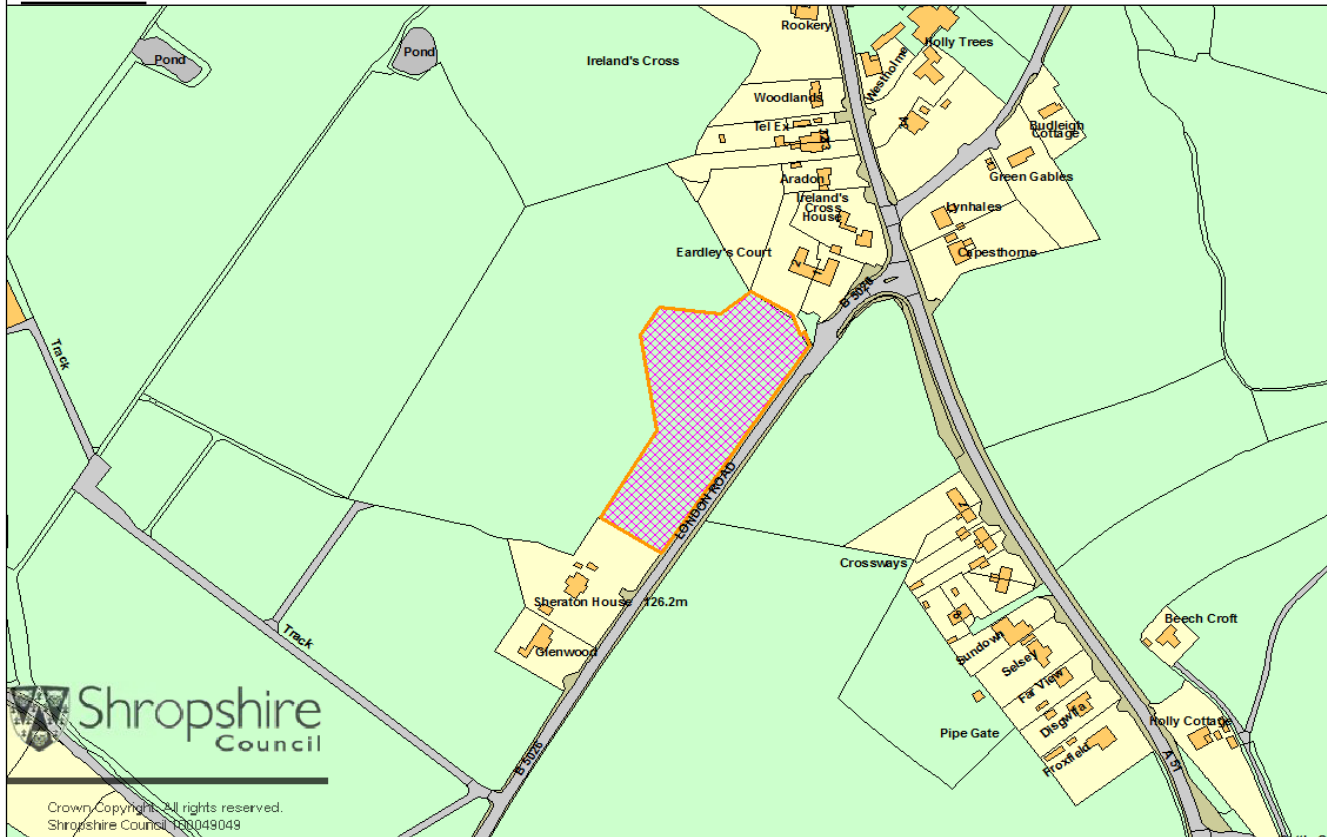
Responsible Officer: Tim Rogers

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

Application

Application Number: 15/04397/REM	Parish:	Woore
Proposal: Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Plots 1 to 10)		
Site Address: Land West Of London Road Woore Shropshire		
Applicant: Mr Gez Willard		
Case Officer: Richard Denison	email: planningdmne@shropshire.gov.uk	

Grid Ref: 373399 - 341232



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

Recommended Reason for Approval

REPORT

1.0 THE PROPOSAL

- 1.1 This is a reserved matters application for the erection of ten dwellings situated along London Road in Irelands Cross. The proposed scheme provides a mixture of dwelling styles and will provide five 5-bedroom and two 4-bedroom detached properties; two semi-detached properties (one 3-bedroom and one 2-bedroom affordable unit); and one detached 4-bedroom bungalow. A new access road will be gained directly from London Road and will serve five of the dwellings, whilst three additional vehicular accesses will serve the remaining plots. Each of the properties has a driveway for a minimum of two cars together with double garages.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The proposed site is located directly along the B5415 adjoining onto the settlement of Irelands Cross close to the junction with the A51. The site currently forms part of a paddock with open fields to the north and west. Two semi-detached properties (Nos. 1 & 2 Eardley's Court) are located along the northern boundary, whilst a tennis court associated with Sheraton House is located along the southern boundary of the site. The main road runs along the south eastern boundary and is separated by a mature native hedgerow. An open agricultural field is located on the opposite side of the road to the east.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 At committee members requested that any subsequent reserved matters application should be considered at committee and not be considered under delegated powers.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

- 4.1.1 **Shropshire Council, Flood & Water Management Team** - The proposed surface water drainage is acceptable.
- 4.1.2 **Shropshire Council, Housing Enabling Team** - As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing. The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually. As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Pro-forma so that the correct level of their contribution can be

calculated and agreed.

- 4.1.3 **Shropshire Council, Trees & Woodland Amenity Protection Officer** - The amended landscape plan is acceptable.
- 4.1.4 **Shropshire Council, Public Rights of Way Officer** - There appears to be no recorded public rights of way affected by the application. It is noted that the Proposed Landscape Scheme refers to 2m footpath alongside the estate road. It is presumed that this is intended to be a footway, rather than a public footpath.
- 4.1.5 **Shropshire Council, Planning Ecologist** - A formal response has been received indicating that they wish to make no response on the application.
- 4.1.6 **Shropshire Council, Highways** - No objection is raised subject to safeguarding conditions and informatives.
- 4.1.7 **Woore Parish Council** - Woore Parish Council (the PC), at its meeting on 14th December 2015, resolved to object to planning application 15/04397/REM, it being the second application for approval of reserved matters (REM) pursuant to the outline planning permission granted by Shropshire Council in respect of land west of London Road, Woore (the Site).

Highway and Road Safety

The PC objected to the first REM application as the design for the Site provided for Plots 1-6 to gain access to the busy B5415 from 6 individual drives and for Plots 7-10 inclusive to access the B5415 from a new road on the proposed development site, in close proximity to the junction of the B5415 and the busy A51 London Road.

This second REM application has sought to meet the PC's objections by reducing the proposed number of drives directly accessing the B5415 from 6 to 3.

Formerly, Plots 1-6 obtained direct access, via 6 drives, onto the B5415. In this second REM, Plot 1 retains an individual drive which has direct access onto the B5415. Plots 2 and 3 now share a drive to access the B5415, as do Plots 4 and 5, and Plot 6 now exits via a drive onto the new estate road, together with Plots 7, 8, 9 and 10's drives, and from there all those Plots gain access directly onto the B5415.

Thus, these changes provide 3 drives for cars directly onto the B5415 Road rather than the 6 originally proposed. By changing the orientation of Plot 6 so that it now accesses the B5415 via the estate road, like Plots 8, 9 and 10, there will be an increase in the number of vehicles exiting the estate road near to the junction of the B5415 and the A51.

The PC submits that, rather than the minor changes to the original REM design now proposed to resolve the highway (and other) concerns, a complete redesign would achieve a far more satisfactory and appropriate design for the Site. The PC would suggest that there should be one estate road from which all the proposed houses would access the B5415. It should be noted that the initial application for outline planning permission provided for a single access road. A single access road for all the proposed new houses on the Site is consistent with the access to the Phoenix

Rise development on the A51 and with the other houses in the vicinity of the Site along the B5415.

It would seem sensible for there to be as much distance between any single access road to the Site and the junction of the B5415 and the A51 as possible.

Public Footpath

The PC, in respect of the first application for REM, objected to the proposal to provide a public footpath from the junction of the A51 and B5415 along the B5415 on the front of the development site. The proposed footpath would stop at the end of the development site where it meets the eastern boundary of Sheraton House. This proposed footpath will not connect with any other footpath, link in with any other recreational paths or provide a safe footpath for pedestrians accessing Knighton village from Woore.

In the PC's opinion, the footpath should run along the side of the B5415 on the opposite side of the road from the Site and then to Knighton. This proposal is consistent with the PC's Place Plan.

The Old Hedge

The PC objected, in response to the first REM application, to the removal of the old hedge fronting the B5415 and its replacement with a brick wall. The PC considered that the wall, whilst suitable for urban developments, was inappropriate for the rural setting of this development site and out of keeping with the neighbouring properties. This second REM application has removed the proposed wall and proposed a fence and new hedge.

The PC objects to the old hedge being removed. The old hedge would not require replacement with a new hedge if the proposed new footpath was on the opposite side of the B5415 from the Site, if there was a single access road to all the houses, and the design of the Site was improved.

Privacy and Number of Houses

The outline planning permission granted permission for up to 10 houses. The permission explicitly states that although planning permission is for up to 10 houses, it does not mean that REM will be automatically or routinely granted for 10 houses. The number of houses which SC will approve at the REM stage is dependent on the appropriateness and suitability of the proposed site layout and designs for which the developer is seeking approval.

The PC considers that the second (and the first) application for REM approval, have both suffered as a result of the developer's decision to seek REM approval for 9 houses and a bungalow, when seven of the proposed houses and the bungalow are large homes. Put simply, the number and scale of the houses proposed has negatively impacted on the layout and design of the Site. The Site layout and design of the development is compromised as a result of the developer seeking approval for 10 rather than 9 homes.

The PC support the views put forward by Dr and Mrs Brunt in their comments in respect of the second REM application.

Drainage

Approximately six months prior to the original outline planning application being made, a land drain was connected to the highway storm water drainage system on / in the vicinity of the Site. This work was necessary to resolve the considerable storm water run-off from the Site and the adjacent fields.

The second REM application shows storm water drains connecting directly into that same system. It is submitted that storm water should be directed to attenuation ponds and ideally to infiltration basins rather than directly off the Site as this would only have the effect of increasing flood risks.

Generally

Finally, in addition to the objections outlined above, the PC relies upon the objections which it put forward in respect of the first REM application. However, the PC does welcome the fact that the new REM application does include the provision of an affordable home and a resulting reduction in the size of Plots 2 and 3.

4.2 Public Comments

4.2.1 Two letters have been received from local residents raising the following concerns:-

- Highway safety due to provision of four accesses.
- No requirement for access to field.
- Visual impact caused by loss of existing hedgerow.
- Overdevelopment of site.
- The proposed site is not a gateway to the more built up area it is a rural area.
- Loss of Oak tree.
- Overlooking and loss of privacy.
- Lack of infrastructure and facilities.

5.0 THE MAIN ISSUES

- Background
- Design, Scale and Character
- Access
- Impact on Residential Amenity
- Impact on Trees and Landscaping
- Drainage
- Affordable Housing

6.0 OFFICER APPRAISAL

6.1 Background

6.1.1 Outline planning permission was granted on the 20th October 2014 for a residential

development for the erection of ten dwellings on land to the west of London Road in Irelands Cross (application reference 13/02698/OUT). This application considered the principle for residential development with access, layout, scale, appearance and landscaping as reserved matters which are considered as part of this current application.

- 6.1.2 The proposed site was not located within a settlement eligible for residential development under the former North Shropshire Local Plan. Irelands Cross was being promoted as part of a Community Hub with Woore and Pipe Gate under the Site Allocation Management Development Plan (SAMDev), although at the time of the application it was still out to consultation. The proposed site was therefore considered to be located in open countryside and was contrary to policy CS5 'Countryside and Green Belt' of the Shropshire Core Strategy.
- 6.1.3 However, at the time of the consideration of the application the Council could not demonstrate that it had a five year housing land supply and therefore significant weight had to be given to the National Planning Policy Framework which is for the presumption in favour of sustainable development. The proposed residential development was considered to be located adjoining Irelands Cross settlement with existing dwellings being located along the north east and south west boundaries. The site has pedestrian access along the existing footpath into Woore which is approximately 0.7km away with a number of essential day to day services. The proposed development was considered to be located within a sustainable settlement and having regard to the current shortage in the five year housing land supply the provision of an open market scheme was considered acceptable.
- 6.1.4 Due to the shortage in the housing land supply it was considered appropriate to restrict the time period for the submission of the reserved matters application to 12 months and for the development to commence with two years from the date of the last reserved matters application. This was to enable the development to be built earlier than normal to help boost the housing supply in Shropshire.
- 6.1.5 The application was approved subject to a Section 106 legal agreement for the provision of affordable housing provision either on site or as a financial contribution, together with an amendment to the local speed limit to 40mph.

6.2 **Design, Scale and Character**

- 6.2.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Policy MD2 'Sustainable Design' of the SAMDev Plan indicates that development should contribute and respect the local character of the area and respond appropriately to the form and layout of existing development including scale, density and plot sizes. Development should also reflect the local characteristic architectural design and details.

- 6.2.2 Objection has been received from the Parish Council and local residents indicating that the proposed layout and scale of the proposed dwellings which are inappropriate to the site. However, this application has been subject to lengthy discussions between the architect and developer regarding the proposed layout, design and appearance of the dwellings, together with the position of access points, landscaping and driveways.
- 6.2.3 Officers consider that the proposed ten dwellings will sit comfortably within the site and will provide a variety of plots widths ranging from 11.5 metres to 26.5 metres which will reflect the plots widths of the properties along the A51 in Irelands Cross. One of the key characteristics of dwellings in the local area is of open spaces between the properties and the proposed layout has respected this with the roadside properties having open views between them ranging from 5.8 metres to 6.9 metres. The dwellings have good separation from one another which will prevent any impact on residential amenity and provide adequate private amenity spaces.
- 6.2.4 The proposed development provides a range of house designs and appearances which reflect the varied character of properties within Irelands Cross. Local design features have been incorporated into the scheme with traditional dormer windows, ground floor bay windows, exposed rafter feet, stone cills and brick headers, front facing gables, external chimney stacks and decorative wood panelling. These features can be found on the proposed dwellings which have been designed so that each dwelling is individual to prevent a block of identical properties.
- 6.2.5 The proposed layout, design and scale of the dwellings would be acceptable on this edge of settlement location and would not impact on the character of existing properties or the rural character of the local area.
- 6.3 **Access**
- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all. Policy D7 'Parking Standards' of the North Shropshire Local Plan is still a saved policy and indicates that all development should provide an appropriate level of vehicle parking to avoid on street parking and increasing traffic problems.
- 6.4.2 One letter has been received from a local resident raising highway safety concerns with the provision of four access points onto the B5415 and has suggested that a single access point would be more preferable. Concerns have also been raised by the Parish Council regarding the close proximity of the accesses to the busy junction of the B56415 and the A51 which would cause highway safety issues. The outline application included an indicative plan which indicated the setting back of the existing hedgerow and provision of a single access point with a pavement along the roadside. The Highways Officer indicated that the B5415 has more than adequate capacity to accommodate an increase in traffic and adequate visibility could be

achieved in both directions.

6.4.3 The proposed application now indicates the provision of a new road which will serve five of the dwellings (Plots 6 to 10) and provide vehicular access into the field to the west. A further three private driveways will serve the remaining dwellings with plot 1 having its own individual access, whilst plots 2 and 3 and plots 4 and 5 will share an access. Concerns have been raised that the roadside hedge will be removed to provide the necessary visibility splays and facilitate the provision of a new 2 metre wide public footpath along the frontage of the site. During the consideration of the outline application it was considered that any access would involve the loss of the hedgerow which will be replanted and enhanced with tree planting to provide a soft edge to the development. The proposed footpath will provide improved access for the occupiers of Sheraton House and Glenwood. The Highways Authority considers that the proposed accesses will not lead to highway safety concerns and adequate visibility will be provided across the footpath to provide clear views of on-coming traffic. A number of highway safety conditions are proposed regarding provision of visibility splays, design and construction details of accesses and onsite construction working methods.

6.5 Impact on Residential Amenity

6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Concern has been raised from a local resident and the Parish Council regarding overlooking and loss of privacy and the impact of the adjoining tennis court flood lights.

6.5.2 Plot 1 will be positioned 3 metres from the post and rail fence along the south west boundary adjacent to a conifer hedgerow and an all-weather tennis court enclosed by a chain link fence. The proposed dwelling has a blank gable elevation facing the tennis court, whilst the thick evergreen hedgerow will prevent any views of the tennis court from the occupiers in the garden. The first floor front and rear bedrooms will face at right angles to the tennis court and overlook the main road and the open field to the rear. Having regard to the orientation of this property the proposed windows will not result in any overlooking or loss of privacy to the tennis court or the adjoining residential property (Sheraton House). Having regard to the distance away from the boundary and with an eaves height of 5 metres and ridge height of 8.4 metres the proposed dwelling will not result in any overbearing impact, whilst the northern position will prevent any loss of light.

6.5.3 Plots 2 to 7 plots will be positioned to the north of plot 1 and will not face towards any residential properties. Having regard that these properties are located further away they will not result in any overlooking or loss of privacy, cause an overbearing impact or result in loss of light.

6.5.4 Plots 8, 9 and 10 are located along the north western boundary with the rear elevations facing towards 1 & 2 Eardleys Court. The rear boundaries of these properties are located a minimum of between 11 and 19 metres from the rear boundary and between 38.9 and 43.7 metres from the front elevation of these properties. Having regard to the distance which is well in excess of the minimum of 20 metres it is considered that the degree of overlooking and loss of privacy will be

minimal. Due to the significant separation it is not considered that these units will result in any detrimental impact on the private amenity of the occupiers of these properties.

6.5.5 It is noted that the tennis court adjacent to plot 1 has four flood lighting columns and concerns have been raised that the glare may cause a nuisance to the occupiers of this property. Planning permission was granted in April 2007 for the erection of four 6 metre high columns with a single lighting unit on each corner of the tennis court (application reference NS/07/00450/FUL). However, the lighting columns have not been constructed in accordance with the approved plans and have been located two on each side of the tennis court and with two lighting units per column. Condition 3 on the decision notice requested approval of the lighting units, although this was not complied with. Condition 4 of the decision notice indicates that the lighting units shall not be operated after 23:00hrs and should be turned off when the tennis court is not in use to protect the amenity of the local area. Having regard that the lighting units will not directly face the main front or rear windows of the proposed adjoining unit and are angled to face down, it is considered that with the restricted hours and that any future purchaser will be aware of the lighting units it would not provide a significant objection to the application.

6.5.6 The B5415 road runs along the south east facing boundary and links the A53 and the A51. This road is used regularly and therefore the potential noise generated from five households would not be excessive having regard to the back ground noise of the road.

6.6 **Impact on Trees & Landscaping**

6.6.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development should protect and enhance the local natural environment. Concerns have been raised regarding the loss of the roadside hedgerow, together with the removal of a large Oak tree. They recommend that a replacement Oak tree and further landscaping is provided. The Landscape and Amenity Protection Officer has indicated that the proposed site will form the start of the settlement of Irelands Cross which the majority of properties has a frontage of trees and hedgerow landscaping. Officers have raised concerns regard the type and size of proposed trees within the site and amended plans have been received which are now considered acceptable. It is regrettable that the roadside hedgerow will be removed to facilitate the footpath and visibility splays. However, the additional 18 trees and new hedgerow which will be planted along the roadside frontages will significant enhance the appearance of the site and over time will provide a green frontage to the development. The Landscape and Amenity Protection Officer has not raised any objection to the revised landscape plan which will be conditioned to ensure that the landscaping is planted prior to occupation.

6.7 **Drainage**

6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity. The outline application indicated that foul water drainage will be directed to the existing foul mains which is

the preferred option and allows the foul water to be dealt with in an effective and sustainable manner.

6.7.2 Condition 4 of the outline permission indicated that the drainage of the site including the sizing of the proposed soakaways, porosity tests, foul drainage details together with drainage fields must be submitted with the first reserved matters application for consideration. Such tests and the design of the scheme shall be carried out in accordance with BRE Digest 365. Detailed soakaway calculations have been submitted for all of the units, together with a detailed site layout plan indicating the position and design of soakaways. The Council Drainage Engineer has requested for percolation tests and the soil infiltration rate calculations which have now been received and confirmed to be acceptable.

6.7.3 The Flood and Water Management Team have assessed the layout, design and drainage details and have confirmed that the surface water drainage is acceptable and the plots will not be liable to flooding.

6.8 **Affordable Housing**

6.8.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index. The Section 106 agreement on the outline application related to the provision of affordable housing and/or a contribution towards off-site provision. The existing target rate is 15% which for a development of 10 dwellings would equate to a provision of 1.5 dwellings. The Housing Enabling Team have indicated that there is a need for affordable units in the Parish and therefore plot 2 has been allocated as an affordable unit. The remaining 0.5 will be provided as a financial contribution which would be calculated as £45,000 and would be used for affordable housing provision in the local area.

7.0 **CONCLUSION**

7.1 The principle for residential development has already been established, whilst the proposed layout, design and appearance will respect neighbouring properties and the rural character and will not result in any detrimental impact from either overlooking, cause any overbearing impact or loss of light. The proposed boundary hedgerows and tree landscaping will enhance this rural location, whilst the proposed vehicular accesses will provide adequate visibility in both directions for emerging vehicles and a suitable level of off street car parking and manoeuvring space is provided. A suitable level of affordable housing is provided and will assist in the local housing need.

7.2

In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187. The Council being of the opinion that the detrimental impacts associated with the proposed development outweigh any public benefits in relationship to the proposal.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

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

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

10.0 BACKGROUND

10.1 Relevant Planning Policies

Policies material to the determination of the Application. In determining this application the Local Planning Authority gave consideration to the following policies:-

National Planning Policy Framework (March 2012):

- 3. Supporting a Prosperous Rural Economy
- 7. Requiring Good Design
- 11. Conserving and Enhancing the Natural Environment

Shropshire Council Core Strategy (February 2011):

- CS5 : Countryside and Green Belt
- CS6 : Sustainable Design and Development Principles
- CS11 : Type and Affordability of Housing
- CS18 : Sustainable Water Management
- Supplementary Planning Document on Type and Affordability of Housing

Site Allocations & Management Development Plan (December 2015):

- MD2 : Sustainable Design
- MD7a : Managing Housing Development in the Countryside

10.2 Relevant Planning History

13/02698/OUT - Outline application for the erection of ten dwellings (Amended Description). Granted 20th October 2014.

15/02805/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase 1 - Approval for plots 1 to 5). Current Application Held in Abeyance Pending Decision of Application ref. 15/04397/REM.

15/02806/REM - Approval of Reserved Matters (access, appearance, landscaping, layout and scale) pursuant to planning permission 13/02698/OUT (Phase 2 - Approval for plots 6 to 10). Current Application Held in Abeyance Pending Decision of Application ref. 15/04397/REM.

11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 15/02805/REM

Cabinet Member (Portfolio Holder) - Cllr M. Price

Local Member - Cllr John Cadwallader

Appendices
APPENDIX 1 - Conditions

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

1. The development shall be carried out strictly in accordance with the approved plans and drawings Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.
2. The proposed surface and foul water drainage schemes shall be installed in accordance with the Proposed Drainage Scheme drawing 5266-052 (dated 01/10/15) prior to the first occupation of any of the dwellings hereby approved.

Reason: To ensure that the surface and foul water drainage systems are adequate and to minimise flood risk.

3. The proposed landscaping scheme as indicated on drawing no. 5266-51 dated 01/10/15 shall be completed prior to the occupation of the dwellings.

Reason: In the interest of visual amenity in the area

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

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

Reason: To ensure a satisfactory access to the site.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- The parking of vehicles of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- Wheel washing facilities

- Measures to control the emission of dust and dirt during construction
- A scheme for recycling/disposing of waste resulting from demolition and construction works

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

7. Before any other operations are commenced, the proposed vehicular access and visibility splays, shall be provided and constructed to base course level and completed to approved specification before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

Reason: To ensure that the development should not prejudice the free flow of traffic and conditions of safety on the highway nor cause inconvenience to other highway users.

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Committee and Date

North Planning Committee

26th January 2016

Item

6

Public

Development Management Report

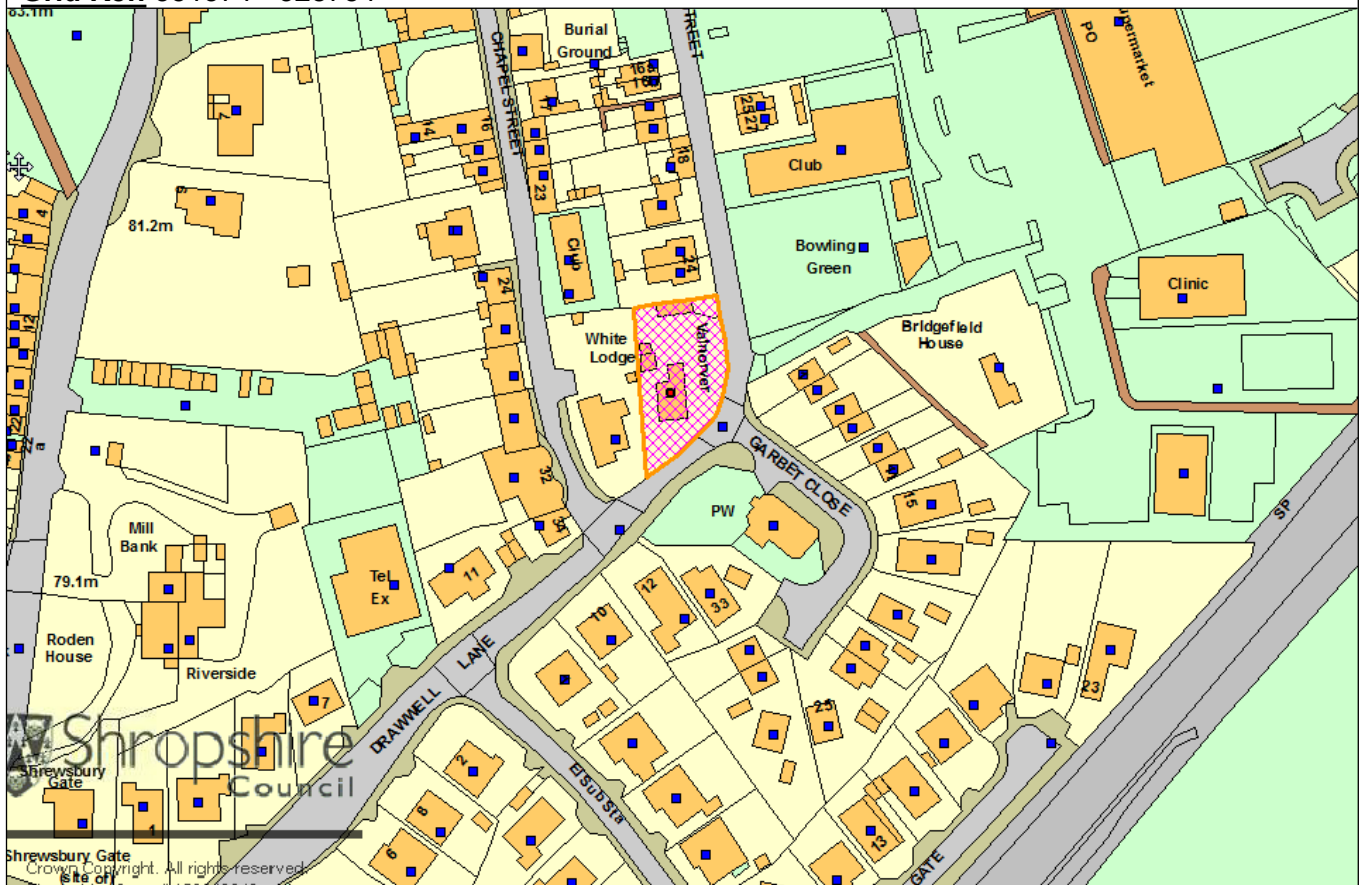
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04233/FUL	Parish: Wem Urban
Proposal: Erection of 2no dwellings with garages and access	
Site Address: Valnorver 26 Leek Street Wem Shrewsbury Shropshire	
Applicant: Ashvale Contracting Ltd	
Case Officer: Jane Preece	email: planningdmne@shropshire.gov.uk

Grid Ref: 351374 - 328754



Recommendation:- That planning permission be granted subject to the prior signing and completion of a S106 agreement and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the erection of two dwellings with garages and accesses at Valnorver, Leek Street, Wem. The application is a re-submission following the withdrawal of an earlier application ref: 15/01263/FUL in September 2015.
- 1.2 Planning permission has previously been granted for the erection of two dwellings (bungalows) on this site following the demolition of the existing bungalow, together with alterations to the access in October 2012.
- 1.3 The current proposal details two detached, 2 storey/3 bed properties, handed in their design and living accommodation layout. Each dwelling will be served by an access onto Leek Street and a single detached garage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Valnorver is a timber bungalow constructed of lapboard and roof tiles in poor condition on a corner plot within Leek Street, Wem. The site is located in a largely residential area close to Wem High Street. The site is accessed from a one way street off Wem High Street to the north, and it is set at a higher level than the adjacent highway. There is a shed and a garage on the site, with the garage attached to the northern boundary wall. The existing access is to the north eastern corner of the site.
- 2.2 The site lies within the development boundary of the market town of Wem and is also within the Wem conservation area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council object and a request to refer the application to committee for consideration has been made by the Local Member.

4.0 Community Representations

4.1 Consultee Comments

- 4.1.1 **SC Archaeology (Historic Environment)** – No objection in principle.

Background to Recommendation: The proposed development site lies within the historic core of Wem and lies adjacent to the presumed line of the town's medieval defences. The site was subject to an archaeological field evaluation by Castlering Archaeology in 2012, which indicated that the archaeological potential of the site was lower than initially suspected at that time. However, there remains some potential for other archaeological features or deposits may exist beyond the areas that were investigated in 2012.

RECOMMENDATION: In view of the above and paragraph 141 of the NPPF, recommend a programme of archaeological work, to comprise an archaeological watching brief during ground works, be made a condition of any planning permission.

- 4.1.2 **SUDS** – Original comments: No objection. Drainage details, plan and calculations could be conditioned for prior approval if planning permission were to be granted. Recommend conditions accordingly.

Re-consultation comments: No objection. Drainage details, plan and calculations could be conditioned if planning permission were to be granted. Recommend conditions accordingly.

Further re-consultation comments: The internal first floor layout changed will not alter our Drainage Comments dated 9 December 2015.

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

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

The current affordable housing contribution rate for this area is 10% and as such a proposal for 1 new open market dwelling would be liable to make a contribution equivalent to 1 x 0.10 of a whole affordable unit (1 x 10%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area.

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

Re-consultation comments: The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

- 4.1.4 **SC Highways DC** – Original comments: No objection. Recommend conditions relating to visibility splays, access and parking arrangements, access apron construction and requiring a Construction Method Statement for prior approval before any development, including any works of demolition, take place.

Comments: The site has previously had the benefit of approval for the erection of two properties under application reference 12/01096/FUL. The development now under consideration whilst maintaining the number of units has changed in respect of each of the properties being served by a separate access, plot 1 via the existing access and

plot 2 by a new access located at the southern extremity of the site road frontage.

The new access arrangement loses the potential highway gain of relocating the existing access slightly further away from the lateral boundary with no.24 and the potential improvement to the line of sight that drivers of vehicles will have emerging from the access. Given that the access serves an existing property the situation is not changing as a result of the proposal and therefore a highway objection to the continuing use of the access for a single dwelling could not be sustained.

The formation of the new access to serve plot 2 is located at the opposite extremity of the site road frontage and subject to a visibility splay being provided around the inside of the apex of the bend as previously sought in connection with the earlier approval 12/01096/FUL, it is considered that an acceptable line of site for the prevailing highway conditions could be provided. The provision of a visibility splay around the full length of the site road frontage will provide an improvement to the existing highway situation in terms of improving visibility around the bend.

As with the earlier applications the proposal does not assign two clear parking spaces for each of the properties. The second place would be reliant on the proposed garages being retained solely for parking of vehicles and not ancillary domestic storage. Given the proximity of the site to the town centre it may be considered acceptable to accept the reduced parking provision.

Re-consultation comments: In respect of the submission of the amended details on 13.11.15 the Highway Authority continues to raise no objection to the granting of consent and recommends the imposition of the conditions as sought in the earlier consultation response dated 09.11.15. In respect of condition no.2 the drawing reference number should however be amended to ASH/15/01 Rev 01 to accord with the submission of the revised details.

Informative - Where the formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

Background - Highway Authority Consultation response dated 09.11.15

4.1.5 **SC Conservation** – Original comments: Amendments required.

Background to recommendation: The site lies within the Wem Conservation Area, albeit on the edge. The area surrounding the site is characterised by a mixture of building styles and ages but there are a number of listed buildings in close proximity, along Chapel Street.

A previous application for two bungalows was approved in 2012 following negotiations regarding the details of the proposed dwellings. I note the application that was made earlier this year was withdrawn.

Details: Following amendments being made to the previously withdrawn scheme (for two, two storey dwellings), no objections were raised to this withdrawn application since the dwellings proposed, albeit two storey, had been reduced and simplified with

more appropriate detailing and proportions to ensure the dwellings were not considered to be at odds with the character or appearance of the Conservation Area. The scheme now proposed is similar in design, with a revised porch design, added chimneys and plinth details. However, stone headers and sills would be preferred for the size of opening shown rather than the arched brick headers and sills shown.

The previous proposal included attached garages which are now detached and located to the side/rear of the properties with two separate accesses instead of a central access. Whilst there is no objection in principle to this element of the proposal, the design details of these structures should be enhanced in line with the previous attached garages i.e. design detailing to reflect the dwellings, central opening doors as opposed to up and over metal doors. The garages appear to be very narrow, but assume they comply with standards for garage widths.

In addition to the above, both plots have been re-positioned. Whilst there is no objection to the angled positioning of plot 2 given that the plot is sited on a corner and the proposal goes some way to addressing the road as it goes around the plot similar to White Lodge off Chapel Street, both properties are now further forward than previously proposed. As a consequence of this position the proposed dwellings will be more prominent in the street scene but as there is no set pattern of road edge or set back properties in Leek Street, it is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. However, it is considered that the northern plot could be set back more in line with the adjacent Edwardian semi-detached properties next door.

General design comments:

- The scale of the window on the west elevation, ground floor, is wrongly proportioned when compared to others of the same design in the proposed dwellings.
- The window positions at first floor level west elevation (bedroom 4 and bathroom) should be revised within the external elevation – at present they appear too close to the edge of the gable – it is likely to help by also reducing the width of the bathroom window.
- General care and attention should be taken to ensure that windows and doors (not dormers) have headers and sills (as appropriate) no matter their size etc. This should be revisited when revisions are being carried out.
- Vernacular detailing of chimneys – usually internal not external, and the upper part is too narrow in dimension to given visual enhancement.

Recommendation: Amendments will be required, as noted above. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Paragraphs 131-132, 134 and 137 of the NPPF, CS6 and CS17 (Shropshire Core Strategy) and MD13 of the emergent SamDev Policy.

Re-consultation comments: Further to our comments of 11th November, amended

plans have been submitted which address the issues raised with regard to the window proportions and positioning, headers and sills, chimneys and garage doors. Whilst it is noted that the northern plot hasn't been set back, as indicated within the previous response there is no set pattern of road edge or set back properties in Leek Street and the positioning of the property is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. In light of the amended details it is considered that special attention has been paid to preserving the character of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the NPPF, local Policies CS6 and CS17 and MD13 of the emergent SAMDev. Subject to conditions relating to materials and finishes, no objections are raised.

Conditions:

C02: Sample panel

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

The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority.

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

C08 - Window Recess

The window frames and doors of the proposed development shall be constructed of timber, painted white and set back a minimum of 55mm from the edge of the brickwork around the window opening.

Reason: To ensure that the development is of a design sympathetic to the locality.

D03 - Enclosures (boundary wall details)

JJ05 - Gutters and Downpipes

JJ07 - Roof Details

JJ09 - Heads and Sills

JJ20 ' Joinery

Further re-consultation comments: The amendments proposed do not appear to have any notable impact with regard to the Conservation Area, though the comments relating to UPVC windows are noted. Whilst timber would be preferential, the context of the site and the modern construction of the buildings is also taken into account. With this in mind if the proportions and appearance of the windows and doors are acceptable then the use of UPVC may not be considered to be detrimental to the Conservation Area in this location. However, having looked at the submitted link I am unable to find the 'Conservation' range referred to, with none of the casement windows viewed appearing to be acceptable. I am aware that there are certain companies that produce well proportioned slimline flush fitting windows, such as Evolution for example. I would recommend that the applicant undertakes further investigation into such products and provides more details either through the

application or as part of a condition.

- 4.1.6 **SC Ecology** – No objection. Recommend informatives advising of the legislation protecting nesting wild birds and bats are included on the decision notice.
- 4.1.7 **Wales and West Utilities** – Wales and West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promotor of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

4.2 **Public Comments**

- 4.2.1 **Wem Town Council** – Object. Wem Town Council to strongly objects to this application for the following reasons;

1. The proposals constitute serious overdevelopment of a small site within the Conservation area and will destroy the street scene of part of the historic town centre.
2. Proximity of the proposed garage (garage plot 2) in relation to White Lodge (specifically the habitable Living Room window)
3. Overlooking issues from proposed first floor rear Bedroom 4. These bedrooms would look across rear garden to White Lodge resulting in loss of privacy.
4. Proposed garages are not large enough for a car (with doors open), which raises a question about their use. More likely that the houses would be extended to connect to these buildings at a later date resulting in potential dwelling space in close proximity to White Lodge boundary.
5. Impingement on rights to daylight/ sunlight. The 25 degree line of unobstructed daylight is drawn from wrong position (not from habitable Living Room window)
6. Size of proposed Bedrooms 3 and 4. Questionable as to whether these meet minimum space standards. Indicative of poor design standard.
7. House design proposals are not in-keeping with Lifetime Homes Standards.
8. The proposed access arrangements are not suitable as vehicles would need to reverse onto road on a corner.
9. Extent of earth excavation and removal of earth from the site would have negative environmental impact locally and wider.
10. Councillors have very serious concerns that the lowering of the ground level will have an adverse impact upon the existing retaining wall and upon adjacent properties. Proposed modifications to the boundary wall could not be built without removing half of the root structure of the existing hedge. The proposed section indicates a change in level across the boundary which would require a new retaining wall on the boundary location; this in turn would result in damage to the root structure of the boundary hedge. The existing boundary wall and hedge are believed to be within the ownership of White Lodge.
11. Insufficient outside space for a family home.

The Town Council would request that this application is referred to both your Conservation Officer and Archaeological department for comment. In addition to this if Officers are minded to recommend approval of this application it be referred to the Northern Planning Committee for consideration and that Committee undertake a site visit to actually view the location and the adverse impact this proposed development would have upon the locality and adjoining neighbours.

Re-consultation comments: Awaited at time of writing report.

4.2.2 **Public representations** – Four representations of objection have been received. The main points of objection relate to:

- Loss of daylight/sunlight and overshadowing
- Proximity of proposed garage giving rise to unacceptable sense of enclosure
- Overlooking and loss of privacy
- Poor quality design
- Proposed buildings are not in keeping with older houses in the street
- Lifetime homes standards
- Parking/highway safety/traffic. On a very narrow part of Leek Street and unsafe
- Retention of existing boundary hedge
- Inconvenience to existing properties during construction
- Overdevelopment/houses are oversized for plot
- Wem infrastructure already stretched, including limited school places
- Excavation could cause landslide

At the time of writing one objection has been received in response to re-consultation on the amended plans. The representation acknowledges the attempt to address issues but objections remain relating to:

- Still concerned about proximity of unit 2 garage in relation to outlook from/daylight to lounge window of White Lodge. Garage could be reduced in height or omitted from scheme to overcome this concern.
- Scheme seems to break the line of the established street scene of Leek Street. Whilst appreciate this increase rear gardens it does emphasise that the development is too large for the site. A scheme reduced in scale could maintain the established street scene.

(The full content of all representations received are available to view on line)

5.0 THE MAIN ISSUES

- Principle of the development
- Affordable housing and CIL
- Design, scale and impact on the historic environment
- Impact on neighbours and residential amenity
- Access and parking
- Ecology
- Other Issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site lies within the development boundary of the market town of Wem where

adopted Core Strategy policies CS1 and CS3 support the provision of residential development in principle and where the redevelopment proposals for this urban site meet the sustainable objectives of the NPPF.

- 6.1.2 Recently adopted SAMDev policies MD1, MD3 and S17.1 continue and build on the approach in the Core Strategy Policies. Whilst the site is not an allocated site it does sit within the development boundary and is classed as windfall development which satisfies the sustainable credentials of both SAMDev policies S17.1 and MD3 and the NPPF in principle.
- 6.1.3 Furthermore, planning permission for the residential development of the site has previously been granted under planning permission reference 12/01096/FUL, dated 5th October, 2012. That consent proposed the demolition of the existing bungalow on the site and its replacement with two bungalows, with basement garaging.
- 6.1.4 As such there is no policy objection to the provision of new housing on the site in principle. The acceptability of the scheme therefore revolves around the issues raised by the details of the scheme and through the consultation process. These issues are discussed further below.

6.2 **Affordable housing and CIL**

- 6.2.1 Affordable housing - Core Strategy Policy CS11 and the Type and Affordability of Housing SPD require 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 affordable housing contribution is payable on one dwelling given that there is a net increase of one property. A completed affordable housing proforma has been provided by the applicants' agent. The Councils' Housing Enabling and Development Officer is satisfied that the completed proforma indicates the correct level of contribution. In accordance with adopted policy the applicant is required to enter in a section 106 legal agreement to secure the contribution prior to any planning permission being granted.
- 6.2.2 Community Infrastructure Levy - Core Strategy Policy CS9 requires all new housing to financially contribute to the provision of infrastructure with certain exceptions. This is done through the Community Infrastructure Levy. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application. In this context a CIL Form O has been submitted with the application. As section 5 of the submitted form has not been completed then it is not clear whether the applicant intends to pursue any exemption or relief from CIL. If the development qualifies for some form of relief from CIL then it would deliver little or no benefit to the community in respect of infrastructure provision. As the CIL issue is one to be administered by the Council's CIL Team aside from the planning process this matter will be dealt with by the CIL Team.

6.3 **Design, scale and impact on historic environment**

- 6.3.1 Policies CS6 and CS17 of the Core Strategy together with the adopted Housing SPD seek to ensure that all development protects and enhances the historic environment

and is appropriate in scale, density, pattern and design taking into account the local context and character.

- 6.3.2 SAMDev policies MD2 (Sustainable Design) and MD13 (Historic Environment) are closely related to CS6 and CS17 in their concern for enhancing local design and protecting heritage assets.
- 6.3.3 The submitted scheme has been assessed against the above policy requirements, in addition to the requirements set out at a national level in the NPPF and in consultation with the Councils' Historic Environment Team.
- 6.3.4 Archaeology - The proposed development site lies within the historic core of Wem and adjacent the presumed line of the town's medieval defences. Based on a previous archaeological evaluation by Castlering Archaeology in 2012, the Council Historic Environment Archaeologist is satisfied that determination of the application can be made with a condition imposed on any planning permission requiring a programme of archaeological work, to comprise an archaeological watching brief during ground works. In this context the proposal is capable of complying with adopted Core Strategy policy CS17, emerging SAMDev policy MD13 and the NPPF is so far as it relates to archaeological matters.
- 6.3.5 Historic built environment – As the site is within the Wem Conservation Area the Council's Conservation Officer has commented on the application. The Conservation Officer initially raised some concerns over general design details relating to fenestration, the chimney detail and the garaging. However, these concerns have satisfactorily been addressed with the submission of amended plans. In response to the amended plans the Conservation Officer is now in a position to support the scheme, subject to the imposition of recommended conditions in relation to matters of external materials and details. Despite objections received to the contrary the Conservation Officer is of the opinion that the development (as amended) will have no significant harm on the character and appearance of the area.
- 6.3.6 Some discussion is given by the Conservation Officer as to the siting of the dwellings further forward on the site than previously proposed and their potential impact on the street scene in this regard. However, to insist that the properties are set further back on site would diminish the rear private amenity space afforded to the proposed dwellings and take the built development closer to the neighbouring dwelling at the rear, raising additional issues. The Conservation Officer acknowledges that as there is no set pattern of road edge or set back properties in Leek Street, then the siting of the dwellings it is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. In fact, when measured off the plan, both new dwellings will be set back just over 3 m from Leek Street, which is comparable to the Edwardian house to the north.
- 6.3.7 On the basis of the above, it is therefore considered that, subject to the conditional approval of details as recommended by the Conservation Officer, the amended development proposals will cause no significant harm to the character and appearance of the built and historic environment in this locality and are in line with the design objectives of adopted Core Strategy policies CS6 and CS17; SAMDev policies MD 2 and MD13; the Councils' adopted Housing SPD and the NPPF.

- 6.3.8 Boundary wall – In response to concerns raised supplementary advice has been sought and received from the Conservation Officer in relation to the boundary wall as follows:
- 6.3.9 *With regard to the boundary wall ... I understand that this is to be retained as part of the development and whilst it is acknowledged that the existing lightweight timber lean-to garage is to be removed, it is the responsibility of the developer onsite to ensure the structural stability of the wall is not compromised through the works. In addition the developer will need to ensure that they adhere to the relevant building regulations and an informative would be attached to the permission in this regard. Finally I am also of the view that the replacement attached garage will provide improved stability for the wall compared with that existing, if indeed stability is an issue.*
- 6.3.10 *However, in light of the concerns raised I would recommend that the developer is made aware that the wall is considered an historic feature of the Conservation Area and that it is their responsibility to ensure its structural integrity is not compromised through the demolition/construction process. This could be through an attached informative.'*
- 6.3.11 Scale and density - Turning to the matter of scale and density objections have been received on the grounds of overdevelopment. Accounting for the town centre setting and the space about dwellings now proposed, including external private amenity/garden areas, drives and on-site parking/garaging provision, officers are satisfied that the scheme does not represent unacceptable overdevelopment.
- 6.3.12 To expand, the proposal is for two, 2 storey dwellings in a residential area of mixed two and single storey development, the historic built development in the locality generally being higher than a single storey. Whilst the property to the immediate rear may be a bungalow which presently sits on a raised ground level similar to the site, as part of the proposals the ground level of the site is to be lowered by around 500mm more consistent with the adjoining street level. Furthermore, the first floor accommodation will incorporate the use of dormer windows and gable projections, which allows the achievement of a lower eaves and roof ridge height, ie 4.1m and 7.1m respectively as shown on the plans. In terms of height it is not therefore considered that the development will be overbearing or unduly out of keeping with the locality. Otherwise, each dwelling occupies a footprint of around 70 sq m set within a site totalling around 679 sq m. To reiterate each of the dwellings will be provided with private drives/parking/garaging (each garage occupies a footprint of around 23 sq m), front gardens (being set back just over 3 m from Leek St) and a private rear garden of between 6m to 8 m in depth.
- 6.3.13 During the consideration of the previously withdrawn application officer concerns were expressed to the agent about the overdevelopment of the site. However, having regard to the factors discussed above and taking into consideration the surrounding urban context and setting, officers do not concur with objectors that proposal constitutes unacceptable overdevelopment in relation to this current revised scheme. In order to control the any future development of the site associated with the residential development a condition can be imposed removing permitted development rights to extend and erect structures within the curtilages.

- 6.3.14 Additional design matters – Additional objections have been lodged by the Town Council and neighbours on the grounds of ‘poor design’, with particular reference to non compliance with the ‘Lifetime Homes Standards’; the limited size of the garages, rear bedrooms and external amenity space for family homes and the lack of sustainable design features. The agent has retorted that the design meets the Lifetime Homes Standards and at 3 m wide x 6 m long the size of the proposed garages is average for a single garage. A condition can be imposed to ensure the garages are retained for parking and incidental needs and not converted to additional living accommodation without the grant of further planning permission. Officers are satisfied with the outdoor amenity space, as discussed in the paragraphs relating to scale and density above, and as the dwellings will need to be constructed in accordance with current building regulations, then it is accepted that the construction will incorporate sustainable design techniques relating to energy efficiency and the use of resources.
- 6.3.15 As regards internal space standards then the Local Planning Authority has no adopted standards. The Council’s Housing Officers are understood to use the space standards used by the Homes and Communities agency which for a 3 or 4 bed, 5 bed space house should be 85-95 sq m. The proposed dwellings equate to approximately 105 sq m measured internally and so would appear to satisfy those standards.
- 6.3.16 However, the DCLG did provide technical space standards in March 2015 which gives a slightly larger house area for a 4 bed 5 person house of 97 sq m + 3 sq m of storage and room sizes of 7.5 sq m and a minimum width of 2.15m for a 1 bed space bedroom and at least 11.5 sq m and a minimum width of 2.75 m for one 2 bed space bedroom and a width of 2.55 m for every other 2 bed space bedroom. The agent was advised that the submitted proposals did not appear to comply fully with these space standards but that the space standards could be achieved with some internal reorganisation and particularly if the revisions sought to reduce the number of bedrooms to 3 as discussed in section 6.4.4 below were secured. Amended plans have consequently been received reducing the number of bedrooms from 4 to 3 (and in so doing increasing the bedroom sizes to acceptable provision).
- 6.4 **Impact on neighbours and residential amenity**
- 6.4.1 Core Strategy policies CS6 and CS17, together with the Housing SPD seek to ensure that development does not have unacceptable consequences for neighbours and residential amenities.
- 6.4.2 During the consideration of the previously withdrawn scheme officer concerns were also expressed to the agent in relation to potential overshadowing and overlooking, particularly in relation to the neighbouring property ‘White Lodge’. The current re-submission attempts to address those concerns. However, objections have still been lodged by neighbours and the Town Council on the grounds of loss light and privacy.
- 6.4.3 Loss of light and overshadowing – Comments and evidence has been provided by objectors and responded to by the agent regarding the issue surrounding the potential loss of light and overshadowing. The main concern rests with the proximity and height of the proposed structures to existing residential development and the potential for those structures to affect the light levels currently enjoyed by neighbouring residents. Officers have considered the evidence provided by all parties, including reference to

the Building Research Establishment (BRE) 25 degree rule, and have arrived at the view that the proposed dwellings and associated garaging will stand at an acceptable height (above the reduced ground level) and a sufficient distance away from neighbouring properties such that not unacceptable loss of light should occur to existing main habitable room windows that would warrant refusal. It is accepted that some loss of light may occur in comparison with the existing situation but the issue is whether the loss is so adverse or detrimental to justify a reason for refusal solely on these grounds. Taking all the points that have been raised into consideration officers are of the opinion that refusal on the grounds of loss of light and overshadowing is not justified and the proposals are considered capable of complying with adopted planning policy in this context.

- 6.4.4 In light of the amended scheme the objectors at White Lodge have acknowledged that the revisions attempt to address some of their concerns in relation the potential loss of daylight to and the overshadowing of their property. However, they remain very concerned about the proximity of the proposed garage serving unit 2 reducing light to their living room window and request that consideration be given to reducing its height or deleting it from the scheme. The proposed garage is a single garage with a pitched roof. It measures 2.26m high to the eaves, 3.5 m high to the ridge and will be set down 0.5m below the existing land level, meaning only a small portion of the upper wall will protrude above the boundary hedge in addition to the roof plane (which slopes away from White Lodge). In addition, when measured off the plan, the garage will stand over 5 m away from White Lodge and not 3.5 m as specified by the objector. In the circumstances, and further having regard to the fact that that the neighbouring window said to be affected is understood to be a secondary window, then officers do not considered that the proposed garage will adversely affect neighbouring amenity to a significant degree.
- 6.4.5 Loss of privacy – It is not considered that the proposed development will give rise to unacceptable overlooking to the properties on the opposite side of Chapel Street due to the distances involved and the presence of a public highway. However, whilst the submitted plans represented an improvement on the previously withdrawn application, it remained to be considered that the proposed dwellings would be so sited and orientated such that the rear bedroom and bathroom windows would overlook certain habitable room windows, roof lights and the private garden area of White Lodge at close range. To overcome the potential overlooking issue presented by the windows, officers therefore recommended to the agent that the plans were further amended by losing a bedroom, re-arranging the internal accommodation and altering the associated fenestration. In response amended plans have been received which do reduce the number of bedrooms from 4 to 3 and re-arrange the internal accommodation. The window previously intended to serve bedroom 4 has therefore been omitted from the rear elevation. Within the rear elevation there is now only one first floor window and that is to serve the bathroom and will be obscure glazed. The side window within bedroom 3 has been retained but the outlook from this window in the direction of White Lodge is at an obscure angle such that significant adverse overlooking should not occur.
- 6.4.6 In the circumstances, having regard to the revisions now put forward, officers are now satisfied that the amended scheme is capable of complying with adopted policy and without resulting in unacceptable consequences for neighbouring residential amenities in compliance with CS6, CS17 and the Housing SPD.

6.5 Access and parking

- 6.5.1 The existing property is served by a single access directly onto Leek Street and is positioned within the local speed limit of 30 mph. The replacement of this access with a much wider access to serve two properties on the site has previously received approval under application reference 12/01096/FUL. The current proposal differs in the fact that the submitted plans detail two separate accesses to serve each of the two plots - plot 1 via the existing access and plot 2 by a new access located at the southern extremity of the site road frontage.
- 6.5.2 Objections to the application on access and parking grounds have been lodged by neighbours and the Town Council. However, the Highway Authority has been consulted on the proposed access and parking arrangements and does not share these objections. The Highway Officers comments are given in section 4.1 above. In the professional opinion of the Highway Officer there is no objection to the proposal that would warrant a reason for refusal from the highway perspective. With planning conditions in place as recommended by the Highway Officer relating to visibility splays, access and parking arrangements, access apron construction and requiring a Construction Method Statement for prior approval before any development, including any works of demolition, take place, then it is considered that the proposal is capable of compliance with adopted policies in relation to highway issues.

6.5 Ecology

- 6.5.1 The Councils' Natural Environment Team has been consulted on the application and has raised no objection on ecology grounds. The Council's Planning Ecologist simply recommends that an informative be added to any permission issued to advise the applicant of the legal protection afforded to nesting wild birds and bats. With the informative in place, the application is considered to comply with Core Strategy policies CS6 and CS17, emerging SAMDev policy MD12 and the requirements of the NPPF in relation to ecological safeguarding matters.

6.6 Drainage

- 6.6.1 Core Strategy Policy CS18 (Sustainable Water Management) and the NPPF require that development will integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality. For foul drainage disposal the development will be expected to connect to the mains sewer. As regards surface water disposal, the Councils Drainage Engineer is satisfied that satisfactory surface water drainage details can be secured through imposing conditional requirements for prior approval. On this basis the proposal is considered to be capable of complying with Core Strategy Policy CS18 and the NPPF in drainage terms.

6.7 Other matters

- 6.7.1 Hedge – One of the concerns of the Town Council and the neighbour relates to the impact of the excavation work on the root system of the hedge. Firstly, the agent has provided an extract of a legal document to demonstrate that the boundary hedge dividing the site from White Lodge is in joint ownership. Secondly, it is not proposed to excavate up to the line of the hedge. The proposed site plan shows a retaining wall distanced from the hedge by approximately 1m in order to 'preserve hedge roots'. Officers are satisfied that if a retaining wall is built 1m out from the hedge base and

the existing levels retained then this would be sufficient volume of soil for the roots to be retained and the hedge not damaged. The planning authority has no legal protection over garden hedges and so ultimately any damage that did occur would be a private matter for the parties involved.

- 6.7.2 Inconvenience during construction work – Any inconvenience experience during development works is beyond the reasonable control of the planning authority, although an hours restriction can be imposed on any consent issue to ensure any unreasonable noise and disturbance does not occur during unsocial hours.
- 6.7.3 School places – The site lies within the development boundary of the town where small windfall development such as this is expected to take place and without placing undue pressure on existing infrastructure, including school places.
- 6.7.4 Extent and impact of excavation work - Any implications in respect of the structural integrity of existing boundary walls and land stability following excavation work again falls outside the reasonable control of the local planning authority. Structural and stability issues would no doubt be addressed as part of any subsequent building regulations application.

7.0 **CONCLUSION**

- 7.1 The site occupies a suitable location where residential development is considered acceptable in accordance with adopted development plan policies and in accordance with national planning policy requirements and sustainable objectives of the NPPF.
- 7.2 The proposal will provide affordable housing in accordance with an identified need for the area and in accordance with Core Strategy policy CS11 and the Councils adopted Housing SPD and has the potential to provide financial contributions under CIL towards infrastructure provision in accordance with Core Strategy policy CS9.
- 7.3 Amended plans have been received which satisfactorily overcome the overlooking and room size issues that have been identified within this report. It is considered that the development (as amended) is of an acceptable siting, scale and design that will not cause a significant negative impact upon the character and appearance of the area or the historic environment or have an unacceptable adverse impact on the residential amenities of neighbouring properties, and all subject to compliance with recommended planning conditions.
- 7.4 Despite objections to the contrary the development it is considered the proposed development will provide satisfactory access and parking arrangements, again subject to compliance with recommended planning conditions.
- 7.5 It is considered that the site can be provided with satisfactory foul and surface water drainage arrangements and that the requirement to conditionally provide surface water drainage details for prior approval will safeguard against flood risk.
- 7.6 It is considered that the development will not cause a significant negative impact upon ecology.
- 7.7 Overall, it is considered that the proposal meets with the housing policies and general

requirements of the NPPF and otherwise complies with policies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the adopted Shropshire Core Strategy 2011; Shropshire Council's Supplementary Planning Document: Type and Affordability of Housing 2012; SAMDev policies MD2, MD12 and MD13 and the National Planning Policy Framework.

7.8 Accordingly, approval is recommended subject to the completion of a s106 agreement to secure the affordable housing contribution and the imposition of appropriate planning conditions.

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

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy, Emderging SAMDev and Saved Policies:

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S17 - Wem

SPD Type and Affordability of Housing

D7 - Parking Standards

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

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

RELEVANT PLANNING HISTORY:

12/01096/FUL Erection of two dwellings following demolition of existing bungalow; alterations to access GRANT 5th October 2012

15/01263/FUL Erection of two detached dwellings with garages following demolition of existing bungalow (revision to previous permission 12/01096/FUL) WDN 9th September 2015

Appeal

12/01994/COND Erection of two dwellings following demolition of existing bungalow; alterations to access WTHDRN 29th November 2012

11. Additional Information

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member

Cllr Pauline Dee
Cllr Chris Mellings

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: This condition is a pre-commencement requirement because the development site is known to have archaeological interest.

5. Notwithstanding the drainage, details no development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors

- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: This condition is a pre-commencement condition to avoid congestion in the surrounding area and to protect the amenities of the area.

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

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

8. Notwithstanding the details shown on the approved plans, no development approved by this permission shall commence until details of the proposed finished floor levels have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of safeguarding the residential and visual amenity of the area.

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

9. All foul drainage shall be directed to the mains foul sewerage system prior to the occupation of the dwelling.

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

10. Visibility splay around the site road frontage shall be provided at a setback distance of 1.8 metres into the site. All growths and structures within the 1.8 metre depth shall be lowered to and thereafter maintained at a height not exceeding 0.9 metre above the adjoining carriageway level and shall be fully implemented prior to the dwellings being occupied.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

11. The amended access and parking shall be satisfactorily completed and laid out in accordance with the approved 1:200 site plan drawing no. ASH/15/01 Rev B prior to the dwellings being occupied. The approved parking areas shall thereafter be maintained at all times for that purpose.

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

12. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

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

13. Prior to installation, full details of the design, materials and height of all proposed boundary enclosures of the site shall be submitted to and agreed in writing by the Local Planning Authority. The boundary treatments shall be installed in accordance with the agreed details prior to the occupation of the buildings hereby approved and shall thereafter be retained and maintained in situ.

Reason: In the interests of visual amenity and to safeguard the character of the conservation and local area.

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

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

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

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

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

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

17. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

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

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without

modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- any windows or dormer windows

Reason: To enable the Local Planning Authority to manage the development in accordance with adopted planning policy and to safeguard the character and visual amenities of the area.

19. The garages hereby approved shall not be used for any purpose other than for the parking of private vehicles and those incidental to the enjoyment of the property hereby approved but not including use as living accommodation.

Reason: To safeguard the residential character of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid congestion of adjoining streets by parked vehicles.

20. The window frames and doors of the proposed development shall be set back a minimum of 55mm from the edge of the brickwork around the window opening.

Reason: To ensure that the development is of a design sympathetic to the locality.

21. The first floor bathroom and en-suite windows in the rear and side elevations shall be permanently glazed with obscure glass and shall thereafter be retained as such. No further windows or other openings shall be formed in the side and rear elevations at first floor level.

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

Informatives

1. Any work involving bonded asbestos cement material and asbestos containing material in general shall be carried out in accordance with Health and Safety Executive guidance and that the disposal of all such material shall be to a suitably licensed waste disposal site via a suitably licensed waste disposal contractor. Should Shropshire Council be notified of any breaches of health and safety during demolition and/or construction including concerns over the handling of asbestos the regulator, Health and Safety Executive (HSE), will be contacted. The applicant is reminded that where any breaches of legislation are found that the HSE will charge for their time undertaking any enforcement duties.
2. The surface water drainage scheme submitted pursuant to planning condition 5 should take on board the following drainage advice:
 1. The submitted soakaway design calculations should be carried out in accordance with BRE Digest 365. The soakaway design should be repeated for a range of storm duration to determine the maximum length (worst case scenario) for the proposed soakaway. The applicant should check on time for the proposed soakaway to half

empty. If the soakaway trench is to be filled with stone, a 30% void should be used in the calculations.

Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

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

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

3. 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/paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

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

4. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

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

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

6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

7. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
8. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187
9. Consent is required from the service provider to connect into the foul main sewer.
10. Where the formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. The applicant/developer is advised that the details of this, the fee charged and the specification for the works is available on the Council's website.
11. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

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

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

12. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
13. The applicant/developer is advised that the side boundary wall is considered an historic feature of the Conservation Area and that it is their responsibility to ensure its structural integrity is not compromised through the demolition/construction process.

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Committee and Date
 North Planning Committee
 26th January 2016

Item
7
 Public

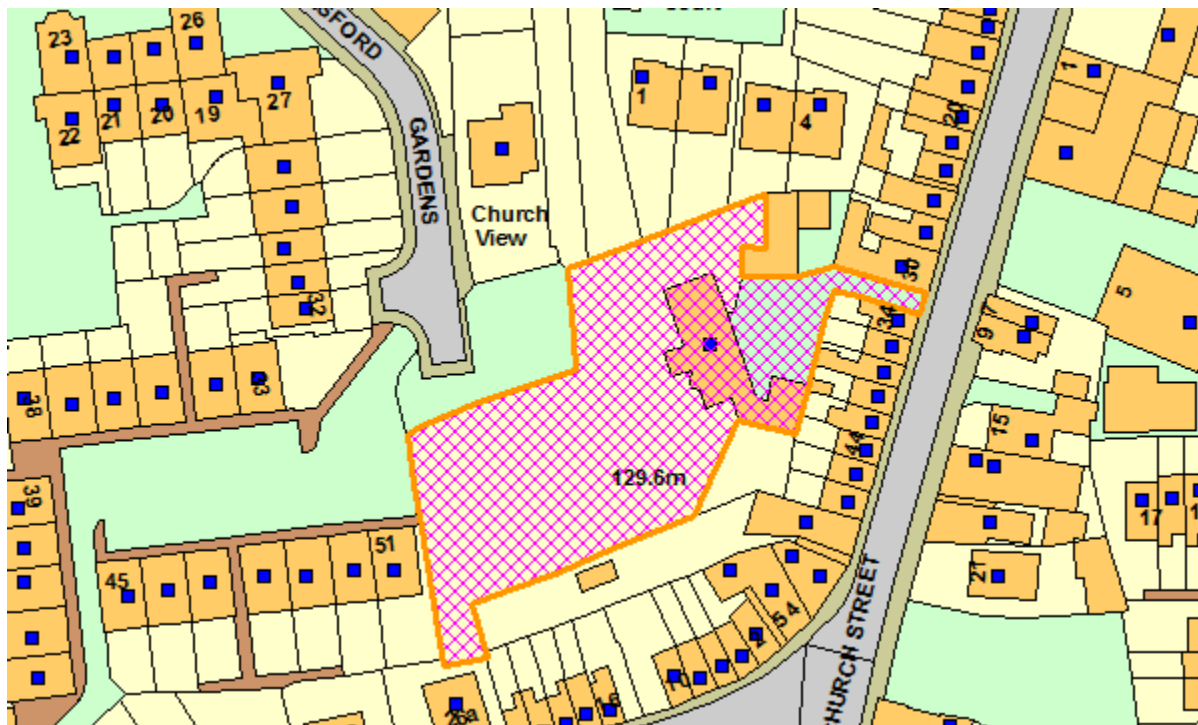
Development Management Report

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

Summary of Application

Application Number: 14/04694/FUL	Parish: Oswestry Town
Proposal: Erection of nine dwellings with associated external works following demolition of existing dwelling	
Site Address: 32 Upper Church Street Oswestry Shropshire SY11 2AE	
Applicant: Morris Property	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk

Grid Ref: 328831 - 329229



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and the applicant entering into a S106 to secure an affordable housing contribution.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks permission for the erection of nine bungalows with associated external works, including the formation of 12 parking spaces, following the demolition of an existing dwelling.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Currently the site contains a single detached dwelling, No. 32 Upper Church Street. The main building lies at the eastern end of the development site and its large outdoor curtilage extends to the west. The development site is surrounded by residential development. Access is gained to the existing dwelling off Upper Church Street, which is to the east, however the proposed development site is set back from the road, behind the terraced houses of Upper Church Street (B5069) and instead it is proposed that the development will be part of and accessed primarily from the Beresford Gardens residential development to the west which comprises of a mix of converted buildings and new build dwellings/ bungalows.
- 2.2 The development site lies within the town of Oswestry, approximately 600 metres to the south of the town centre. It is also located within the Oswestry Conservation Area and is to the rear of 2 listed building that front onto Upper Brook Street.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

In consultation with the Chair of the Planning Committee it is considered that the proposal raises issues that warrant consideration by the committee members.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 Town Council

The Town Council wish to oppose this application suggesting that the site represents over-intensification of development with associated highway and access issues, particularly onto Upper Brook Street, adjacent to a Primary School via Beresford Gardens, and into Church Street with significantly restricted access and narrow footpath, the adjacent traffic lights and the significant pedestrian flow, recognising the location of The Marches School and the journeys twice a day too and from school.

Members challenge the amount of amenity space to sustain the development that of course should not include the existing provision on site.

The Council question the design of the development and its intended part-use for elderly and disabled occupation.

A Traffic Impact Study is requested from the applicant to support this application. To confirm that a letter will be sent to our local Shropshire Councillors outlining the concerns of the Town Council and seeking assurance that the matter will not be determined by Officers but rather by the Northern Area Planning Committee due to the material reasons for objection.

4.1.2 Drainage

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

4.1.3 Trees

No objection subject to conditions

4.1.4 Historic England

Do not wish to comment on the application

4.1.5 Archaeology

No objection subject to conditions

4.1.6 Conservation

No objection subject to conditions to secure appropriate external materials.

4.1.7 Ecology

No objection subject to the inclusion of conditions and informatives.

4.1.8 Highways

No objection subject to conditions

16.12.14

Highway issues have been specifically raised by both the Town Council and local residents having regard to the adequacy of Beresford Gardens to cater for the new development and the intensification in traffic movements at its junction onto Upper Brook Street.

To put the development proposal into context, this application seeks permission for 9 bungalows served from an existing adopted housing access road and is well located and attractive to promote occupiers to walk or cycle into the town centre and access local services. As such it is necessary from a highway authority to assess, notwithstanding the local concerns, as to what its real impact is likely to be on the immediate and surrounding highway network. In terms of traffic movements a development of 9 properties would potentially generate 9 car movements in the peak morning and evening periods i.e. in addition to those currently generated by the current development during these peak hours. Although there is a perception locally perhaps that the junction onto Upper Brook Street is unsafe the highway authority would content that this is not the case given that adequate visibility is available and traffic speeds tend to be low due to the narrowing along Upper Brook Street and pedestrian crossing to the west of the junction. In addition Beresford Gardens itself is considered adequate in terms of layout and width to cater for the additional traffic likely to be generated by the additional 9 dwellings. The highway

authority conclude therefore that a highway refusal against the principle of the development would not be sustainable.

Turning now to the development layout, 18 parking spaces are showed, which given its location to the town centre is of benefit to serve the site. Clarification however should be provided as to how parking spaces would be allocated. However, given that bungalow dwellings are proposed, which would potentially cater for disabled occupiers, no consideration has been given to disabled parking. Nor is there any recognition of how disabled or fully abled pedestrians for that matter routing between the turning head of Beresford Gardens through the car park to access properties. Along with the allocation of parking spaces, further consideration in this regard should be given which includes potential conflict between vehicles and pedestrians across the link between the turning head and car park. The land ownership would suggest that this aspect could be improved.

The highway authority has also given consideration to the current exit from the land holding onto Upper Church Street between No's 30-34, the former being the shop premises. Concern has been raised locally about the current access to No's 28 and 30 given that the layout of the development would impact upon vehicles being able to manoeuvre. The Land Registry Title however indicates the land ownership and the access rights providing the limits of the right of way. Whilst this access point is severely substandard I do have concerns about vehicles potentially having to reverse out as a result of the development proposals although legally the applicant as landowner promoting the development may be able to assert and restrict the rights of access as is shown on the Title plan. It is a matter however that should be taken up with the applicant as there is scope to retain adequate turning space for 28 and 30 without adversely impacting upon the development.

2.7.15 Block Plan drawing no.P-02 Rev C now shows amendments to the access and footway into the site from Beresford Gardens together with allowing manoeuvring space in respect of vehicle access to No's 28 & 30 Church Street. From a highway aspect therefore the highway authority raise no objection to the granting of consent subject to conditions.

4.2 **Public Comments**

There have been 26 public comments received on the following grounds:

- ☐ Neighbours will lose a good view.
- ☐ There will be an unacceptable level of noise pollution.
- ☐ A nice house will be demolished.
- ☐ The proposed access and the roads in the locality are inadequate.
- ☐ The proposal is over-development and will result in overcrowding.
- ☐ The access is unsuitable.
- ☐ There are road safety issues and children in the vicinity.
- ☐ The town will become overcrowded.
- ☐ There are parking issues

5.0 **THE MAIN ISSUES**

Principle of development
Siting, scale and design of structure

Visual impact and landscaping
Highway Safety
Impact on Neighbours

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. In this case the recently adopted SAMdev document has now been formally adopted by the Council and is therefore a material planning consideration which needs to be awarded full weight in the determination of planning applications.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration. For decision taking paragraph 14 advises that schemes that accord with a development plan should be approved without delay.

6.1.3 The application site is clearly within the urban area of Oswestry which is the largest market town within the County. The area of land occupied by the existing dwelling constitutes a previously developed brownfield site, it is also considered to be an infill site within the development boundary as defined by the adopted SAMDev plan.

6.1.4 The local area is mixed in character and includes mainly residential properties although there are a small number of commercial and retail uses nearby which is typical for a near to town centre location. As such the principle of its redevelopment for residential purposes is considered acceptable subject to all other material considerations. Redevelopment for residential purposes would be in line with the aims and requirements of adopted Policies CS3, CS6 and CS11 of the Shropshire Core Strategy, MD1, MD2 and MD3 policies of the SAMDev plan and Government advice contained within the National Planning Policy Framework. The other primary considerations are set out below.

6.2 Siting, scale and design of structure

6.2.1 The applicant proposes the erection of two separate single storey blocks arranged in an L-shape. These will be positioned around a communal car parking area. In total 9 attached bungalows would be provided. The form and layout of the development is very similar to the existing bungalows directly to the south of the application site. The existing and proposed developments would be viewed clearly within the context of one another given their similarities.

- 6.2.2 Unlike the neighbouring development of bungalows the application site is located within the Conservation Area, it also backs onto the rear elevations of 2 listed buildings. As such in accordance with the NPPF there is a requirement to ensure that new development sustains or enhances the significance of heritage assets.
- 6.2.3 The existing dwelling occupying the site is likely built during the 1970's and historically/ architecturally it doesn't make a positive contribution towards the character of the area, as such its demolition would provide an opportunity for the enhancement of the immediate area. The dwelling is also sited behind the 3 storey terrace buildings on Church Street results in only limited opportunities to see the site, other a glimpse down the narrow alley way. It is considered Officers that it is appropriate to change the orientation so that any built development faces Beresford Gardens rather than Church Street as is the current situation. The residential development that is orientated in the opposite direction to the existing dwelling would allow the development to assimilate into the existing street form more easily.
- 6.2.4 The design and the detailing of the proposed bungalows has been the subject of ongoing negotiation with Officers to try and achieve a design that complements its location in the conservation area. The resulting design now includes details such as over hanging eaves, exposed rafter feet, projecting gables and changes in the ridgeline to break up the long expanse of roof. The external materials proposed are a mix of render and brick for the walls and slate roofing.
- 6.2.5 All of the proposed bungalows will have a floor area of around 55sqm and contain two bedrooms, kitchen, lounge and a central bathroom. All of the proposed dwellings will have a private rear garden. Plot 1 to 5 would have small gardens measuring just 4.2 m in length providing a total of 30 sqm private amenity space. Plots 6 to 9 would have larger rear gardens measuring between 45 and 83 sqm. Some of the proposed bungalows would have only a small amount of garden space. However, whilst the type of future occupant of the bungalows cannot be controlled by planning it is likely that that they would appeal to retired people/ couples rather than families. As such occupiers may not necessarily want large gardens but do want enough space to be able to sit out, dry washing etc rather than needing to maintain larger curtilages typically found in other larger developments.. One of the objectives of planning policy is to provide variety in housing, this is set out in paragraph 1.1 of the adopted SPD where strategic objective 5 states the following:
- “Provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly.”
- 6.2.6 It is considered by Officers that the scale and design of the proposed bungalows is appropriate for the sites context and respects the local distinctiveness of the site and its surroundings.
- 6.3 Highway Safety**
- 6.3.1 The issue of highway safety and the increase in the number of vehicles using the Beresford Gardens estate road has been referred to in a large number of representations received from residents and also by the Town Council. The proposed development of 9 dwellings will inevitably result in an increase the

number of vehicles using Beresford Gardens and the junction with the main highway. However this must be considered within the context of the existing highway, junctions and the impact such an increase would have on the free flow of traffic and the safety of highway users.

6.3.2 The Council's Highways Officer has provided detailed comments in relations to the proposed development and the impact it will have. His comments are detailed in full above. In his original comments the Highways Officer suggested some amendments to the layout and these have been carried out by the applicant, this has resulted in the Highways Officer having no objection to the proposed scheme subject to appropriate planning conditions being added to any permission granted.

6.3.3 Following revisions to the scheme the number of parking spaces has been reduced down to 12. This allows one space per bungalow to be allocated and the provision of 3 visitor spaces. Whilst no planning restrictions can be placed on the occupiers of the dwellings and the number of cars each household can have it is likely that because the bungalows will appeal to the elderly who are unlikely to have more than one car and some occupiers are likely not to have any car. As such it is considered that the amount of off street parking proposed is appropriate for the type of development. The location of the site is considered to be very sustainable given its location which is just a short walk from all the services and public transport links that are available in the town centre which reduces the reliance on a private car.

6.4 Affordable Housing

6.4.1 Regarding the need for an affordable housing payment, Officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) advising against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of recent appeal cases, although the Council contended that those decisions did not set a binding precedent since the evidence underpinning its Core Strategy Policy CS11 had not been considered in full as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of the 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution will continue to be sought in all cases in accordance with adopted Policy CS11 and the Housing SPD. In this case the number of dwelling proposed would not result in the on-site provision of affordable housing; instead a financial contribution would need to be made.

6.5 Impact on Neighbours

6.5.1 The ground level of the application site is higher than the ground level of the dwellings fronting Church Street but it is at approximately the same level as the Beresford Gardens development. The proposed dwellings will be single storey and despite having only small rear gardens there will continue to be a distance of around 22 metres between the elevations of the existing and proposed dwellings.. It is considered by Officers that the relationship between proposed and existing dwellings and the distance of separation would ensure that there would not be any loss of privacy or light.

6.6 Drainage

6.6.1 The applicant is proposing that the surface water drainage would be provided by an

appropriate infiltration system. This approach is supported by the Council's Drainage Officer and will be subject to planning conditions to ensure that the drainage system is designed appropriately for the site.

- 6.6.2 Foul drainage will be to the existing mains system which already serves the existing Beresford Gardens development. The applicant will need to obtain consent from the service provide prior to connection to the existing system.

6.7 Impact on Trees

- 6.7.1 The existing site has a number of trees on it and accordingly the applicant has provided an arboricultural impact assessment to show what impact the development will have on the trees. The originally submitted application showed that the communal parking area would extend up to the trunk of a sycamore which is estimated to be 100 years old and would reasonably be expected to have a 40 years future life expectancy. It was considered that the encroachment of parking area well into the root protection area would impact upon the health of the tree. In response to comments made by the tree officer the applicant has amended the scheme by reducing and reconfiguring the parking area so that it falls predominantly outside of the trees' canopy. The applicant has provided a tree protection and method statement for the proposed development which will help to secure the long term future of the tree which does make a positive contribution to the character and appearance of the area. These revisions have been accepted by the Council's tree Officer.

- 6.7.2 The proposed development would also result in the loss of the other, less significant trees from the site however these are not considered significant and this could be mitigated by appropriate replacement planting.

7.0 CONCLUSION

- 7.1 The proposed development and would make efficient use of a parcel of previously developed land located in a sustainable town centre location where there is good access to services and facilities. The proposed development is considered to be of an appropriate design and scale for the sites location which respects the character of the Conservation Area and the setting of the nearby Listed buildings. The scheme would allow the retention of a mature tree that makes a valuable contribution to the visual amenity of the area.
- 7.2 The proposed development will introduce extra vehicle movements onto an existing estate road and whilst residents have concerns in this respect it is considered that the existing road and the junction with Upper Brook Street can safely accommodate the additional traffic.
- 7.3 It is considered that the proposed development complies with policies CS1, CS3, CS6, CS11 and CS17 of the adopted Core Strategy and MD1, MD2 and MD3 of SAMDev.
- 7.4 Therefore subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with Council Policy, it is recommended that the application be approved.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
NPPF

Core Strategy and Saved Policies:
CS1- Strategic Approach
CS3- Market Towns and Other Key Centres
CS6- Sustainable Design and Development Principles
CS11- Type and Affordability of Housing
CS17- Environmental Networks

Core Strategy MD1, MD2 and MD3

RELEVANT PLANNING HISTORY:

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 Vacancy

Appendices APPENDIX 1 - Conditions

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

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

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

2. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plan Numbers P-02 Rev E, P-03 Rev E, P-05 Rev C and P-04 Rev C (received 16th December 2015).

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The development site is known to have archaeological interest

4. Prior to the development hereby permitted being first occupied the access and car parking areas shall be laid out in accordance with the approved drawings and constructed in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To provide adequate on-site parking and in the interests of highway/pedestrian safety.

5. Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority; the CTMP shall remain in force for the duration of the construction period.

Reason: In the interests of highway/pedestrian safety and local amenity.

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

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

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

7. Details of the materials and form of the heads and sills to new openings in the external walls of the buildings shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

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

8. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

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

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

9. Demolition or construction works shall not take place outside 0730 hours to 1600 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

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

10. No development shall take place until a scheme of foul drainage, and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is occupied/brought into use (which ever is the sooner).

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

11. Work shall be carried out strictly in accordance with the Ecological Protected Species Survey conducted by Camlad Ecology (October 2014) and submitted with the application.

Reason: To protect features of recognised nature conservation importance.

12. The development hereby approved shall be carried out in accordance with the tree protection and method statement submitted 16th December 2015.

Reason: To ensure the protection of the natural environment.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 classes A and B shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities

Informatives

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

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

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

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

Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

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

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

-



Committee and Date

North Planning Committee

26th January 2016

Item

8

Public

Development Management Report

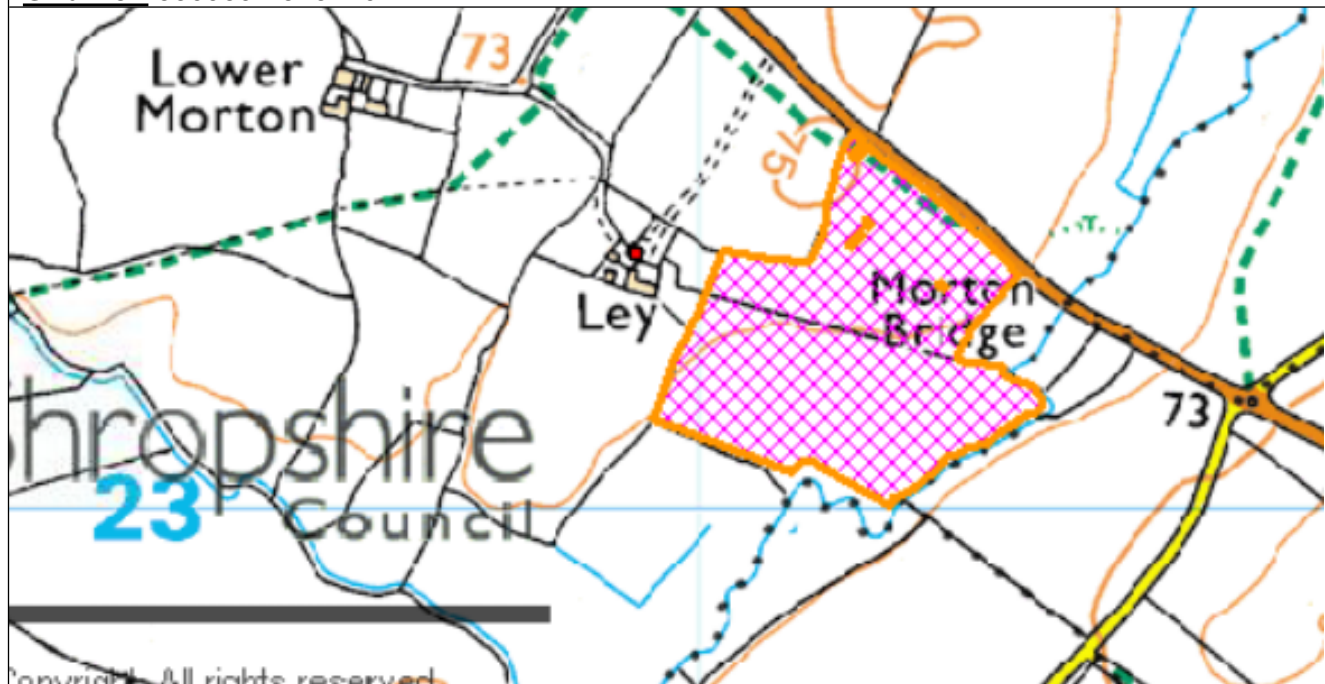
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 15/04477/EIA	Parish:	Oswestry Rural
Proposal: Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme		
Site Address: Morton Ley Farm Morton Oswestry Shropshire SY10 8BG		
Applicant: JP & HR Edwards		
Case Officer: Philip Mullineux	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 330939 - 323240



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Recommendation: Delegated authority to the Head of Planning Services to grant planning permission for the proposed development subject to the conditions as set out in Appendix 1 and any modifications to these conditions if considered necessary by the Head of Planning Services.

REPORT

1.0 THE PROPOSAL

- 1.1 Application is made in 'full' and proposes the erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme on a site adjacent to an existing intensive poultry unit at Morton Ley Farm Morton, Oswestry.
- 1.2 The application is accompanied by an Environment Statement, Design and Access Statement, Scoping report, ecology survey, site location plan, block plan, odour, noise and air quality reports, traffic statement, plans indicating impacts, manure route plan and landscape plan. (A revised Environmental Statement was later submitted to the Council in order to refer to the correct environmental legislation which has been updated from the legislation as referred to by the agent).
- 1.3 The application falls into the remit of the Town and Country Planning (Environmental Impact Assessment), England and Wales) Regulations 2011 (as amended) Schedule one development, and as such an Environmental Statement is mandatory to accompany any planning application for development on site. The threshold for schedule one development is 85,000 broiler birds, this application proposes housing for up to 90,000 birds on site. As such the application was advertised by the Council as development accompanied by an Environmental Statement.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located to the north west of the village of Osbaston, Shropshire. The site is located alongside two existing intensive 'broiler units' in the control of the applicants. The land is classed as grade 3 agricultural land, and some of the adjoining which forms part of the applicants holding is grade 2. The site forms part of a small arable farming unit covering an area of 25.17 hectares, (62.20 acres), and is surrounded by agricultural land and there are no dwellings outside of the applicants control within close proximity to the site.
- 2.2 The poultry houses will each measure 24.689 metres x 102.886 metres. The total floor area for each shed will be 2,540 m². Eaves and ridge height will be 2.40 metres and 5.0 metres respectively. The bird area (living area accommodation) for each shed will be 98.036 metres x 24.689, therefore a total of 4,840.82 sq m across the two sheds. Each of the new houses will have the potential to accommodate 45,000 "standard" broilers.
- 2.3 Information submitted in support of the application indicates that the broilers will be brought onto site as day old chicks. The 42 day growth period will enable 7.6 crop

cycles per annum with a six day turn around per crop, in order to clean out and prepare for the next crop of birds to be reared on site. Stocking on site will be in accordance with the welfare of broiler chickens as covered by the Welfare of Farmed Animals, (England) (Amendment) Regulations 2010. This sets limits on stocking densities to include a maximum of 38kg/square metre.

- 2.4 The existing poultry units on site which also house up to 90,000 broilers were approved subject to application reference 11/02934/EIA Erection of 2 no. chicken rearing buildings, associated feed bins, hardstanding, store, office/facilities, access and all associated works – Approved 13th March 2012.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The proposal is for schedule one development in accordance with EIA Regulations and therefore Committee consideration is mandatory in accordance with the Council's scheme of delegation

4.0 **Community Representations**

- 4.1 **Oswestry Rural Parish Council** have responded to the application indicating they have resolved to support the application.

4.2 **Consultee Comments**

- 4.3 **The Environment Agency** raises no objections. The response indicates: Environmental Impact Assessment (EIA): The proposed development falls under Schedule 1 of the EIA Regulations and therefore EIA is required. Schedule 1 sets the following thresholds, above which EIA is a mandatory requirement: Installations for intensive rearing of poultry or pigs with more than (a) 85,000 places for broilers or 60,000 for hens.

Environmental Permitting Regulations: The proposed development comprises a maximum of 100,000 birds, which is above the threshold (40,000) for regulation of poultry farming under the Environmental Permitting (England and Wales) Regulations (EPR) 2010. The EP controls day to day general management, including operations, maintenance and pollution incidents. In addition, through the determination of the EP, issues such as relevant emissions and monitoring to water, air and land, as well as fugitive emissions, including odour, noise and operation will be addressed.

Morton Ley Farm currently operates under an Environmental Permit relating to existing intensive poultry operations. A variation to the permit will be required in consideration of the proposed increase in bird numbers.

Based on our current position, we would not make detailed comments on these emissions as part of the current planning application process. It will be the responsibility of the applicant to undertake the relevant risk assessments and propose suitable mitigation to inform whether these emissions can be adequately managed. For example, management plans may contain details of appropriate ventilation, abatement equipment etc. Should the site operator fail to meet the conditions of a permit we will take action in-line with our published Enforcement

and Sanctions guidance.

For the avoidance of doubt we would not control any issues arising from activities outside of the permit installation boundary. Your Public Protection team may advise you further on these matters.

Flood Risk: The site is located in Flood Zone 1 (low probability) based on our indicative Flood Zone Map, albeit on the edge of the River Morda floodplain. Whilst development may be appropriate in Flood Zone 1 a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off Under the Flood and Water Management Act (2010) the Lead Local Flood Authority (LLFA) should be consulted on the proposals and act as the lead for surface water drainage matters in this instance. We would also refer you to our West Area Flood Risk Standing Advice – 'FRA Guidance Note 1: development greater than 1ha in Flood Zone 1' for further information.

Manure Management (storage/spreading): Under the EPR the applicant will be required to submit a Manure Management Plan, which consists of a risk assessment of the fields on which the manure will be stored and spread, so long as this is done so within the applicants land ownership. Information submitted within the Design, Access & Planning Statement proposes that poultry manure will be removed from the buildings, loaded directly into sheeted trailers and transported off site. The manure/litter is classed as a by-product of the poultry farm and is a valuable crop fertiliser on arable fields.

Pollution Prevention: Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at:
<https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

The construction phase in particular has the potential to cause pollution. Site operators should ensure that measures are in place so that there is no possibility of contaminated water entering and polluting surface or ground waters. No building material or rubbish must find its way into the watercourse. No rainwater contaminated with silt/soil from disturbed ground during construction should drain to the surface water sewer or watercourse without sufficient settlement. Any fuels and/or chemicals used on site should be stored on hardstanding in bunded tanks.

4.4 **Natural England** raises no objections.

4.5 **SC Land Drainage Manager** raises no objections. The response indicates: The following drainage details, plan and calculations could be conditioned if planning permission were to be granted:

1. The surface water proposals shown on the Site Plan Drg. No. 996:P2 are technically acceptable. However, no calculations of the proposed surface water drainage have been provided. Full drainage calculations of the proposed trench filled soakaways and swale including percolation tests in accordance with BRE

Digest 365 should be submitted for approval.

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

2. If non permeable surfacing is used on the new access, hardstanding area and parking area or the new access slopes towards the highway, the applicant should submit for approval a surface water 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.

3. The applicant should submit details on how the contaminated water in the yard from spillages or cleaning of the two sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse

4. Informative: As part of the SuDS, the applicant should consider employing measures such as the following:

Rainwater harvesting system

Permeable surfacing on any new access, hardstanding area and parking/paved area

Greywater recycling system

Green roofs

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

- 4.6 **SC Public Protection** raises no objections. The response indicates: Having considered the location and distance to nearest residential receptors (400m from what I can make out on maps of the area) I do not consider it likely that the development will have a significant impact on the amenity of the area. As the installation will be covered by an environmental permit issued and regulation by the Environment Agency I do not have any condition to propose.

- 4.7 **SC Planning Ecologist** raises no objections. The response indicates: The planning application is for an extension to an existing poultry unit at Morton Ley Farm. The total number of chickens on site will not exceed 180,000 (as confirmed by Roger Parry & Partners LLP via a phone call dated 20.11.2015).

Designated Sites

The proposed application has obtained an Environmental Permit from the Environment Agency (EA). Shropshire Council, under Regulation 61 in the Habitats Regulations, can rely on the 'evidence and reasoning' of another competent authority. Shropshire Council can therefore use the Environmental Permit and the supporting evidence which was used to secure the permit to complete the assessment of air pollution impacts for European Designated Sites within 10km, National Designated Sites within 5km, and Local Wildlife Site/Ancient Woodlands in 2km. Modelling for European Designated sites within 10km of the proposed poultry unit has been provided by the applicant and the proposal has screened out below the critical load threshold as agreed by EA and NE.

No further modelling is required to support this planning application.

Habitat Regulation Assessment

This application must be considered under the Habitat Regulation Assessment process in order to satisfy the Local Authority duty to adhere to the Conservation of Species & Habitats Regulations 2010 (known as the Habitats Regulations).

Natural England must be formally consulted on this planning application and the Local Planning Authority must have regard to their representations when making a planning decision. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European or Nationally Designated sites.

Phase 1 Habitat Survey

All hedgerows, trees and riverside vegetation will remain undisturbed. In order to enhance the site for biodiversity and protect the watercourse during and post development recommends conditions and informatives.

- 4.8 **SC Archaeology Manager** raises no objections. The response indicates: It is understood that this development would comprise the construction of two additional sheds and associated infrastructure to extend the existing units permitted under 11/02934/EIA. A condition (Condition 3) for an archaeological watching brief was requested and attached to the previous planning permission on the basis of the known archaeological sites on the eastern side of the Morda valley, which suggested that the site had some archaeological potential. This revealed evidence for a previously unknown Roman road running down the slope at an oblique angle towards a presumed crossing point over the river. This has now been added to the Shropshire Historic Environment Record under record PRN 31285. The archaeological features and deposits associated with the road had been truncated by the previous long term arable cultivation of the land and were better preserved towards the base of the slope. Significantly, however, this appeared to continue beyond the boundary of the existing site and onto the proposed development site. As advised in our Scoping Opinion advice (ref. 13/02441/SCO), the proposed development site is therefore considered to have high archaeological potential;

RECOMMENDATION:

The proposed development would have a substantial direct impact on any archaeological remains of the Roman road which are present on the proposed development site. In view of this and the above summary of the archaeological potential of the proposed development site, and in relation to Paragraph 141 of the NPPF, it is recommended that a phased programme of archaeological work be made a condition of any planning permission. This should comprise an initial geophysical survey and trial trenching exercise, followed by further mitigation as appropriate. An appropriate condition of any such consent would be: -

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

Reason: The site is known to hold archaeological interest.

- 4.9 **SC Highways Manager** raises no objections.

4.10 **Public Comments**

4.11 No letters of comments/objections have been received from members of the public in relationship to this application.

5.0 **THE MAIN ISSUES**

- Environmental Impact Assessment
- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Ecology
- Drainage
- Public highway access.
- Historic environment and archaeology issues.

6.0 **OFFICER APPRAISAL**

6.1.1 **Environmental Impact Assessment**

6.1.2 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 specify that Environmental Impact Assessment (EIA) is mandatory for proposed development involving the intensive rearing of poultry where the number of birds is 85,000 or more. As such the current proposal is EIA development. The planning application is accompanied by an Environmental Statement, as required by the 2011 Regulations.

6.1.3 The Environmental Statement in support of the application makes reference to a sequential site selection, (alternative locations), as set out in Section 3.2 of the Environmental Statement and Officers consider detail as set out on site selection is considered satisfactory with consideration to the farming business concerned and the location and impacts etc.

6.2 **Planning policy and principle of development**

6.2.1 The National Planning Policy Framework (NPPF) advises that the purpose of the planning system is to contribute to achieving sustainable development (para. 6) and establishes a presumption in favour of sustainable development (para. 14). One of its core planning principles is to proactively drive and support sustainable economic development (para. 17). Sustainable development has three dimensions – social, environment, and economic. In terms of the latter the NPPF states that significant weight should be placed on the need to support economic growth through the planning system (para. 19). The NPPF also promotes a strong and prosperous rural economy, supports the sustainable growth and expansion of all types of business and enterprises in rural areas, and promotes the development of agricultural businesses (para. 28). The NPPF states that the planning system should contribute to and enhance the natural and local environment (para. 109) and ensure that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity should be taken

into account (para. 120).

- 6.2.2 Core Strategy Policy CS5 states that development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to specified proposals including: agricultural related development. It states that proposals for large scale new development will be required to demonstrate that there are no unacceptable adverse environmental impacts. Whilst the Core Strategy aims to provide general support for the land based sector, it states that larger scale agricultural related development including poultry units, can have significant impacts and will not be appropriate in all rural locations (para. 4.74). Policy CS13 seeks the delivery of sustainable economic growth and prosperous communities. In rural areas it says that particular emphasis will be placed on recognising the continued importance of farming for food production and supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with industry such as agriculture.
- 6.2.3 The above policies indicate that there is strong national and local policy support for development of agricultural businesses which can provide employment to support the rural economy and improve the viability of the applicant's existing farming business. In principle therefore it is considered that the provision of a poultry unit development in this location as an extension to the existing enterprise can be supported. Policies recognise that poultry units can have significant impacts, and seek to protect local amenity and environmental assets. These matters are assessed below.
- 6.3 **Siting, scale and design of structures and visual landscape impact.**
- 6.3.1 Core Strategy Policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. It is noted that the site is not located within an area designated for landscape value.
- 6.3.2 The application site is located to the rear of two existing intensive poultry sheds, also in the control of the applicants, producing broilers and therefore this application can be considered a proposal to extend the existing intensive poultry enterprise.
- 6.3.3 The surrounding landscape is characterised by fields with hedgerow boundaries and small copses of native woodland. Adjacent to the site are two existing intensive poultry units and these are located between the site and the adjacent public highway, from where they are very visible. It is considered that the two further intensive poultry units and feed silos as proposed will further impact on the landscape visually and its character. Poultry sheds may have a significant impact on the surrounding landscape and it is considered that the impact can be mitigated with further landscaping. As such it is considered necessary to attach a condition in order to ensure adequate landscaping is carried out in order to mitigate the

development in to the surrounding landscape to an acceptable manner.

- 6.3.4 The Environmental Statement in support of the application includes a chapter that refers to a Landscape and Visual Impact Assessment (LVIA). This concludes that ‘overall, the landscape and visual assessment has established that the proposed poultry extension will have a limited effect on the baseline conditions in terms of both landscape character and visual amenity. The measures factored into the site selection and design process it indicates will reduce, minimise and even improve any potential adverse effects. Therefore, on balance it is considered that the proposed extension would be acceptable in this context with regard to the potential effects on landscape character and visual amenity.’
- 6.3.5 The Officer site visit revealed that the site is relatively open, with significant views into the site from the adjacent public highway, and as such with consideration to the scale and nature of intensive poultry development, it is considered that development on site will have a significant impact on the surrounding landscape visually.
- 6.3.6 However it is also acknowledged that this application is for an extension to an existing poultry unit which is located between the site and the public highway and as such with landscape mitigation in the form of extensive native tree and hedge planting development on site, development could be mitigated to an acceptable level, both visually and cumulatively with consideration to the existing on site. Existing screening on site is not considered adequate in relationship to the scale of the development on site in relationship to the character of the existing landscape, and as such it is considered that this further strengthens the requirements for landscape mitigation, as on balance with consideration to the economic benefits to the business concerned and the production of local food it is considered that landscape mitigation can be overcome by the attachment of conditions to any approval notice issued.
- 6.3.7 With consideration to the above-mentioned, and further landscape mitigation as discussed, on balance, the development is considered acceptable in relationship to siting, scale and landscape and visual impact and as such on balance in accordance with the overall aims and objectives of the NPPF, Policies CS5, CS6 and CS17 of the Shropshire Core Strategy and relevant policies of the SAMDev.

6.4 **Residential amenity and public protection**

- 6.4.1 The proposed development is located approx..400 metres from the nearest residential dwelling outside the control of the applicants. The National Planning Policy Framework in paragraph 122 states that ‘local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively.’
- 6.4.2 The applicants will need to obtain from the Environment Agency a variation to their Environmental Permit in order to operate the proposed development in relationship to the existing intensive poultry enterprise adjacent to the site. This will control issues in relationship to residential amenity. The Environment Agency’s response

to the application raises no objections indicating that the applicants will need to apply to vary their existing environmental permit in order to operate from the site and this will cover issues such as on site noise, emissions and waste generated on site and their management, the permit will also covers issues of concern in relationship to surrounding residential amenity. An odour management plan will also form part of the Environmental Permit. The response also refers to planning advice as set out in the NPPF.

- 6.4.3 Management operations are as outlined in the EA response as indicated in paragraph 4.3 of this report. Also as noted earlier in this report Natural England and the Council's Public Protection Manager do not raise any objections. It is also noted that no objections have been received from the Local Parish Council or members of the public in relationship to this application. It is considered that information submitted in support of the application, as part of the Environmental Statement, is acceptable in relationship to residential amenity and public protection, and the environmental permit issued and regulated by the Environment Agency will control these elements. The development in relationship to residential amenity issues in relationship to relevant policies is considered satisfactory.
- 6.4.4 The permit issued and monitored by the Environment Agency only covers on site activities and therefore manure movements off the farming unit concerned will not be covered by the permit, (other than on-site activities), and as such it is recommended that a condition is attached to any approval notice issued in order to ensure that any manure removed off site is done so in sealed and covered containers/trailers. With consideration to distances to dwellings outside the control of the applicants and close proximity of the site to a suitable public highway restrictions on feed delivery times in this instance is not considered necessary.
- 6.4.5 **Manure disposal and storage.** Detail in support of the application indicates that the manure will be exported off the farm in sealed and covered trailers. The response from the Environment Agency as outlined in paragraph 4.3 above discusses this aspect of the proposal indicating that under the environmental permitting regime the applicant will be required to submit a manure management plan, which consists of a risk assessment of the fields on which the manure will be spread, so long as this is done so within the applicants land ownership. It is used to reduce the risk of the manure leaching or washing into groundwater or surface water. The permitted farm would be required to analyse the manure twice a year and the field soil (once every five years) to ensure that the amount of manure which will be applied does not exceed the specific crop requirements i.e. as an operational consideration. Any plan submitted would be required to accord with the Code of Good Agricultural Policy (COGAP). Therefore it is considered that the Environmental Permit that the proposed business will require in order to operate, will address issues in relationship to manure storage and disposal on site. Clearly when manure leaves the permitted holding it then becomes outside of the permit regime for the specific holding and as such it is recommended that a condition is attached to any approval notice if members are mindful to approve the application, in order to ensure all manure moved off the intensive poultry site is done so in sealed and covered trailers as proposed. It must also be noted that the Council's Public Protection section has statutory powers to deal with any proven amenity issues as a result of the development.

6.4.6 On balance the proposal is considered acceptable in relationship to surrounding residential amenity issues, the applicants will require a variation to their existing environmental permit for the operations as proposed from the EA. As such the proposal on balance is considered to be in accordance with relevant policies of the Shropshire Core Strategy, the Council's SAMDev and the National Planning Policy Framework on issues in relationship to residential amenity and public protection.

6.5 **Ecological issues.**

6.5.1 The application is accompanied by an ecological assessment and the conclusions to the reports are considered satisfactory. A Habitat Regulations Assessment has been carried out and this is attached to the report as appendix 2 for reference purposes.

6.5.2 Natural England and SC Ecology raise no objections and the latter recommend the attachment of conditions to any approval notice issued with regards to wildlife protection, external lighting in relationship to bats, nesting provision, watercourse fencing protection and on site landscaping. Also recommended are the attachment of informatives in order to remind the applicants/developer with regards to the provisions of the Wildlife and Countryside Act 1981, and badger protection

6.5.3 On ecological issues the proposal is considered acceptable and in accordance with Policy CS17: Environmental Networks of the Shropshire Core Strategy and other relevant local plan policies as well as the National Planning Policy Framework and the emerging SAMDev.

6.6 **Drainage**

6.6.1 Policy CS18 of the Shropshire Core Strategy seeks to reduce flood risk and avoid adverse impacts on water quality and quantity.

6.6.2 The Environment Agency whilst raising no objections to the proposed development acknowledges that the site is within flood zone one, (least risk). The response refers to the flood risk assessment submitted in support of the application (water resources report), and defers to the Council's Land Drainage Manager for further consideration on flood and drainage issues.

6.6.3 The Council's Land Drainage Manager has responded to the application raising no objections indicating that the drainage proposals in the Drainage and Flood Risk Assessment submitted in support of the application are considered acceptable. (Water resources report as part of the Environmental statement), The response recommending the attachment of conditions and an informative to any approval notice issued with regards to surface water drainage detail, non permeable surfacing detail, contaminated water separation detail and as an informative advice in relationship to overall sustainable urban drainage systems.

6.6.4 On flooding and drainage issues the proposal is considered acceptable and in accordance with Policy CS18 of the Shropshire Core Strategy, the SAMDev and the NPPF.

6.7 Public Highway access

- 6.7.1 The site is accessed directly off the B4396. Access to the strategic road network is accessed along the B4396 to Llynclys Crossroads where vehicles can join the A483 and thereafter the A5 Trunk Road at Mile End Roundabout. The site is located very close to an animal feeds mill, (Lloyds Animal Feeds, located approximately 5 mile away). The application indicating suitable access arrangements to the site from the adjacent B4396 highway. Cumulative impacts with the existing poultry unit adjacent to the site and other land uses within the surrounding area are also considered acceptable. The applicants in accordance with information in support of the application have given consideration to routing of deliveries which will ensure that impacts of traffic on residences are minimised. No significant impacts are expected regarding pedestrians, cyclists or public transport.
- 6.7.2 As a result of the proposal there will clearly be a small increase in traffic. Based on the analysis provided in this assessment, there does not appear to be any significant transport related reasons to warrant refusal to the application and it is noted that the Council's Highways Manager raises no objections to the proposed development.
- 6.7.3 It is concluded that the vehicle movements generated by the development can be accommodated on the existing highway network and that there will be limited impact of no significance in relationship to the existing public highways. As such the conclusions of the Highways Statement submitted in support of the application are shared by Officers who on balance consider the proposed development to be in accordance with Policies CS5 and CS6 of the Shropshire Core Strategy, the SAMDev and the NPPF in relationship to highway and transportation matters.

6.8 Historic environment considerations.

- 6.8.1 Shropshire Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, special regard has to be given to the desirability of preserving Listed Buildings or their 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.
- 6.8.2 It is considered that information submitted in support of the application, in relationship to impacts on heritage assets, is weak. However observations by the Case officer, which has included a site visit to the site and surrounding area and a desk top exercise, and taking into consideration the existing development on site the development is considered acceptable with regard to the nearest historic receptors.
- 6.8.3 It is noted that the County Archaeology Manager raises no objections to the proposal, however on the basis of the known archaeological sites on the eastern side of the Morda valley, and potential archaeological features and deposits

associated with the road the proposed development site is therefore considered to have archaeological potential. With consideration to this and in relation to Paragraph 141 of the NPPF, it is recommended that a phased programme of archaeological work be made a condition of any planning permission subsequently granted as recommended by the Archaeology Manager in his response to the application.

6.8.4 With consideration to the above-mentioned in relationship to the historic environment, the proposed development is considered acceptable and in accordance with Core Strategy Policy CS17, the SAMDev and the NPPF in relationship to historic and archaeology matters of interest.

7.0 **CONCLUSION**

7.1 The proposal is for two intensive broiler units, three feed silo's and yard area and access improvements as an extension to an existing broiler production unit adjacent to the site which will increase broiler production from 90,000 to 180,000 birds in four separate bird rearing units in total, as part of an appropriate farming venture for the existing family farming business.

7.2 It is acknowledged that the development as proposed is significant in scale and will have an impact on the landscape, however it is considered on balance with consideration to the location, size and scale and cumulative impacts, that this will not be of an adverse effect and with consideration to the economic benefits to the business concerned and production of local food with further landscape mitigation in the form of native plantings and consideration to the external colour of all the development on site to be acceptable in principle. Public highway access matters are considered acceptable, as the site is ideally located in relationship to satisfactory and adequate access to the surrounding public highway network. Residential amenity and privacy issues in general are considered acceptable.

7.3 The development raises no adverse concerns from any of the statutory consultees to the application, or from the local Parish Council, and members of the public. The applicants will need to obtain from the Environment Agency a variation to the existing environmental permit in order for the site to operate.

7.4 The findings and conclusions as indicated in the Environmental Statement submitted in support of the application are considered on balance acceptable.

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

8.0 **Risk Assessment and Opportunities Appraisal**

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10.0 Relevant Planning Policies

10.1 Shropshire Core Strategy

- Policy CS5 (Countryside and Green Belt)
- Policy CS6 (Sustainable Design and Development Principles)
- Policy CS13 (Economic Development, Enterprise and Employment)
- Policy CS17 (Environmental Networks)
- Policy CS18 (Sustainable Water Management)
- Policy CS19 (Waste Management Infrastructure)

10.2 Central Government Planning Policy and Guidance:

National Planning Policy Framework (NPPF): The NPPF: supports a prosperous rural economy, and states that plans should promote the development of agricultural businesses (Chapter 3); promotes good design as a key aspect of sustainable development (Chapter 7); supports the move to a low carbon future as part of the meeting of the challenges of climate change and flooding (Chapter 10); states that the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to unacceptable levels of soil, air, water or noise pollution (Chapter 11). The NPPF states that local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and recognize that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and should approve applications for renewable or low carbon energy if its impacts are (or can be made) acceptable (para. 98).

10.3 Site Allocations and Development Management (SAMDev) document: Relevant policies include:

- MD2 (Sustainable Design)
- MD7b (General Management of Development in the Countryside)
- MD12 (Natural Environment)
- MD14 (Waste Management Facilities)

RELEVANT PLANNING HISTORY:

11/02934/EIA Erection of 2 no. chicken rearing buildings, associated feed bins, hardstanding, store, office/facilities, access and all associated works GRANT 13th March 2012
 13/02441/SCO Proposed erection of a 90,000 bird broiler unit. SCO 18th October 2013
 14/00265/AGR Bio mass boiler unit and store PPREQN 20th February 2014
 14/00944/FUL Erection of building to house bio mass boiler unit and wood fuel storage for use with chicken breeding units GRANT 24th April 2014

11. Additional Information

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member
Cllr Joyce Barrow

Appendices
APPENDIX 1 – HRA.
APPENDIX 2 – Conditions

APPENDIX 1**Habitat Regulation Assessment (HRA) Screening Matrix**

Application name and reference number:

15/04477/EIA
 Morton Ley Farm
 Morton
 Oswestry
 Shropshire
 SY10 8BG
 Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.

Date of completion for the HRA screening matrix:

20th November 2015

HRA screening matrix completed by:

Nicola Stone
 Planning Ecologist
 01743-252556

Table 1: Details of project or plan

Name of plan or project	15/04477/EIA Morton Ley Farm Morton Oswestry Shropshire SY10 8BG Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.
Name and description of Natura 2000 site and Nationally designated site which has potential to be affected by this development.	<p>Montgomery Canal SAC</p> <p>The Montgomery Canal SAC is a partially restored but largely unused waterway. It runs for approximately 36 kilometres from near Berbechan (three kilometres north-east of Newtown) to the English border at Llanymynech. It supports the largest, most extensive population of floating water-plantain <i>Luronium natans</i> in lowland Britain.</p> <p>Annex II species that are a primary reason for selection of this site:</p> <ul style="list-style-type: none"> Floating Water Plantain <i>Luronium natans</i> <p>Midland Meres and Mosses (Ramsar phase 1)</p> <p>1.1.1.1 Marton Pool</p> <p>Marton Pool Midland Meres and Mosses Ramsar Phase 1 (17.21ha) is a natural lake of moderate fertility, somewhat detached from the main series of Shropshire meres. There are extensive areas of reedswamp and carr. It is included within the Ramsar Phase for its Open Water, Swamp and Carr habitats.</p>
Description of the plan or project	Erection of two poultry buildings and three feed bins; construction of vehicular access and hardstanding; landscaping scheme.
Is the project or plan directly connected with or necessary to	No

the management of the site (provide details)?	
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

We have identified the following effect pathways:

- Damage to the Ramsar site & SAC caused by aerial emissions
- Possible effects on the hydrology of the Ramsar site & SAC

1. *Possible impact of aerial emissions*

- ➔ Email from Kevin Heede (Environment Agency 19th November 2015) has provided the report titled 'Air Quality Impact Assessment on Ammonia Emissions from Morton Ley Poultry Farm, Shropshire'. The modelling report prepared by REC Ltd June 2010) and submitted in support of the Environment Agency Permitting application indicates that impact on European Designated Sites within 10km of the proposal is deemed insignificant and under the threshold agreed by the Environment Agency and the Natural England.
- ➔ The applicant has their approved Environment Agency Permit which covers the site for a total of 180,000 bird places. The EA, as a more competent authority, has screened out the ammonia impacts from the proposed development on Ramsar sites and SAC within 10km of the proposed unit.

Hydrology

- ➔ SC Ecology has assessed Natural England's Ramsar Catchment Areas. The proposed site location falls outside of the catchment area. No further assessment has been undertaken.

Conclusion

Providing works are carried out in accordance with the approved plans, and as agreed within the Environment Agency's permit, SC Ecology has concluded that the proposed development will not impact on the integrity of Ramsar sites and SAC in 10km.

The Significance test

1.1.1.2 There is no likely significant effect on European Designated Sites from planning application 15/04477/EIA.

The Integrity test

There is no likely effect on the integrity of the European Designated Sites from planning application 15/04477/EIA.

Conclusions

Natural England should be provided with SC Ecologist HRA. Comments should be received prior to a planning decision being granted.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the ‘significance test’ and the other known as the ‘integrity test’. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the ‘integrity test’ need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of that site,

must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

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

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

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

Habitat Regulation Assessment Outcomes

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

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

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

APPENDIX 2

Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

Reason: The site is known to hold archaeological interest.

4. A scheme of landscaping must be submitted to and approved in writing by the local planning authority. Works shall be carried out as approved. The submitted scheme shall include:

- a) Means of enclosure, including all security and other fencing
- b) Hard surfacing materials
- c) Planting plans, including wildlife habitat and features (e.g. bat and bird boxes)
- d) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
- e) 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).
- f) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
- g) Implementation timetables

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

5. Prior to the commencement of work on site a 20m buffer shall be fenced off parallel to the banks along the length of the watercourse, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone. The fencing shall be as shown on a site plan.

Reason: To ensure the protection of Water Voles, a protected species under the Wildlife & Countryside Act 1981 (as amended) and Otters, a European Protected Species.

6. The surface water proposals shown on the Site Plan Drg. No. 996:P2 are technically acceptable. However, no calculations of the proposed surface water drainage have been provided. Full drainage calculations of the proposed trench filled soakaways and swale including percolation tests in accordance with BRE Digest 365 must be submitted for approval prior to any development on site.

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

7. If non permeable surfacing is used on the new access, hardstanding area and parking area or the new access slopes towards the highway, the applicant must prior to any development on site submit for approval a surface water 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.

8. The applicant must prior to any development on site submit details on how the contaminated water in the yard from spillages or cleaning of the two sheds will be managed/ isolated from the main surface water system.

Reason: To ensure that polluted water does not enter the water table or watercourse

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

9. Manure will be removed off the application site in sealed and covered trailers.

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

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

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

11. A total of 4 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

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

13. All building development on site, (including all the feed silo's), are to be all externally coloured in accordance with an external colour scheme to be agreed in writing with the Local Planning Authority prior to any development on site.

Reason: In consideration of the visual impact and to mitigate the development into the surrounding landscape.



<u>Committee and Date</u>
North Planning Committee
26 th January 2016

<u>Item</u>
9
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT 26TH JANUARY 2016

Appeals Lodged

LPA reference	14/03006/out
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Mr and Mrs Clifton C/O Berrys
Proposal	Outline application for the erection of 2 detached dwellings; to include means of access
Location	Proposed Residential Development Land South East Of Childs Ercall Shropshire
Date of appeal	21.12.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	14/05298/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mrs C M Crewe – C/O John Needham Associates
Proposal	Erection of 5 no. dwellings with detached garages; formation of new vehicular access
Location	Proposed Residential Development Off Hollins Lane Tilstock Whitchurch
Date of appeal	11.01.16
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	15/02195/FUL
Appeal against	Non determination
Committee or Del. Decision	
Appellant	Mr A Hand
Proposal	Change of use of existing parking area to permit parking of 3 heavy goods vehicles and 2 trailers
Location	Jayroc Stables Shawbury Heath Shawbury SY4 4EA
Date of appeal	15.09.2015
Appeal method	Written Representations
Date site visit	23.11.2015
Date of appeal decision	15.12.2015
Costs awarded	
Appeal decision	Allowed

LPA reference	15/02323/NONDET
Appeal against	Non determination
Committee or Del. Decision	
Appellant	Mr Brian Wigley
Proposal	Outline application (all matters reserved) for residential development to include conversion of farm buildings
Location	Braemar House, Glebe Meadow, Whittington, Oswestry, SY11 1AG
Date of appeal	15.10.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	14.12.2015
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/04787/VAR
Appeal against	Refusal
Committee or Del. Decision	Committee
Appellant	Cheshire Games Supplies
Proposal	Variation of Condition No.1 (approved plans) attached to planning application 11/04429/FUL approved on appeal to amend the approved plans
Location	Land At Lostford Lane Wollerton Shropshire
Date of appeal	16.09.2015
Appeal method	Written
Date site visit	15.12.2015
Date of appeal decision	22.12.2015
Costs awarded	
Appeal decision	Allowed

LPA reference	15/00454/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Glen Noakes
Proposal	Outline application for the erection of 2 no. detached houses and associated garages to include means of access
Location	Land to the South of, Knockin Heath, Oswestry
Date of appeal	23.10.2015
Appeal method	Written Representations
Date site visit	
Date of appeal decision	04.01.2016
Costs awarded	
Appeal decision	Dismissed

LPA reference	14/02338/NONDET
Appeal against	Non Determination
Committee or Del. Decision	Expected Delegated
Appellant	Mr M Reid – C/O Mrs Christine Williams
Proposal	Outline application for the erection of a detached dwelling (all matters reserved)
Location	Land Adjacent To Sunnyholme Sydnall Lane Woodseaves Market Drayton
Date of appeal	09.11.15
Appeal method	Written Representation
Date site visit	
Date of appeal decision	13.01.16
Costs awarded	
Appeal decision	Dismissed

Appeal Decision

Site visit made on 23 November 2015

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

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

Decision date: 15 December 2015

Appeal Ref: APP/L3245/W/15/3133762

Jayroc Stables, Shawbury Heath, Shawbury, SY4 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Hand (A Hand Services Ltd) against Shropshire Council.
 - The application Ref 15/02195/FUL, is dated 19 May 2015.
 - The development proposed is change of use of existing parking area to permit parking of 3 heavy goods vehicles and 2 trailers.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of existing parking area to permit parking of 3 heavy goods vehicles and 2 trailers at Jayroc Stables, Shawbury Heath, Shawbury, SY4 4EA in accordance with the terms of the application, Ref 15/02195/FUL, dated 19 May 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, site plan 129.13B and block plan.

Preliminary Matter

2. The appellant has obtained a Goods Vehicle Operator's Licence from the Traffic Commissioner for the use of 3 heavy goods vehicles and 2 trailers at the site up to June 2018, subject to obtaining planning permission. However this is a separate legislative matter from this planning appeal.

Main Issues

3. Having considered the evidence that is before me, the main issues are:
 - the effect of the development on the character and appearance of the surrounding area; and
 - the effect of the development on the living conditions of occupiers of neighbouring properties.

Reasons

Character and appearance

4. The site is located within the open countryside to the south west of Shawsbury village, immediately adjacent to a rural road, with fields to the north, east and south and stables, an agricultural store and exercise area to the west. The site is within a short drive to the main A53 highway. The appeal proposes the parking of heavy goods vehicles and trailers associated with the appellant's franchise with Dyno-Rod. The appellant confirms that these vehicles would not be used on a daily basis.
5. The appeal site is currently hard standing used for the parking of various vehicles associated with the use of the adjacent existing buildings. There would be no loss of agricultural land. The mature trees and hedgerows that run along the eastern boundary of the site adjacent to the road and along the southern boundary are substantial in size and provide a natural screen, significantly restricting views of the site from public vantage points. I recognise that the vast majority of the trees around the site are deciduous and therefore views would change during the winter months. However having visited the site during November, I saw that the hedgerows still offer adequate levels of screening, even without the leaves. Furthermore there are already a range of buildings associated with Jayroc Stables, against which the proposed vehicles would be viewed. I therefore consider that the proposal would not be substantially intrusive against this backdrop.
6. Consequently, as the site is already used for parking and is adequately screened, I do not consider that the proposal would materially harm the character and appearance of the surrounding area. The proposal would therefore not conflict with the Shropshire Local Development Framework: Adopted Core Strategy 2011 (CS) Policy CS5 which amongst other things seeks to protect the character of the countryside; CS Policy CS6 which, amongst other things, seeks development that protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale taking into account local character; and CS Policy CS17 which seeks development that protects and enhances the area's environmental assets. It would also not be contrary to the emerging Shropshire Council Site Allocations and Management of Development Plan (DP) Policy MD2 which seeks sustainable design, and DP Policy MD12 which seeks to protect the natural environment.

Living conditions

7. Neighbouring properties are located some substantial distance from the site, the nearest being over 200m away. I note that the significant natural screening provided by the hedgerows and trees would remain and the operator's licence restricts vehicle/trailer movements to weekdays and certain hours during the day. As no evidence is before me to substantiate the claims that specific noise or disturbance from the appeal proposal would occur, I am satisfied that neighbouring residents would not be adversely affected by the proposal.
8. The Framework seeks, amongst other things, to secure a good standard of amenity for all existing occupants of buildings. Taking the above factors into account I find that the proposed development would not result in material harm

to the living conditions of the occupiers of neighbouring properties. The proposal would therefore accord with the Framework in this regard.

Other Matters

9. Whilst I note that the proposal would introduce a commercial use to the site, this would be limited in scale. Furthermore CS Policies CS5 and CS13, and DP Policies MD4 and S17.3, support small-scale sustainable economic development within rural areas. As such the appeal scheme would be in accordance with these policies and the Framework in this regard.
10. In relation to concerns raised about highway safety and security, I have no substantive evidence to indicate that the proposal would cause significant harm in these respects. Due to the limited number of vehicles and restricted number of manoeuvres per week permitted by the operator's licence, I am also satisfied that horses and riders traversing the parking area to access the adjacent field would be able to do so safely. In relation to wildlife, concerns raised about the existing lighting on the stables do not form part of this appeal and would need to be raised with the Council in the first instance.

Conditions

11. I attach a condition specifying the approved plans for the avoidance of doubt and in the interests of proper planning. I have considered the temporary 3 year condition suggested by the Council which would coincide with the length of the operator's licence. However this licence is a separate matter from planning. In light of the advice given in the national Planning Practice Guidance (PPG) and as no harm from the development has been identified, I do not consider that this condition is necessary or appropriate in this instance and do not impose it. I also do not consider that an external lighting condition requested by the Council's ecologist is necessary as no such lighting is proposed within the site.

Conclusion

12. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

Y. Wright

INSPECTOR

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Appeal Decision

Site visit made on 23 November 2015

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 14 December 2015

Appeal Ref: APP/L3245/W/15/3134584

Land and buildings at Glebe Meadow, Whittington, Oswestry, Shropshire SY11 4AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Brian Wigley against Shropshire Council.
 - The application Ref 14/03509/OUT, is dated 4 August 2014.
 - The development proposed is described as "housing development to include conversion of farm buildings adjacent to Braemar House, Whittington, Oswestry."
-

Decision

1. The appeal is dismissed and planning permission is refused for housing development to include the conversion of farm buildings at land and buildings at Glebe Meadow, Whittington, Oswestry, Shropshire SY11 4AG.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on this basis, treating the plan which shows the site layout as illustrative.
3. The appeal was submitted due to the failure of the Council to give notice within the prescribed period of a decision on the application, and it is on this basis that the appeal has been determined. Although the Council issued a decision notice the day after the appeal was submitted, by then jurisdiction had passed to the Secretary of State. However, I have had regard to the Council's putative reasons for refusal in my consideration of the appeal.
4. The appellant has raised concerns regarding the Council's handling of the case and, in particular, the long delays in the process. However, in determining the application I have only had regard to the planning merits of the proposal. I note that appellant considers that due to the delay in processing the application, the appeal should be judged in accordance with the local plan policies and 5 Year Housing Land Supply at the time of the application. Nevertheless, planning law dictates that appeals have to be determined in accordance with the circumstances at the time the decision is made rather than those which existed at the time the application or appeal was submitted. I have therefore determined the appeal taking into account the current situation with regard to the 5 year housing land supply and national and local plan policies as adopted.

5. The Site Allocations and Management of Development Plan (SAMDev) is at an advanced stage in its preparation. The Inspector's Report has found the Plan to be sound, subject to the modifications set out in the report. The Plan, which has been amended accordingly, is proposed for adoption by the Council on the 17 December 2015. In the light of this, and in accordance with paragraph 216 of the National Planning Policy Framework, I consider it appropriate to give significant weight to the policies in the SAMDev.

Main Issues

6. The main issues in the appeal are:
- whether or not the proposal would represent a sustainable pattern of development; and
 - whether or not the proposal makes adequate provision for affordable housing.

Reasons

Sustainable pattern of development

7. The appeal site consists of a field and a collection of agricultural buildings situated to the rear of houses on Glebe Meadow. The site and the existing houses are accessed from a private road off the main road linking Whittington to Oswestry. The site is located in the open countryside, adjacent to the settlement boundary of the village as defined in both the *Oswestry Local Plan (adopted July 1999)* (LP) and the SAMDev.
8. In order to make the rural area more sustainable Policy CS4 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) seeks to direct new development into Community Hubs and Clusters. The SAMDev classifies Whittington as a Community Hub. As such, both the LP Policy H10 and Policy S14.2(vi) of the SAMDev, identify the village as one that is suitable for new housing. In particular, the SAMDev indicates that around 100 dwellings will be provided within the village over the plan period. Of this, around 80 are expected to be delivered on allocated sites, and it is anticipated that the rest will be achieved through infilling, groups of houses and conversions of buildings within the development boundary. Although the appellant has stated that the site has been discussed as a potential site for housing within the SAMDev process, it does not form one of the allocated sites.
9. Furthermore, the appeal site is not within the development boundary of the village. In such areas Policy CS5 of the SCS strictly controls new development. New housing in the open countryside is limited to that which is needed to house agricultural, forestry or other essential countryside workers, to affordable accommodation to meet a local need or through the conversion of existing buildings. Although the plans show the conversion of the existing agricultural buildings for affordable accommodation, the majority of the site would be developed for open market dwellings. It is no part of the appellant's case that the appeal scheme meets any of these criteria, and the scheme would therefore be contrary to this policy.
10. The latest update of the Shropshire Council Five Year Housing Land Supply Statement 2015 was produced following the publication of the Inspector's Report on the SAMDev and uses the methodology utilised in this report. This

indicates that Shropshire currently has a 5.53 year supply of deliverable housing land – a fact accepted by the appellant. As such, policies for the supply of housing can be considered up to date.

11. All in all, the adopted and emerging development plan documents recognise that Whittington is a village that can accommodate a limited amount of new growth, and this growth will help to make the village more sustainable. This growth is to be accommodated within the settlement boundary for the village which has recently been found to be sound. This development would not be within the settlement boundary, albeit adjacent to it. Bearing mind that the Council can currently demonstrate a 5 year housing land supply, I consider that the proposal would be contrary to the development strategy for the village and the area. Therefore the proposal would not represent a sustainable pattern of development and it would conflict with Policy H10 of the LP, Policies CS4 and CS5 of the SCS and Policy S14.2(iv) of the SAMDev.

Affordable Housing

12. It is indicated that the existing farm buildings would be converted to provide affordable housing on the site. This would be in accordance with Policy CS11 of the SCS and the *Type and Affordability of Housing SPD (adopted September 2012)* (SPD) which seek the on-site provision of affordable accommodation for all developments of more than 5 dwellings. Although the appellant has completed the Council's Affordable Housing Contributions form, I do not have an executed S106 agreement, or a signed Unilateral Undertaking, before me to secure the provision of this affordable housing on the site.
13. The requirement for an affordable housing contribution as set out in the above policy and the SPD is necessary to the acceptability of the development, is directly related to it, and is fairly related in scale and kind. As such, it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010, and the tests for planning obligations set out in the Framework. Without any mechanism before me which would secure the provision of the affordable housing, I am not satisfied that the proposed development would make adequate provision for affordable housing. Consequently, the proposal would be contrary to policy CS11 of the SCS.

Other Matters

14. The proposal would utilise the existing private access road that serves the farm buildings and the limited number of houses on Glebe Meadow. For much of its length the track is only wide enough for a single car. I note the dispute between the parties regarding whether or not the proposal would be able to be provided with a satisfactory means of access. Nevertheless, as access is not to be approved at this stage I consider that it is not necessary to determine this matter at this stage, especially as I am dismissing the appeal on other grounds.
15. The majority of the site is currently open grazing land and its development would result in the encroachment of the built form into the open countryside. Although the site is not covered by any statutory or local landscape designations, the open nature of the site would be lost, and the character and appearance of the site would be fundamentally altered. The appellant has suggested that the development be a natural "rounding off" of the village but I do not agree. At present the edge of village appears to be one side of a former

railway line, whereas this would result in the spread of the village into open countryside on the other side of this, to the detriment of its rural character.

16. The construction of the houses would provide some work for local contractors, and spending by new residents would also be beneficial to the local economy. The scheme would also result in a Community Infrastructure Levy payment, towards local infrastructure improvements. Whittington has a range of facilities and services which would be within walking distance of the appeal site. The occupiers of the dwellings would strengthen and sustain the local community by using these facilities and, as such, the scheme would help to enhance the vitality of the community. It is not disputed that the village, as befitting its designation as a Community Hub, benefits from reasonably good public transport provision, during the daytime at least. Whilst these favour the scheme, they would be common with developments within the development boundary.

Conclusion

17. Bringing these points together, in the scheme's favour it would provide new houses, in a location that is not solely reliant on the private car, and would have some limited economic benefits. However, these benefits would be common with developments within the development boundary. Furthermore, it would create an unsustainable pattern of development, and would result in harmful encroachment into the countryside. Whilst I have given weight to the benefits of the scheme in my decision, I conclude that in this instance they would be outweighed by the adverse impacts. Consequently the proposal would not represent sustainable development.
18. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR

Appeal Decision

Site visit made on 15 December 2015

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 22 December 2015

Appeal Ref: APP/L3245/W/15/3133838

Land at Lostford, Lostford Lane, Lostford, Market Drayton, Shropshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr A Growcott (Cheshire Game Supplies) against the decision of Shropshire Council.
- The application Ref 14/04787/VAR, dated 22 October 2014, was refused by notice dated 23 March 2015.
- The application sought planning permission for the construction of a hardcore track and hardstanding, erection of a portal framed metal clad agricultural building, 5 wooden duck and geese sheds and chicken wire runs without complying with a condition attached to planning permission granted at appeal APP/L3245/A/12/2182581, dated 2 January 2013.
- The condition in dispute is No 1 which states that: 'The development hereby permitted shall be carried out in accordance with the following approved plans: 11/734/01; 11/734/02; 11/734/03; 11/734/04 Rev A; 11/734/05'.
- The reasons given for the conditions are: For the avoidance of doubt and in the interests of proper planning.

Decision

1. The appeal is allowed and planning permission is granted for the construction of a hardcore track and hardstanding, erection of a portal framed metal clad agricultural building, 5 wooden duck and geese sheds and chicken wire runs at Land at Lostford, Lostford Lane, Lostford, Market Drayton, Shropshire in accordance with the application 14/04787/VAR, dated 22 October 2014, without compliance with condition number 1 previously imposed on planning permission granted at appeal Ref APP/L3245/A/12/2182581, dated 2 January 2013 but otherwise subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: CGS 01 Rev B, CGS 02 Rev D, CGS 03 Rev D, CGS 04 Rev D and site location plan 1:15000.
 - 2) There shall be no more than 6000 ducks or 300 geese within the site, as defined by red edging on drawing no. 11/734/04 Rev A, at any time.
 - 3) The duck and geese sheds shall not at any time be sited within 50 metres of the top of the bank of any pond.

- 4) The hibernacula set aside areas and fencing shall be maintained as shown in the approved details drawing SA12603/02 revision B received on the 17th May 2013.
- 5) The development shall be carried out and used in full accordance with the recommendations of the Method Statement (Shropshire Wildlife Surveys, March 2012) and the Great Crested Newt, Habitat Improvement and Management Plan (Shropshire Wildlife Surveys, March 2012).
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification) no external lighting shall be installed within any part of the site.
- 7) The agricultural storage building shall not be brought into use until soakaways have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Preliminary matters

2. Since the original decision was made the Shropshire Council Site Allocations and Management of Development Plan (SAMDev) was adopted by the Council on the 17 December 2015.

Main issue

3. The main issue is the effect of the proposal on the character and appearance of the open countryside, with particular regard to scale.

Reasons

4. The appeal site is part of an agricultural holding within the open countryside. The appellants are seeking to increase the size of the agricultural storage building and the size and configuration of the duck and geese sheds.
5. At the time of the site visit the agricultural storage building had been partly erected (steel portal frame, roof and concrete panels). However, the building had not yet been finished with the proposed Yorkshire boarding cladding panels still to be applied. The duck and geese sheds were also in situ on the field.
6. I have carefully considered the Council's statement in relation to scale of the proposed agricultural building and duck and geese pens and their effect on the open countryside. However, whilst I accept that there has been an increase in the size of the proposed storage building, given its siting and agricultural design, the enlargement would not materially increase the visual impact of the building. Further, the change in the external cladding to Yorkshire boarding and the banding of materials would assist in visually blending the building into the agricultural landscape. It is accepted that there is an overall increase in the size of the duck and geese pens, however, the reduction in height would largely offset this increase and therefore the amendments to the configuration of the pens would have a minimal effect on the character and appearance of the open countryside. Therefore the scale of the proposed storage shed and duck and geese pens are consistent with the scale of the enterprise and would not result in material harm to the natural environment or the character, context and appearance of the area.
7. Having reached the conclusions above, the proposed development would not conflict with Policies CS5, CS6 and CS13 of the Shropshire Local Development

Framework Adopted Core Strategy 2011 and SAMDev Policy MD7b. These seek amongst other things to ensure that the design of new development takes into account the local context/character of the area and that size/scale is consistent with its required agricultural purpose. Additionally, that development improves the sustainability of rural communities and supports rural enterprise.

Other Matters

8. Concern has been expressed locally that the enterprise has not been operated in accordance with previously imposed planning conditions. This is not disputed by the appellant and is confirmed within their submissions. However, there is no substantive evidence to suggest that those conditions are unenforceable and it is for the Local Planning Authority to ensure that proper monitoring and enforcement takes place.
9. I have carefully considered the representations in relation to the provision of the wildlife set aside areas, hibernacula, and soakaways. However, the Council have confirmed in their statement that the set aside areas and hibernacula have been provided; this was confirmed by my observations. Moreover, these would be secured by the conditions I am imposing. In relation to the soakaways, there was clear evidence on site that these had been partially installed. Therefore, I have applied a condition to ensure that the soakaways are completed in accordance with details to be agreed in writing by the Local Planning Authority.

Conditions and Conclusion

10. The conditions suggested by the Council have been considered in light of the advice contained within the National Planning Practice Guidance and the National Planning Policy Framework. I have not attached a commencement condition since it is clear that the development has already started. To ensure certainty, it is necessary to define the plans with which the scheme should accord. A condition restricting the number of birds is necessary since the proposal has been evaluated on that basis and a larger operation could have implications for such matters as the protection of newts and traffic generation. Conditions 3, 4, 5 and 6 are necessary to ensure that appropriate protection is afforded to the nearby Great Crested Newts.
11. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should succeed. I have therefore granted a new planning permission with new conditions.

Jameson Bridgwater

INSPECTOR

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Appeal Decision

Site visit made on 8 December 2015

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 04 January 2016

Appeal Ref: APP/L3245/W/15/3133206

Land to the south of Knockin Heath, Oswestry, 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 G Noakes against the decision of Shropshire Council.
 - The application Ref. 15/00454/OUT, dated 29 January 2015, was refused by notice dated 16 April 2015.
 - The development proposed is the erection of two houses and associated garages.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application is in outline format with all detailed matters other than the access to the development site reserved for subsequent consideration.

Main Issues

3. The main issues are:
 - The accord with the development strategy for the area;
 - The effect on the character and appearance of the area;
 - Whether the proposal constitutes sustainable development.

Reasons

Background

4. The appeal site lies on the edge of the village of Knockin Heath which has a mainly linear form of houses surrounded by open countryside. It lies away from and to the east of the larger villages of Knockin and Kinnerley. The lane 'Vinegar Hill' lies at the western edge of Knockin Heath and a number of houses are grouped here including "Quarry Cottage". The appeal site lies off a short cul-de-sac to the rear of this property and, at the time of the visit, two detached houses were under construction. These are a pair of 'affordable houses' which were permitted under planning permission 12/02976/FUL.
5. It is proposed to build two further detached houses although these would be for open market occupation. The Design and Access Statement says that the dwellings would each comprise three bedrooms and would have a floor area of 100 sq.m.

Accord with development strategy

6. The development plan comprises the Council's Core Strategy (CS) adopted in 2011; saved policies in the Oswestry Borough Local Plan (2006); and the Site Allocations and Management of Development DPD (SAMDev). I will consider these in turn. There is also the Kinnerley Parish Neighbourhood Plan (2013) (KPNP) but I understand that this has not been prepared under the statutory framework set out in the Localism Act. It is therefore not part of the development plan but it is used for development management purposes and it has fed into the preparation of the SAMDev.
7. The site lies outside the settlement boundary for Knockin Heath put forward in the Local Plan where saved policy H7 applies and where only infilling within the settlement boundary would be acceptable. As such, the Council says that CS policy CS5 applies. This has to be seen in the context of the overall development strategy where the CS plans to deliver a minimum of 27,500 new homes in the county by 2026. Nevertheless, in the countryside, Policy CS5 restricts housing development to essential 'agricultural' dwellings and affordable housing to meet identified local needs. The proposed two open market houses would not fall within such limitations and therefore do not accord with this part of the strategic policy.
8. However, Policy CS4 indicates that rural areas will become more sustainable by accommodating development in 'Community Hubs' and 'Community Clusters' and in identified locations. Policy CS6 puts forward sustainable development principles and criteria for assessing new development.
9. This strategy is continued in the SAMDev DPD. I understand that the Examining Inspector issued a final report on the 30 October 2015 where she indicated that with the modifications specified the plan would be 'sound'. The Council adopted the SAMDev on the 17 December 2015 and therefore the plan is afforded full weight.
10. The Council advises that in the SAMDev, Knockin Heath is part of a 'community cluster' along with Kinnerley, Maesbrook and Dovaston and development boundaries are defined in the emerging DPD. Within this the Council says that provision is made within the cluster for modest housing growth with a target of approx 50 dwellings within the whole cluster in the period until 2026. Of these some 33 are on allocated sites leaving the remainder to arise from infilling and on suitable sites within development boundaries.
11. Within the adopted strategy of the CS and the detailed provisions of the SAMDev it appears to me that there is a clear presumption against the appeal proposal being considered as infilling development.
12. The appellant queries the status of the Neighbourhood Plan; its preparation and its relationship with government policy. I have not afforded full weight to this non-statutory plan but nevertheless there appears to be a fair degree of support for it given the comments of the Parish Council and the other representations made on the appeal by the local community. It was also up to the Examining Inspector to assess the proposals in the SAMDev proposals for this local community cluster and how future development needs should be accommodated.

13. The appellant also questions whether the Council can demonstrate a five year supply of deliverable new housing sites, in accordance with paragraph 49 of the Framework and reports that the Council accepts that there has been a record of persistent under-delivery in the past. Nevertheless, the assessment of an adequate supply of new housing was one of the fundamental aspects of the SAMDev Examination and the Examining Inspector concluded in paragraph 70 of her report that the plan addresses the housing allocations necessary to ensure delivery of the required scale of new housing consistent with the CS. I am therefore satisfied that at the moment the requirements of paragraph 49 are met.
14. Overall on this issue, I conclude that the proposed two houses do not accord with the development strategy as set out in the adopted development plan.

Effect on the character and appearance of the area

15. At the site visit, I considered the visual impact of the proposed houses on the surroundings of the site. Some part of the new houses proposed would be seen from Vinegar Hill and across open fields from the road to Kinnerley to the north. The two new houses would be seen in the context of the two houses under construction and would add to the appearance of development in depth to the rear of the more established frontage properties.
16. In visual terms, the two new properties would be seen as, at least partial, infilling along side the new ones, but these were approved as an exceptional case as affordable houses, therefore the physical presence of these units should not be seen as setting a precedent in the consideration of the proposed open market houses.
17. The two houses proposed would extend beyond the linear pattern of the village and their siting would not 'round-off' what exists as there would remain undeveloped land to the north of the appeal site and to the south of Quarry Cottage.
18. On balance, I find that the principle of the two houses proposed as development in depth would not be consistent with the linear pattern and character of the village and would harm its setting by intruding into the countryside. I find that such an impact would render the proposal not to accord with CS Policy CS6 which seeks to ensure, *inter alia*, that new development respects the natural environment and takes into account the local character and context of an area.

Whether sustainable development

19. The National Planning Policy Framework sets out that there are three dimensions to sustainable development. I recognise that the proposal will have modest economic benefits particularly arising from the construction of the two houses and the future occupiers would be likely to contribute to local businesses and services and therefore also help promote the *economic* and *social* roles. If the scheme was acceptable the appellant also expects to contribute to the development of affordable housing in the locality. I am also satisfied that under the scope of the community cluster, Knockin Heath can, in principle, be regarded as a sustainable location.
20. However, given my conclusions on the first issue that the location of the site does not accord with the development strategy for the area which provides for

growth and the development of the county in a sustainable manner, and on the second issue that the proposed development would intrude beyond the confines of the village into the countryside, the proposal does not fulfil the requirements of the *environmental* role. I therefore find that the proposal does not accord with the Framework when this is read as a whole and does not constitute sustainable development.

Other matters

21. One of the residents expresses concern about the traffic generation from the two houses and the effect on existing junctions in the village. However there is no clear evidence before me to demonstrate that the fairly limited number of traffic movements likely to come from two houses cannot reasonably be accommodated on the local road system without detriment to highway safety.

Planning Balance

22. Bringing together my conclusions on the main issues, I have found that the proposal does not accord with the provisions of the development plan as the site lies outside of the village as defined in the now adopted SAMDev. The proposal would also be harmful to the character and appearance of the village as the two new houses would intrude into the countryside beyond the established pattern of the village notwithstanding the presence of the two adjoining affordable houses. I have also found that the proposal does not constitute sustainable development and does not accord with the Framework when this is read as a whole.
23. The appellant refers to another similar development of a house permitted at Holytree Cottage on the eastern edge of Knockin Heath and also outside of the village and questions the consistency of the Council's decision on that scheme with the appeal scheme. Nevertheless, I do not consider that the circumstances of the proposals are the same in that the Holly Cottage proposal appears less at odds with the pattern of development of the village. In any event, the proposal was considered prior to the Inspectors final report into the SAMDev and the formal adoption of the Plan to which full weight must now be given.
24. Overall, I conclude that the conflict with the development plan and the harm that arises with the proposal is not outweighed by any other consideration.

Conclusion

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

David Murray

INSPECTOR

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Appeal Decision

Site visit made on 11 January 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 14 January 2016

Appeal Ref: APP/L3245/W/15/3135874

Land adjacent to Sunnyholme, Sydnall Lane, Woodseaves, Market Drayton, Shropshire TF9 2AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Miller Reid against Shropshire Council.
 - The application Ref 14/04423/OUT, is dated 1 October 2014.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed and outline planning permission is refused for the erection of a detached dwelling at land adjacent to Sunnyholme, Sydnall Lane, Woodseaves, Market Drayton, Shropshire TF9 2AS.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on this basis, treating the plan which shows the site layout as illustrative.
3. The appeal was submitted due to the failure of the Council to give notice within the prescribed period of a decision on the application, and it is on this basis that the appeal has been determined. I note the appellant's concerns regarding the delays in processing the application but in determining the appeal I have only had regard to the planning merits of the proposal.
4. Since the submission of the appeal the Council has adopted its *Site Allocations and Management of Development Plan (SAMDev)*. It is clear from the appellant's statement that they were aware of the preparation of this document and the 'Final Comments' stage gave both parties the opportunity to address any implications arising from the adoption of this document. The appellant has highlighted that the application was submitted at a time when the policy position was different. Nevertheless, planning law dictates that appeals have to be determined in accordance with the circumstances at the time the decision is made rather than those which existed at the time the application, or appeal, was submitted. Accordingly, I have determined the appeal on the basis of the national and local policies as adopted at the present time.

Main Issues

5. The main issues in the appeal are:

- Whether or not the proposal would represent a sustainable pattern of development; and
- The effect of the proposal on highway safety.

Reasons

Sustainable pattern of development

6. The appeal site is located to one end of Sydnall Lane, a cul-de-sac of about a dozen properties. The site is open land that I understand previously formed part of the garden to the house situated to one side. The rest of the site is surrounded by agricultural land. The site is designated as open countryside in the SAMDev.
7. In order to make the rural area more sustainable Policy CS4 of the *Shropshire Core Strategy (adopted March 2011)* (SCS) seeks to direct new development into Community Hubs and Clusters. Although at an early stage in the process Woodseaves was put forward as part of a Community Cluster, this was not taken forward, and so it is not designated as either a Community Hub or Cluster within the recently adopted SAMDev.
8. In rural areas outside of the hubs and clusters, Policy CS5 of the SCS and Policy MD7a of the SAMDev strictly control new open market housing. New housing in the open countryside is limited to that which is needed to house essential rural workers, to affordable accommodation to meet a local need and to the replacement of existing dwellings. It is no part of the appellant's case that the appeal scheme meets any of these criteria, and so the scheme would be contrary to these policies.
9. The latest update of the Shropshire Council Five Year Housing Land Supply Statement 2015 was produced following the publication of the Inspector's Report on the SAMDev, and uses the methodology utilised in this report. This indicates that Shropshire currently has a 5.53 year supply of deliverable housing land, and this has not been disputed by the appellant. As such, policies for the supply of housing can be considered up to date.
10. In the light of the above, I consider that the proposal would be contrary to the development strategy for the area. Therefore, the proposal would not represent a sustainable pattern of development, and it would conflict with Policies CS4 and CS5 of the SCS and Policy MD7a of the SAMDev.
11. In support of the appeal my attention has been drawn to other applications in Woodseaves for housing that have been allowed, and in which it was considered that the area was sustainable. One of these was for a barn conversion in 2006 and so predates both *National Planning Policy Framework* (the Framework) and the adoption of the SCS and the SAMDev which have changed the basis on which development proposals are assessed. Whilst the other was granted permission in 2014, the Council have indicated that at the time they could not demonstrate a 5 year housing land supply, and Woodseaves was still being considered as potential Cluster as part of the

SAMDev. As such the policy context for this was different to that which applies at the current time.

Highway Safety

12. The appeal site is located in a cul-de-sac, with all traffic entering and exiting via its junction with the A529. The highway authority has indicated that visibility at this junction is substandard due to the curvature of the road, and the boundary treatments of properties adjacent to the junction. Given the nature of the road, and the volume of traffic, it is indicated that visibility splays of at least 2.4m x 65m are required, whereas the actual visibility splays are 2.4m x 20m to the south and 2.4m x 50m to the north.
13. The appellant has indicated that he considers that the junction is safe and is able to cope with traffic coming to the plant nursery on the lane that, due to its miniature railways, acts as a local visitor attraction. Furthermore, he highlights that the highway authority did not object to previous applications on the site for a dwelling, and that there has been no physical change to the junction since then. Notwithstanding this, he has not produced any evidence on the visibility splays to counter that provided by the highways authority, and no data has been produced on the speed of traffic in the vicinity to justify different visibility splays. In the absence of any such data, and from what I observed on site, I agree with the Council that visibility at the junction is severely substandard.
14. The appellant has argued that as he visits the site regularly, as he uses it to grow fruit and vegetables, a dwelling would not change the number of traffic movements at the junction. Whilst the appeal scheme may negate his need to travel to and from the site, I consider that a new dwelling would be likely to result in a modest increase in movements at the junction, as a dwelling, particularly in a rural area with no public transport, would normally generate several trips to and from the property every day. Notwithstanding the accident data for the immediate vicinity, given that the visibility at the junction is severely substandard, any intensification, however limited, would be detrimental to highway safety.
15. Therefore, I consider that the proposal would have an unacceptable impact on highway safety. I note that no reference has been made in the Council's evidence to any relevant local plan policies, but I consider that the proposed development would be contrary to the Framework (paragraph 32) which requires developments to provide a safe and suitable access to the site.

Other Matters

16. The Council refer to the need for an obligation under S106 of the Planning Act to secure a contribution towards affordable housing as required by Policy CS11 of the SCS and the *Type and Affordability of Housing SPD (adopted September 2012)* (SPD). The appellant has indicated that he would be willing to make such a contribution, but I do not have an executed Section 106 agreement, or a signed Unilateral Undertaking, before me to secure the contributions. However, as I am dismissing the appeal for other reasons, I have not determined whether these contributions are necessary.
17. The appellant has submitted some ecological surveys carried out for a recent planning application on an adjacent site. However, the Council's ecologist has stated that without a site specific survey and mitigation measures it is not

possible to determine whether the proposal would satisfy the necessary tests for European Protected Species. Moreover, further information is also needed for bats, badgers and reptiles. No further evidence has been submitted with the appeal in this regard. As such, I consider that the proposal would be detrimental to ecology and biodiversity, and this adds weight to my decision to dismiss the appeal.

18. The development of the site would result in the encroachment of the built form into the open countryside. Although the site is not covered by any statutory or local landscape designations, the open nature of the site would be lost. Despite the fact that the trees and boundary hedges would be retained, and that the site would be able to accommodate a dwelling set within a generous plot in keeping with other houses nearby, the character and appearance of the site would be fundamentally altered.
19. The construction of a dwelling would provide some work for local contractors and spending by the new occupier would also be beneficial to the local economy. However, given the size of the development these benefits would be limited and would be common with developments that accord with the development strategy for the area.
20. Woodseaves is a dispersed linear settlement with few facilities or services. Whilst the appellant has suggested that there is a bus service, other residents have noted that this has not been the case for a number of years, which accords with my own observations of a lack of information regarding services within the bus shelters. Whilst Market Drayton contains a wider range of services and facilities, this is not within walking distance of the site. Consequently future occupiers would have to travel to meet virtually all of their basic needs, and would be reliant on the private car to do so.

Conclusion

21. Bringing these points together, in the scheme's favour it would provide a new house and would have limited economic benefits. However, these benefits would be common with developments that accord with the development strategy for the area. Furthermore, it would create an unsustainable pattern of development, would be detrimental to highway safety, and would result in harmful encroachment into the countryside. Whilst I have given weight to the benefits of the scheme in my decision, I conclude that in this instance they would be outweighed by the adverse impacts. Consequently the proposal would not represent sustainable development.
22. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSEPECTOR