



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

Date: Monday, 4 July 2016

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

**Date:** Tuesday, 12 July 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  
Roger Hughes  
Vince Hunt  
David Lloyd  
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  
Vacancy

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 257717

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes (Pages 1 - 6)

To confirm the Minutes of the meeting of the North Planning Committee held on 14<sup>th</sup> June 2016, attached, marked 2.

Contact: Emily Marshall on 01743 257717

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 7<sup>th</sup> July 2016.

## 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 Shavington Grange, New Street Lane, Market Drayton, Shropshire, TF9 3RH (16/01936/COU) (Pages 7 - 18)

Change of use application from C3 Use (residential dwelling) to C2 Use (residential institution) for the an 8-bedded children's home with staff.

## 6 Proposed Residential Development South Of Ash Hall, Ash Magna, Whitchurch, Shropshire (14/03484/OUT) (Pages 19 - 38)

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

## 7 Residential Development Land South of Bay Tree Close, St Martins, Shropshire (14/04980/FUL) (Pages 39 - 58)

Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme).

## 8 Proposed Development Land South Of B5063, Welshampton (14/01063/OUT) (Pages 59 - 80)

Outline application (access) for the erection of 7 dwellings.

## 9 Appeals and Appeal Decisions (Pages 81 - 106)

## 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 9<sup>th</sup> August 2016, in the Shrewsbury Room, Shirehall, Shrewsbury.



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## Committee and Date

North Planning Committee

12<sup>th</sup> July 2016

## **NORTH PLANNING COMMITTEE**

### **Minutes of the meeting held on 14 June 2016**

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

**2.00 - 3.43 pm**

**Responsible Officer:** Emily Marshall

Email: emily.marshall@shropshire.gov.uk      Tel: 01743 257717

### **Present**

Councillor Arthur Walpole (Chairman)

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

### **1 Election of Chairman**

#### **RESOLVED:**

That Councillor A. Walpole be elected Chairman for the ensuing year.

### **2 Apologies for Absence**

There were no apologies for absence.

### **3 Appointment of Vice-Chairman**

#### **RESOLVED:**

That Councillor P. Wynn be elected Vice-Chairman for the ensuing year.

### **4 Minutes**

#### **RESOLVED:**

That the Minutes of the meeting of the North Planning Committee held on 17<sup>th</sup> May 2016 be approved as a correct record and signed by the Chairman.

### **5 Public Question Time**

There were no public questions or petitions received.

### **6 Disclosable Pecuniary Interests**

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

Councillor Joyce Barrow declared her interest is Planning Applications 14/04589/MAW, Ellesmere Sand and Gravel, Spunhill, Ellesmere, SY12 0HY due to perception of bias. Councillor Barrow stated that she would leave the room during consideration of this application.

**7 Land East Of Black Park Road, Black Park, Whitchurch, Shropshire (13/01405/OUT)**

The Principal Planning Officer introduced the outline application (access) for residential development and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer informed the Committee that as there were some ecological issues outstanding the recommendation to Members was to grant delegated powers to the Head of Planning Services to grant planning permission subject to the resolution of outstanding ecology matters.

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

- The proposed development would improve the look of the site;
- He questioned whether it would be possible to request acoustic fencing;
- He requested pedestrian access through the site onto Black Park Road;
- He was pleased to see the provision of additional parking spaces at the railway station; and
- He had some concerns in relation to a large tree and mature hedgerow and hoped that these could be trimmed back to alleviate traffic problems at the corner of the site.

In response to comments made by the local member, the Principal Planning Officer confirmed that the Council's Public Protection Officer had recommended Condition 7 to require a noise survey to be undertaken which would determine any requirements on the basis of protecting the amenity of future residents. Current and planned highways improvements were also detailed and plans for pedestrian access off the site onto Talbot Street which would be formalised at the reserved matters stage.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the proposals, however the Committee felt that the reserved matters application should come back to a future meeting of the North Planning Committee for consideration.

**RESOLVED:**

That delegated authority be given to the Head of Planning Services to grant planning permission subject to:

- Receipt of an acceptable Badger Survey;
- The conditions set out in Appendix 1;
- A Section 106 Legal Agreement to secure affordable housing and open space.
- Reserved Matters Application to be considered by the North Planning Committee

**8 Station Motor Services, Station Road, Whitchurch, Shropshire, SY13 1RL (15/03751/OUT)**

The Principal Planning Officer introduced the outline application for residential development (provision of access to adjoining site (planning ref 13/01405/OUT) and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer informed the Committee that as there were some ecological issues outstanding and the recommendation to Members was to grant delegated powers to the Head of Planning Services to grant planning permission subject to the resolution of outstanding ecology matters.

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

- He was supportive of the application and had no concerns other than the need for acoustic fencing, which was covered under condition 7.

Having considered the submitted plans and listened to the comments made by all of the speakers, members unanimously expressed their support for the proposals and agreed that the reserved matters application should be considered at a future meeting of the North Planning Committee.

**RESOLVED:**

That delegated authority be given to the Head of Planning Services to grant planning permission subject to:

- Receipt of an acceptable Badger Survey;
- The conditions set out in Appendix 1;
- A Section 106 Legal Agreement to secure affordable housing and open space.
- Reserved Matters Application to be considered by the North Planning Committee

**9 Land To North West Of Ollerton, Shropshire (16/00328/FUL)**

The Principal Planning Officer introduced the application for the erection of 2no. free range egg laying units with associated feed bins, turning area, attenuation pond and highway access and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. The Principal Planning Officer reported an update from the Conservation Manager and clarified the number of vehicle movements' referred to at paragraph 6.5.2 of the planning officer's report.

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

Councillor Keith Newby on behalf of Stoke-upon-Tern Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

The Chairman read out a statement from Councillor Karen Calder, as the local ward Councillor.

Mr Barry Peers spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Ian Pick, 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.

Having considered the submitted plans and listened to the comments made by all of the speakers, members of the Committee agreed that the proposed development was situated within a suitable agricultural location and was supported by some local residents. The Committee were pleased to note the highways mitigation work associated with the development and also stressed the importance of suitable landscaping to ensure the protection of the existing hedgerow. In response, the Principal Planning Officer confirmed that Conditions 8 and 9 covered landscaping and future landscape maintenance.

**RESOLVED:**

That planning permission be granted, subject to the conditions set out in Appendix 1 and any modifications as considered necessary by the Head of Planning Services.

**10 Ifton Heath C P School, Overton Road, Ifton Heath, St Martins, Shropshire (16/02096/VAR)**

The Principal Planning Officer introduced the application for the variation of Condition No. 1 attached to Planning Permission 15/00537/FUL dated 14 May 2015 to allow for the family to remain on site for a further temporary period of nine months. Members' attention was drawn to the Schedule of Additional letters which contained additional comments from St Martins Parish Council.

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

- He was supportive of the application;
- There had been no complaints from residents within St Martins; and
- The site was kept in order with no problems to report.



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

**RESOLVED:**

That planning permission be granted for a further 9 months subject to the conditions set out in Appendix 1.

**11 Valnorver, 26 Leek Street, Wem, Shrewsbury (15/04233/FUL)**

The Principal Planning Officer introduced the addendum report to planning application 15/04233/FUL, Valnorver, 26 Leek Street, Wem for the erection of 2no dwellings with garage and access.

In accordance with the Local Protocol for Councillors and Officers dealing with Regulatory Matters (Part 5, Paragraph 15.1) Councillor Pauline Dee as local ward councillor, made a statement and then left the table, took no part in the debate and did not vote on this item. During her statement Councillor Dee stated that she took issue with the statement that there was no acknowledged need for affordable housing in Wem.

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

**RESOLVED:**

That the planning application be granted and not be subject to a Section 106 agreement in relation to the financial contribution for affordable housing.

**12 Ellesmere Sand and Gravel, Spunhill, Ellesmere, SY12 0HY (14/04589/MAW)**

*In accordance with her declaration at Minute 5 Councillor Joyce Barrow left the meeting during consideration of this application.*

The Principal Planning Officer introduced the application for the extension to Wood Lane Quarry and confirmed that the Committee had undertaken a site visit that morning to assess the impact of the proposed development on neighbouring properties and the surrounding area. Members' attention was drawn to the information contained within the Schedule of Additional letters which detailed an additional proposed condition reflecting the response from the Council's Archaeologist. A copy of the application summary was also circulated to Members.

Councillor Chris Symes on behalf of Welshampton and Lyneal Parish Council spoke against the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

Mr Stewart Lawrence, the applicant spoke in support of the proposal in accordance with Shropshire Council's Scheme for Public Speaking at Planning Committees.

During the ensuing debate, Members congratulated the Principal Planning Officer and the Natural Environment Team Leader for their work in preparing a thorough and accurate report. Members, whilst acknowledging the concerns of the Parish Council acknowledged that they had a duty to support sand and gravel production within Shropshire. It was acknowledged that the applicant ran the site very well and had worked hard to enhance the area surrounding the site. The Committee added a reassurance that the site would be very closely monitored in the future as the Council had a statutory duty to protect the sites surrounding the development.

Having considered the submitted plans and listened to the comments made by all of the speakers, Members unanimously expressed their support for the officers' recommendation.

**RESOLVED:**

That planning permission be granted, subject to the conditions set out in Appendix 1 and an additional condition in relation to archaeological work as detailed in the Schedule of Additional Letters and a Section 106 Legal Agreement.

**13 Appeals and Appeal Decisions**

**RESOLVED:**

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

**14 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, 12<sup>th</sup> July 2016, in the Shrewsbury/Oswestry Room, Shirehall, Shrewsbury.

Signed ..... (Chairman)

Date: .....



Committee and Date  
 North Planning Committee  
 12<sup>th</sup> July 2016

Item  
**5**  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 16/01936/COU	<b>Parish:</b> Moreton Say
<b>Proposal:</b> Change of use application from C3 Use (residential dwelling) to C2 Use (residential institution) for the an 8-bedded children's home with staff	
<b>Site Address:</b> Shavington Grange New Street Lane Market Drayton Shropshire TF9 3RH	
<b>Applicant:</b> Bryn Melyn Care	
<b>Case Officer:</b> Alison Groom	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 363158 - 337442



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

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks the change of use of the existing C3 residential dwellinghouse to a C2 residential institution use, to provide an 8 bedrooed children's home.

1.2 The property will be registered with OfSTED as an 8 bedded children's home. There will be sufficient bedrooms for 6 staff to sleep-in and there will also be waking night staff. Those accommodated are likely to have mental health difficulties or be on the autistic spectrum. Bryn Melyn Care will provide education on site for those unable to access mainstream or the Company's own school and a member of the Company's clinical team will be based at Shavington Grange to assist in planning individual care programmes and providing therapy as needed.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 Shavington Grange is a large detached farmhouse, constructed with a orange/red facing brick, a black and white render finish to the first floor level, with white timber window openings. The property has a modest sized lawn area to the east and the south, with hardstanding to the north/west, the hardstanding area forms the properties private driveway and parking area which leads to a 4 bay garage outbuilding.

2.2 The site is accessed from the main C road which passes the south of the main farmhouse; the access is single gated access.

2.3 There are a number of agricultural outbuildings to the west of the main farm house, these are now owned by the estate and fall under separate ownership to the farmhouse. The outbuildings are leased out and used for agricultural purposes.

### 3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The Parish Council have submitted a view contrary to the officers recommendation based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions. The Principle Planner in consultation with the Committee Chair agrees that the Parish Council have raised significant material planning issues and that the application should be determined at committee.

### 4.0 Community Representations

4.1 Consultee Comments

4.1.1 SUDS – No Objection

We have no comment from the drainage and flood risk perspective, regarding the change of use application from C3 Use (residential dwelling) to C2 Use (residential institution) for an 8-bedded children's home with staff.

4.1.2 SC Economic Development  
No objection

4.1.3 SC Public Protection – No Objection

Student safety in relation to being secure on site and individuals prevented from leaving the site onto adjacent farm land and the road it should be noted that these

aspects can all be considered under the most appropriate regime which is health and safety legislation. Residential institutions are audited for health and safety aspects and there are a significant amount of legislative compliances which will have to be in place to allow the residential institution to operate including the need for risk assessments and procedures to be in place to ensure that the health and safety of all on site is taken into consideration to a satisfactory standard. Health and Safety in academic settings is covered by the Health and Safety Executive while certain aspects may be covered by the local authority. As a result health and safety matters regarding keeping children safe is covered by an existing regime and needs no further comment.

In relation to the presence of chemicals and combustibles in the adjacent farm buildings I do not consider this to pose a significant threat to the operation of the residential institution. The applicant has stated that they will be providing boundary treatment to stop individuals moving off site. In addition the farm will have any chemicals which are potentially hazardous kept in such a manner so as to ensure that misuse cannot occur under existing health and safety requirements. In relation to fertilizers, particularly ammonium nitrate, it should be noted that this product is not readily combustible under usual conditions. Fertilizers will be kept in an appropriate way at the adjacent farm and there is guidance available which suggests how to store fertilisers safely. Fertilisers would therefore only become an issue should a fire occur at the farm in which case the fire service are likely to attend and would consider the safety of those at near by premises.

In summary I have no objection to the proposed land use. Many concerns raised are valid concerns that will be covered by the business as part of their legal duties. Should concerns be raised in future the appropriate enforcement body can be contacted and appropriate consideration and action will be taken. Health and safety issues are therefore valid concerns however will be captured under a different legislative regime. I therefore have no objection or condition to place on this application.

The applicant is advised to ensure that prior to any children being brought to the site that the perimeter is secure to ensure and that appropriate risk assessments are in place to ensure that no individual at the site is faced with an inappropriate level of risk to their health and safety.

#### 4.1.4 Health & Safety Executive (HSE) – No Objection

General guidance is provided on the HSE website for companies to consider.

#### 4.1.5 Highways Team – No Objection

Subject to the development being constructed in accordance with the approved details and the following conditions and informatives.

Pre-commencement:-

##### 1. Parking/Turning/Loading

No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose. Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

Informatives

##### **Mud on highway**

The applicant is responsible for keeping the highway free from any mud or other

material emanating from the application site or any works pertaining thereto.

**No drainage to discharge to highway**

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

**Works on, within or abutting the public highway**

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway or verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details

<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

4.2 Public Comments

4.2.1 Parish Council

Moreton Say Parish Council objects to this planning application on the grounds that the change of use was considered inappropriate in context of existing land use of adjacent working farm. Inadequate detail has been given on the application in relation to intended security improvements. Councillors expressed serious concerns regarding the safeguarding of residents due to nature of adjacent business with farm machinery, flammable materials and livestock (Bulls) housed in close proximity to the house which currently has direct access through the yard. Councillors queried how the gardens could be adequately secured to safeguard against slurry lagoon and bulls being grazed as no plans have been submitted. Concern was also raised regarding the direct access onto a dangerous 60 mph road with no footpath provision. The Councillors were also concerned about the track record of standard of care and the security record of this company. The Councillors agreed the change of use would adversely impact on the existing farm business and agreed to object to the application quoting the human rights first protocol article 1 which requires that the desires of the landowner must be balanced against the impact on residents.

4.2.2 14 x Letters of objection

- Concerns relating to the safety on the children ref: highway proximately and adjoining land uses
- Impact & wellbeing to existing nearby residence
- Security of properties in the area
- Potential for crime and disorder caused by the occupants of the house
- Lower living standards to the area
- Impact to traffic flow to already busy lane

- Safety of existing residents

## **5.0 THE MAIN ISSUES**

Background  
Principle of development  
Impact to the surrounding amenity  
Highways  
Other Matters

## **6.0 OFFICER APPRAISAL**

### **6.1 Background**

6.1.1 The application has been submitted by Bryn Melyn Care which is a company that provides care for children and young people. It is their intention to use the existing farmhouse at Shavington Grange to provide a children's home for a maximum of eight children at any one time residing at the property up to the maximum age of 18, alongside a minimum of 8 staff. Additionally there will be a maximum of 8 extra staff including a Home Manager, Teacher and Clinician during the day. All residential staff will work a 2 on/4 off shift pattern thus minimising traffic movement. Other day time staff will come at different times. There will be around 12–14 vehicles on site at once, all parked on the drive.

6.1.2 The existing farmhouse is large and consists of a large entrance hall, two lounge area, a dining room, a kitchen, two laundry rooms, two classrooms/ therapy room, two staff rooms, two WC's and a shower room. To the first floor will be four staff rooms and eight young people's rooms, a laundry store, three toilets/shower rooms and one bathroom. The agent has confirmed that there are no external alterations to be made to the existing dwelling.

6.1.3 The property will be registered with OfSTED as an 8 bedded children's home. There will be sufficient bedrooms for 6 staff to sleep-in and there will also be waking night staff. Those accommodated are likely to have mental health difficulties or be on the autistic spectrum. Bryn Melyn Care will provide education on site for those unable to access mainstream or the Company's own school and a member of the Company's clinical team will be based at Shavington Grange to assist in planning individual care programmes and providing therapy as needed. Staffing is such that there is never less than one adult to every young person accommodated.

### **6.2 Principle of development**

6.2.1 National planning guidance in policy 3 'Supporting a Prosperous Rural Economy' of the National Planning Policy Framework supports development for economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It supports the sustainable growth and expansion of all types of business and enterprise in rural areas including the conversion of existing buildings.

6.2.2 Paragraph 28 of the NPPF indicates that;

Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.

To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings;
- promote the development and diversification of agricultural and other land-based rural businesses;

Paragraph 37 of the NPPF states;

- Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.

6.2.3 Policy CS5 'Country and Green Belt' of the Shropshire Core Strategy indicates that the conversion of suitably located buildings for small scale economic development /employment generating uses would be acceptable. The existing farmhouse has been vacant for the past two years and the proposed use would accommodate 16 jobs. Although the site is located in open countryside and may not be considered in a sustainable location with regards to employees having to travel to the site, it is close to both the A41 and A53 and only 4 km from Market Drayton and 8 km from Whitchurch.

6.2.4 Policy CS8 'Economic Development, Enterprise and Employment' of the Shropshire Core Strategy promotes Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life.

6.2.5 The provision of this specialist care home will provide a valuable opportunity for children and young people who have attachment problems and need specialist support to encourage them to engage and learn much needed social skills. The proposed building will create a homely feeling for the residents as opposed to an institutionalised building and is sufficiently distant away from other properties to allow a peaceful environment to assist in the specialist care being provided. The business will provide increased job opportunities in North Shropshire and will make use of an existing vacant building.

### **6.3 Impact to the surrounding amenity**

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

6.3.2 Policy MD2: Sustainable Design of the SAMDev Plan supports policy CS6 for a development proposal to be considered acceptable it is required to: contribute to and respect locally distinctive or valued character and existing amenity value by:

- Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement.



6.3.3 The Estate owners are adding to fencing and internal window protection to improve the delineation of the home's grounds and to protect the occupants and to also protect any neighbouring property from disturbance. The applicants are extremely experienced in running children's homes and do not compromise in relation to the well-being of neighbouring properties and their owners. The applicants currently occupy 7 properties which are adjacent to working farms and there have been no incidents in the last five years of young people hurting themselves on farm machinery, interfering with livestock or causing damage.

## **6.4 Highways**

6.4.1 Shropshire Core Strategy Policy CS6: 'Sustainable Design and Development Principles' 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 travels to be reduced. This Policy also indicates that developments should be designed to be safe and accessible to all.

6.4.2 SAMDev Policy MD2: 'Sustainable Design' states that development must be designed in such a way as to not result in an unacceptable adverse impact on local infrastructure, for example adequate onsite car parking should be incorporated within a development site to ensure that cars do not overspill onto surrounding roads and therefore negatively impacting on the local road network.

6.4.3 The site is rurally located and some distance from Market Drayton served by means of a Class III road, New Street Lane. Taking into account the nature of the proposed development as a specialised children's residential home and its location it is anticipated that the operation of the home will rely on private transport to and from the site. This is indicated in the additional supporting information submitted in respect of the number of children and staffing arrangements. Whilst New Street Lane is typically rural in nature, primarily providing access to the limited number of properties along it and the abutting agricultural land; it is considered that it can accommodate the potential moderate increase in the number of private vehicle movements to and from the site without unduly affecting the traffic conditions in the locality or compromising highway safety to sustain a highway objection.

6.4.4 It is noted that a car parking block plan has been submitted. This has only identified the area available within the site. Whilst this is considered to be sufficient to accommodate the number of vehicles present on the site at any one time as stated in the supporting information, the layout of the spaces has not been demonstrated. The parking spaces should be formally laid out prior to the use commencing to avoid inappropriate and inefficient parking within the site and this can be controlled by way of condition

## **6.5 Other Matters**

6.5.1 Several concerns have been raised by local residents and the local Parish Council (see section 4.2 of this report) whilst many of the concerns are not planning matters, the agent has addressed them in meeting held locally and a letter to which was sent to local residents. Planning concerns raised include the increase in traffic flow to the highway and the surrounding / nearby agricultural land uses.

6.5.2 Sufficient onsite parking can be provided and following consultation with the

highways officer, the access to the site has been fully considered and whilst 'New Street Lane' is typically rural in nature, primarily providing access to the limited number of properties along it and the abutting agricultural land; it is considered that it can accommodate the potential moderate increase in the number of private vehicle movements to and from the site without unduly affecting the traffic conditions in the locality or compromising highway safety to sustain a highway objection

6.5.3 The large farm house is existing and has been for many of years and has been solely occupied for residential purposes, the proposed change of use does not alter that fact. The young people residing in the property will have an adult directly caring/supervising for them at all time providing one on one full time supervision, furthermore due to the nature of the company there are safeguarding and security procedures in place, only authorised staff and visitors can enter the site and all residents are accounted for on a regular bases for fire role and regulations purposes, no young persons will leave the site unoccupied and will remain supervised both in and outside the main house, the proposed change of use will in fact result in a more secure premises and there is a very low chance of residents coming and going from the site unaccompanied, compared to that of the currently unrestricted residential use at the property. Furthermore it has been noted that Bryn Melyn Care have seven homes in rural locations adjacent to farm steads and outbuildings and no incidents or accidents have been reported or recorded in the last 5 years.

6.5.4 The local Parish Council have raised concerns with regards to the standard of care and the security provided by this company, however there have been no records or evidence to justify these concerns and as previously mention in the report the company is OfSTED registered and fully comply with HSE regulation at all of their existing homes, because of the nature of service provided by the company they are checked by the relevant authorised on a regular bases. Please see below a quote from the company's supporting statement.

*"Bryn Melyn Care already runs a similar project in Wrexham. No young person has left the house unaccompanied and no young person has caused any difficulty in the locality. In fact so successful is that home that the local CAMHS team have made a direct referral to us". (CAMHS are specialist NHS children and young people's mental health services)*

6.5.5 Many concerns raised are valid concerns that will be covered by the business as part of their legal duties. Should concerns be raised in future the appropriate enforcement body can be contacted and appropriate consideration and action will be taken. The planning related concerns have been fully considered and it is felt that there will provisions in place to overcome these concerns, which will in fact result in a more secure and well run site for residential purposes.

## **7.0 CONCLUSION**

7.1 It is considered that the change of use of an existing vacant farmhouse to provide a children and young people care home is an acceptable re-use of a rural property as it will result in an increased contribution to the local economy without the loss of a facility, service or infrastructure provision which is essential to the local community. The proposed use will respect the context of the site without adversely impacting

on neighbouring properties or the surrounding countryside and will provide adequate access and off street car parking facilities also. Although concerns have been raised that there has been anti-social behaviour and crime from care homes in other locations, it would be inappropriate for officers to object to this application based on the management and operation of previous care homes. The proposed care home will deal with children and young people who have attachment problems and need specialist support to encourage them to engage and learn much needed social skills and will not have a criminal background or have a tendency to anti-social behaviour. There is no evidence to suggest that the occupation of the building will lead to anti-social behaviour. Therefore, on the basis of the discussion above, it is considered reasonable to issue a permanent permission.

## **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:  
CS5, cS6 & CS8

SAMDev Plan Policies:  
MD2

### RELEVANT PLANNING HISTORY:

N/A

## 11. Additional Information

[View details online:](#)

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

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. The development shall be carried out 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 THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

1. No development shall take place until details for the parking, turning, loading and unloading of vehicles have been submitted to and approved by the Local Planning. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.  
Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

#### **CONDITION THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

1. Existing Boundary landscaping surrounding the plot must be maintain and be retained for the lifetime of the development.  
Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping to the plot of land and in the interest of the neighbouring amenity.

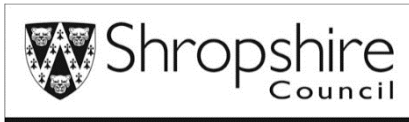
### **Informatives**

1. The applicant is advised to ensure that prior to any children being brought to the site that the perimeter is secure to ensure and that appropriate risk assessments are in place to ensure that no individual at the site is faced with an inappropriate level of risk to their health and safety.
2. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
3. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

4. This planning permission does not authorise the applicant to:
- construct any means of access over the publicly maintained highway (footway or verge) or
  - carry out any works within the publicly maintained highway, or
  - authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
  - undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway

The applicant should in the first instance contact Shropshire Councils Street works team. This link provides further details <https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.



<u>Committee and Date</u>
North Planning Committee
12 <sup>th</sup> July 2016

<u>Item</u>
<b>6</b>
Public

## Addendum Development Management Committee Report

Responsible Officer: Tim Rogers

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

### Summary of Application

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

**Recommendation: Refusal as set out in this Addendum to the Committee report dated 17<sup>th</sup> February 2015.**

#### 1.0 Background

- 1.1 At their meeting on the 17<sup>th</sup> February 2015 the North Planning Committee resolved to approve the proposed development subject to the applicants entering into a S106 to ensure that appropriate affordable housing contribution was paid.
- 1.2 Since that meeting a number of circumstance have changed in connection with policy and the title of the site. The applicant has tried to complete a S106 agreement for the development but has had problems proving title to a small portion of the land where the telephone exchange was once located. Therefore amended plans have been provided which remove this section of land from the proposal.
- 1.3 Following receipt of the amended plans, re-consultations have been carried out but no responses have been received.
- 1.4 In view of the changes, it is necessary for the application to be represented to the Planning Committee for reconsideration.

#### 2.0 Policy

- 2.1 At the time of the original decision being taken, Shropshire did not have a five year housing land supply and it was considered that the development would be

sustainable as required by the NPPF. Furthermore the proposal would not only make a contribution to affordable housing, but would also provide an opportunity for the Blacksmith's Forge to be developed and retained. As a non-designated heritage asset this was considered to be a contribution to the sustainability argument for the proposal as well as provision of a contribution towards affordable housing. It was resolved that subject to the applicant entering into a S106 legal agreement for the affordable housing contribution, that planning permission be granted.

- 2.2 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.
- 2.3 On 17<sup>th</sup> December 2015 SAMDev was adopted which identified Ash Magna as part of a community cluster together with Ash Parva. There is a guideline of 15 dwellings being provided up to 2026. As a result of the adoption of SAMDev policies S18.2(ii), CS4, MD1, MD2 and MD7a also become relevant to the proposed development.
- 2.4 In addition to this change recently the matter of affordable housing contributions has altered following a recent high court decision.
- 2.5 The site is located outside the development infill boundary for Ash Magna and as such is considered to be open countryside. At the time of the previous recommendation and acceptance greater weight was given to the NPPF and its requirement for the presumption in favour of sustainable development. However since the adoption of SAMDev this is considered up to date and therefore takes precedence as the Local Plan. As such whilst the site may be adjacent to the development boundary it is outside and therefore is contrary to the up to date policies.
- 2.6 With regard to affordable housing as of the 20<sup>th</sup> June 2016, Shropshire has become a rural county which allows identified parishes to be subject to a lower development level at which affordable housing contributions are required. Whitchurch Rural is one of these parishes and as such Affordable Housing Contribution is payable on developments of five dwellings or more. As this proposal is for seven dwellings it will still meet the criteria for an affordable housing contribution to be made.
- 2.7 Policy CS4 of the Shropshire Core Strategy encourages development to be located within the development boundaries of identified community hubs and clusters and therefore the proposal is contrary to this policy. As open market housing, the proposal would not meet the criteria of policy CS5 which allows for



exception housing to be provided in the countryside.

2.8 Whilst it could be argued that the site remains sustainable, and an affordable housing contribution will still be required, it is considered with consideration to the location, scale of development and overall material considerations that in this instance there that is insufficient justification to approve the scheme contrary to adopted policy.

### 3.0 **Change to Site Area**

3.1 The land that has been removed from the proposal lies between plots 6 and 7 and is the site of the old telephone exchange. This has been removed in order to allow the S106 for the affordable housing contribution to be progressed. The indicative layout plan that has been submitted identifies that sufficient land is still included to allow for seven dwellings. Although plot 6 is reduced in size this would still allow for a modest sized dwelling with a reasonable curtilage.

### 4.0 **Conclusion**

4.1 There have been changes to the adopted policy of the Council since the initial resolution was made to approve the proposed development given that greater weight be attached to the NPPF and the presumption in favour of sustainable development. However with the adoption of SAMDev this now carries more weight as the up to date local plan. Therefore as the site lies outside the development boundary for Ash Magna and with consideration also to all the material considerations, on balance it is considered that this proposal is contrary to policies S18.2(ii), CS4, CS5, and MD1 of the Shropshire LDF and is recommended for refusal.

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

### 8.1 **Risk Management**

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

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

## **Reason for Refusal**

The proposed development is on land located in open countryside that is not within the defined development boundary for Ash Magna. The proposal would have an unacceptable impact on the character and appearance of the area and the natural environment and the visual rural landscape. Therefore and as such is considered contrary to the overall aims and objectives National Planning Policy Framework, SAMDev policy S18.2(ii) and policies CS4, CS5 and MD1 of the Shropshire LDF.



Committee and Date  
 North Planning Committee  
 17 February 2015

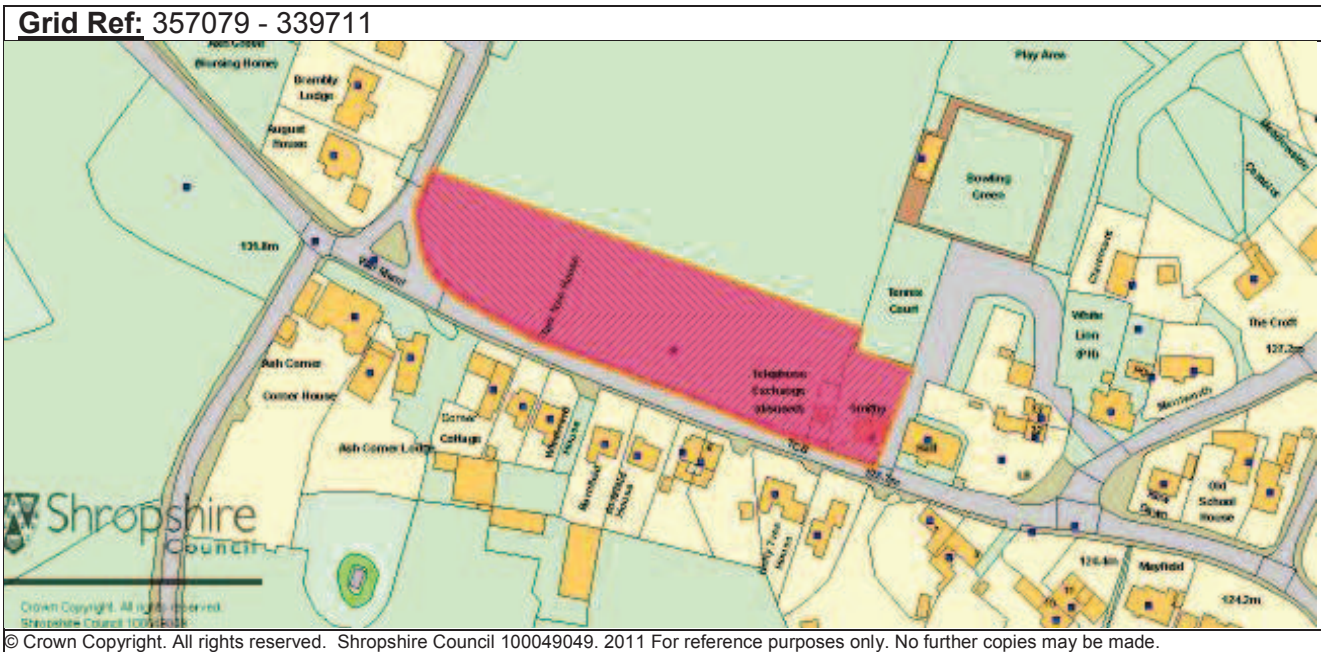
Item  
**7**  
 Public

## Development Management Report

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

### Summary of Application

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



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

## REPORT

### 1.0 THE PROPOSAL

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

### 2.0 SITE LOCATION/DESCRIPTION

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

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

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

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

#### 4.1 Consultee Comments

##### 4.1.1 Whitchurch Rural Parish Council:

##### Original Comments

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

##### Final Comments

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

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

- 4.1.3 **Drainage:** No objection but further information will be required as part of a reserved matters application.
- 4.1.4 **Public Protection:** No objection. However the development should include vehicle charging points.
- 4.1.5 **Historic Environment – Archaeology:** The site has a moderate-high archaeological potential.
- 4.1.6 **English Heritage:** Although not designated The Smithy is of some quality and is a significant component on the village. Its retention in the proposed scheme is appreciated.
- 4.1.7 **Tree Officer:** No objection and details for the planting of the new hedge have been provided.
- 4.1.8 **Highways Development Control:** No objection subject to the inclusion of the recommended conditions should planning permission be granted.
- 4.1.9 **Ecology:** Concerns raised regarding the mitigation proposals for Great Crested Newts but otherwise no objection subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.

#### 4.2 **Public Comments**

- 4.2.1 There have been 8 letters of objection and 2 letters of support from the public. There has also been a petition against the removal of an ancient hedgerow (associated with the development site) that has received 110 signatures. The grounds for objection are as follows:

- Shrewsbury, at present, has a 5.47 year housing supply. It therefore is unnecessary to consider this site for development because it is outside the development boundary as outlined by SAMDev.
- The community has strong feelings against the proposal.
- The development will upset the character of the village.
- An ancient hedgerow will be removed for access. This hedgerow is a haven for wildlife and a habitat for the Great Crested Newts. It also contributes to the character of the village.
- There will be drainage issues. The road running through the village already does not cope with moderately heavy showers and there have been incidences of garages, drives and gardens flooding.
- Access to the new properties will be dangerous. The road through the village is narrow and unable to accommodate the projected increase in traffic.
- The new two-way access by the village hall will be extremely dangerous as a result of poor visibility.
- The increase in traffic will create more pollution. If there are electrical cars, this will contribute to the current electricity shortage in the Whitchurch area.
- In the last 50 years, Ash Magna has been affected by foot and mouth disease. It is believed that carcasses may have been buried on the site of the proposed development. Little research has been undertaken into the

exhumation of FMD carcasses and there may be a risk associated with opening such burial sites.

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

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

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

## 5.0 THE MAIN ISSUES

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

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & Principle of Development

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

6.1.2 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation



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

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

continue to erode the 5 year land supply figure until such a time as development activity on the ground increases. In principle the site is considered to be sustainable and as it is adjacent to a cluster in SAMDev which has also been taken into consideration as part of the Council's five year housing land supply calculations. To encourage the early delivery of the site it is recommended that the permission is reduced to 12 months and a planning condition will be included to this effect. The officer recommendation, having regard to these factors and the changing balance of considerations in the context of a 5 year housing land supply is to therefore to maintain a recommendation for approval.

- 6.1.6 In terms of deliverability, it has been confirmed by the Agent to the Case Officer that the Applicant is in discussion with developers about the possibility of the scheme being brought forward. However, this will not be progressed any further until planning permission is secured. This information confirms that the site is deliverable.
- 6.1.7 With regard to affordable housing officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').
- 6.1.8 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.
- 6.2 **Is the Development Sustainable**
- 6.2.1 The sustainability of a site is not judged purely on its location, or on whether it is deliverable. The fact that the site is deliverable and available is a positive in its favour. However, the suitability of a site in terms of its sustainability needs to be considered against the NPPF as a whole and the policies within the Core Strategy which do not relate to housing supply and therefore remain up to date policies. Paragraph 6 of the NPPF advises that paragraphs 18 to 219 constitute sustainable development.
- 6.2.2 Paragraph 55 of the NPPF promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The example given is where there are groups of smaller settlements and a development in one of these may support the services in others nearby. However dwellings in isolated locations should be avoided
- 6.2.3 A number of appeal decisions have been received where the issue of



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

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

### 6.3 **Economic Consideration**

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

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

6.3.3 As detailed in Paragraph 55 of the NPPF the benefit to nearby services can also be taken into consideration and as further development would contribute to the vitality and viability of these facilities in the area this aspect also has to be considered.

6.3.4 In this case Ash Magna benefits from a public house together with village hall, tennis courts and bowling green. The village is also within close proximity of Whitchurch. As such there is potential for the development to have a significant impact on the businesses and facilities in the area which would help maintain their vitality and viability.

6.3.5 Taking the above in to consideration it is noted that there may be potential benefits to the economy of the area and nearby settlements.

### 6.4 **Social Considerations**

6.4.1 The development of the site would increase the population of the settlement and as such provide potential support to village clubs, societies and the various facilities available. It is also within close proximity of Whitchurch where there are a significant number of other public facilities and services available. There is a

footpath through the village connecting the site to the facilities and as a result of the development it would be possible to include a further footpath along the roadside. In addition the development may provide an Affordable Housing Contribution that would assist in the provision of much needed affordable dwellings in the area. As with the economic benefits this is an accepted benefit of house building. Therefore in this instance it is considered by officers that the benefit to the social aspects would outweigh the harm potentially that could be caused.

6.4.2 Concerns have been expressed by local residents that comment has been made in the submitted documents that the village has a bus service. However this is only a school bus and there is no other regular public bus service available. This concern is appreciated, however, it is considered by Officer's that Ash Magna is close enough to other settlements with their associated services and facilities that this would not outweigh the benefit of the development. Previous appeal decisions have provided guidance that to use a car to access services in rural areas is not a reason to justify a development as being unsustainable. It should also be bourn in mind that as Ash Magna is being promoted within the SAMDev as a Cluster, the village must be considered a sustainable location and therefore to justify refusal on this issue would be difficult to sustain should it be taken to appeal.

## 6.5 **Environmental Considerations**

6.5.1 The site is currently used for grazing purposes. It is appreciated that the site is close to other dwellings and whilst the new development would have a visual impact on the area, this would not be considered to be unacceptable given its close association to other buildings. Whilst it will result in the removal of the existing highway boundary hedge, a new hedgerow would be planted and whilst it would take time to establish, using appropriate plants would provide an improved hedgerow which would maintain and improve upon the character of the existing.

6.5.2 The Smithy is also to be included within the scheme and following the recommendation of English Heritage will be converted as part of one of the proposed dwellings. This will therefore ensure the preservation of the non-listed heritage asset which is currently vacant and unused.

6.5.3 It is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. It has also been accepted in considering the applications around settlements, that development of agricultural land is unavoidable to deliver the housing required. The loss of grade 3 best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the seven houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing.

## 6.6 **Summary**

6.6.1 Local residents have objected to the proposal on the basis that the site is in an area of open countryside and therefore as there is a 5 year housing land supply

there is no necessity for the site to be developed and contrary to policy.

6.6.2 In view of the above it is the opinion of officers that the proposed development will have an impact on the character and appearance of the area. However the site is closely associated to other dwellings within the village and village facilities. It is also within close proximity of other settlements, particularly Whitchurch, where additional facilities and services are available. It will also ensure the preservation of a heritage asset within the village. Overall in view of the above it is considered that the potential benefits of the development outweighs the potential harm as such the development does meet the criteria set out in the NPPF.

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

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

6.7.2 This is an outline application where the layout, appearance, scale and landscaping are not for consideration at this stage. However, following the recommendation by English Heritage the application has been slightly varied to allow for the retention of The Smithy within the proposal. The amended indicative layout plans identify that this would be incorporated by being converted to residential use. This would ensure the preservation of the non-listed heritage asset and the feature of the village. Full details of the proposed conversion scheme would need to be included as part of the reserved matters application should outline planning permission be granted.

## 6.8 **Impact on Residential Amenity**

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

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

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

## 6.9 **Highways**

6.9.1 Local residents have raised concerns regarding the impact the proposed

development may have on the highways in the area. It is considered that the access arrangements and additional traffic will increase highway hazards.

- 6.9.2 The proposed development provides the opportunity of regularising the width of the carriageway along the site road frontage. In this respect it is considered that the carriageway should be widened to a minimum width of 5.0 metres by incorporating some localised widening. The setting back of the hedge by a depth of 2.4 metres from the carriageway edge as stated in the Design and Access Statement provides a satisfactory measure of visibility from the new accesses and an improvement to the existing entrance serving the adjoining tennis and bowling clubs. A surfaced footway should however be provided along the site road frontage to link into the village hall facility and not a grassed margin. The setting back of the hedge enables this to be provided. The principle of grouping the accesses is supported and the proposed parking and turning arrangements indicatively shown on the illustrative layout are satisfactory. The principle of the amended access arrangement to the club is also welcomed from the highway perspective. Improving an existing substandard point of access and enabling vehicles to have a more direct route to the adjoining Class III rather than travelling around the one way system to the east of the site.
- 6.9.3 In view of the comments from the Highways Development Control Officer it is considered that the proposal will not have a detrimental impact on highway safety. It may also result in improvements both through the provision of an additional footpath and also a widening of sections of the highway.
- 6.10 **Impact on Hedgerow**
- 6.10.1 Objections to the proposal also include the loss of the mature hedgerow along the highway frontage.
- 6.10.2 It is noted that the hedgerow does not fully enclose the site from the highway as sections have previously been removed or lost. Therefore the hedgerow is not considered a good example of a mature hedgerow. The new hedge to be planted could contain a mixture of new plants which would improve the bio-diversity of the area. In addition by setting the new hedgerow back from the roadside it would not only allow for the provision of a footpath but also allow for the maintenance of the hedge to be more safely carried out.
- 6.10.3 The Council's Tree Officer has made comment on the application and has recommended the species of plants to be used and other information which should be included as a condition and/or informative.
- 6.10.4 On balance the new hedgerow would be an improvement on the existing, allow improved village connectivity and provide an improvement to the biodiversity of the area.
- 6.11 **Ecology**
- 6.11.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected

species and habitats. Therefore the application has been considered by the Council's Ecologist.

- 6.11.2 No objection has been raised by the Council Ecologist to the proposed development subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.
- 6.11.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.
- 6.12 Drainage**
- 6.12.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.12.2 Concerns have been raised by local residents regarding the potential for surface water flooding in the area as a result of the proposed development.
- 6.12.3 No objection to the proposed development has been raised by the Council's Drainage Engineer. However, should outline planning permission be granted conditions will be required to ensure that appropriate information is provided as part of the reserved matters application to demonstrate that appropriate systems can be installed. This additional information would ensure that there would be no increase in the risk of flooding in the area as a result of the proposed development.
- 6.12.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.
- 6.13 Impact on Historic Environment**
- 6.13.1 Issues have been raised by local residents that the proposed development will have a detrimental impact on the historic environment of the village. Of particular concern is the impact on Ash Hall which is a Grade II\* listed building and that the site is identified as of moderate to high archaeological interest.
- 6.13.2 As the site is close to a Grade II\* listed building the application has been considered by both English Heritage and the Council's Historic Environment Team.
- 6.13.3 No objections were raised in connection with the potential impact on the setting of the listed building. However a request was made that the non-listed Smithy be retained within the development. Amended plans were submitted which show this to be incorporated within the scheme as one of the proposed dwellings.
- 6.13.4 With regard to the archaeology on the site, the Council's Archaeologist has comments that the proposed development site lies within the core of the historic village of Ash Magna, and within a part of the settlement that is likely to have been inhabited since the medieval period. The Tithe Award map for Ash Magna



Township in Whitchurch Parish of 1841 and historic editions of the Ordnance Survey map indicate that from at least mid-19th century it previously formed part of the part of the grounds for Ash Hall (Grade II\* Listed National Heritage List ref. 1366504). However, the position of the site in relation to the wider morphology of the village suggests that it may have been occupied by buildings in earlier centuries. It is therefore possible that archaeological features and deposits relating to the medieval and later development of the village will be present on the proposed development site. As a consequence, on present evidence it is deemed to have moderate high archaeological potential.

- 6.13.5 A condition has been recommended for inclusion should planning permission be granted which will allow for a programme of archaeological work to be carried out prior to works commencing on site.
- 6.13.6 In view of the comments above whilst the concerns of local residents are appreciated, the advice that has been provided does not object to the proposal. In deed the proposal will provide an opportunity for the knowledge of the history of the village to be increased and for the retention of a heritage asset which at present is unused and is falling into dis-repair.
- 6.13.7 As such it is considered by Officers that the proposal would be in accordance with the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

#### 6.14 **Other Matters**

- 6.14.1 Local residents have commented that there is a lack of broadband and gas to the village. These are not reasons that can be used to justify refusal of a planning application. The construction of additional dwellings may lead to the provision of such services to the village but this is most likely dependent on the need of the community and the willingness of suppliers to provide these services.
- 6.14.2 Comments have also been received that the site may be the burial site of livestock with Foot and Mouth. Following discussions with the Public Protection Officer, there is no record of this site having been used for such a purpose. In addition as this potentially would have been sometime ago, it is unlikely that there would be any residual contamination in the ground.

### 7.0 **CONCLUSION**

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

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

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

In arriving at this decision the Council has used its best endeavours to work with

the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## **9.0 FINANCIAL IMPLICATIONS**

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

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS11 - Type and Affordability of housing  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

## 11. Additional Information

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

### Conditions

#### STANDARD CONDITION(S)

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

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

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

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

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

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

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

The number of units but not exceeding seven

The means of enclosure of the site

The levels of the site

The means of access for disabled people

The drainage of the site

The finished floor levels

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

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

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

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

Reason: The site is known to hold archaeological interest.

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

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

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

Committee and Date

North Planning Committee

12<sup>th</sup> July 2016Item**7**

Public

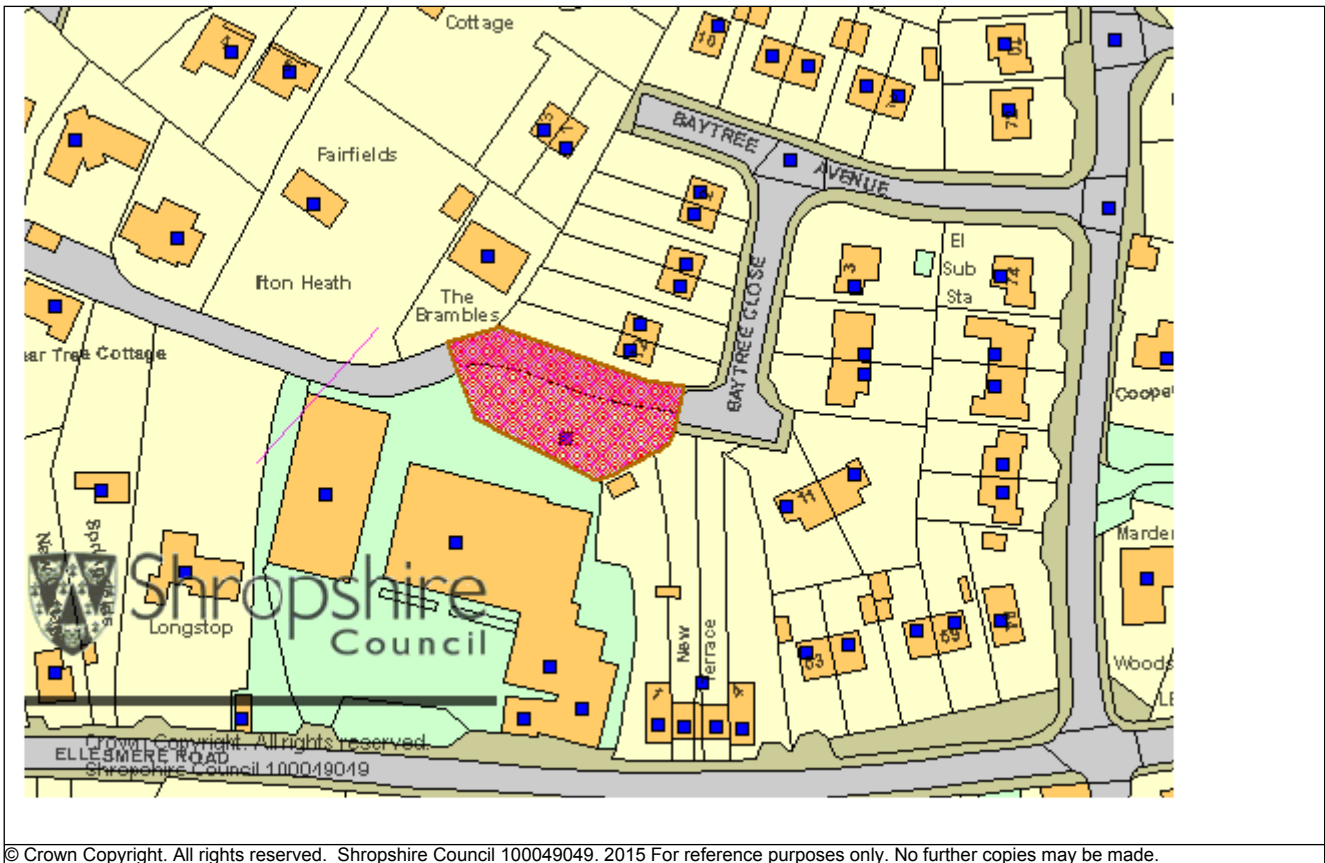
**Development Management Report**

Responsible Officer: Tim Rogers

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

<b><u>Application Number:</u></b> 14/04980/FUL	<b><u>Parish:</u></b>	St Martins
<b><u>Proposal:</u></b> Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme)		
<b><u>Site Address:</u></b> Residential Development Land West Of Baytree Close St Martins Shropshire		
<b><u>Applicant:</u></b> Mr K Butterton		
<b><u>Case Officer:</u></b> Janet Davies	<b><u>email:</u></b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

Grid Ref: 332825 - 336912



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

Recommended Reason for Approval

**REPORT**

**ADDENDUM TO COMMITTEE REPORT**

**1.0 Background & Principle of Development**

1.1 On the 12<sup>th</sup> May 2015 it was resolved by North Area Planning Committee to grant full planning permission for 3 new dwellings on land at Baytree Close, St Martins subject to conditions and to the prior signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils’ adopted SPD on the ‘Type and Affordability of Housing’. The completion of the S106 currently remains outstanding. The original delegated report is attached below as Annex A.

1.2 Shropshire Council’s Core Strategy was adopted in March 2011 with the founding principle of seeking to create the context for “A Flourishing Shropshire”. The

Shropshire Council policy requires anyone developing a new open market dwelling (subject to exceptions) to make an Affordable Housing Contribution (AHC), which depending on the development size and the prevailing target rate, could be a financial contribution and/or on site provision.

## **2.0 Written Ministerial Statement**

2.1 The Minister of State for Housing and Planning, Brandon Lewis MP issued a Written Ministerial Statement (WMS) on the 28<sup>th</sup> November 2014 announcing that Local Authorities should not request affordable housing contributions on sites of 10 units or less (and which have a maximum combined gross floor space of 1,000sqm), or 5 units or less in designated protected rural areas.

2.2 Reading and West Berkshire Councils sought to challenge the WMS at the High Court and on 31<sup>st</sup> July 2015 Mr Justice Holgate quashed the WMS and the Government subsequently withdrew relevant commentary from the National Planning Practice Guidance. From this point Shropshire Council continued to apply its affordable housing policy.

2.3 The Government challenged this decision through the Court of Appeal which overturned Mr Holgate's decision on the 11<sup>th</sup> May 2016. Consequently the WMS still applies and it is anticipated that the National Planning Policy Guidance will be amended shortly.

2.4 In addition to this the Housing & Planning Act gained Royal Assent on the 12<sup>th</sup> May 2016 and this gives power to Government to make secondary legislation to achieve the same result i.e. set minimum thresholds for affordable housing contributions. It is understood that West Berkshire and Reading Councils have chosen not to appeal to the Supreme Court following the Court of Appeal decision.

2.5 At this juncture, in accordance with the view of the Planning Inspectorate it is considered that the WMS is a material consideration. Shropshire Council therefore accepts that the WMS applies as a significant material consideration and this means that the Council will not require an Affordable Housing Contribution for applications for 10 or less dwellings and less than 1,000sqm floor area in the majority of cases.

## **3.0 Conclusion**

3.1 This proposed development consists of the provision of one dwelling and will create less than 1,000sqm floor space, whilst the proposed development site is not within a designated protected rural area. Whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre date the Court of Appeal decision and subsequent changes to the NPPG, meaning that on balance and at this moment in time, National Policy Prevails. Therefore it is considered that no Affordable Housing Contribution is currently now required in this case.

## **4.0 Recommendation**

4.1 The application is recommended for approval and it is recommended that any approval should not be subject to a Section 106 agreement in relation to the financial contribution for affordable housing.

## ANNEX A

### 1.1 THE PROPOSAL

1.2 The proposal involves the erection of 3 no. 3 bedroom dwellings (one detached and one pair of semi-detached) and formation of vehicular access off Baytree Close and associated parking.

1.3 The application is a revised scheme following on from a previous application on the site (12/03763/FUL), which was refused planning permission in February 2014 on the grounds of overdevelopment and specifically lack of adequate amenity space.

### 2.1 SITE LOCATION/DESCRIPTION

2.2 The proposal relates to a small area of vacant land last used as a domestic garden and is for the construction of 3 dwellings to include one detached unit and a semi-detached pair.

2.3 Access to the site is provided off a cul de sac, Baytree Close, an adopted highway serving an existing housing estate. The site partially backs onto the Walker Engineering site to the south which is accessed off the Ellesmere Road but is surrounded on all other sides by residential development.

2.4 This includes 20th century semi detached dwellings along Baytree Close to the north and west and large detached dwellings to the west. Long, narrow garden plots to the rear of terraced housing along the Ellesmere Road back onto the east end of the site.

2.5 A line of trees, hedgerow and fence panels provide the boundary between the rear of the site and the Walker Engineering site. All other boundaries to the site are open.

### 3.1 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.2 Following an objection from the Parish Council the ward member has requested that the application is considered by planning committee.

### 4.1 Community Representations

4.2 - Consultee Comments

4.2.1 SC Drainage – No objection subject to inclusion of a condition. **DRAFT  
CONDITION AND REASON..**

4.2.2 SC Affordable Housing – No objection. The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of

the SPD Type and Affordability of Housing.

- 4.2.3 SC Highways – no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.
- 4.1.6 SC Public Protection – noise assessment specifications and locations of related information are requested prior to a decision being made on the application on account of existing industrial type operations to the south.
- 4.1.7 SC Ecology – No objection subject to conditions and informatives relating to nesting wild birds,
- 4.2 - Public Comments
- 4.2.1 St Martins Parish Council – neither object or support but are concerned over the surface water drainage in this area and three dwellings would be an over development of this site. In addition no development should be considered or approved from a private driveway but from an adopted road with street lighting to an LED standard.
- 5.1 THE MAIN ISSUES
- Principle of Development
  - Siting, Scale and Design
  - Impact on Amenity
  - Drainage
  - Highways Issues
  - Public Protection
  - Affordable Housing
- 6.1 OFFICER APPRAISAL
- 6.2 Principle of development
- 6.2.1 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. The development plan for Shropshire is the Council's Adopted Core Strategy, the 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and 'saved' policies from the preceding local plans; in this case, the Oswestry Local Plan. The Council has produced a Site Allocations and Management of Development Plan (SAMDev) which is currently under consideration by the Planning Inspectorate. Since the adoption of the Council's Core Strategy, the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given significant weight in the determination of planning applications.
- 6.2.2 Paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
  - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be

- given); and
  - the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.1.3 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.
- 6.1.4 There are currently three major policy considerations in the assessment of planning applications for housing:
- Five year housing land supply/housing supply.
  - Weight to relevant policies in emerging Plan
  - NPPF presumption in favour of sustainable development/boosting housing supply
- 6.1.5 1. Five year housing land supply/housing supply
- 6.1.6 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July 2014, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF paragraph 49 and these provide the starting point for considering planning applications.
- 6.1.7 2. Weight to relevant policies in emerging Plan
- 6.1.8 The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.
- 6.1.9 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.
- 6.1.10 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local



people.

- 6.1.11 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 6.1.12 St Martins is classed as a 'larger settlement' under 'saved' policy H5 of the Oswestry Local Plan and has a clear development boundary; wherein development is permitted on allocated sites, on sites with planning permission and on other suitable windfall sites within the development boundary. In the emerging policy SAMDev (Revised Preferred Options), St Martin's has been put forward as a Community Hub and again has a clear development boundary which would be included as part of the development boundary should they be adopted. No other amendments to the existing development boundary are proposed. The development site lies within this boundary.
- 6.1.13 The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan version has not been through the examination stage, the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications.
- 6.1.14 On the basis of Policy CS4 and the site's location within the settlement boundary planning permission for the proposed new dwellings would be deemed acceptable in principle.
- 6.1.15 3. NPPF presumption in favour of sustainable development/boosting housing supply
- 6.1.16 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.17 In view of its location within a larger settlement which offers a wide range of services and facilities and access to larger settlements such as Oswestry and Ellesmere the site is deemed to be sufficiently sustainable to meet the overriding aims of the NPPF.
- 6.1.18 Policy CS6 (Sustainable Design and Development Principles) of the adopted Core Strategy is also relevant to this application. This seeks to ensure that development is designed to a high quality using sustainable design principles. Proposals are required to be appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance. The policy aims to ensure the safeguarding of residential and local amenity.

- 6.1.19 Policy CS11 (Type and Affordability of Housing) is also considered to apply and requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing and the Council's Affordable Housing team have confirmed that the proposal would be liable for a contribution at a rate of 10% should the application be approved.
- 6.2 Siting, Scale and Design
- 6.2.1 The site is located alongside the access road leading between Baytree Close and a group of more recently constructed detached dwellings located to the north west.
- 6.2.2 The proposal involves the erection of 3 no. three bedroom residential units (one detached and one pair of semi-detached) with off street parking facilities. The semi-detached pair (units 2 and 3) are located towards the western end of the site; the single detached unit (unit 1) to the east.
- 6.2.3 The dwellings are all orientated with their north east elevations facing the road and are all one and a half storey in height with dormer windows at eaves level. Open car bays with bedrooms above are included at either end of the semi-detached units and to the eastern end of the single unit. These are lower in ridge height than the main dwellings and set back within the gables.
- 6.2.4 Proposed materials are to include facing brick (Ibstock Cheshire weathered), slate/tile roof or Marley eternity and UPVC windows and doors.
- 6.2.5 It is explained that sustainable design principles are proposed to be incorporated into the development's design and construction to include south facing rear gardens, locally sourced materials, high levels of insulation, background ventilation and double glazing.
- 6.2.6 Rear gardens are to be laid to lawn and sub-divided by way of 1.6m timber closed board fencing. Front garden areas adjacent to driveway hard standings are similarly proposed to be laid to lawn whilst hardscaped areas are shown to be provided for driveways, sheds, greenhouses and general bin storage.
- 6.2.6 A total of 2 car parking spaces are to be provided per dwelling and 1 cycle space for each.
- 6.2.7 The application is an amendment to a previously refused scheme for 3 terraced style dwellings (12/03763/FUL) which was refused planning permission on the grounds of overdevelopment. The amended application follows on from discussions between officers and the applicant and the subsequent submitted scheme now indicates a reduction in the scale of the dwellings, a greater degree of visual separation between the units and the creation of larger areas of more useable amenity space around each dwelling. This has been in part achieved through the repositioning of the proposed units on the plot.
- 6.2.8 Unit 1 has been relocated slightly further forward on the site, in order to increase

the amount of amenity space to the rear, whilst allowing for a small area of separation between the dwelling and the access road.

6.2.9 The submitted plan also shows units 2 and 3 as being moved slightly further to the west of the site thereby allowing for more useable space around the buildings and in turn helping to minimise the overall visual bulk of development on the site.

6.2.10 Given the above amendments officers are of the opinion that the revised scheme is acceptable in its scale, layout and general design.

### 6.3 Impact on Amenity

6.3.1 The proposed dwellings have been designed to have a generally front to back aspect with no openings within the side elevations other than a side entrance door to unit 2 which opens into its attached car port. The nearest affected neighbouring residential properties are located on the other side of the access road, The Brambles and no 12. These properties have their principle elevations and windows angled facing away from the application site.

6.3.2 The properties either side are located some distance away with 1 New Terrace being located close to the Ellesmere road to the south and separated by way of a long rear garden and Longstop to the west buffered by the large industrial site also on Ellesmere Road.

6.3.3 The proposal is deemed unlikely to present any significant loss of amenity to surrounding dwellings and following amendments to the layout all of the proposed units are considered to include a reasonable amount of private amenity space.

6.3.4 Therefore, officers are of the view that it would be difficult to sustain an objection on the grounds of amenity.

### 6.4 Drainage

6.4.1 The Parish Council have expressed concerns regarding matters of surface drainage on the site. The Council's drainage team were consulted for their views and have confirmed that the drainage strategy and design, as previously agreed under the previous application (12/03763/FUL) is acceptable whereby 19.75 litres/second will discharge from Plots 1 to 5, referring also to existing residential development along Baytree Close. The current application for 3 houses in Plot 1, does not increase the 19.75 l/s discharge by installing 28 cubic metres of attenuation. Section 1.3 of the submitted Surface Water Disposal Report states that discharge from the development is presently un-restricted. Confirmation is required when discharge will be restricted to 19.75 l/s and the Drainage Engineer has indicated that this issue could be dealt with by way of a condition attached to any planning consent.

### 6.5 Highways

6.5.1 The Council's Highways team were consulted on the proposals and raised no objection to the granting of consent subject to conditions and informatives relating to access, parking and the need for a license to work on the highway.

6.5.2 It was commented that the development seeks access to serve three further

properties off the adopted turning head by increasing the width of an initial section of the private drive serving the existing properties. In terms of the traffic experienced at this point in terms of flow and speeds, these are both likely to be low. The initial widened section of the private road will also allow vehicles of the properties to pass one another clear of the turning head. It was considered that the proposal was unlikely to result in adverse highway implications at this point to warrant a highway objection and no objection has been raised to the principle of the proposal.

6.5.3 The proposed access layout, drive and parking provision are deemed to be acceptable and in accordance with earlier approved/agreed details submitted in connection with the earlier application, 12/03763/FUL.

6.5.4 Initial comments from the Highways team noted that the proposed parking provision for plot 1 had been moved too far forward not maintaining a clear isle width of 6 metres and it was recommended that the spaces should therefore be altered and moved 1.5 metres back further into the curtilage of the plot. An amended plan has now been received which satisfactorily addresses this issue and has been approved by the Highways Officer.

## 6.6 Public Protection

6.6.1 The Council's Public Protection Officer has commented on the proposals as follows:

6.6.2 The proposed site is bounded to the south by industrial type operations. As a result there is the possibility for noise and odour to impact on future residents. It would be unfair to expect the businesses to change to accommodate future residents moving closer to them. As a result it is recommended that the applicant proposes mechanical ventilation and a high specification of double glazing to ensure that the future residents will not be affected by unsuitable noise inside their dwellings. Garden areas should be protected by suitable close boarded fencing to allow external areas to be used without noise being detrimental to health and wellbeing. It is requested that specifications and locations of the above information, e.g. position of fencing on a map, are submitted for approval prior to a decision on this application. Alternatively a noise assessment could be provided taking noise measurements of background noise in order to ascertain what measures are appropriate in this circumstance.

6.6.3 The above requirement had not been satisfied at the time of the committee report being finalised and any update on this issue will be reported at the committee meeting.

## 6.7 Affordable Housing

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

Council 'as published on the website 30/01/15' – or 'attached as appendix').

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

## 7.1 CONCLUSION

7.2 The site is located within the settlement of St Martins which has been identified as a Community Hub within the emerging SAMDev as being suitable for sustainable infill development within the development boundary. It is also located within the existing St Martins settlement boundary as contained within the Oswestry Borough Local Plan.

7.2.1 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and not to have any adverse implications relating to environmental issues or highways safety matters. Furthermore the proposed scale, layout and design is deemed to be acceptable in this location.

7.2.2 The proposal is therefore considered to generally accord with the relevant policy provisions set down within the NPPF and adopted Core Strategy and it is recommended that Committee grants delegated powers to approve the application subject to the receipt of satisfactory details in relation to noise abatement.

8.1 Risk Assessment and Opportunities Appraisal

8.2 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.

### 8.3 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.

### 8.4 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.

## **ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: the SAMDev Plan Main Modifications**

### **1.0 Background**

1.1 On the 19<sup>th</sup> May 2015 full planning permission was granted by North Area Planning Committee for the erection of 3 dwellings, formation of vehicular access and associated parking, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.

### **2.1 The SAMDev Plan Main Modifications**

2.2 The following is a review of the 'Principle and Policy of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications and updates to the 5 year land supply issue.

- 2.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless other material considerations indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.4 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan.
- 2.5 The Development Plan  
For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011, certain saved policies of the Oswestry Borough Local Plan and a range of Supplementary Planning Documents.
- 2.6 Following on from the adoption of the Core Strategy the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1<sup>st</sup> June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.7 Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below:
- 2.8 Saved local plan policy H7 - Within the former Oswestry Borough Local Plan a development boundary is included for St Martins, where in accordance with Shropshire Core Strategy policies CS6 and CS11, together with the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing, infilling and groups of houses is acceptable – subject to sustainable objectives, general development control criteria and environmental expectations. The application site lies within this boundary.
- 2.9 Shropshire Core Strategy policies CS1 and CS4 - Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision in the rural areas. It is envisaged that rural areas will become more sustainable through a 'rural rebalance' approach to residential development and that locating development predominantly in community hubs and community clusters will contribute to social and economic vitality. Policies CS1 and CS4 are consistent

with the objectives of the NPPF to focus new development in sustainable locations.

- 2.10 SAMDev policy - In terms of the SAMdev Plan the settlement of St Martins has been identified as a Community Hub and the Parish Council have given their agreement to the designation of a boundary around the main built up area of St Martins village. The application site is surrounded by residential development and lies within the identified boundary in accordance with the adopted Core Strategy.
- 2.11 The SAMDev guidelines for St Martins are for future housing growth of about 200 homes to support existing facilities and services and to help deliver additional community recreation provision. As there is already planning approval for 110 dwellings in the village, this level of growth will allow for around a further 90 new dwellings. In addition to the preferred site allocation for 80 dwellings, there are opportunities for sustainable development infilling, small groups of houses and conversions on suitable sites and windfall sites within the development boundary.
- 2.12 The NPPF and emerging SAMDev policies - As previously mentioned the NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. As part of the overall planning balance, it is therefore appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.
- 2.13 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
- 2.14 Ultimately the policies contained in the SAMDev Plan will therefore need to comply with the sustainable guidance set out in the Framework in order to proceed to adoption. In this context SAMDev policy MD3 is also of relevance to the assessment of this application. Policy MD3 is concerned with 'Managing Housing Development' and sets out some scope for approving sustainable residential development outside development boundaries, subject to certain criteria and compliance with other policies of the development plan. Policy MD3 has been modified to allow for a more flexible approach in line with the Framework. However, as policy MD3 is subject to modifications then, whilst it can be given some weight it cannot be given full weight. Therefore, the presumption in favour of sustainable development as advanced by the NPPF remains as a material consideration. Under the NPPF sustainable sites for housing where the adverse impacts do not outweigh the benefits of the development will still have a strong presumption in favour of permission when considered against the NPPF as a whole.
- 2.15 As a Community Hub it is accepted in principle that St Martins is a sustainable settlement and capable of accommodating an appropriate level of new housing development. On this basis it is considered that the proposal can continue to be supported as occupying a sustainable location in principle consistent with the objectives of the NPPF.



- 2.16 Furthermore, officers would highlight the advanced stage of the application and the following factors which reinforce the sustainable credentials in favour of the application at this point in time:
- The S106 is shortly to be signed. The planning permission can therefore be released without delay with affordable housing contribution secured.

Bearing in mind the all the above officers are of the opinion that the balance of planning considerations still tips in favour of permission.

- 2.17 Housing Land Supply – The National Planning Policy Framework (NPPF) paragraph 47 sets out an aim of boosting significantly the supply of housing, and the measures how local planning authorities will achieve this. One of those measures is a requirement for LPA's to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. NPPF Paragraph 49 then states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 2.18 In August 2014 the Council published an updated Shropshire Five Year Housing Land Supply Statement confirming the ability to demonstrate a 5 years' supply.
- 2.19 This means that the Council's housing supply policies are not considered out of date under paragraph 49 of the NPPF.
- 2.20 The issue of the 5 year land supply has been the subject of challenge through the appeal process.
- 2.21 Shropshire Council's position that it has a demonstrable 5 year supply of deliverable housing land has been supported by recent appeal decisions at land adjacent to The Larches, Shawbury Road, Wem (APP/L3245/W/14/3000672) and land south of Brook Cottages, Ford (APP/L3245/A/14/2228348), both of which were determined on the 19th May 2015.
- 2.22 During these Appeals, the inspector undertook a detailed appraisal of the Shropshire Council 5 Year Housing Land Supply, considering extensive submissions from both Shropshire Council and representatives of the relevant appellants. The Inspector concluded that "it appears that from the Council's perspective, they are able to demonstrate a 5 years supply of deliverable housing land. Consequently paragraph 49 of the Framework is not engaged and local plan policies relevant to the supply of housing land are up-to-date, subject to their consistency with the Framework as set out in paragraph 215".
- 2.23 Since these comprehensive reviews of the Shropshire Council 5 year housing land supply, there have been a number of other recent appeal decisions within which the 5 year supply has been assessed without the consideration of the detailed evidence, as provided in support of The Larches and Brook Cottages appeals. For this reason those other appeal decisions are not considered definitive and Shropshire Council maintains that it has a 5 year supply of housing, as evidenced in The Larches and Brook Cottages appeal decisions and appendices attached to the appeal cases.

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

3.1 **Conclusion**

3.2 The site is located within the current St Martin's development boundary and also within the boundary as identified within the emerging SAMDev Plan. However, whilst SAMDev is at a stage where significant weight can be given to its policies the requirements of this emerging policy and those of adopted policies CS1, CS4 and CS5 must be balanced against the NPPF. The NPPF sets out the presumption in favour of sustainable development as a golden thread running plan-making and decision-taking and is a material consideration to which significant weight should be attributed. Ultimately SAMDev policies will need to comply with the sustainable guidance of the Framework in order to proceed to adoption.

3.3 The village of St Martins benefits from a range of services and facilities including public transport links and the location of the proposed residential development within the village entails that the proposal is considered to be sufficiently sustainable to meet the overriding aims of the NPPF and the proposed development is deemed to be acceptable in principle. Furthermore, the proposal is unlikely to have any implications for highways safety or for protected or priority habitats.

3.4 The advanced stage of the application whereby the S106 is shortly to be signed is noted and it is accepted that the site is in a sustainable location and is available now to deliver additional local housing supply in accord with national planning policy priorities relating to housing provision and sustainable development.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework  
 CS4 - Community Hubs and Community Clusters  
 H5 - Larger Settlements  
 CS6 - Sustainable Design and Development Principles  
 CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 CS18 - Sustainable Water Management

### RELEVANT PLANNING HISTORY:

12/03763/FUL Erection of 3 terrace style dwellings, formation of vehicular access off Baytree Close and associated parking REFUSE 21st February 2014

14/04980/FUL Erection of 3 new dwellings, formation of vehicular access off Baytree Close and associated parking (revised scheme) PDE

## 11. Additional Information

[View details online:](#)

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

### Conditions

#### STANDARD CONDITION(S)

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

Reason: To comply with Section 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 block plan (1210.82.02 received on 25th March 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. Details of appropriate integrated noise attenuation measures to be incorporated within the design of the dwellings shall be submitted to the Local Planning Authority for approval in writing prior to development commencing on site. The works shall be implemented in accordance with the approved measures. Internal and external areas shall be protected to ensure that garden areas are protected as well as internal areas.**

**Reason: To safeguard the amenities of future residents of the properties from noise emissions and fumes associated with the adjacent commercial land use.**

**4. Confirmation is required that surface water discharge from the development will not exceed 19.75 l/s for a 1 in 100 year plus 30% critical storm from Plots 1 to 5 as a result of development in Plot 1.**

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

**5. A total of 2 'woodcrete' (or equivalent) artificial nests suitable for small birds such as robin (x1) and sparrow (x1) and shall be erected on or immediately adjacent to the site prior to commencement of the development hereby permitted.**

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

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

6. The access amendments and private drive alterations shall be satisfactorily completed in accordance with the approved plan 1210.82.02 prior to any of the dwellings being first occupied.

Reason: In the interests of highway safety.

7. The development hereby permitted shall not be brought into use until the car parking spaces for plots 1 and 3 shown on the approved plan 1210.82.02 and amended for plot 1 have been satisfactory laid out and constructed in accordance with approved details; and the parking spaces thereafter shall be kept clear and maintained at all times for that purpose.

Reason: To provide for the parking of vehicles, associated with the development, off the highway in the interests of highway safety.

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

### **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 above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.

3. 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.

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

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

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

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

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

6. As the provision of the access apron alteration 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.

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<u>Committee and Date</u>
North Planning Committee
12 <sup>th</sup> July 2016

<u>Item</u>
8
Public

## Addendum Development Management Committee Report

Responsible Officer: Tim Rogers

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

### Summary of Application

<b><u>Application Number:</u></b> 14/01063/OUT	<b><u>Parish:</u></b>	Welshampton And Lyneal
<b><u>Proposal:</u></b> Outline application (access) for the erection of 7 dwellings		
<b><u>Site Address:</u></b> Proposed Development Land South Of B5063, Welshampton.		
<b><u>Applicant:</u></b> Les Stephan Planning Ltd		
<b><u>Case Officer:</u></b> Mark Perry	<b><u>email:</u></b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Recommendation: Approval subject to conditions as set out in appendix one attached to the Committee report dated 23<sup>rd</sup> September 2014.**

#### 1.0 Background

- 1.1 At their meeting on the 23<sup>rd</sup> September 2014 the North Planning Committee resolved to approve the proposed development subject to the applicants entering into a S106 to ensure 2 of the 7 proposed properties were provided as affordable dwellings.
- 1.2 At the above meeting members were updated on a late consultation response received from Natural England. Natural England advised that the site is in close proximity to the Clarepool Moss and Cole Mere Sites of Special Scientific Interest (SSSI). The former SSSI forms part of the West Midlands Mosses Special Area of Conservation (SAC) and Midland Meres & Mosses – Phase 1 Wetland of International Importance under the Ramsar Convention (Ramsar Site). The later forms part of the Midland Meres & Mosses - Phase 2 Wetland of International Importance under the Ramsar Convention (Ramsar Site). Natural England confirmed that they have no objection to the proposed development as is not likely to have a significant effect on the interest features of the sites.
- 1.3 Since the committee meeting a number of circumstances have changed in connection with planning policy and designations on the site. During the course of preparing the S106 agreement it emerged that a section of highway land runs directly through the middle of the site. In 1976 a section of the application site was dedicated as land to form part of the highway. It had been intended that the designated land would become part of an alternative route for the existing highway (the B5063). The realignment scheme was never proceeded with and the land has remained inaccessible to the public and continued to be part of the agricultural field. It is therefore necessary for the designated highway land, which has a length of 226.5m across the site, to be stopped up under section 247 of the Town and Country Planning Act 1990. The applicant has already sought a draft Stopping Up Order from the Department of Transport to this effect.

- 1.4 As part of the stopping up order the applicant has agreed a land swap with the Council whereby the section currently designated a 'highway land' would be swapped with a section of land around the inside of the sharp bend to the west of the application site. Whilst there are currently no plans for such significant highway changes here; the land would then be available should the need arise at some point in the future. The Council's Highway Officer is in support of the S247 as it will facilitate road improvements in the future.
- 2.0 Policy**
- 2.1 When the Planning Committee previously considered the planning application, Shropshire did have a five year supply of housing land and it was considered that the development would be sustainable as required by the NPPF despite being located outside of the development boundary identified in the former North Shropshire Local Plan. Furthermore the proposal provided additional planning benefits and these were awarded significant weight in the planning balance. As detailed in the original committee report the benefits included 2 of the 7 dwellings being affordable dwellings and that the scheme would allow the localised widening of the B5063 making it easier for HGV's or agricultural vehicles to pass one another. The development would also provide an opportunity to create a new bus stop lay-by and the provision of a footpath within the application site which would extend east leading to the inside edge of the 90 degree corner on the adjacent road. This would be to the benefit of both proposed and existing residents. Existing residents currently have to walk along the narrow road in order to walk to the school or public house.
- 2.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that must 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.
- 2.3 On 17<sup>th</sup> December 2015 SAMDev was adopted which identified Welshampton as part of a community cluster together with Lyneal. The cluster has a guideline of up to 5 dwellings being provided during the plan period up to 2026. As a result of the adoption of SAMDev policies S8.2(vi), MD1, MD2 and MD7a also become relevant to the proposed development.
- 2.4 When the application was previously considered, the final plan version of SAMDev had been sent to the Planning Inspectorate ahead of its examination and therefore only limited weight was being afforded to it. Following the adoption of SAMDev full weight is now awarded to it and the policies referred to above.
- 2.5 The site lies just outside the development boundary for Welshampton and as such is considered to be open countryside where there is a presumption against new open market development. Since the original consideration of the planning application outline planning permission has been granted for 2 dwelling on the site immediately to the west which does adjoin the development boundary but is also classed as open countryside (15/01305/OUT). Whilst the application site is classed as open countryside there remains the presumption in favour of sustainable development, as set out in the NPPF where it is seen as the golden thread running through the planning system.



2.6 At the time of the previous recommendation and acceptance it was considered that the proposed development was sustainable and that the potential significant benefits as a result of the development would outweigh the harm of developing an open countryside site. This included the benefit to the local community through providing further custom to existing village facilities as well as the benefit from the physical works referred to above. In addition whilst there were concerns regarding the impact on its open countryside location these were considered not outweigh the benefits that the scheme offered.

### 3.0 Affordable Housing

3.1 On the 20<sup>th</sup> June 2016, Shropshire became a rural county which under Section 157 of the Housing Act allows identified parishes to be subject to a lower development threshold for providing affordable housing contributions. Welshampton is one of these parishes and as such Affordable Housing Contributions are only payable on developments of five dwellings or more. As this proposal is for seven dwellings there is a policy requirement for a 10% affordable housing contribution, this would equate to a financial payment rather than an on-site provision. As was the case when members previously considered the scheme the applicant remains willing to provide 2 affordable dwelling on site. This equates to a 28.5% provision, which is substantially above the policy requirement of 10%.

3.2 On balance therefore whilst the site may not be within the development boundary and contrary to policy S8.2(vi) of SAMDev, it is still considered to be a sustainable development which will not be in an isolated location given the short distance to the heart of the village and immediately adjoining to another site that has planning permission for 2 dwellings.

### 4.0 Conclusion

4.1 There have been changes to the adopted policy of the Council since members previously considered the planning application. The scheme continues to offer the benefit of an over provision of affordable housing, highway improvements, bus stop and footpath connections, these are considered by Officers to be substantial significant benefits to the local community. Whilst the proposed development will be contrary to policies S8.2(vi), CS5, and MD1 of the Shropshire Local Plan, Officers are of the opinion that in this case, there is sufficient justification to support the proposal in accordance with the NPPF in that the potential benefits referred to above outweigh the adopted policy and meet the criteria for sustainable development. Therefore the recommendation in relationship to this application remains one of approval subject to the conditions as set out in appendix 1 attached to the Committee report dated 23rd September 2014.

## 8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 8.1 Risk Management

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

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

make the claim first arose 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.

## Development Management Report

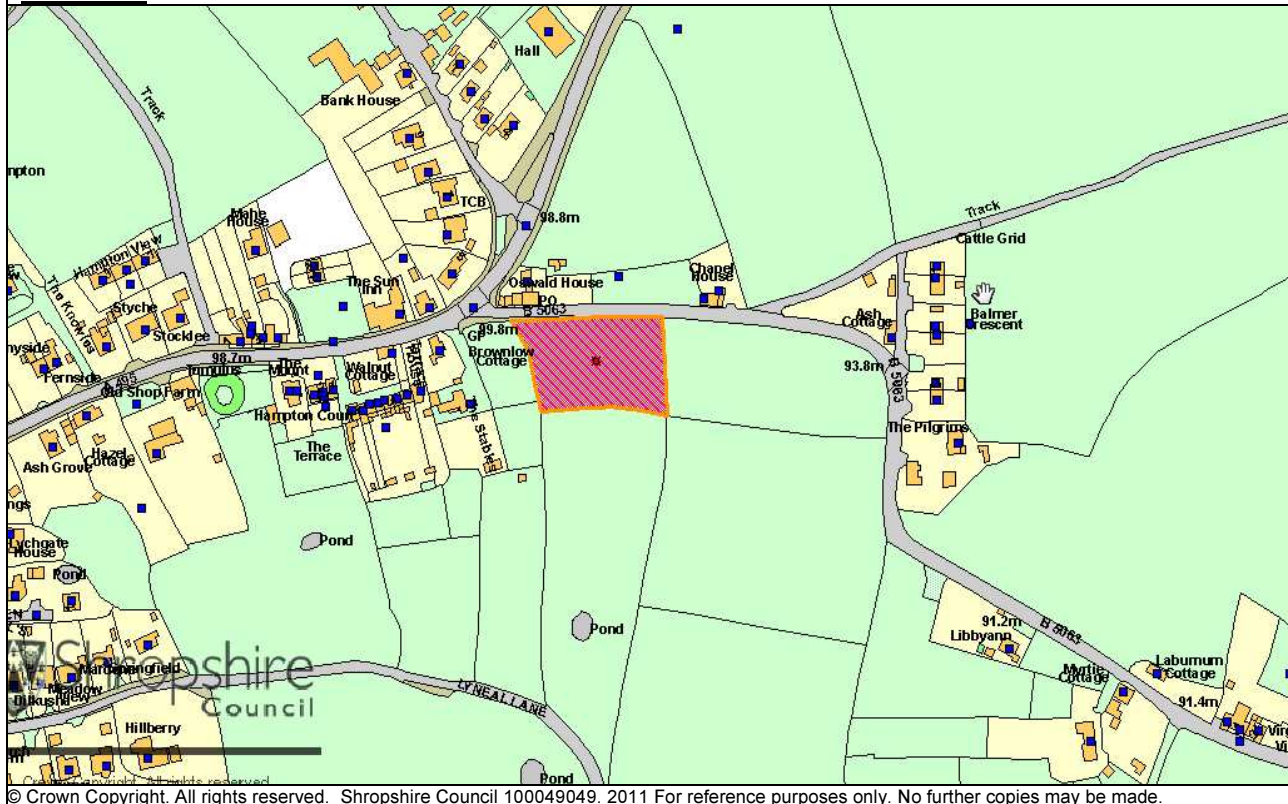
Responsible Officer: Tim Rogers

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

### Summary of Application

<b>Application Number:</b> 14/01063/OUT	<b>Parish:</b>	Welshampton And Lyneal
<b>Proposal:</b> Outline application (access) for the erection of 7 dwellings		
<b>Site Address:</b> Proposed Development Land South Of B5063 Welshampton Shropshire		
<b>Applicant:</b> Les Stephan Planning Ltd		
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>	

**Grid Ref:** 343768 - 335018



**Recommendation:-** Grant Permission subject to the conditions set out in Appendix 1 and the applicant entering into a S106 to secure the provision of affordable housing and no objection being received from Natural England.

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant is seeking approval for the principle of a residential development on the site and the means of access. The original application was for the erection of 10 dwellings and included the layout of the site. The applicant has since amended the application reducing the number of dwellings down to 7 and adding layout to the list of reserved matters.
- 1.2 In addition to the dwellings the applicant is also proposing the creation of a new bus stop and a new footpath link to the eastern extremity of the site.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is a 0.3 hectare area of land which is approximately half of a long narrow field running along the southern edge of the Welshampton to Wem road on the edge of the village. To the south of the site there are open agricultural fields defined by intermittent native hedge planting and to the west there is a small paddock area. On the opposite side of the road it is predominantly agricultural/ paddock land with two dwellings located hard on the edge of or very close to the passing road.
- 2.2 The main part of Welshampton is to the west of the application site and mainly fronts onto the A495 Ellesmere to Whitchurch Road. The village has a predominantly linear form although there are a number of instances of backland development and mini estates. To the east of the application site and on the outside of a sharp bend in the road there is a small cluster of eight dwellings, these sit very slightly detached from the rest of the village because of the broken street frontage and the presence of the agricultural fields and hedgerows. These dwellings also sit outside the village's 30 mph speed limit.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The local member and the Chair of the planning committee considers that the Parish Council have raised material planning issues that warrant consideration by the members of the north planning committee.

### 4.0 Community Representations

- Consultee Comments

#### 4.1 Parish Council

At the meeting of Welshampton and Lyneal Parish Council held on 28 May 2014 the following points were noted:

The Parish Council's input into the SAMDev consultation included the following statements:

- Maximum 5 dwellings per site
- All development to be in line with the Village Design Statement
- To keep in line with statements in the Parish Plan.

The Village Design Statement (VDS) includes the following:

If future development is to take place the following should be considered:-

- Any such schemes must carefully consider the method of disposing of surface and foul water, not only within the curtilage of the scheme but the effect the scheme will have on existing properties.

The Parish Plan adopted in 2008 contained the following comment:

- Important that we keep a balanced view on new homes, so that we take on board that our lanes and roads are not overloaded with traffic.

It was resolved to object to the application for the following reasons:

#### Number of dwellings

The proposal is for 10 dwellings so this application does not meet with the statement within the SAMDev SDP “The settlements of Welshampton and Lyneal are a Community Cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries.”

#### Site Layout

The current plan is the third submitted to the Parish Council for consideration albeit only the second one submitted to Shropshire Council. The layout is not considered appropriate for the village and it is assumed the prime reason for the design is to make further development on adjoining sites possible. There is also an electricity transformer in the centre of the site and it is not clear whether this has been taken into account.

#### Drainage

Both the SAMDev SDP and the VDS makes reference to drainage issues. The statement in the VDS is outlined above the statement in the SAMDev is as follows:

- All new development is subject to establishing adequate foul drainage and water supply There is no mains sewage system in Welshampton and the Parish Council is aware that residents living in the already sodden areas in the village are seriously concerned about the increase in extra water arising from the development. The Parish Council confirms the comments made by several residents direct to Shropshire Council, as part of previous planning application consultations, that current drainage systems are struggling to cope.

In particular, residents have made representations to both Shropshire Council and the Parish Council that the recent development at The Sun Inn has impacted on the water levels and that this development could compound the problem.

The Parish Council strongly requests that, based on the above comments, Shropshire Council’s Drainage Engineer considers the impact of this development not just on ‘adjacent properties’ but a wider area.

The Parish Council also notes that drainage details, plans and calculations can be made conditional at Outline application stage but due the serious concerns raised the Parish Council considers these should be addressed fully at this stage.

### Traffic

The increased volume of vehicles caused by the size of this development will lead to traffic converging at a short stretch of the busy B5063 particularly at peak times. The recent reduction of public transport available to residents in the village leads to a greater dependence on private transport at peak times. The safety of pedestrians walking along this stretch of B5063 is already a concern before taking into account the traffic issues identified above. The re-siting / addition of the school bus stop is not considered a safer alternative.

### Sustainability and local Infrastructure

The Parish Council would draw the attention of Shropshire Council to the fact that at the current time applications amounting to 20 houses, in addition to this application, have been submitted for determination. The Parish Council is concerned about over development for what is essentially a small village. If all submitted applications are granted in such a short time frame, the village would potentially increase its housing stock by approximately 30%. This large increase cannot be considered sustainable. If planning applications amounting to the same percentage were submitted in Shrewsbury or Oswestry would Shropshire Council not take an holistic approach? Shropshire Council Housing Enabling Team has also confirmed that there are currently only 2 households on the housing register already resident within the Parish. The need for 30 houses must be questioned. Although it is acknowledged that Welshampton has the benefit of some services, primary school, pub, hairdresser and garage (no petrol), the Parish Council has serious concerns that such a large increase in dwellings overall will negatively impact the sustainability of the village as a whole and cause major concerns to the local infrastructure.

### Sustainability as outlined in NPPF paragraph 7

Economic benefits - apart from providing an economic gain from the actual developments, such large scale development will not enhance the local employment economy as there are no local businesses which could support such an increase in population.

Social benefits - the local primary school has a limit on expansion due to physical restraints and access to all other services (eg shopping, medical facilities etc) will need transport to access them as there is inadequate public transport.

Environmental benefits – the size of development that is currently being proposed for Welshampton as a whole does not contribute to protecting and enhancing the natural environment. The need to use transport to access all local services does not minimise waste and pollution. It will not contribute to a low carbon economy. Local Infrastructure. As outlined above, Welshampton does not have the benefit of a mains sewage system. Other elements of infrastructure should be investigated to assess whether such a large increase of dwellings is capable of being sustained. For example, water pressure, electricity, pavements to access village service, the cumulative impact on already busy A and B roads, and most significantly, the village primary school.

It is not the intention of the NPPF to facilitate unsustainable, random, highly speculative, unnecessary development which results in a small community of 100

houses being extended by 30%. It is not the intention of the NPPF to build houses where children have to be driven to school, where all employment has to be accessed by private transport. It is not the intention of the NPPF to cause social upheaval by the building of too many houses for the local need, arising in a massive increase in the number of new residents from outside the region.

The Parish Council is seriously concerned that to determine each application in isolation will result in a dysfunctional village. To develop a large number of houses on isolated sites without the proof of housing need, when each application will be "claiming" the same demand, will lead to properties not being sold, bankrupt developers and eyesores of empty half-built sites. The Parish Council does not want this to happen, and nor should Shropshire Council. 3 June 2014

Parish Council general further comments (5/9/14)

Drainage

As indicated in the section for Welshampton in the submitted SAMDev Policy, "All development is subject to establishing adequate foul drainage and water supply". Paragraph 5.90 gives further explanation: "In the case of waste water infrastructure capacity, whilst the allocated sites may not independently have an impact, the scale of development may mean that hydraulic modelling is needed for the catchment as a whole. Development should be phased appropriately to take into account of critical infrastructure improvements." In addition, the number of dwellings in Welshampton is set at a maximum of 20 houses. To avoid any confusion, Welshampton has no mains foul water drainage, all dwellings are served by septic tanks.

Of the 5 current applications totalling 30 dwellings there is only one site with 7 dwellings within the development boundary and it is believed a positive determination will soon be issued. A further 2 applications of 3 dwellings is currently seeking additional information to the effect of drainage on a nearby SSSI Ramsar site. This leaves 20 houses, 10 nearer the main part of the village than the other 10.

In light of the number of resident's concerns regarding the current impact on drainage from the development of 6 dwellings at The Sun, the Parish Council would strongly request that Planning Officers seek guidance on the cumulative effect of possibly 30 dwellings on drainage to the village which is in line with explanation paragraph 5.90 and additional sub-clause (v) in Policy MD3.

Matching housing guideline – cumulative effect

With regard to Policy MD3 'Matching the settlement housing guideline', it is clear that the current number of dwellings proposed exceeds the Welshampton guideline. Therefore the amendments to explanation paragraph 4.22 referring to the cumulative effects resulting in unsustainable development is applicable not just on infrastructure but on the community goodwill.

The potential detrimental impact on community cohesion following such a high percentage of new dwellings at one time is of significance. The Council is aware that community cohesion is a material consideration taken into account with recent applications in West Felton.

Weight attributed to SAMDev

The Parish Council's opinion is that although it is recommended that limited weight

given to the SAMDev as it is still to undergo examination, the Policy would not have been submitted to the Inspector if Shropshire Council did not consider it sound. It is noted there are no challenges to the section for the Welshampton and Lyneal Cluster. The Parish Council considers therefore that the weight allocated to SAMDev for applications in Welshampton can be increased.

The Parish Council requests that these comments are taken account when determining all 5 applications.

- 4.2 **Highways-** No objection subject to conditions requiring localised widening of the road, visibility splays and the provision of the bus stop.
- 4.3 **Drainage-**  
No objection subject to drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is to be granted.
- 4.4 **Ecology-**  
No objection subject to informatives. The application site is within 750 metres of Clarepool Moss, a component SSSI of the Midland Meres and Mosses Phase 1 Ramsar site and West Midland Mosses SAC. Cole Mere SSSI and Ramsar site is 1.5km distant. Fenn's, Whixall, Bettisfield Wem and Cadney Mosses SAC/Ramsar is 3.3km to the west. It is considered that with conditions requiring a drainage scheme which meets the requirements set out by the Councils Drainage Section and the Environment Agency's permitting standards at Reserved Matters stage, there is no risk of an impact on the water quality of any European site.
- 4.5 Natural England- No response at time of writing report.
- 4.6 **Affordable Housing-**  
Any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
- 4.7 - Public Comments  
8 letters of objection received commenting on the following grounds:  
Site is outside of the development boundary  
Unsafe vehicle access and inadequate A495/ B5063 junction  
Scheme will cause water to be on the road  
Village infrastructure is over loaded  
School bus stop adjacent to the site  
Scheme is the first stage of the development of the larger field  
Noise pollution generated by extra cars  
Inadequate water pressure in the village  
No demand for dwellings as house in the village are unsold.  
Not in accordance with the Village Design Statement  
No need for an alternative bus stop

## 5.0 THE MAIN ISSUES



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

## **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.

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, in any event. The NPPF specifically aims to 'boost significantly the supply of housing' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.

6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the

adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.

- 6.1.5 It is acknowledged that the site is outside of the Welshampton development boundary previously set within the North Shropshire Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, these policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.
- 6.1.6 Policy CS6 of the Core Strategy, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.7 As part of SAMDev Welshampton has been put forward as a Community Cluster and states that, “development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. All new development is subject to establishing adequate foul drainage and water supply”. Whilst the Parish Council and residents have referred to this the SAMDev is yet to go through the process of examination in public. As such only limited weight can be awarded to the document at this stage.
- 6.2 **Is the Site Sustainable?**
- 6.2.1 Paragraph 7 of the NPPF explains that there are three dimensions to sustainable development, these are economic, social and environmental. Paragraph 8 goes on to advise that in order to achieve sustainable development, economic, social and environmental gains should not be sought in isolation, because they are mutually dependant.
- 6.3 **Economic Consideration**
- 6.3.1 In economic terms the proposed development will provide employment during the construction process and support suppliers, provide Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although these benefits would be achieved by any new housing development in any location. The most important economic benefit would be the spending power of new residents who would help to support limited local services such as the pub and local garage. It is acknowledged that Welshampton itself has very few job opportunities and as such residents are likely to travel to Oswestry, Ellesmere, Shrewsbury or further afield to find employment. As such economic benefits are likely to be felt not just within the village. As such it is considered that the economic

benefits of providing additional housing can be awarded some weight.

#### 6.4 **Social Consideration**

6.4.1 Socially the scheme will provide both affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. Typically the number of affordable dwellings would be based on the target rate at the time of the reserved matters submission; currently set at 10%. However the applicant is willing to commit to providing 2 of the dwellings to be affordable, equating to an overprovision of 29%. The applicant has confirmed that the Wrekin Housing Trust have expressed an interest in the affordable dwellings.

6.4.2 The scheme would provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent. The CIL contribution would provide for infrastructure enhancements as required.

6.4.3 It is recognised that increasing the number of residences in a settlement without a proportionate increase in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. It is also recognised that Welshampton is the subject of a number of other planning applications which if all approved would result in an expansion of around 27 dwellings in the village. The Parish Council have commented that this would result in a housing stock increase of 30% which could not be sustained and would negatively impact on the local infrastructure.

6.4.4 The scheme must be considered on its individual merits although the cumulative impact of additional new housing is also a material consideration. Recent planning inspectors' decisions have taken into account the adverse impact of increasing the number of dwellings in an settlement, outside of the plan making process, as a material consideration. Substantial increases in residences could result in harm because of the need to allow time for proportionate increases in infrastructure and for the community to adapt, and the possible adverse impact on community cohesion. Welshampton has recently been subject to 5 separate planning applications (including this current application) equating to a total of 27 dwellings. So far only the 7 dwelling adjacent to Old Shop Farm has received a resolution to grant planning permission. Welshampton has around 115 dwellings in its main core of the village, as such it is considered that the scheme of this scale is in relation to the overall size of Welshampton. Even with the other current applications it would still result in a relatively small percentage increase and would not be disproportionate to the size of the settlement and the services it currently has. It is considered that the above issue would not outweigh the presumption in favour of sustainable development given the current housing shortfall.

6.4.5 It is recognised that the proposed development is on a parcel of agricultural land that sits outside of the existing built environment of Welshampton. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF of conserving and enhancing the natural environment and encouraging the effective use of land by reusing land that

has been previously developed. To meet Shropshire's current and future housing needs it will necessitate the development of agricultural land in addition to brownfield sites. Paragraph 112 of the NPPF requires the Local Planning Authority to take into account the economic and other benefits of the best and most versatile agricultural land. Whilst the loss of agricultural land will cause economic harm in term of a reduction in the land available for farming the site is grade 3 agricultural land which is only of "good to moderate" quality and furthermore the scale of the development proposed will not result in significant loss of agricultural land. It is considered that loss of the grade 3 land is outweighed by the economic benefits of providing additional housing in this instance.

6.4.6 Any built development will inevitably have an impact on any site by the replacement of natural land with built development. At present there is only a limited feeling of being 'within' the village until you reach the junction with the A495 when travelling from the Wem direction. Instead the approach to Welshampton feels semi-rural with the narrow width of the road and the scattering of dwellings before meeting the more dense development of the main core of the village at the junction. However, whilst the development of this parcel of land would result in a change to its character the new built development would not appear disconnected to the rest of the village or appear out of context as it would link the main core of the village to the small number of dwelling further to the east and would be a logical expansion of the village in keeping with its linear form. It is Officers opinion that that the harm that the proposed development would cause to the character and appearance of the area would not result in an adverse impact of considerable weight.

6.4.7 Welshampton has a limited range of facilities which include a public house, hair dressers, vehicle repair garage, place of worship and a primary school. In addition to the facilities in the village there is also a bus service to Ellesmere; although this is fairly infrequent with just 3 buses a day. Whilst the accessibility and the facilities available is less than in other settlement is just one consideration in assessing the site sustainability. It is not the only consideration with sustainability being a much broader subject.

6.4.8 The proposed development would result in the expansion of the village on a parcel of agricultural land, it would however not extend beyond other dwelling which would reasonably be considered to be part of Welshampton (Balmer Crescent). To provide the required housing growth for Shropshire there will be a need to provide housing on the edge of existing settlements. The proposed development would be 'read' as being part of the existing settlement and would not appear isolated or detached and it would not affect any specifically valued landscape, affect protected wildlife or harm a site of historic importance. Whilst it is recognised that there would be some harm it is considered by Officers that this would not be sufficient to outweigh the benefits referred to above.

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

6.5.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. The applicant has now reduced the number of dwellings proposed down from 10 to 7. The indicative layout now provided by the applicant only shows the outline of the site and the approximation position of the bus stop and footpath towards Balmer Crescent. The finer detail of the scheme would be fully considered

at the time of the reserved matters application. Officers opinion is that the size of the site is capable of accommodating a development of 7 dwellings without the site appearing cramped or out of context with the prevailing layout of the area. The layout and form of the development is not known at this stage and would still be subject to full consideration at the reserved matters stage.

## 6.6 **Highway Safety**

6.6.1 The applicant proposes a single point of access into the site, this would be approximately 50 metres to the east of the junction between the B5063 and the main road through Welshampton. Also included within the proposal is the localised widening of the B5063. At present overrunning is occurring at the edge of the existing carriageway due to its limited width. Increasing its width would make it easier for HGV's or agricultural vehicles to pass one another. The development would also provide an opportunity to create a new bus stop lay-by. At present there is a bus stop on the B5063 which is adjacent to the junction. This includes a shelter but buses have to stop on the highway as there is no layby. As a consequence causing traffic queues to form at the junction, the creation of new bus stop would help to provide a safer environment for highway users as the bus would not obstruct the flow of traffic. The applicant also proposes to provide a footpath within the application site which would extend east leading to the inside edge of the 90 degree corner on the road. This would be of benefit both proposed and existing residents who currently have to walk along the narrow road in order to walk to the school or public house.

6.6.2 It is considered that the provision of the bus stop and appropriate footpath is of benefit although it is acknowledged that the Parish Council consider the bus stop to be on a dangerous stretch of road and therefore do not support its provision. The scheme has been considered by the Council's Highways Officer who raises no objection subject to conditions that require the bus stop and footpath to be provided prior to occupation of the dwellings.

## 6.6.3 **Impact on Neighbours**

The addition of 7 dwelling on a site will inevitably increase the number vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The 7 dwellings would effectively be self-contained with vehicles accessing the site by the access created as part of the scheme. There are no other dwellings that immediately adjoin the site and on the opposite side of the road the nearest dwelling is to the north west. The layout of the site is one of the reserved matters and would therefore be fully considered at a later date. However, it is considered that the site is adequately large enough to be able to provide adequate distances of separation to existing dwellings to ensure that there is no detrimental impact on residential amenities.

## 6.7 **Drainage**

6.7.1 Welshampton does not benefit from any mains drainage system as such it will be necessary for the development to be served by a private package treatment plant located within the site. This is a point that is acknowledged by the Council in the submitted SAMDev document which states that, "All new development is subject to

establishing adequate foul drainage and water supply”, it goes on to state in para 5.90, “In the case of waste water infrastructure capacity, whilst the allocated sites may not independently have an impact, the scale of development may mean that hydraulic modelling is needed for the catchment as a whole. Development should be phased appropriately to take account of critical infrastructure delivery and seek to positively contribute towards local infrastructure improvements”. As SAMDev has yet to be adopted only limited weight can be awarded to the specific wording of the document.

6.7.2 As this is an outline planning application only seeking to establish the principle of a residential development no precise details of the drainage system have been provided. Instead it is considered appropriate to require the drainage details; which would include relevant percolation tests and calculations to be provided as part of the reserved matters submission.

6.7.3 The surface water flows would also be discharged to soakways and the applicant has confirmed that such a system would incorporate suitable attenuation so that they can cope is a storm event. The Council’s Drainage Engineer is satisfied that it would be appropriate for the full details of the drainage system to be provided as part of the reserved matters submission.

## 6.8 Ecology

6.8.1 The Council’s Ecologist has been in consultation with Natural England regarding the impact upon any European protected sites. The outcome is that the Council must satisfy itself “that there is at least one measure of treating the foul effluent arising from the development without affecting the European site be that septic tank with soakaway or sealed cesspool with effluent removed from catchment.” The Council’s Drainage Engineer is satisfied that an acceptable drainage system can be achieved and that the precise details can be submitted as part of the reserved matters application for consideration. It is considered that with conditions requiring a drainage scheme which meets the requirements set out by the Councils Drainage Section and the Environment Agency’s permitting standards at Reserved Matters stage, there is no risk of an impact on any European site.

6.8.2 The Council’s Ecologist has also provided comments with regards to badgers, bats and nesting birds and relevant planning conditions will be imposed. Overall it is considered that the development can take place without detrimentally impacting upon the ecological value of the site or protected species.

## 6.9 Affordable Housing

6.9.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. Although the number of dwellings proposed has been reduced from 10 to 7 the applicant is still proposing to provide 2 affordable dwellings; equating to a 29% provision which significantly exceeds the policy requirement of 10%. A 10% provision on a development would only require a financial contribution and rather than affordable dwellings on the site. The applicant has signed the affordable housing pro-forma agreeing to the contribution

and to meet the legal cost of preparing the Section 106 agreement.

## **7.0 CONCLUSION**

7.1 The site is located outside of the current Welshampton development boundary and is therefore classed as a departure from the development plan, however, significant weight must be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development.

7.2 The proposal will be of some benefit in terms of boosting the local housing supply including the provision of two affordable dwellings. It is considered that Welshampton is of sufficient size with some services and facilities in both the village and the wider Ellesmere area to be a sustainable location for new residential development. Accordingly, it is considered on balance that the benefits of the scheme is not demonstrably outweighed by the harm caused and that the proposal complies with policies CS6 and CS11 of the Core Strategy and the requirements of the National Planning Policy Framework.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

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

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

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

### **8.2 Human Rights**

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

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

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

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS4- Community Hubs and Community Clusters  
CS5- Countryside and Greenbelt  
CS6- Sustainable Design and Development Principles  
CS9- Infrastructure Contributions  
CS11-Type and Affordability of Housing

## 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 Brian Williams

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 2(1) of the Town and Country Planning (Development Management Procedure) Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission

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

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

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

4. A scheme of foul drainage, and surface water drainage including all relevant calculations and specifications has shall be submitted with the first reserved matters submission. The approved scheme shall be completed before the development is occupied.

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

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

5. No development shall take place until a scheme for the localised widening of the Class II road to 5.5 metres and provision of 1.8m wide footway along the site road frontage and the footpath leading to Balmer Crescent as shown on drawing no 04 Rev B (received 8th July 2014) has been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

6. Details of the design and construction of any new roads, footways, accesses together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

7. Six woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be provided prior to the occupation of the dwelling/ building.

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

8. A minimum of 2 car parking spaces shall be provided for each unit of living accommodation in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To provide for the parking, loading and unloading of vehicles off the highway in the interests of highway safety.

9. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995 or any order revoking and re-erecting that Order with or without modification, no hedges, fences, growths or other structures shall be planted or erected within the approved visibility splays.

Reason: To maintain a satisfactory measure of visibility from the road junction(s)/access in the interests of highway safety.

10. At the junction of the main estate road/access with the adjoining highway visibility splays in both directions along the adjoining highway shall be provided as follows:

- (a) A point 2.4 metres measured along the centre line of the main estate road/access measured from the continuation of the nearer edge of the adjoining highway carriageway.
- (b) Points 43 metres along the nearer edge of adjoining highway carriageway measured from the intersection of the centre line of the main estate road/access.
- (c) A straight line joining the above points.

Reason: To provide a satisfactory measure of visibility from the main estate road/access in both directions along the adjoining highway.

11. The gradient of the drives between the edge of the estate road carriageway(s) and the back of the footway/verge/margin shall be not exceed 1 in 24 and thereafter the gradient shall not exceed 1 in 10.

Reason: To ensure the formation of satisfactory access (es) to the properties in the interests of highway safety.

12. The carriageway(s) and footway(s) shall be completed to base course macadam level before any dwelling is occupied.

Reason: To ensure the formation of satisfactory access (es) to the properties in the interests of highway safety.

13. The junction of the estate road with the adjoining highway shall be constructed in accordance with the Local Planning Authority's specification for the time being in force for residential and industrial estate roads.

Reason: To ensure the formation of a satisfactory estate road junction to serve as a means of access to the development.



<u>Committee and Date</u>
North Planning Committee
12 <sup>th</sup> July 2016

<u>Item</u>
<b>9</b>
Public

## Development Management Report

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

### SCHEDULE OF APPEALS AS AT COMMITTEE 14<sup>th</sup> June 2016

#### Appeals Lodged

<b>LPA reference</b>	15/04391/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Cauchi
<b>Proposal</b>	Erection of a detached dwelling with detached part open fronted three bay garage: new vehicular access.
<b>Location</b>	West of Mill House, Stanton Upon Hine Heath
<b>Date of appeal</b>	01.06.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/03035/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	A & A Whitelaw And A Evans
<b>Proposal</b>	Outline application for the erection of eight dwellings to include means of access
<b>Location</b>	Land West of Mayfields, Kinnerley, Oswestry
<b>Date of appeal</b>	02.06.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/02054/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	Mrs Hannah Walpole
<b>Proposal</b>	Outline application for the erection of one dwelling to include means of access together with installation of septic tank
<b>Location</b>	North of Bryn Benli, Turners Lane, Llynclys
<b>Date of appeal</b>	24.05.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/04391/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Cauchi
<b>Proposal</b>	Erection of a detached dwelling with detached part open fronted three bay garage: new vehicular access.
<b>Location</b>	Proposed Dwelling West Of Mill House Stanton Upon Hine Heath Shropshire
<b>Date of appeal</b>	01.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/02604/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Mark Thompson
<b>Proposal</b>	Outline application (access and layout for approval) for the erection of three dwellings and formation of estate road
<b>Location</b>	Stone House, Maesbury Marsh, Oswestry
<b>Date of appeal</b>	02.06.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/03104/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs Keith Noden – C/O Peter Richards
<b>Proposal</b>	Erection of a dwelling and associated carport
<b>Location</b>	Proposed Dwelling To The South Of Wrexham Road Whitchurch
<b>Date of appeal</b>	02.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	16/00411/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Hotchkiss – C/O Bleazard and Galletta
<b>Proposal</b>	Erection of a single storey extension to the side elevation; detached open fronted double garage; new pedestrian access
<b>Location</b>	West Lodge Park Road Wem
<b>Date of appeal</b>	06.06.16
<b>Appeal method</b>	Householder Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/04631/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr George Reeves
<b>Proposal</b>	Outline application for residential development to include means of access
<b>Location</b>	South of Parklands, Cockshutt
<b>Date of appeal</b>	15.06.2016
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	15/05564/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr R Homden – C/O Stuart Thomas (Berrys)

<b>Proposal</b>	Erection of single dwelling, following demolition of existing building
<b>Location</b>	Land West Of Holly Bank Ellesmere Road Harmer Hill
<b>Date of appeal</b>	24.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	16/02072/PMBPA
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Hicks – Gary Chesters
<b>Proposal</b>	Application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for the change of use from agricultural to residential use
<b>Location</b>	Dairy Shed Tunstall Farm Hodnet
<b>Date of appeal</b>	24.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	14/03216/OUT
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	DAW Construction – C/O Berrys
<b>Proposal</b>	Outline planning application for the erection of 3 no. dwellings to include means of access
<b>Location</b>	Proposed Residential Development Land Off Rosehill Road Stoke Heath
<b>Date of appeal</b>	24.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	



<b>LPA reference</b>	15/02438/REM
<b>Appeal against</b>	Conditions on approved application
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr G Daniec - C/O Mr D W Jenkins
<b>Proposal</b>	Approval of Reserved Matters (access, appearance, landscaping and layout) pursuant to permission 11/03020/OUT for the erection of one dwelling; erection of detached double garage
<b>Location</b>	Land To Rear Of Number 5 Hollins Lane Tilstock
<b>Date of appeal</b>	24.06.16
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

#### Appeals determined

<b>LPA reference</b>	14/04038/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Jamie Harvey
<b>Proposal</b>	Repair and reinstatement of existing building and erection of extension to form one residential dwelling; to include insertion of rooflights, roof mounted solar panels and heating panels; works to vehicular access
<b>Location</b>	Barn at Hen-Hafod, Beghill Lane, Whittington, SY11 4NT
<b>Date of appeal</b>	03.12.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	08.06.2016
<b>Costs awarded</b>	
<b>Appeal decision</b>	Dismissed

<b>LPA reference</b>	14/04039/LBC
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr Jamie Harvey
<b>Proposal</b>	Works to Listed Building to include repair/reinstatement and conversion to one residential dwelling to include erection of extension, insertion of rooflights, roof mounted solar panels and heating panels
<b>Location</b>	Barn at Hen-Hafod, Beghill Lane, Whittington, SY11 4NT
<b>Date of appeal</b>	03.12.2015
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	08.06.2016
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	15/02011/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	KLM Estates Ltd – C/O Les Stephan Planning Ltd
<b>Proposal</b>	Erection of 1 no timber-framed dwelling to include the provision of drive and associated landscaping
<b>Location</b>	Proposed Development Land To The North Of Pear Tree Lane Whitchurch
<b>Date of appeal</b>	01.04.16
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	22.06.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	14/03946/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Committee
<b>Appellant</b>	David Meehan
<b>Proposal</b>	Construction of Solar Farm to include solar panel arrays, inverters, sub station, security fencing and cctv cameras
<b>Location</b>	Rhosygadfa, Gobowen, Owestry, SY10 7BP
<b>Date of appeal</b>	
<b>Appeal method</b>	Written Representation
<b>Date site visit</b>	
<b>Date of appeal decision</b>	06.06.16
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>



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## Appeal Decisions

Site visit made on 10 May 2016

**by Sarah Colebourne MA, MRTPI**

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

**Decision date: 08 June 2016**

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### **Appeal Ref: APP/L3245/W/15/3138095**

#### **Barn at Hen Hafod, Berghill Lane, Whittington, Shropshire, SY11 4NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Jamie and Joan Harvey against the decision of Shropshire Council.
  - The application Ref 14/04038/FUL, dated 1 September 2014, was refused by notice dated 6 May 2015.
  - The development proposed is the repair, reinstatement and conversion of a listed barn to form a dwelling, including the construction of an extension on the site of a dilapidated cattle shed and yard and the historical footprint of three cottages to include integral garage and landscaping.
- 

### **Appeal Ref: APP/L3245/Y/15/3138104**

#### **Barn at Hen Hafod, Berghill Lane, Whittington, Shropshire, SY11 4NT**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr and Mrs Jamie and Joan Harvey against the decision of Shropshire Council.
- The application Ref 14/04039/LBC, dated 1 September 2014, was refused by notice dated 6 May 2015.
- The works proposed are the repair, reinstatement and conversion of a listed barn to form a dwelling, including the construction of an extension on the site of a dilapidated cattle shed and yard and the historical footprint of three cottages to include integral garage and landscaping.

### **Decisions**

1. Both appeals are dismissed.

### **Procedural matter**

2. The Council's policy H23 in the Oswestry Borough Local Plan no longer applies because the Council has now adopted the SAMDev Plan 2015. It has referred to a number of policies in that document in its appeal statement and the appellants have had the opportunity to comment on those.

## **Main Issues**

3. The main issues are:-

- the effect of the proposed development and/or works on the setting and the special architectural and historic interest of the listed building at Hen Hafod and the character and appearance of the area;
- whether the proposed dwelling is in a sustainable location, having regard to national and local policy.

## **Reasons**

### *Listed building and character and appearance*

4. Hen Hafod is a grade II listed building. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that any harm should require clear and convincing justification.
5. The Council's policies CS6 and CS17 in the Shropshire Core Strategy and policies MD7a and MD13 in the SAMDev Plan are broadly compatible with the Framework in seeking to ensure that proposals enhance and conserve listed buildings and the area. In particular, policy MD7a seeks to enable the conversion of buildings where the building is of heritage or landscape value, minimal alteration or rebuilding is required and the significance of the heritage asset, its setting and the local landscape character is respected. Whilst the policy applies to open market housing and I have noted that the appellants have said that the new dwelling is intended for themselves, their family or their employees, the Council did not determine the proposal as a rural worker's dwelling and as I have not been provided with any sufficiently compelling supporting evidence regarding the need for a rural worker's dwelling in this location the policy is, therefore, relevant.
6. The historic and architectural significance of Hen Hafod lies in its age, dating from the late C16th/early C17th and its former function as a timber framed former threshing barn. Although the appellant's heritage statement indicates that it formed part of a cluster of farm buildings including a further farm building and three cottages, little remains of those other than a very dilapidated cattle shed and yard which were later additions. The barn itself retains part of its original form and timber frame, including three cross frames and box framing with some remaining features of interest but is in very poor condition, supported by scaffolding and timber braces. Most of the original weather board cladding has gone. Only two of the original four bays remain with later brick plinths and collapsed timbers in a poor state of repair as the only remaining parts of the previous bays. The roof is mostly intact with a slate covering which was probably a later addition. The barn has not been in use for some 20 years and has clearly lost its historic function as a farm

building but the remaining structure retains some architectural and historic interest. Moreover, the surrounding, largely unchanged arable landscape of rolling fields from which very few dwellings can be seen retains its role in the setting of the building which is seen clearly across fields from the lane outside Evenall Farm and in glimpses through the hedge and field openings further south along that lane. It therefore clearly has some heritage and landscape value and in this respect would fulfil that requirement of policy MD7a.

7. In addition to the repair and reinstatement of the existing structure, the proposed development includes a full height extension to create a third bay at one end of the existing structure and a long single storey extension joined at an angle at the other end by a smaller link extension. These extensions would cover the footprint of the original farm cluster. The single storey and link extension would provide an entrance hall, utility room, cloakroom and four bedrooms with two en-suites, a further bathroom and a garage. This would enable a void over the two interlinked living rooms in the main building with a mezzanine floor for a study above the kitchen. Whilst the scheme would permit the retention of the existing plan and form of the building and, importantly, would allow the timber frame to remain evident, the length of the single storey and link extension would appear excessive at some 38m compared to the length of the extended main building at around 21m. Although it would cover the footprint of the original farm cluster and the appellants consider that it would reinstate the lost historic foldyard, those buildings have not existed since the mid C20th and are no longer clearly evident, particularly when seen from the wider landscape. Although the design follows acceptable conservation principles of making an architectural distinction between the new single storey extension and the original building and retaining the form of the original building, it would not read as a smaller, subservient extension and would dominate the listed building when seen in both short range views from within the site and in long range views from the lane. The regular pattern and of number of openings, particularly in the front elevation would not reflect the generally more random pattern of limited openings and void to wall ratios found in traditional agricultural buildings and yet, with the exception of the link extension, it would not appear sufficiently contemporary in its design to create a strong contrast to the existing building.
8. I have similar concerns regarding the openings in the main building, with the exception of the large glazed screens in bay three, the ventilation panels and the mezzanine window. Whilst I note that the openings have been designed to allow as much retention of the timber frame as possible and to avoid the need for rooflights, the regular spacing and small size of the openings has a somewhat domestic scale and effect at odds with the agricultural character of the building.
9. I am less concerned about the external changes proposed, a grassed parking area and gravelled drive which together with any boundary treatment could be controlled by condition if other matters were acceptable. However, for the reasons given, the proposed scheme would not meet the minimal alteration or rebuilding requirement of policy MD7a and would therefore result in substantial harm to the setting and the architectural and historic interest of the building and significant harm to the character and appearance of the surrounding landscape.

10. This gives rise to a statutory presumption against permission and I must give it considerable importance and weight. I must now weigh this harm against the public benefits of the proposal and the requirements of paragraphs 132 and 133 of the Framework.
11. It is clear that the appellants and their architects have given much time and thought to this proposal and it seems likely that the repairs would be carried out sensitively in accordance with established conservation principles and to a high standard. The poor state of the building means that it is currently at risk and I have attached great weight to the benefit of conserving the building by bringing it back into use. I have noted that the proposed design was supported by the Council's Conservation Officer. I also understand the need to create a building of sufficient financial value to allow for the significant cost of repairs. However, I have not been provided with any financial details that would support the need for such a large extension or that any financial contributions from other sources would only be available for the proposed scheme.
12. There is insufficient evidence to enable me to agree that the dwelling would make a significant and sustainable contribution to the maintenance of the farm and the productivity of the farming enterprise at Evenall Farm where the appellants currently live, some of which would, in any case, be private rather than public benefits.
13. The nature conservation benefits that would arise, a barn owl nesting box, bat access tiles and additional native planting are mitigation measures or small benefits at best. Nor would the connection of the site to the highway have a significant public benefit given that the access would be via an existing private farm track.
14. The resultant public benefits do not, therefore, sufficiently outweigh the substantial harm that would be caused to the listed building and the significant harm that would be caused to the character and appearance of the area, contrary to the Council's policies referred to earlier and to the Framework.

*Sustainable location?*

15. The Framework seeks to ensure that development is sustainable. It seeks to avoid isolated new homes in the countryside but lists a number of exceptions to this, including where the development would re-use redundant buildings and lead to an enhancement of the setting. It also says that in rural areas, housing should be located where it will enhance or maintain the viability of rural communities. In seeking to permit residential conversions only where high standards of sustainability are achieved, the Council's policy CS5 in its Core Strategy is broadly consistent in this respect with the Framework's objectives.
16. The barn is some 0.4 mile from the nearest dwelling at Evenall Farm which itself is an isolated dwelling on a narrow country lane and some 2 miles from Whittington where the nearest services and facilities are located. The lane is narrow and has no footways or lighting. It is highly likely that most journeys would be made by car.
17. Although this may be the case for many people living in both rural and urban areas and the Framework acknowledges the difference between urban and rural areas and does not explicitly require reliance on cars to be reduced in every instance, it seeks to encourage a sustainable pattern of development and



reduce car journeys where possible. I have not been told that the dwelling is necessary for the viability of this rural community and in any case, the provision of one dwelling would not make a significant contribution. Given my earlier conclusion that the proposal would harm the listed building and the character and appearance of the area, it would not lead to an enhancement of the setting.

18. Whilst the conservation benefits to the building and its setting that could arise from a more acceptable scheme in terms of size and design may outweigh the unsustainable location, in this case there are insufficient benefits to outweigh this and the proposal is contrary to policy CS5 and the Framework.

### **Conclusion**

19. As I have concluded that the proposed scheme would cause harm to the listed building and to the character and appearance of the area and is not in a sustainable location, it would not fulfil the environmental dimension of the Framework. This harm is significant and demonstrable and therefore outweighs the benefits in this case. This leads me to conclude that the proposals are not sustainable development and would be contrary to the Council's development plan and the Framework as a whole. I have taken into account all other matters raised but none is sufficient to alter the outcome of my findings. Both appeals should be dismissed.

*Sarah Colebourne*

Inspector

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## Appeal Decision

Site visit made on 24 May 2016

**by A J Mageean BA (Hons) BPI PhD MRTPI**

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

**Decision date: 22 June 2016**

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**Appeal Ref: APP/L3245/W/16/3145235**

**Land West of 52 Pear Tree Lane, Whitchurch, Shropshire SY13 1NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Rogers against the decision of Shropshire Council.
  - The application Ref 15/02011/FUL, dated 5 May 2015, was refused by notice dated 27 August 2015.
  - The development proposed is the erection of 1 No timber framed dwelling to include the provision of drive and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Whilst the initial application being considered in this case referred to two dwellings, during the course of its consideration by the Council the proposal was reduced to a single dwelling as set out in the description of development above. I have considered the appeal on this basis.
3. The address on the application form is given as a postcode only. Therefore, in the interests of accuracy, I have used the fuller version of the site address given on the appeal form.
4. The Council has accepted that an amended site plan (SK01 Rev E) submitted by the appellant now matches the floor plans and elevations of the proposed dwelling previously submitted. Therefore the second reason for refusal in this case requires no further consideration.
5. The Court of Appeal's judgement on 11 May 2016 [*Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council 2016*], means that contributions for affordable housing and tariff style planning obligations should not now be sought from small scale and self-build developments. In the light of this ruling the appellant has withdrawn a draft unilateral undertaking relating to an affordable housing contribution, and the Council has indicated that it will not be seeking such a contribution in this case.

6. Since the determination of the application which is the subject of this appeal the Council has adopted the Site Allocations and Management Development Plan 2015 (the SAMDev). It is clear from the appellant's Statement of Case that they are aware of the status of this document. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.

### **Main Issues**

7. The main issues in this case are:
- 1) Whether the proposal represents a sustainable form of development with particular reference to its location; and,
  - 2) The effect of the proposed development on the character and appearance of the area.

### **Reasons**

#### *Sustainable development*

8. The appeal site is located on land to the west of 52 Pear Tree Lane. It fronts onto this single track cul-de-sac and is currently open with some mature vegetation, particularly along its southern boundary. There is open countryside to the north, south and west of the site. A public footpath runs from north to south through the western side of the appeal site. To the east of the site there are a range of dwellings on either side of Pear Tree Lane. The proposed development would place a two storey three bedroomed dwelling and a detached garage on this site.
9. The Council's decision notice refers to this site being located in open countryside outside the development boundary for Whitchurch as defined by SAMDev Policy S18. Whitchurch is identified as a principal centre which will be the focus for future development. Policy S18.1 states that new housing development will be delivered primarily on the allocated housing sites identified alongside additional infill and windfall development within the town's development boundary. The explanation to this policy notes that if there is a recognised under-delivery of housing ahead of the end of the plan period (2026), there is available land adjoining the Whitchurch development boundary which offers suitable broad locations for housing. However the release of this land will only be acceptable towards the end of the plan period.
10. It is also relevant to consider SAMDev Policy MD3 which states that in addition to supporting the development of the allocated housing sites set out in settlement policies, planning permission will also be granted for sustainable housing development on windfall sites both within these settlements and in the countryside, particularly where the settlement housing guideline is unlikely to be met. Considerations relevant to this Policy also include the presumption in favour of sustainable development and the benefits arising from the development.
11. The appellant argues that the settlement target of approximately 1,200 dwellings for Whitchurch over the plan period will not be achieved without allowing development in the countryside. In this respect the appellant

notes that housing sites amounting to 733 dwellings are identified within the settlement boundary, leaving a balance of 467 to be met from windfall sites. However, in addition to allocated sites it is clear that Policy S18 allows for flexibility for development within the settlement boundary and recognises that further allowances for development outside this boundary may be necessary if it appears that these figures will not be met. I consider that at this stage it would be premature to judge whether the settlement guidelines figures are likely to be achieved.

12. Whilst the appellant states that this is an edge of settlement location, as it is clearly outside the development boundary for Whitchurch it must be considered to be in the rural area. Therefore Policy CS5 of the Core Strategy and Policy MD7a of the SAMDev are relevant in this case. These policies seek to strictly control development in the countryside, with new development only being permitted where this improves the sustainability of rural settlements by bringing economic and community benefits. In this respect new housing is limited to that which is needed to house rural workers, other affordable accommodation to meet local need and the replacement of existing dwellings.
13. In this case there is no suggestion that this development would provide for any specific local need. However, as the appellant notes that Pear Tree Lane has been the subject of a number of successful applications for infill development in recent years, it is relevant to consider the sustainability of this location for new development. Pear Tree Lane itself is a single track lane, which is without lighting or pavements in the vicinity of the appeal site. The appellant notes that the site lies approximately 0.5 miles from the A41 and the wider road network. It is also suggested that it is within walking distance of town centre services which are approximately 1.9km away. Whilst it is clear that Whitchurch itself as a principal centre would provide the full range of services and facilities to meet community needs, I do not consider that it would be realistic to expect residents in this location to walk this distance on a regular basis. I am therefore of the view that development in this location would inevitably lead to dependence on travel by private car.
14. I have also looked at the key elements of sustainability as set out in the National Planning Policy Framework (the Framework) at paragraph 7. I accept that this development would contribute to the expansion of the local population and therefore the vibrancy of the community. I also accept that there would be short term economic gain through the provision of construction jobs. There would also be some additional revenue generated for the local Town Council. I also note that the proposal would include ecological enhancements through the formalisation of the wetland area and the dwelling would be designed using eco-friendly technology such as rainwater harvesting. However, the environmental impacts generated by construction on a greenfield site and the need to travel by private car to access services and employment cannot be overlooked. This harm would outweigh the benefits identified.
15. Both parties have drawn my attention to other planning and appeal decisions in this area relating to housing development beyond settlement boundaries, including along Pear Tree Lane. Whilst there are differences between these

cases and this appeal, it is important to note that in determining such cases the adoption of the SAMDev now provides greater certainty in terms of the final wording of policies and the significant weight which should be attached to this document. Whilst the appellant argues that the Council acted prematurely in determining this case in accordance with SAMDev policies prior to the adoption of this document, as stated previously, this document now forms part of the policy context for the consideration of this appeal.

16. I conclude that this proposal does not represent a sustainable form of development with particular reference to its location. It would conflict with the Core Strategy Policies CS4 and CS5 and the SAMDev at Policies MD3, MD7a and S18 which seek to focus development and investment within market towns, community hubs and community clusters.

#### *Character and appearance*

17. The proposed development would be located on a site which, whilst having No 52 Pear Tree Lane directly to the east, has open countryside and has a public footpath directly to the west. The property itself would be of one and a half storey in appearance and would be constructed from a mixture of timber, weatherboarding and render. I note that the proposal has been amended from an earlier version which placed two dwellings towards the back of the site. In the present scheme the dwelling is placed closer to the road frontage.
18. The position of this dwelling closer to the highway would be more in keeping with the pattern of development along Pear Tree Lane and I accept that Pear Tree Lane has evolved through development along the road frontage. I also accept that the modest and traditional appearance of the dwelling would not be out of place in the context of the variety of buildings in the surrounding area. Nevertheless, the visual impact of a dwelling in this location on the rural landscape must be considered. The site itself is at a lower level than No 52 and would be somewhat screened from the Lane and views from the south by mature hedgerow. However, it would have a significant impact on views from the public footpath, clearly extending the built form of Pear Tree Lane to the west into what is presently an open rural landscape.
19. The appellant suggests that this development would be less prominent than other developments in the vicinity. However, from the details before me, it appears that these other developments are to the east of the appeal site and do not therefore extend built form into the open countryside in the same manner.
20. I have found on this matter that the proposed development would have a detrimental effect on the character and appearance of the rural landscape. It would therefore conflict with the Core Strategy Policies CS6 and CS17 which require that new development protects, conserves and enhances the natural environment, taking into account local context and character.

#### **Conclusion**

21. The appellant has made reference to a recent appeal decision (APP/L3245/W/15/3067596) in which the Inspector has concluded that the Council cannot demonstrate that it has a five year supply of housing land

because it does not know what its Full Objectively Assessed Need is. Reference is also made to paragraph 47 of the Framework and the requirement that local planning authorities should work to significantly boost the supply of housing. The Council considers that it does have a five year supply, notwithstanding the recent appeal decision, referring to other appeal decisions which have supported its case. In this current appeal there is insufficient information before me to come to a firm conclusion either way. However, even if the Council did not have a five year supply of housing land and relevant policies for the supply of housing were not considered to be up-to-date, this would not inevitably lead to the appeal being allowed. If the Council did not have a five year supply then I accept that the net addition of one house which could be delivered reasonably quickly would carry moderate weight in favour of the proposal.

22. However, as the proposal is located outside the development limits of Whitchurch it would not represent a sustainable form of development. Furthermore, I have found that it would have a harmful effect on the rural character and appearance of this area. Therefore the harm caused in this case would be significant and demonstrable, outweighing any moderate benefits.
23. For the above reasons, taking into account all other matters raised, I conclude that the appeal should be dismissed.

*AJ Mageean*

INSPECTOR

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# Appeal Decision

Site visit made on 14 April 2016

**by Louise Crosby MA MRTPI**

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

**Decision date: 06 June 2016**

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**Appeal Ref: APP/L3245/W/16/3142392**  
**Rhosygadfa, Gobowen, SY10 7BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Meehan against the decision of Shropshire Council.
  - The application Ref: 14/03946/FUL, dated 26 August 2014, was refused by notice dated 13 July 2015.
  - The development proposed is construction of solar farm to include solar panel arrays, inverters, sub-station, security fencing and CCTV cameras.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal, in combination with the adjacent approved solar development, on the character and appearance of the landscape having particular regard to the use of nearby public rights of way and local highways.

## Procedural matters

3. I have taken the appeal site address from the submitted appeal form since the planning application form does not contain an address.
4. The planning application was amended by the appellant prior to its determination by the Council. The original scheme was for a 15MW capacity system, with 60,000 panels covering 31.6ha of land and included CCTV. The scheme that was refused by the Council and is the subject of this appeal is for 40,000 solar panels (with no CCTV), which would generate 10MW of electricity and cover an area of around 21ha.
5. Since the Council refused planning permission for the scheme before me planning permission has been granted for a 5MW capacity scheme, with 20,000 solar panels. This is on land that comprises part of the appeal site and has become the baseline. So, in effect it is the additional 20,000 solar panels that would be sited in the fields in the eastern section of the appeal site that are the main focus of my decision. Nevertheless, the cumulative impact of the proposal as a whole is an important consideration.
6. It was agreed at the accompanied site visit that I would return at a later date to view the appeal site from more distant, elevated viewpoints to the west that were shrouded in cloud on the day that I visited. These are the viewpoints that

local residents and the Council to Protect Rural England are concerned about. However, given my findings in relation to the near viewpoints, that I shall set out below, I considered it unnecessary to view the site from farther afield.

## Reasons

### Character and appearance

7. The appeal site is located in gently undulating countryside. The irregular shaped fields are generally bounded by hedgerows. The roads are narrow with grass verges and regular passing places, as well as field entrances. There are numerous public footpaths in the area, some of which border or pass through the appeal site. Because of the rural nature of the area people walk and cycle along the network of narrow roads that carry vehicular traffic. Dotted around the area are a number of dwellings and farmsteads. The site is divided by an unmade road that passes in a north-south direction and the 2 fields that are the main focus of this appeal case are themselves separated by another field that would not contain any solar panels.
8. Drawing on the local landscape type '*principal settled farmland*', the key common elements within the vicinity of the appeal site include, predominantly hedgerow boundaries; scattered farms and varied soil conditions that are predominantly utilised for mixed farming; tree cover comprises scattered hedgerow and field trees; fields have a varied pattern and are relatively small and sub-regular, though intensification of farming has resulted in the amalgamation of fields in some areas. The elements combine to create medium scale landscapes with predominantly filtered views.
9. The appellant's landscape and visual assessment says that 'the overall impression is that of a rural, peaceful and tranquil landscape with little noise from traffic' and I strongly agree with this assessment.
10. The appeal proposal, taken as a whole, would occupy an extensive area of land covering 5 small and medium sized fields (3 already approved). The introduction of the 2 additional fields of solar panels would extend the array of solar panels significantly. Notably they would as a result of this proposal be present on both sides of the road. The perception of the landscape would in places be changed markedly when looking left, right and straight on.
11. The submitted landscape and visual impact assessment (LVIA) concedes that the change in the immediate locality of the solar development would be high. The impact would quickly recede as one moved away from the site. Nevertheless, this proposal would result in the five closely grouped fields being covered by solar panels in this rural landscape where development is limited to scattered farms and dwellings. So, locally the proposal would alter the character of this unified landscape due to the introduction of extensive areas of regimented strings of solar arrays into what is currently a natural rural landscape devoid of concentrated areas of man-made elements or built development. As such, the intrusive proposal would have an adverse impact on the local character of this unchanged tranquil, rural landscape.
12. In terms of appearance, the array of solar panels in the smaller north eastern field is bounded on 2 sides by narrow roads. Hedgerows interspersed with trees exist along the field boundaries with these roads. It was apparent at my site visit that these hedges and others bounding the appeal site have been left

to grow taller in recent times. The submitted landscape mitigation statement advises that they are being allowed to grow to 3m in height to provide screening. I saw at my site visit that the hedgerows are still very sparse, providing clear views into this field from the adjacent roads. While the visibility would be reduced in summer, when they are in leaf, the hedgerows would be in their current sparse state for around half of the year.

13. One of these roads is a no-through route leading to Top House Farm and a cluster of other individual dwellings. This lightly trafficked road provides a short circular route, in conjunction with a public footpath to the south, and so is likely to be very popular with walkers. When walking along this road in a westerly direction one would be very aware of not only the solar panels to the north, but also those already approved in the fields to the west, especially because of the spread and degree of visibility.
14. Both on their own and in conjunction with those already approved, the north eastern field of solar panels would appear as a prominent feature in this extremely attractive rural landscape. In terms of views from passing vehicles, although the proposed panels would be clearly noticeable, the level of impact would be reduced by passing through the area at moderate speed; the drivers' attention would be focused on the route ahead; and views for passengers would tend to be glimpsed.
15. The larger south eastern field is bounded to the south by a hedgerow similar to those I have already described above. However there is an existing public footpath running inside the southern and eastern field boundaries. This would be retained and run between the proposed security fencing, which would be around 2.5m high and consist of timber posts at 6m centres with galvanised wire between, and the hedgerow. From these footpaths the fencing would allow clear views through to the solar panels and the posts on which they would be mounted at all times of the year. This rural walk with clear views across the open field to the hedgerows and trees beyond would be dramatically changed to one containing unavoidable views of modern man-made structures.
16. Given the number of solar panels close to the footpath, combined with those on the opposite side of the road that would be visible when walking in a westerly direction, overall the solar panels would appear visually overwhelming. This is despite the fencing and panels being set back to provide a good sized corridor. Again, the impact on the occupants of cars would be reduced for the reasons set out above. Moreover, this field is only bordered by a road on one side and it is one of the shorter sides of the rectangle.
17. Along the northern edge of both fields there would be inverter substations. According to the submitted plans there would be one in the more northerly field and 2 in the southern field. These would each measure around 7m x 3m x 2.5m. Their impact, in conjunction with the solar panels, would be minimal given their size in comparison to a field of solar panels.
18. The planning application was accompanied by a landscape management plan which shows hedgerow planting to infill any gaps in the existing hedgerow and also the planting of a few more trees close to both fields. Additional planting and hedgerow infilling is also proposed as part of the approved development to the west.

19. Over time the additional planting, along with the increase in height of the existing hedgerows, would screen the solar panels during the summer months from certain viewpoints such as roads. This planting would result in a limited benefit to users of the public footpaths as they would not be separated from the closest solar panels by landscaping. It is not clear from the evidence before me how long the hedgerow infilling or the new trees would take to be mature, but in my experience it is likely that the mitigation measures will take some years to become truly effective and this could be a significant part of the lifespan of the development which would be around 25 years.
20. In any event, in the winter months (when the hedgerows are not in leaf), even with the proposed increased height and infilling the solar panels are still likely to be highly visible, particularly to people passing through this area on foot. Regardless of the proposed mitigation the solar panels would also be visible from a number of properties in the surrounding area, particularly from first floor windows.
21. I am in no doubt that an additional 2 fields of solar panels would greatly increase the visual impact of the proposal on the appearance of the landscape. This increase would result in an unacceptable harmful effect, despite the proposed mitigation measures.
22. To summarise, the proposal would have a significant adverse effect on the character and appearance of the surrounding area and be in conflict with Shropshire Local Development Framework adopted Core Strategy policies CS5 and CS6 in so far as they seek to protect the countryside from harmful forms of development. It would also conflict with policy CS17 in so far as it aims to ensure that all development contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape.

#### The Planning Balance

23. In terms of the public benefits of the scheme, the proposal would contribute towards the Government's long-standing and well documented commitment to renewable energy generation. The additional 5MW of electricity that would be generated by the additional solar panels, that do not already have planning permission, would equate to the average annual electricity consumption of approximately 1500 homes for a period of around 25 years. The National Planning Policy Framework confirms that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions.
24. The appellant advises that if this appeal is not allowed, the smaller, approved scheme may not be viable and therefore in jeopardy. This evidence is not substantiated by any technical or financial evidence which reduces the weight I can attach to it.
25. The proposal would not result in the complete loss of agricultural land as sheep would graze beneath the solar panels. The use of best and most versatile agricultural land has been avoided and there is no compelling evidence to show the availability of brownfield alternatives. These benefits are of considerable importance and thus attract substantial weight.
26. While the effects of the development would be reversible, it is likely that the solar panels would be in place for 25 years. This is a considerable period of time and therefore I attach little weight to this matter.

27. On the other hand I have identified significant harm to the character and appearance of the surrounding area to which I attribute very substantial weight.
28. I find that that the identified harmful effects of the proposal would significantly and demonstrably outweigh the benefits of the scheme. As such, the proposal would be in conflict with the development plan and the Framework when taken as a whole.
29. Local residents have raised a number of additional concerns regarding the proposal, having considered them they do not add anything of material weight to the balance and so there is no need for me to address these points in my decision.
30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Louise Crosby*

INSPECTOR

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