



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

Date: Monday, 12 November 2018

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

**Date:** Tuesday, 20 November 2018  
**Time:** 2.00 pm  
**Venue:** Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury,  
Shropshire, SY2 6ND

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

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

**Members of the Committee**

David Evans (Chairman)  
David Turner (Vice Chairman)  
Andy Boddington  
Gwilym Butler  
Simon Harris  
Nigel Hartin  
Richard Huffer  
Madge Shingleton  
Robert Tindall  
Michael Wood  
Tina Woodward

**Substitute Members of the Committee**

Jonny Keeley  
Heather Kidd  
Christian Lea  
Elliott Lynch  
Cecilia Motley  
William Parr  
Vivienne Parry  
Kevin Turley  
Leslie Winwood

Your Committee Officer is:

**Linda Jeavons**      Committee Officer  
Tel:                    01743 257716  
Email:                [linda.jeavons@shropshire.gov.uk](mailto:linda.jeavons@shropshire.gov.uk)

# AGENDA

## 1 Apologies for Absence

To receive any apologies for absence.

## 2 Minutes - TO FOLLOW

To confirm the minutes of the South Planning Committee meeting held on 23 October 2018 – TO FOLLOW.

Contact Linda Jeavons (01743) 257716.

## 3 Public Question Time

To receive any questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is no later than 24 hours prior to the commencement of the meeting.

## 4 Disclosable Pecuniary Interests

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

## 5 Land East Of Badger Hall, Badger, Wolverhampton, Shropshire, WV6 7JR (18/01284/FUL) (Pages 1 - 16)

Formation of a fish stock pool.

## 6 Penhaligon Stud, Norbury, Bishops Castle, Shropshire, SY9 5DU (18/03215/FUL) (Pages 17 - 40)

Erection of rural worker's dwelling and detached garage with bedsit above; erection of 2No. isolation boxes and horse walker.

## 7 Proposed Residential Development Land East Of Shaw Lane, Albrighton, Shropshire (18/03579/FUL) (Pages 41 - 86)

Residential development of 6 bungalows and 58 houses (Revised scheme)

## 8 The Cottage Nordley Bridgnorth Shropshire WV16 4SX 18/04281/FUL (Pages 87 - 110)

Erection of one dwelling following demolition of existing buildings; formation of vehicular access and parking area; change of use of agricultural land to domestic garden land (revised scheme).

## 9 Bank House, Longhills Road, Church Stretton, Shropshire, SY6 6DS (18/04768/TPO) (Pages 111 - 130)

To fell 2No Douglas fir trees protected by The Council of the South Shropshire District Council, (Church Stretton).

**10 Schedule of Appeals and Appeal Decisions (Pages 131 - 132)**

**11 Date of the Next Meeting**

To note that the next meeting of the South Planning Committee will be held at 2.00 pm on Tuesday, 18 December 2018, in the Shrewsbury Room, Shirehall.

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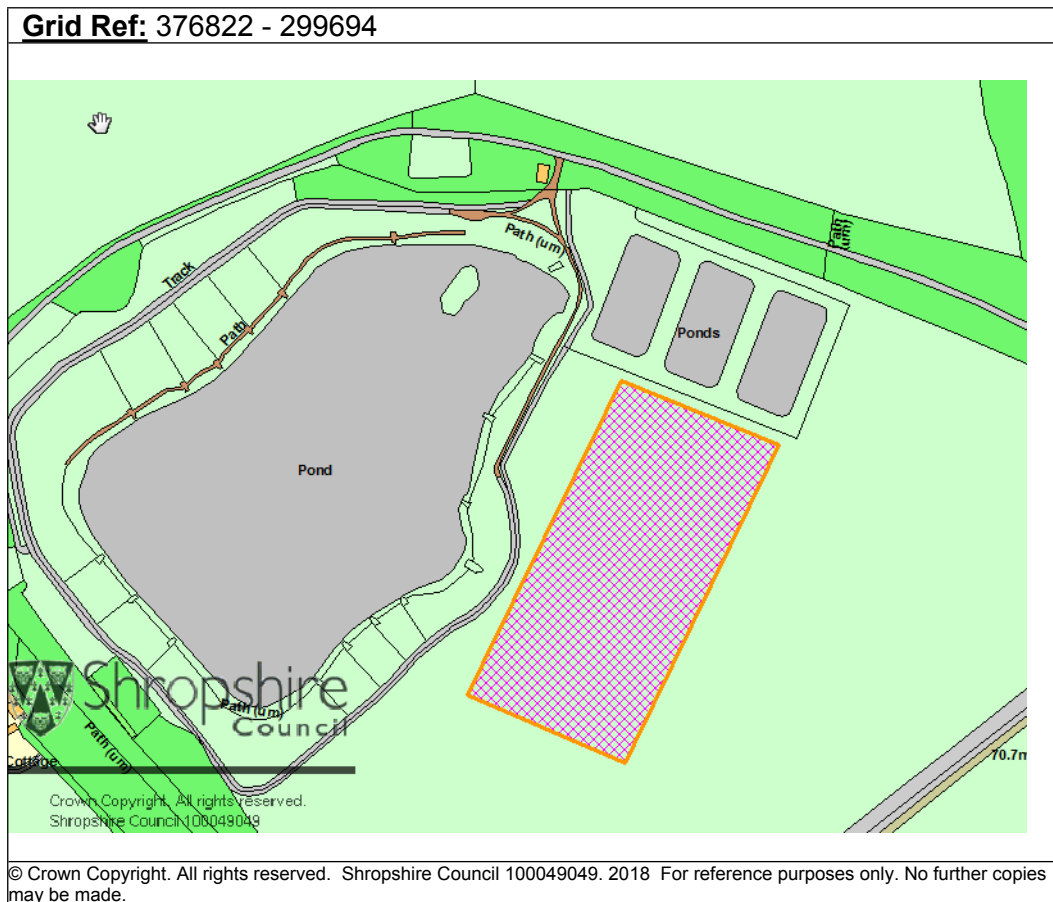
Committee and date  
 South Planning Committee  
 20 November 2018

## 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> 18/01284/FUL	<b>Parish:</b> Badger
<b>Proposal:</b> Formation of a fish stock pool	
<b>Site Address:</b> Land East Of Badger Hall Badger Wolverhampton Shropshire WV6 7JR	
<b>Applicant:</b> Mr Robert Hales	
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application is for the formation of a fish stock pool at The Avenue Carp Fishery, Badger Hall, Badger. The Avenue Carp Fishery is one of the five sites within the applicant's company, RH Fisheries Ltd, this site having been established in 2009 for the operation of leisure fishing and associated facilities. The other sites are all within Shropshire at Shifnal, Weston Park and Acton Burnell. The proposed pool is intended for the rearing and growing on of top quality specimen carp and other fish varieties supplying the company's five lakes. It is required in addition to and in connection with the existing three small fish stock pools to meet ever increasing demands and particularly to grow on fish for which the size and depth of the existing pools is limiting. Surplus stock would be sold to other fisheries and customers.
- 1.2 The pool is proposed to measure 90m x 180m with a maximum depth of 2m, this being the size calculated to best serve the age/size of the fish intended for it. It was originally proposed to be located on the eastern side of the existing stock pools in the north eastern corner of an agricultural field within the ownership of the applicant. The proposed siting has subsequently been adjusted, as is explained in paragraphs 1.5 and 1.6 below. The proposed pool would be created generally below the present ground clay level in a clay lined excavation. Excavated material would be disposed of by evenly spreading it over the agricultural land and surfacing over with top soil. No excavated material would be removed from the site. As per the existing pools, the proposed pool would be fed by an existing private borehole. There are no rivers, brooks or other watercourses within the site that would discharge into the pool. There is minimal likelihood of the proposed pool overflowing, however provision has been made for such as instance by an overflow soakaway on the south west side of the pool. A stock proof fence of 1.2m high is proposed to be erected around the pool. Access to the site would be from the private drive to the east as existing, nor would there be any change to the current parking provision.
- 1.3 In addition to the Supporting Letter and Statement submitted with the application, an Ecological Assessment by Camlad Ecology Ltd dated March 2018 has been provided. This document concludes that based on the survey findings, there would be no direct risk to designated habitats or to protected and valued species from the proposed work on this site, provided that care is taken to avoid disturbance of hedgehogs and nesting birds. Work to the site should not impact on the surrounding landscape if care is taken over pollution. As the site is wholly on derelict improved grassland and the adjacent woodland can easily be protected, further survey is not considered to be necessary. However, because ecological survey can only show presence or likely absence, rather than certain absence, and because species could move onto the site in the interim, a precautionary approach is advised.
- 1.4 During the course of the application and in response to concerns raised by The Gardens Trust, Shropshire Parks & Gardens Trust and Badger Parish Council, a

Heritage Statement by Bea Landscape Design Ltd dated 17<sup>th</sup> July 2018 has been submitted in support of the application. This document undertakes an assessment of the impact of the proposed development on a number of key locations and structures of historic importance. These include:

- o Badger Conservation Area – Covers the village of Badger, Badger Dingle and the historic gardens of the demolished Badger Hall, but not the site.
- o Registered Parkland (Grade II Listed) – Badger Dingle is a 105 acre registered park and garden comprising 3 parts: the gardens to the north east side; the Dingle pleasure grounds, a long stream cut ravine; the shrubbery drive linking the Dingle and gardens. The proposed site is within the East Lawn of the gardens.
- o The Old Hall (Grade II Listed) – The former service wing to the demolished Badger Hall with rear courtyard bordered by single storey red brick ranges. Now the applicant's home on the west side of the existing fishing pools.
- o Church of St Giles (Grade II Listed) – Parish church built in red sandstone on the site of a Medieval church in 1833. Located to the south of The Old Hall.
- o Churchyard Cross (Grade II\* Listed) – C14 or C15 Medieval sandstone cross to the south east side of the church.
- o Bridge (Grade II Listed) – Late C18 or early C19 red brick single span arch bridge to the south of the existing fishing pools.
- o Bird House (Grade II Listed) – Late C18 classical temple/summerhouse to the south of the Bridge located looking across and along the Dingle.
- o Hunters Bridge (Grade II Listed) – C17 timber framed house on rick plinth to the south of the existing fishing pools and south west of the Bridge.
- o Old Coach House (Grade II Listed) – C18 partially timber framed with red brick infill cart shed with granary over to the south west of Hunters Bridge.
- o 6 – 8 Badger (Grade II Listed) – House dated 1844 now 3 cottages to the west of The Old Coach House.
- o 3 & 4 Badger (Grade II Listed) – Two C17 red brick and sandstone cottages to the west of 6 – 8 Badger.
- o Classical Temple (Grade II Listed) – C18 classical temple/rotunda located near the lower pool of Badger Dingle to the west of Badger.

1.5 The conclusion of the site assessment is that the proposed development would not have an impact on the majority of the Registered Parkland, the Conservation Area or the Listed Buildings (as above) in proximity to the proposals. However, the proposal is considered to have an adverse effect on the remnant of the East Lawn, the adjacent woodland and the setting of both the Eastern Approach and the Registered Parkland, and a minimal adverse impact on the Conservation Area and Grade II Listed Bridge. It is therefore recommended that the proposed stock pool is reduced in size, re-orientated to a north east to south west axis and moved to align with the existing commercial pools.

1.6 As a result of the Heritage Statement findings, and following a site meeting attended by the SC Planning Officer, SC Conservation Officer, agent and applicant at which a full tour of the wider site took place, amended plans have been submitted. These show the re-positioning of the proposed pool to the area south of the existing three fish stock pools and east of the existing fishing pool. A landscaping proposals drawing has additionally been provided showing native

hedge and tree planting around the edge of the proposed pool, and the existing mounding to be reshaped to accommodate its formation. The size of the pool remains as originally proposed as this is the scale required for the purpose intended.

## **2.0 SITE LOCATION/DESCRIPTION**

2.1 The site falls within open Green Belt countryside to the north east of the settlement of Badger and halfway between Albrighton and Bridgnorth. It is located with a Registered Park and Garden and adjacent to Badger Conservation Area. The fishery is accessed via minor roads from the B4176 to the south west or the A464 to the north. The field in which the additional pool is proposed is located to the east side of the applicant's home, but separated from it by a band of mature trees which form the 'shrubby drive' of the Registered Parkland. The northern and eastern boundaries are also bordered by trees along the former Eastern Approach to Badger Hall which is now an access track. The southern boundary is adjacent to Pattingham Road and is defined by mature native hedging containing some mature trees. The existing large fishing pool is located on the north western side of the field, the three fish stock pools adjacent to its east side close to the northern boundary. The section containing the pools is level and raised above the remainder of the field, and this includes the amended site for the proposed pool. From this upper plateau of rough grassland, the land slopes downwards in gentle undulations which minimise direct views of the site from Pattingham Road to the south and east. The lower area is level and cultivated for agricultural purposes, where the upper section is unsuitable for this due to the rough finish of the ground. The closest dwellings to the amended site of the proposed pool are those on the eastern edge of Badger itself approximately 160m away and on the other side of the 'shrubby drive'.

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

3.1 The proposed development is considered to accord with the requirements of the Councils relevant adopted policies, however a contrary opinion has been received from the Parish Council. The Local Member has expressed that a Committee Decision is desirable. The Principal Planning Officer in consultation with the Committee Chairman has confirmed that based on material planning reasons, a Committee decision is necessary in this case.

## **4.0 Community Representations**

4.1 - Consultee Comments

4.1.1 Badger Parish Council – Not opposed to the proposal in principle, but considers that the revised position for the stock pool is more intrusive than the original location and has an inappropriate slope for the landscape.

4.1.2 SC Drainage – The Supporting Statement states that the pool will be set generally below the present ground level, and as such there is no comment from the drainage and flood risk perspective.

4.1.3 SC Conservation - The revised siting and landscaping proposals are considered to minimise the impact of the development on the Registered Park and Garden and the proposal is now considered to be acceptable from a conservation perspective.



- 4.1.4 SC Archaeology – No comments to make on this application in respect of archaeological matters.
- 4.1.5 SC Ecology – Conditions and informatives recommended in relation to landscaping, bats, badgers and general wildlife.
- 4.1.6 SC Trees – No objection to the proposed development on arboricultural grounds.
- 4.1.7 The Gardens Trust – Continues to object to this proposal. Disagrees with the opinion of officers that the amended position of the proposed pool and landscaping is not contrary to adopted policies. Reiterate the comment from our letter of 21<sup>st</sup> August that the proposed development, which is for business reasons and for the benefit of a private individual, fails the test of public benefit and hence of the key principle of sustainable development that is at the core of the NPPF. The addition of this enormous new fish-breeding pond will in addition compound damage already done to the fabric of the Grade II Registered Park and Garden. In our opinion the hedge and proposed tree planting do not address the core issue of the sheer scale of the proposed fish pond.
- 4.1.8 Shropshire Parks & Gardens Trust – Request that the applicant be required to undertake a proper assessment of the potential impacts of the proposed development on the Grade II Registered Park and on the setting of the other Listed Buildings within the site and of the Badger Conservation Area, as required by the NPPF. We will be in a position to comment once this exercise has been completed. (On behalf of Shropshire Parks & Gardens Trust and The Gardens Trust).
- 4.2 - Public Comments
- 4.2.1 Site notice displayed 6<sup>th</sup> April 2018. No public representations received.

## 5.0 THE MAIN ISSUES

- o Principle of development
- o Green Belt
- o Impact on the historic environment
- o Siting and scale
- o Ecology
- o Trees
- o Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 LDF Core Strategy Policy CS1 deals with strategic approach, noting that outside community hubs and clusters, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing. Whilst this policy provides recognition that countryside is a 'living-working' environment which requires support to maintain or enhance sustainability, it also recognises the need to consider the scale and design of proposals, where development is most appropriately sited, environment and other impacts.

- 6.1.2 LDF Policy CS5 states that new development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Subject to the further controls over development that apply to the Green Belt, development proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly in relation to (amongst other criteria):
- o small scale new economic development diversifying the rural economy, and
  - o sustainable rural tourism and leisure and recreation proposals which require a countryside location in accordance with Policies CS16 and CS17.
- 6.1.3 In support of LDF Policy CS5, LDF Policy CS13 plans positively to develop and diversity the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities. Policy CS16 seeks to deliver high quality, sustainable tourism, and cultural and leisure development which enhances the role that these sectors play for the rural economy, benefits local communities and visitors and is sensitive to Shropshire's intrinsic natural, historic and built environment qualities. Emphasis is placed on (amongst other criteria) supporting new and extended tourism development, and cultural and leisure facilities that are appropriate to their location, and promoting connections between visitors and Shropshire's natural, cultural and historic environment. Opportunities for accessing, understanding and engaging with Shropshire's landscape, cultural and historic assets are also promoted.
- 6.1.4 SAMDev Plan Policy MD11 states that tourism, leisure and recreation development proposals that require a countryside location will be permitted where the proposal complements the character and qualities of the site's immediate surroundings. All proposals should be well screened and sited to mitigate the impact on the visual quality of the area through the use of natural on-site features, site layout and design.
- 6.1.5 These policies align with paragraph 83 of the NPPF which states that in supporting a prosperous rural economy, planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, through sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 84 acknowledges that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
- 6.1.6 It is considered that the proposed formation of a fish stock pool in the position as amended is an acceptable form of economic growth for a rural enterprise already established at The Avenue Carp Fishery site. It would also provide support for the applicant's other rural fishery businesses within Shropshire. Through the expansion of this enterprise, which requires a countryside location, countryside vitality would be enhanced and benefit a greater number of people. The site would improve the offer at a leisure facility in an attractive rural location that would provide opportunities for engaging with Shropshire's landscape and a historic environment. The amended location of the proposed stock pool would ensure that surrounding

natural and historic features would be largely retained due to the unobtrusive positioning of the development. Appropriate landscaping is proposed to aid its integration with the surrounding natural environment. For these reasons the proposed development is not considered to be contrary to the adopted policy above which supports extended forms of rural business and leisure uses appropriate to their location and the principle of the development is acceptable.

## **6.2 Green Belt**

6.2.1 Green Belt Policies CS5 and MD6, and Section 13 of the National Planning Policy Framework require that the openness, permanence and visual amenity of the land within its boundaries are preserved. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Fishing is an outdoor sport and recreational activity and the proposed fish stock pool that would support such activity is not considered to be inappropriate development in the Green Belt. It is considered that this development in support of established outdoor sports facilities would have little additional visual impact on the openness of the Green Belt and would not conflict with the purposes of including land within it.

## **6.3 Impact on the historic environment**

6.3.1 Policy MD13 of the SAMDev Plan states that Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored, in summary by:

1. Ensuring that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.
2. Proposals are accompanied by a Heritage Assessment where appropriate.
3. Where proposals are likely to have an adverse effect, it should be clearly demonstrated that the public benefits outweigh the adverse effect.
4. Encouraging development which delivers positive benefits to heritage assets.

6.3.2 Paragraph 192 of the NPPF states that, in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

6.3.3 The proposed fish stock pool in its amended location would enhance the existing viable use of this section of Registered Parkland and contribute positively to its economic vitality without adversely impacting on the part of the East Lawn which remains largely unaltered. In the location originally proposed in the north east corner of the field the proposed development would have meant the loss of the unaltered part of the East Lawn and potential detriment to the trees in the Eastern Approach. Furthermore, the excavation would have resulted in significant re-profiling to retain the water and marry with the existing levels. The proposed fish stock pool would now be a ground level development located away from the tree

lines which form the Eastern Approach and Shrubbery Drive and would be at least 150m away from the nearest Listed structure at the Bridge – which is itself sunken into the tree belt of the Shrubbery Drive and hidden from view. The proposed development additionally provides the opportunity to repair previous ground level alterations which have left undulations in the landscape by using the excavated material. From the position of the amended location, the proposed fish stock pool would not be easily visible within its landscape due to the extent of the plateau section containing the existing pools and the proposed landscaping. It is not considered that the proposed development would adversely impact on the surrounding historic environment.

- 6.3.4 Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.3.5 For the reasons given in 6.3.3 above, the proposed development is considered to result in much less than substantial harm to the significance of the Registered Parkland. The proposed development would be an acceptable form of economic growth for a rural enterprise and a leisure use appropriate to its location which would increase the opportunity for visitors engaging with this historic environment and with Shropshire's landscape. Therefore there are public benefits to the proposed development that would outweigh the ground level alteration to the landscape.
- 6.3.6 The landscape in Badger already contains many pools that were created as features in the Registered Parkland. The existing fishing pool at The Avenue Carp Fishery was previously part of the parkland enlarged into its current form. The proposed development is a continuation of the alteration of this parkland, man made for leisure use, but which is accessible to a greater number of visitors and for a contemporary use.

#### **6.4 Siting and scale**

- 6.4.1 Policy CS6 of the Shropshire Council LDF Core Strategy states that development should conserve and enhance the built, natural and historic environment and be appropriate in its scale and design taking account of local character and context. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design will be achieved. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's building, natural and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.
- 6.4.2 The proposed pool as amended would sit within the existing landscape without visual impact on the levels of the land and with natural landscaping planting around it. Whilst the scale of the pool could be considered large, its size is smaller than the existing fishing pool and together with the three existing stock pools forms a logical grouping.

## **6.5 Ecology**

6.5.1 An Ecological Assessment was submitted in support of this application which concluded that there would be no direct risk to designated habitats or to protected and valued species from the proposed work on this derelict improved grassland site. SC Ecology have recommended a condition requiring approval of a landscaping plan prior to the commencement of the development, however an acceptable Landscaping Proposals plan has subsequently been provided omitting the need for that particular condition to be applied. The other conditions and informatives recommended will be applicable as it is considered that they would help to manage the potential presence of protected species successfully.

## **6.6 Trees**

6.6.1 Policy MD12 of the SAMDev Plan sets out criteria by which the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved.

6.6.2 The amended position of the proposed fish stock pool is on land where there are no trees and none close that would be affected by the pool's formation. The closest band of trees would be approximately 130m away at the Shrubbery Drive, and nearest individual trees, 60m to the south within the mature native hedge with forms the site boundary. There is no requirement therefore for a Tree Protection Plan in relation to the site, to protect trees during construction work.

## **6.7 Drainage**

6.7.1 It is not considered that there is a likelihood of flooding from surface water from the proposed pool, as appropriate precautions have been taken within the design which incorporates a soakaway to the south west end of the proposed pool and sets it below ground level. There would be no watercourses feeding into the pool as water would be obtained from an existing borehole.

## **7.0 CONCLUSION**

7.1 It is considered that this proposal, as amended, is not contrary to adopted policy as it is appropriate development at ground level within the Green Belt in support of an existing outdoor sport and leisure use. It is an acceptable form of economic growth for a rural enterprise already established at The Avenue Carp Fishery site and would improve the offer at a leisure facility in an attractive rural location that would provide opportunities for engaging with Shropshire's landscape and a historic environment, and protect the biodiversity of the surrounding countryside.

7.2 Contrary to the objections raised by the Gardens Trust, it is considered that the proposed development is located in the most appropriate position where it would not adversely impact on the unaltered section of the Registered Parkland's East Lawn, or on the wider historic environment, as it would not be easily visible within it, and would be logically positioned with the existing pools. The proposed development demonstrates that there are public benefits to the proposed development that would outweigh the ground level alteration to the landscape.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ② As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ② The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

### 8.2 Human Rights

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

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

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

### 8.3 Equalities

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

### 9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of

defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

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

LDF Core Strategy Policies:

- CS1 Strategic Approach
- CS5 Countryside And Green Belt
- CS6 Sustainable Design And Development Principles
- CS13 Economic Development, Enterprise And Employment
- CS16 Tourism, Culture And Leisure
- CS17 Environmental Networks
- CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:

- MD2 Sustainable Design
- MD6 Green Belt and Safeguarded Land
- MD7b General Management Of Development In The Countryside
- MD12 Natural Environment
- MD13 Historic Environment

### RELEVANT PLANNING HISTORY:

- 13/02142/FUL Construction of 3 fish breeding stock pools, and associated storage building. Granted 23rd July 2013
- 09/00587/FUL - Erection of amenity building and WC for fishing visitors. Granted 8th July 2009.
- BR/APP/FUL/08/0739 - Use of pool for leisure fishing. Granted 21<sup>st</sup> January 2009.
- BR/92/0277 – Erection of a detached single storey building to form garden store. Granted 2<sup>nd</sup> June 1992.
- BR/81/0781 Formation of a new vehicular access. Granted 21st December 1981

## 11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P5NBK3TDK9L00>

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

- Supporting Statement received on 15<sup>th</sup> March 2018
- Supporting Letter received on 15<sup>th</sup> March 2018
- Ecological Assessment by Camlad Ecology Ltd dated March 2018
- Heritage Statement by Bea Landscape Design Ltd dated 17<sup>th</sup> July 2018

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Michael Wood

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.

3. The pools hereby approved shall be used for fish breeding purposes only.

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

#### CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

4. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

5. All hard and soft landscape works shall be carried out in accordance with the Approved Plan: 18-73-01 Rev A. The works shall be carried out prior to the use of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

6. All development, excavation and site clearance procedures on the site to which this permission applies shall be undertaken in line with the Ecological Assessment by Camlad Ecology Ltd (March 2018).

Reason: To ensure the protection of wildlife.

7. No excavated material shall be removed from the site as stated in the submitted Supporting Statement and Letter dated 15th March 2018.

Reason: In the interests of the amenity of the area and traffic safety around the site.

### **Informatives**

1. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.

2. Badgers, their setts and the access to the setts are expressly protected under the Protection of Badgers Act 1992. It is a criminal offence to kill, injure, take, possess or control a badger; to damage, destroy or obstruct access to a sett; and to disturb a badger whilst it is occupying a sett.

No development works or ground disturbance should occur within 30m of a badger sett without having sought advice from an appropriately qualified and experienced ecologist and, where necessary, without a Badger Disturbance Licence from Natural England. All known badger setts must be subject to an inspection by an ecologist immediately prior to the commencement of works on the site.

There is an unlimited fine and/or up to six months imprisonment for such offences. Items used to commit the offence can also be seized and destroyed.

3. Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals

to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

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

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

LDF Core Strategy Policies:  
CS1 Strategic Approach  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS13 Economic Development, Enterprise and Employment  
CS16 Tourism, Culture and Leisure  
CS17 Environmental Networks  
CS18 Sustainable Water Management

Site Allocations & Management Of Development (SAMDev) Plan Policies:  
MD2 Sustainable Design  
MD6 Green Belt and Safeguarded Land

MD7b General Management of Development In The Countryside  
MD12 Natural Environment  
MD13 Historic Environment

5. 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 38.

-



Committee and date

South Planning Committee

20 November 2018

## Development Management Report

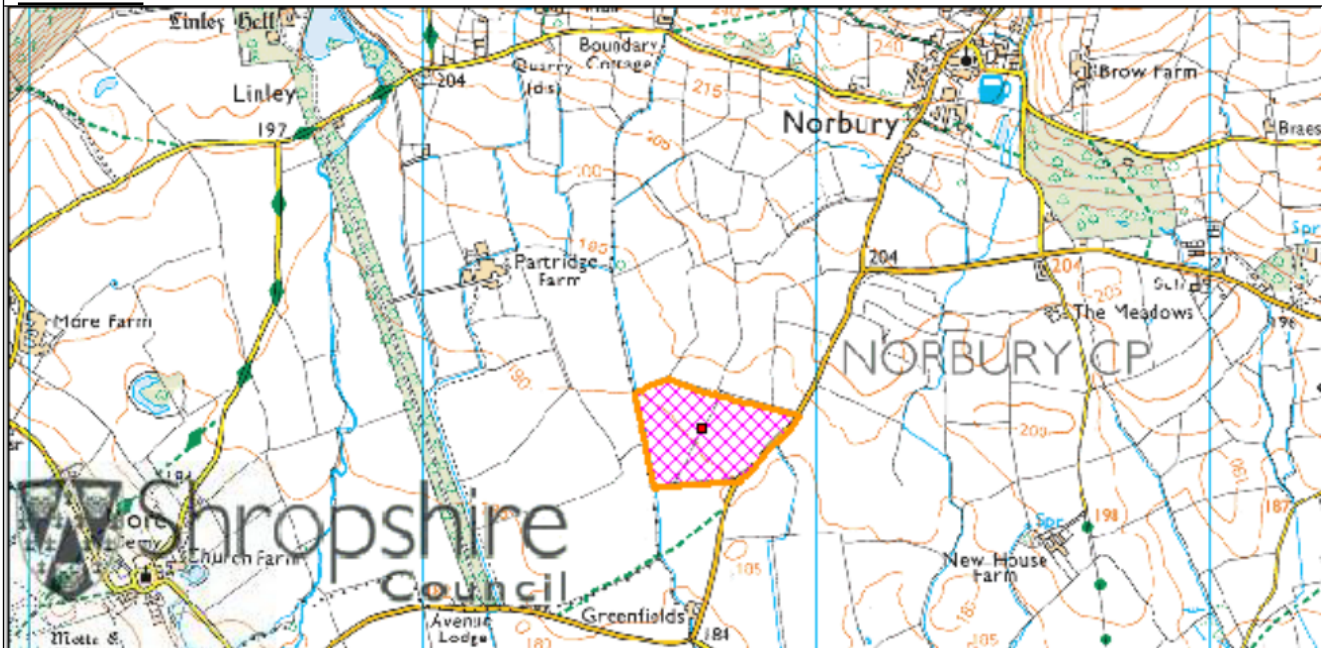
Responsible Officer: Tim Rogers

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> 18/03215/FUL	<b>Parish:</b> Norbury
<b>Proposal:</b> Erection of rural worker's dwelling and detached garage with bedsit above; erection of 2No. isolation boxes and horse walker	
<b>Site Address:</b> Penhaligon Stud Norbury Bishops Castle Shropshire SY9 5DU	
<b>Applicant:</b> Mrs Theresa Oakes	
<b>Case Officer:</b> Heather Owen	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>

**Grid Ref:** 335712 - 291909



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and completion of a S106 to secure an affordable housing contribution should it ever be demonstrated in the future that there is no functional need for the rural workers dwelling either from the original rural enterprise, or from other rural enterprises in the locality.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks planning permission for the following:

- Erection of rural worker's dwelling.
- Erection of detached garage with bedsit above.
- Erection of 2No. isolation boxes and horse walker.

1.2 The dwelling and detached garage with bedsit above is proposed to be located to the north east of the existing stables and stock building. The dwelling proposed would provide a two bedroomed property with a single storey utility, boot room and office attached. It is proposed to be of render and timber clad construction under pitched dormer roof. The proposed garage would provide parking for three cars and be timber clad under a pitched tiled roof, access to the proposed bedsit would be via an external staircase to the south side elevation.

1.3 The Isolation boxes and horse walker are proposed to replace the previously approved lunge ring (14/05768/FUL) as the applicants wish to diversify their business into horse rehabilitation. The horse walker is proposed to be located in the position of the approved lunge area, with the isolation boxes proposed to be sited adjacent to the north. The horse walker would have a diameter of approximately 20m and would be made up of a post and rail fence approximately 2m high. The isolation boxes would consist of two adjoining stables boxes, timber clad under an onduline roof sheeting. Following request from the Councils Agricultural Consultants amended plans have been submitted to increase the sizing of the boxes from 3m squared to approximately 3.6m squared.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located approximately 1km to the south west of Norbury and is accessed via a track on the west of the highway which runs through paddock land and leads to a recently constructed stock building, a stables, and manege. This development was granted planning permission along with the change of use of the land to equestrian and the temporary siting of a mobile home on 08<sup>th</sup> March 2016 (14/05768/FUL).

2.2 The site is roughly 7.7hectares, with mature tree and hedge rows defining the boundaries of the site. The surrounding area is predominantly made up of open fields, with isolated farms and occasional dwelling houses scattered across the landscape.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council raise a view contrary to Officer recommendation, following consultation with the Chair and Vice Chair of the South Planning Committee it was determined that the application raises material planning considerations which warrant assessment by planning committee.

## 4.0 Community Representations

### 4.1 Consultee Comments

#### 4.1.1 Myndtown Combined Parish Council: Objection

The Parish Council Planning Sub-committee, examined the plans in details and conducted a site visit on Tuesday 28<sup>th</sup> August, considering the scheme against planning guidelines for the benefit of the community. The Parish Council wish to submit the following objections to the proposed development:

#### BACKGROUND

Penhaligon Stud is an establish small stud, an expansion of which is now based in Norbury parish which despite many local objections including one from this Parish Council was granted Planning Permission by SC Planning Committee on 01<sup>st</sup> March 2016. The owner/applicant suggested at that time that their present site and Stud business at Grade II Glanhafren Hall, Llanidloes Road, Newtown could not expand due to the compulsory purchase of an undisclosed acreage of their land by the Newtown Bypass. It was stated in the original DAS 1.9 that it is proposed that the entire element of the Newtown business would re-located to Norbury site to accommodation and facilities the expansion and enhance the mares, foals and yearlings to be together to produce a greater number of stables to meet a growing demand. This expansion would then contribute to the rural economy and deliver economic growth to the area by providing local jobs, use local vets, farriers, hay merchants and feed suppliers to name but a few.

Shropshire Council requested that the Reading Agricultural Consultancy (RAC) independently considered the application to which they raised concerns 6.4.7 – that information such as business accounts demonstrating that the business is capable of sustaining itself in the longer term was lacking. 6.4.8 – Financial information was then supplied with the RAC stated ‘would not meet the test of sustainable development if used to support an application for a permanent dwelling’ – on the Norbury site – and ‘at the end of the 3 year period failed to show a level of profit to meet the cost of all labour both employed and notional labour charges for the applicant; based on return from capital invested and build costs’. It was only after the applicant later confirmed to the RAC that the whole business would re-locate to Norbury site, 6.4.9, did the RAC confirm that there would be an essential need for someone to be residential on the site.

Shropshire Councils SAMDev Plan has now been adopted and replaces all previously saved policies of the Local Plan.

#### RELEVANT PLANNING HISTORY

The applicant owns the fields, approx. 7.7 (18.9) acres of land, which is available to the business at Norbury. It is stated that potentially more land was available for purchase nearby to facilitate the re-location of the entire business to the site. Has the applicant purchased more land within the locality to enable this or provided evidence of how many horses the current site can support? Have all the Conditions set out in the Planning Permission Determination for Application no 14/05768 been met, approved and proven completed? i.e. Condition 13 – The Mobile Home which

was granted on a temporary basis. Has the LPA assessed the viability of the business prior to the need for a permanent dwelling? It is noted in the current Planning/DAS 3.12 – that Surface & foul water drainage as approved under 16/02864/DIS will be provided. The Planning Committee at the hearing of 1<sup>st</sup> March 2016 raised concerns as to the above being met accordingly. This Council noted at the Site Visit that guttering on the main equine building is evident, however, the down pipes falls short of the ground by approx. 2 feet. There are no drains or drainage channels in situ thereby all the surface water run-off is straight in to the ground. Can Shropshire Council Drainage/SuD's confirm that they have inspected the site within the past 2 years and this issue been satisfactorily addressed; in that the surface water management drainage system has already been installed and designed for possible future extensions – in an area that is consistently prone to flooding?

#### LOCATION

The proposed dwelling and detached garage with bedsit above are located in a 'Greenfield' surrounded by pasture land. It lies on the southern boundary of the Shropshire Hills AONB and 1km from the built environment of historic Norbury Village which has Conservation Status. The proposed dwelling site is isolated and separate from the current buildings and yard in the field directly adjacent to the main high-way. The proposal on another Greenfield site is on a rise in the land, in an exposed area on a previously undeveloped rural gap site and will be a highly visible intrusion on the landscape. It is noted that S106 dwellings are required within as close a proximity to existing agricultural buildings, preferably within the 'farm' yard itself, to alleviate isolation and contain the development area.

#### GENERAL COMMENTS

The application is for a Rural Workers dwelling, detached garage with bed-sit above, erection of x2 Isolation boxes and horse walker. In the Type & Affordability of Housing SPD para 3.7 it states that a Rural Workers dwelling should aim to be 100sqm. Has a relevant case been made as also stated, for the proposed dwelling to cover a larger amount of floor space- DAS 3.2 '....has a total gross internal floor space of 142sqm'. The DAS is confusing in that it suggests only the second bedroom of the proposed dwelling will be used to provide for possible temporary Germanic Students – DAS 6.26. It does not state who will be occupying bedroom one as the DAS 2.6 also clearly states 'this proposal will enable the applicants to live permanently at the Newtown site'. This does not reduce the need for the applicant's vehicular travel of 44-mile round trip to the site once or twice a day. There was a member of staff on the site in the temporary mobile home for some time, however he has since left the applicants employ and a new staff member will be recruited. As of 29<sup>th</sup> August 2018 the applicants website states that the Stud business and associated Saddlery business is situated in Newtown on the Shropshire/Wales border. There is no suggestion anywhere on the website (last updated 5<sup>th</sup> August) that the whole of the business as already or will be relocating to the Norbury site. Can the applicants confirm and provide that the entire Pehaligon Stud business has now relocated to the site at Norbury and no element of which still exists at the Newtown site, as raised by the RAC Report nearly 3 years ago?

The 3-car garage with bed-sit over is a considerable sized building in itself. Is it



within the Policy for a garage to be included and if so is this taken into account of the overall size when determining a Rural Workers Dwelling? If so, this would then make the entire residential floorspace extensive, unjustified and not of an appropriate scale.

The DAS 2.2 states that ‘half their land at Newtown was compulsory purchased as part of a flood relief scheme for the Newtown Bypass – which was planned for 40 years – and therefore expansion of this site was not possible’. A 130-page document produced by Powys County Council re: the Bypass, states that 2 parcels of the (applicants) land were used to install a flood drainage system. The land, plots 1/5A & 1/5B were then ‘reinstated with gentle slopes, re-grassed and suitable for horses’ were then returned to the owners. Can the applicants confirm this? This Council also notes that there are 16 prior planning applications connected to the Newtown site which seems to defy their claims that expansion on the site was not possible.

In the SPD Strategic Objection 7 of the CS, has the business case in relation to the (Norbury only) site been proven valid which does not include the established equestrian saddlery business based in Newtown? Also Policy MD7(a) has the relevant financial and functional tests been met and demonstrated that the business is viable in the long-term and that the cost of the dwelling can be funded by the on-site business (Norbury only) and questioned in this RAC Report 6.4.10? As stated by the application 14/05768 and the present DAS 5.5, has the site at Norbury only – contributed to the economy and sustainability of the local rural area within the past 2 ½ years by producing a proven paper trail of Invoices for local employment for additional staff; use of local vets; hay merchants; farriers and feed suppliers’ etc and does not include those from the Newtown area used by the applicant?

The Council is aware that many unfavourable responses from within the immediate locality has been made. There has also been comments supporting the application by the far wider general equine community/ This Councils notes the ‘support comments’ refer mainly to the diversification of the Stud business to include horse-rehabilitation. This is an unproven element to the current business and not relevant to this application, to which no financial viability basis can yet be provided and for which none of the present permissions apply, therefore they must be discounted.

4.1.2 SUDS: No objection – recommend informative regarding design of surface water drainage scheme.

4.1.3 Reading Agricultural Consultants: No objection

- The dwelling would be sited in close proximity to the stable and land, and would meet the essential needs of the equestrian enterprise.
- There is an accepted continuing essential need for on-site accommodation at Penhaligon Stud arising from the stud enterprise and the applicants own competition horses. There are in addition visiting broodmares during April – August which adds to the essential need.
- The applicant’s equine business is considered profitable, viable and sustainable now and in the long term and the accounts demonstrate an increasing net profit to meet notional costs, including labour charge.

- Overall the application for a permanent dwelling is compliant with Local Plan Policy SAMDev MD7a and the NPPF.
- The proposed isolation boxes and horse walker are appropriate facilities for the applicants equestrian use but suggest the Council seek clarification on the size of the two stables contained within the isolation facility

#### 4.2 Public Comments

4.2.1 This application was advertised for 21 days by way of site notice (expired 31<sup>st</sup> August 2018) and directly in writing to one neighbour (expired 23<sup>rd</sup> August 2018)

4.2.2 10 objections have been received and are summarised as follows:

##### Need:

- There are properties for sale in the Village.
- Do not believe a person needs to be on site permanently because this is not the case at the moment.
- Either the existing stud business meets the need to build an essential rural workers dwelling or it doesn't – The rehabilitation part of the business is a new untested venture and need to be proven to be viable before any permanent accommodation is allocated to support it.
- Why the sudden need to diversify the business after just 2 years from gaining planning consent which is still to be completed.
- The Business case should be released to be able to come to a judgement on the need.

##### Highway Safety:

- Horses from this establishment are frequently exercised on the adjoining road which is subject to the national speed limit and has blind bends and crests.
- Increase in large vehicles on the roads.
- If the applicants are intending to run clinics, training and events there will be car parking issues and noise pollution from public address systems.

##### Employment:

- No local employment, merely relocation of existing staff from Newtown.
- No local connections have been made – vets, workers and contractors.

##### House Design:

- Overly large and poorly sited.
- Out of keeping with architecture of surrounding houses.
- Why is more car parking and garaging being proposed in addition to the 8 already at the site.
- The garden is oversized being some 40m.

##### Visual Impact:

- The house and garage/bedsit are remotely located from the existing built development – spilling development further into greenfields.
- The development would only add to further loss of the green field.

- The existing development is ugly and no amount of screening will mitigate this.
- Concerned about the impact of additional buildings and horse paraphernalia on the landscape.
- The building of a house in open countryside is unacceptable.

Setting of heritage assets:

- There has been no Heritage Impact Assessment – the development already mars the tranquillity of the ancient view of the avenue of 440 oak trees leading to Linley Hall.

Drainage and Flooding:

- As a previous tenant of the land can confirm the ground does not support heavy livestock.
- Since the site has been developed there has been highway flooding at the entrance of the site and on the Three Chimneys corner – locals have not seen it so bad.
- Suffered financial loss due to flooding of 3 acres of farm.

Publication:

- Lack of publication of this application - The notice was only on the site for 5 days.
- As a neighbouring farmer we were not directly notified by the Council of the planning application.

Other matters:

- Applicants breaching conditions of planning permission by running horse clinics – offering tuition – this site is not just a stud but horse dealers and producers – a breach of condition 11 of the 2014 permission.
- The nature of Penhaligons business operation is unclear. Is it a stud or a rehabilitation centre; are the owners dressage producers, or horse dealers, or property developers, or all of the above?
- None of the letters of support are from the Local Parishes.
- A multi-million pound racing stable which was re-established just 1 1/2miles away was closed around 10months ago after 2 years – If that cannot be made financially viable then do not know how the existing business can also be made viable – any business plan should be scrutinized.
- Graze cattle on the neighbouring field and concerned about the level of noise and activity.
- New builds should be for local people who intend to live and work here.
- No community benefit.
- This development has been planned by the applicants since February 2013 in a newspaper interview and stated that the land was brought and a house would be built.
- The Newtown Bypass has no relevance to this application as the land loss has been reinstated and planning permission granted for an agricultural building and manege.
- Little information is provided as to who would be living at the property other than one worker and German students.
- What are the future plans – the applicants are at retirement age how long

will they run the business here.

- Are the applicants suitability qualified to run the rehabilitation centre.
- Will the property really be restricted to stop sale of the site for a huge profit.
- The scheme would harm wildlife and biodiversity.
- How will neighbouring organic land be protected by contamination.
- How will manure be disposed of?
- The house is proposed to be 'off grid' by photovoltaic panels to be located on the stock building – where is the planning application for this?

4.2.3 13 letters of support have been received and are summarised as follows:

- There needs to be onsite provision for the safety and well-being on the horses.
- There are few rehabilitation centres for horses and this would complement the existing facilities.
- Note concerns of the local area, but having visit the area and seen tractors moving equipment and high trailers struggle to see how this business is much different.
- The business will bring money, employment and new equestrian facilities (rehabilitation centre) to the area.
- The type of equestrian facility is needed in the area for horse owners and breeders.
- Equestrian businesses are vital to a diverse rural economy.
- The scheme fits well within the existing agricultural landscape of Norbury.
- Important to support the rural economies of Shropshire and Powys.
- As an owner of a riding school in South Shropshire would find a rehabilitation centre very useful as currently have to travel to the North Shropshire/Cheshire border for any horse rehabilitation.
- The site is set well back from the road and has no near neighbours.

4.3 AGENT RESPONSE TO OBJECTIONS:

Planning Statement correction:

- Reference at 2.6 of the Planning Statement suggesting the applicants will live permanently at the Newtown site is a typographical error as it should of read Norbury, as indicated by the correct referencing in paragraphs 2.2 and 7.3.

Newtown – Current situation:

- The applicants do still currently live in their Newtown property, but have a buyer and will be selling shortly.
- The applicants have 3 mares and foals at Newtown, they are to be auctioned in September and once sold no horses will remain at Newtown.
- The land returned to the Newtown property following completion of the flood relief scheme for the Bypass has been found unsuitable for the grazing of horses and in particular foals (See Conclusions of A483/A489 Newtown Bypass: Suitability of Land for Grazing Horses, Glanhafren Hall, Newtown, Welsh Government )

Proposed Dwelling and Bedsit:

- The proposed dwelling will be occupied by the applicants.
- A student is expected to live in the spare bedroom during busy periods.
- The bedsit would be for a professional rider and partner – a 24 year old who has experience in training Studs and competes at Grand Prix level.

- The garage would be for cars and also the storage of tools and machinery.
- The dwelling could not be located in the yard as this would result in the loss of the space needed for turning of vehicles.

Future:

- The proposed horse rehabilitation is not to replace the existing stud business.
- The site will house 20 horses this winter, most housed in the new barn.
- The completion horses stabled and turned out on the paddock or horse walker if permission granted.
- The applicants sell their own horses as part of the stud business, they are not horse dealers.
- The applicants Saddlery and storage business run from Newtown will not be transferred to Norbury but will instead be ceasing once the applicants move permanently to Norbury. The sale of the storage business will be used to invest into the rehabilitation proposals.

Drainage:

- The site is within Flood Zone 1 which has a low risk of fluvial flooding.
- The existing approved buildings have been constructed with permeable bases.

Traffic and Highways

- The rehabilitation unit would house a horse for a minimum of 6 weeks and a maximum of 4 horses can be rehabilitated at any one time on the site – on average horses would arrive or depart once every 5 ¼ days.

Heritage

- The proposal should not affect the setting of the heritage assets of Linley Hall. The objectors refers to a High Court Judgement in Steer v SSCLG which it should be noted was overturned by the Court of appeal (Neutral Citation Number [2018] EWCA Civ 1697)

## 5.0 THE MAIN ISSUES

Planning History  
 Principle of development  
 Essential Need  
 Financial Sustainability  
 Siting, scale and design  
 Visual impact and landscaping – Setting of Shropshire Hills AONB.  
 Heritage Impact  
 Drainage  
 Highway Safety  
 Other Matters

## 6.0 OFFICER APPRAISAL

### 6.1 Planning History

- 6.1.1 Planning permission was granted in March 2016 under 14/05768/FUL for Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to on existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling.

6.1.2 Since the 2016 approval the work to the existing barn have been carried out, along with the erection of the stock building and manege. The temporary mobile home moved on site and occupied by a member of the applicants staff whom has been on site to look after the horses which has been moved to the site. The applicants currently live at their property near Newtown, Powys and the business is currently split across the two sites whilst the Norbury site has been establishing.

6.2 Principle of development

6.2.1 Horse walker and isolation boxes:

Since the granting of the previous permission the applicants are looking at diversifying their business to provide equine rehabilitation facilities and as part of this planning application it is proposed to construct a horse walker in the place of the approved lunge ring and an isolation unit comprising of two stable boxes. The principle of providing buildings/ equipment that are needed for a lawfully established rural enterprise are considered to be acceptable in principle under the Shropshire Core Strategy policy CS5, CS13 and CS17 and MD7b of the SAMDev Plan, subject to the proposal being of an appropriate scale and design, as required by policy CS6 and MD2.

6.2.2 There is third party objection that this part of the scheme would result in a breach of condition 11 attached to the planning permission, 14/05768/FUL which is worded as follows:

*'The buildings and equestrian land hereby approved shall be used only in connection with the applicant's equestrian usage and shall not be used for other commercial or livery purposes.'*

*Reason: - To prevent a more intensive use being introduced in the interests of protecting the character and appearance of the countryside and highway safety having regard to the network of country lanes within the locality.'*

6.2.3 The proposed horse walker and isolation boxes would be used for equine rehabilitation which would form part of the applicant's existing equestrian usage of the site and not a separate business as such it is judged that the proposal would not be in breach of this condition.

6.2.4 Rural Workers Dwelling and garage with bedsit:

National and Local Planning policy generally seeks to concentrate new residential development in locations which promote economic, social and environmental sustainability. For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in policy CS3; CS4 and set out in detail in the Council's SAMDev Plan, policy MD1. For the purposes of local planning policy this area is classed as countryside, where paragraph 79 of the NPPF states that the development of isolated homes in the countryside should be avoided unless such development falls within the following criteria:

a) *There is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work*

- in the countryside;*
- b) *The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
  - c) *The development would re-use redundant or disused buildings and enhance its immediate setting;*
  - d) *The development would involve the subdivision of an existing residential dwelling;*

Or

- e) *The design is of exceptional quality, in that it:  
- is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas;*

and

*- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

(paragraph 79 of the NPPF, July 2018)

6.2.5 At the local development plan level the aims and objectives of paragraph 79 are reflected in Core Strategy policy CS5 and SAMDev policy MD7a, supported by the SPD - Type and Affordability of Housing. Like paragraph 79 these policies seeks to restrict new residential development to a handful of specific exceptions such as conversions, dwellings for agricultural and other essential countryside workers or affordable dwellings for an identified local need (all of which are also subject to specific policy restrictions).

6.2.6 SAMDev Plan Policy MD7a states that dwellings to house essential rural workers will be permitted if:

- a. *There are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural business;*

AND,

- b. *In the case of a primary dwelling to serve a business without existing permanent residential accommodation, relevant financial and functional tests are met and it is demonstrated that the business is viable in the long term and that the cost of the dwelling can be funded by the business. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, a financial contribution to the provision of affordable housing will be required, calculated in accordance with the current prevailing target rate and related to the floorspace of the dwelling;*

OR,

- c. *In the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the enterprise for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be*

*demonstrated that it would not be suitable. Where unsuitability is demonstrated, a financial contribution to the provision of affordable housing, equivalent to 50% of the difference in the value between the affordable and market dwelling will be required. Such dwellings will be subject to occupancy conditions. Any existing dwellings associated with the rural business may also be subject to occupancy restrictions, where appropriate.'*

6.2.7 The dwelling subject to this application would be for a primary workers dwelling for a rural enterprise and in principal provided the essential and financial tests are satisfied is accepted by planning policy.

### 6.3 Essential Need

6.3.1 The main test set out in the NPPF and SAMDev MD7a is an assessment as to whether it is essential for a rural worker to live at or near their place of work. The case has been independently considered by Reading Agricultural Consultancy (RAC) (commissioned by the Council) with regard to the case made for essential need. RAC considers an assessment of the essential need for a rural worker to live at or near their place of work requires the following:

- An evaluation of the risks involved,
- The frequency and type of out of hours emergency that might arise,
- The scale and loss that could be incurred should that emergency situation occur,
- The potential for an on-site worker to identify the problem
- The ability of that resident worker to rectify the problem.

6.3.2 There is a legal responsibility under the Animal Welfare Act 2006 to ensure animals are kept in a manner which does not cause unnecessary suffering to any animal. The Act also contains a duty of care which requires anyone responsible for an animal to take reasonable steps to ensure that the animal's needs are met and its welfare assured. In this case the duty of care for any horses stabled rests with the applicants.

6.3.3 In 2005 the equine industry and welfare organisations produced revised guidelines for the welfare of all horses, ponies and donkeys which states: "sufficient staff must be provided at all times to ensure proper, regular and timely attention to all horses held."

6.3.4 It is also accepted that horses are valuable animals, and vulnerable to theft and occasionally inexplicable, subjected to violent attacks. Security is therefore particularly important for equine businesses.

6.3.5 To an extent the principal of the essential need for a worker to be living permanently at this site has been accepted through the granting of the previous planning permission for the temporary mobile home, which has enabled the applicants to begin relocation of their business. In this application, as before the essential needs can be summarised as follows:

- the close supervision, management and daily nutrient requirements of



horses either boxed in stables or in paddocks;

- the close supervision of mares during the breeding season and at foaling;
- the preparation of brood mares for artificial insemination;
- the provision of security for breeding stock and youngsters from theft or malicious attack;
- dealing with unforeseen emergencies.

6.3.6 The stud at Norbury presently extends to 7.7 hectares and at the time of the submission of this planning application there were 20 horses at the site (made up of 8 broodmares (some in foal and some to be in foal this year), 2 yearlings, 9 young stock in training or competing at an Advanced Level and 1 injured horse).

6.3.7 The applicant (Mrs Oakes) manages the breeding side of the enterprise and a member of staff is employed full time to manage the youngsters. It is this member of staff whom has occupied the mobile home whilst the Norbury business has been establishing. A part time worker is employed to muck out the stables. Work experience students from Germany are also taken on during the busier months of the breeding season between April – August.

6.3.8 The Stud breeds and rears foals to an age where they can be prepared for sale as competition horses. The equine rehabilitation services is intended as diversification to the existing business, with horses being sent as referrals from veterinary surgeons, competitors and racehorse trainers.

6.3.9 The provision of the dwelling and bedsit would enable the provision of two full time workers at the site (The applicant and one employee). RAC considers that the labour requirements for the business here is around 3.4 full-time workers and is content that there continues to be an essential need for at least one full time worker to be on site at Penhaligon Stud in order for the enterprise to be managed properly and ensure the welfare of all of the horses on the site is not compromised. It is acknowledged that the provision of the dwelling and a bedsit would provide accommodation for more than one worker to occupy the site at any one time, however RAC in this case do not consider this to be unreasonable given the labour requirements of the site.

#### 6.4 Financial Sustainability

6.4.1 SAMDev MD7(a) also requires a financial test to assess the need and viability of primary workers dwellings. As part of the assessment by the RAC confidential accounts were provided for 2016, 2017 and interim accounts for 1<sup>st</sup> January 2018 – 31<sup>st</sup> July 2018, covering the activities of the applicants business across the Newtown and Norbury Sites. The accounts demonstrate an increasing net profit as the Norbury enterprise has been established and that the business is viable in the long term and can fund the cost of the dwelling and bedsit as well as meet the cost of labour (both employed and notional labour charges for the applicant). As such RAC are content that the equestrian business meets the financial tests in accordance with SAMDev MD7a.

6.4 RAC confirm there are no other dwellings in the locality that are suitable and available to meet the essential needs of the enterprise. Taking the above into

account it is concluded that the primary dwelling and bedsit would comply with relevant development plan policy.

## 6.5 S106 agreement and Occupancy conditions

6.5.1 In order to accord with development plan policy MD7a and the SPD, the dwelling permitted here should be subject of an occupancy condition limiting the occupancy of the dwelling to a person solely or mainly employed, or last employed, in the locality in equestrian, or in agriculture as defined in Section 336(1) of the Town and Country Planning Act, 1990, or in forestry, or a dependent of such a person residing with him or her or a widow or widower of such a person. It is also considered that the occupancy of the bedsit should be control and limited to those employed or last employed on the equestrian business at the site in order to prevent the bedsit from being occupied as a separate unit.

6.5.2 Should it be demonstrated in the future that there is no functional need either from the original rural enterprise, or from other rural enterprises in the locality and these conditions removed so the dwelling maybe sold on the open market, an affordable contribution will be required in accordance with Policy CS11 at the current prevailing target rate. Agreement to this is required to be secured via a legal agreement.

## 6.6 Siting, scale and design of structures

6.6.1 Shropshire Core Strategy policy CS6 seeks to ensure that development is in scale, density, pattern and design taking into account the local context and character, with Core Strategy policy CS17 seeking to protect the visual amenities of Shropshire's natural environment. SAMDev Plan policy MD2 (Sustainable Design) gives further guidance on factors to be considered in achieving high quality designs.

### 6.6.2 Horse walker and loose boxes:

SAMDev Policy MD7(b) deals with General Management of Development in the Countryside and requires development should be of a size/scale and type consistent with its required purposes and the nature of the agricultural enterprise or business that it is intended to serve. Such structures are expected to be well-designed and located in line with CS6 and MD2, and where possible sited so it is functionally and physically closely related to existing farm buildings.

6.6.3 Like the approved lunge ring, the proposed horse walker is of a circular shape with a diameter of 20m, it would be constructed of wood and metal fencing. It is of a size which will allow the exercising of a number of horses and is proposed to be sited (along with the proposed isolation boxes) adjacent the existing manage and in place of the previously approved lunge ring. The isolation boxes comprise of two stable units 3.6m squared and covering a total floor area of approximately 26.64sqm. The unit is of single storey design with a maximum ridge height of approximately 2.9m and would be timber clad under Onduline roof sheeting. The size of the unit was amended to comply with the DEFRA Code of Practice for the Welfare of Horses, Ponies, Donkeys and their hybrids (2017) following recommendation by the Councils Agricultural consultants.

- 6.6.4 The horse walker and isolation boxes are judged to be closely associated with the rest of the existing equine related development at this site. The scale and design are appropriate for the use and taking into account the size and design of existing development on the site.
- 6.6.5 Dwelling, garage and bedsit:  
The explanatory text of SAMDev policy MD7(a) sets out the expectation that the scale and type of dwelling proposed for a new primary dwelling must closely relate to the needs and scale of the business. Whilst the size of secondary dwellings is sought to be restricted to 100sqm, the policy recognises that for primary dwellings because they tend to have a dual role as both a family home and provider of the specialist accommodation such as business office, utility room and wet room, there is no firm restriction to the size of the dwelling. The policy does however require that the cost of the dwelling must be solely funded by the business and its scale must relate to the functionality of the business and accord with CS6 and MD2 of the development plan.
- 6.6.6 In this case the proposed dwelling would have a gross internal floor area of approximately 142sqm, of this total around 117sqm is to be used for domestic use the remaining 25sqm to be used to provide office accommodation for the business, along with a utility and boot room, with WC for the use by staff employed at the enterprise. The confidential accounts submitted have satisfied RAC that the construction costs of the dwelling can be funded by the business.
- 6.6.7 Turning to the design, the dwelling proposed is a two storey property with the first floor accommodation being served by dormers. The 'business' section of the dwelling would be contained within a proposed single storey section projecting off the west side elevation. The main part of the dwelling is proposed to be rendered with brick side elevations and the single storey element timber clad, all under a tiled roof. Precise details of the materials including colour and finishes can be conditioned. Both the design and materials proposed are considered to be reflective of local vernacular. The scale and design of the house are judged to be compatible with its functionality as a primary essential rural worker's dwelling and family home. In order to ensure the property's size remains commensurate with the needs and scale of the business it is considered appropriate in this case to withdraw 'permitted development' rights for future additions to the dwelling.
- 6.6.8 A detached outbuilding is proposed to provide a triple garage with the residential bedsit in the roof space above. The outbuilding would provide a footprint of approximately 54sqm, the ground floor is to be used to provide domestic garaging for the occupiers of the dwelling, above which the bedsit consisting of approximately 35sqm of accommodation is proposed. The design and materials proposed are reflective of domestic outbuildings and it would be sited close to the proposed dwelling and have a lower ridge height to the main dwelling it serves. As such it is judged that the outbuilding would be a subsidiary structure to the main dwelling and would not be disproportionate to the site. The Parish Council question whether planning policy for essential workers dwellings allows for the provision of outbuildings such as garaging and whether the floor area of such outbuildings is included in the size of the proposed dwelling. Planning policy does not restrict

garaging for any type of exception property including both affordable dwellings and rural workers dwellings, and when detached from the property the floor area is not including in any accommodation calculations. Objection is raised as to why the garaging is required, given the existing parking provided at the site. However the existing parking area is to serve the business needs rather than the dwelling. The garaging proposed is not judged to be oversized for the site on which it would sit or the dwelling it would serve, a condition can be attached to any planning permission granted to ensure the garaging is used for domestic garaging and storage only and not incorporated into living accommodation to serve either the house or the bedsit above.

## 6.7 Visual impact and landscaping

- 6.7.1 The application site is located within open countryside, outside of any designated area itself, however the boundary of the Shropshire Hills AONB lies approximately 1km to the north of the site. The impact on the setting of the AONB is a material planning consideration.
- 6.7.2 The existing buildings on the site reflect the style of modern agricultural buildings and the proposed isolation box and horse walker is no different. The horse walker is a low level development, no larger than the approved lunge ring in diameter. In addition its design with open post and rail fencing to a height of approximately 2m would arguably have a lesser visual impact than the proposed 3m close bordered timber fencing which would be required for the lunge ring. The isolation boxes would be located alongside the horse walker and both elements viewed against the existing stock and stable buildings. Bearing this in mind it is judged that the visual impact of the proposed horse walker and isolation boxes would be nominal.
- 6.7.3 The Parish Council and third party objectors have raised concern that the dwelling and outbuilding are isolated and too separate from the current buildings and yard. The block plan indicates that the proposed dwelling and outbuilding would be sited to the north-east of the main yard and buildings which form the business and immediately alongside the nursery paddock and customer parking area. As such it is judged that the dwelling is closely associated with the yard and buildings and is in the most practical location without encouraging onto land required for the operation of the business. It is acknowledged the dwelling would occupy part of an open field at present, however additional landscaping is proposed in the form of a native hedge and additional tree planting. The size of the domestic curtilage of the dwelling is not considered unreasonable for the size of the dwelling proposed and its rural location.
- 6.7.4 As noted when the previous application was assessed there is a degree of prominence in the sites location. No public rights of way pass through the site and although it is inevitable that the site is visible from some public vantage points, such as the public highway and the rights of way to the north and south these are all some distance away and separated physically by the intervening landscape which also provides a degree of visual screening to the development.
- 6.7.5 In view of the character of the landscape in the area, it is unlikely that the proposed development will have an adverse impact upon the setting of the AONB or other

visual amenities in the area. Consequently, the proposed development, subject to appropriate materials and landscaping, would be consistent with Core Strategy Policy CS5 and SAMDev Plan Policy MD12.

## 6.8 Heritage Impact

6.8.1 As with the previous planning application concern has been raised that the development could harm the Norbury Conservation Area, in addition concern is also raised that the proposal would harm the setting of Linley Hall and its historic grounds, in particular the tree lined avenue.

With regard to these heritage assets as “the crow flies” the conservation area is located approximately 800m away from the site to the north east. The avenue of trees lining one of the entrances to Linley Hall is approximately 0.5km to the west and Linley hall itself around 1.5km to the north west. The intervening landscape undulates and contains a number of hedges and mature trees (not including the trees making up the lined avenue). All of this combines to obscure views of the site from these assets. Although glimpses of the application site maybe had from the tree lined avenue it is also noted that there are other existing farms and farm buildings which pepper the landscaping and are part of the wider view. The application site cannot be viewed in the same context as the conservation area and the listed hall. Taking the above into consideration it is judged therefore, that the proposed development would not have any effect upon the heritage assets.

## 6.9 Drainage and Flood Risk

6.9.1 Policy CS18 seeks to ensure new developments do not cause drainage or flooding problems. Concern is raised that since the development of the site flooding has been exacerbated. It is understood that a surface water and foul drainage system has been installed in accordance with the previous permission and the agent has confirmed that the hard standing areas at the site are permeable surfaces. In terms of foul water drainage the dwelling seeks to utilise the existing septic tank installed for the mobile home. The Councils Drainage team have considered the scheme and raise no objection. It should also be noted that any drainage scheme would also need to comply with Building Regulations. Financial losses as a result of alleged flooding due to the development of the site is not a material planning consideration but a civil matter which would need to be resolved between the parties involved.

## 6.10 Highway Safety

6.10.1 The development subject to this application would be served by the existing access to which highway improvements were made following approval of the previous application. No further alterations are proposed to this access and it is not judged that traffic movements to and from the site as a result of the proposal would significantly increase. The alleged way in which the horses associated with this business are ridden on the highway is not a material planning consideration.

## 6.11 Other Matters

6.11.1 Suitability of site for keeping of animals and impact on adjoining land uses:

Objections have been raised that the land is not suitable for the keeping of animals and that the land use would harm adjoining land uses, including organic farming and grazing of cattle on an adjoining field. The principle of the equestrian use of this site has been accepted through the granting of the previous planning permission where the suitability of the land was also considered and it was judged that there was no evidence that the site is not suitable for livestock. The land uses of the site and the adjoining fields are all typical rural activities and how these uses are managed to work alongside each other is not a material planning consideration, particularly given this use has already been permitted and is not a matter for consideration under this application.

#### 6.11.2 Publication of application:

Objection is raised that this application was not published, and the landowners of the adjoining lands surrounding the site not written to directly. Whilst the Council will write to properties which have a contiguous boundaries with application sites this can only be done where the property is close by and thus the address known. In the case of larger land holdings where there is no physical property adjacent the applicant site, the Council does not hold records to such landownership and thus site notices are erected to provide wider publicity to the application. In this case a site notice was erected on site although there is dispute as to how long the notice was left up for.

## 7.0 CONCLUSION

- 7.1 The essential need for a permanent dwelling and a bedsit to support the equestrian business here is considered to of been adequately demonstrated. Further the financial tests are meet and it is judged that the business use is viable and can support the cost of the dwelling and bedsit alongside labour costs. As such the scheme complies with SAMDev MD7a. The provision of the horse walker and isolation boxes is considered to be acceptable in principle as it is development to support an existing rural business.
- 7.2 The design, scale and siting of the dwelling, its associated outbuilding, horse walker and isolation boxes are considered to be acceptable and sited in an appropriate location adjacent to existing equestrian buildings. The scheme would not result in an adverse impact on the visual amenity of the area or the setting of the Shropshire Hills AONB. Further the scheme would not harm highway safety, exacerbate flooding risks or detract from the setting of heritage assets in the area.
- 7.3 Accordingly, the proposal is considered to comply with Shropshire Core Strategy policies CS5, CS6, CS13, CS17 and CS18; SAMDev policies MD7a and MD12; the Council's SPD on the Type and Affordability of Housing and the NPPF. It is as such recommended that planning permission is granted subject to conditions and completion of a S106 to secure an affordable housing contribution should it ever be demonstrated in the future that there is no functional need for the rural workers dwelling either from the original rural enterprise, or from other rural enterprises in the locality.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## **9.0 Financial Implications**

There are likely financial implications if the decision and / or imposition of

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

## 10. Background

### Relevant Planning Policies

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

### Core Strategy:

CS1 - Strategic Approach  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS9 - Infrastructure Contributions  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management

### Site Allocations and Management of Development Plan (SAMDev)

MD1 - Scale and Distribution of Development  
MD2 - Sustainable Design  
MD7A - Managing Housing Development in the Countryside  
MD7B - General Management of Development in the Countryside  
MD12 - Natural Environment

SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

14/05768/FUL Change of use of agricultural land and existing barn to equestrian use; erection of stock building, enclosure of lean-to to existing barn, creation of lunge ring and manege and siting of temporary mobile home to be used as equestrian workers dwelling GRANT 8th March 2016

16/02864/DIS Discharge of Conditions 3 (Landscaping), 4 (Materials) and 5 (Drainage) attached to Planning Permission 14/05768/FUL DISAPP 15th May 2018

## 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PBPRFWTDMOZ00>



List of Background Papers

Cabinet Member (Portfolio Holder)  
Cllr R. Macey

Local Member  
Cllr Jonny Keeley

Appendices  
APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

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

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

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

3. Notwithstanding the detail on the approved block and site plan, this planning permission does not convey any permission for the permanent siting of the mobile home. The mobile home shall be removed from the site no later than 08th March 2019.

Reason: To comply with condition 13 attached to planning permission 14/05768/FUL where the mobile home was granted on a temporary basis to enable the Local Planning Authority to assess the viability of the business prior to the assessment of the need for a permanent dwelling.

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

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

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

5. All hard and soft landscape works shall be carried out in accordance with the approved plan drawing no 765/14/ 4B. The works shall be carried out prior to the first occupation/use the dwelling and associated garage hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

- 6. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order modifying, revoking or re-enacting that Order), no extension, garage, car port or other building/structure shall be erected or installed within the curtilage of the dwelling hereby permitted without the prior written consent of the Local Planning Authority.

Reason: To help ensure that the dwelling remains of a scale commensurate with local agricultural needs, in accordance with Policies CS5, CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

- 7. The occupation of the dwelling hereby permitted shall be limited to a person or persons solely or mainly, or last working in equestrian activities or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as Amended)), or forestry in the locality, or to the spouse, widow or widower of such a person and to any resident dependents.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside.

- 8. The occupation of the bedsit hereby permitted shall be limited to a person or persons solely or mainly, or last working in the equestrian business or in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990 (as amended)), or in forestry in the locality or to the spouse, widow or widower of such a person and to any resident dependents. The bedsit accommodation shall not be sold or leased separately from the primary dwelling on the site.

Reason: - The site is located in the open countryside and the development has been permitted solely because it is required to meet the essential need for a rural worker to live at or near to their place of work in the countryside; and to safeguard the amenities of the primary dwelling.

- 9. The ground floor of the garage hereby approved shall be used for domestic garaging and storage associated with the dwelling and bedsit hereby permitted. At no time shall it be used as additional living accommodation for the dwelling or bedsit hereby approved.

Reason: To ensure that the dwelling which this garage serves remains of a scale commensurate with local agricultural needs.

**Informatives**

- 1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.

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

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.



Committee and date  
 South Planning Committee  
 20 November 2018

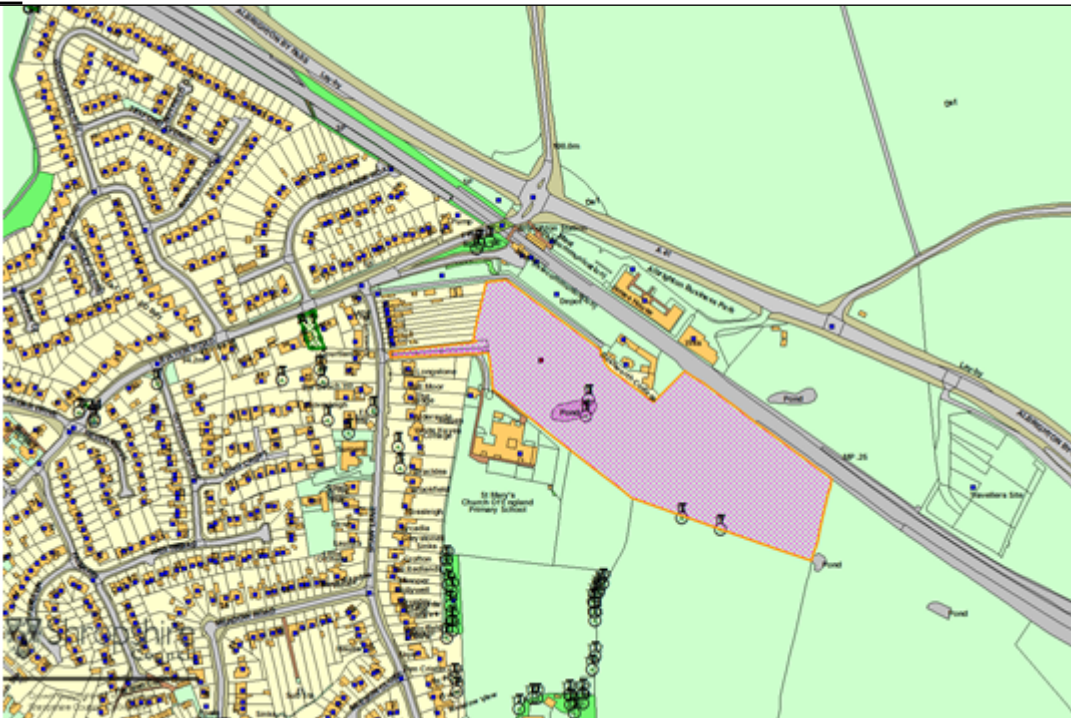
## Development Management Report

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> 18/03579/FUL	<b>Parish:</b>	Albrighton
<b>Proposal:</b> Residential development of 6 bungalows and 58 houses (Revised scheme)		
<b>Site Address:</b> Proposed Residential Development Land East Of Shaw Lane Albrighton Shropshire		
<b>Applicant:</b> Jessup		
<b>Case Officer:</b> Richard Fortune	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 381895 - 304421



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**Recommendation:- Grant Permission subject to the completion of a Section 106 Agreement in respect of affordable housing and maintenance of public open space, and to secure the provision of a raised table at the junction of the access with Shaw Lane, together with on-street parking restrictions within the development prior to and after any adoption by the local highway authority, and the conditions set out in Appendix 1. That delegated authority be given to the Area Planning Manager to amend the conditions as may be required as part of concluding the content of the Section 106 Agreement.**

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

- 1.1 At the June 2018 of the South Planning Committee planning application 17/03774/FUL for residential development of 74 Extra Care apartments and associated facilities, 6 bungalows and 58 houses, and improved access was refused, contrary to the Officer recommendation, for the following reason:

*“It is acknowledged that the application site forms part of an adopted Development Plan housing allocation and would deliver new market housing and a high level of affordable housing broadly in line with the development guidelines for the site set out in Policy SI.1a of the SAMDev Plan. However, these benefits are not outweighed by a combination of negative factors which comprise:*

*- the vehicular access to the development being solely onto Shaw Lane with no assurance at this stage that access from Kingswood Road to the south could be achieved, which is the preferred option for the site as shown on the SAMDev Policies Map SIMap, with the consequence that the nature and scale of the development would create traffic flows that would exacerbate the existing traffic congestion already experienced in the Shaw Lane area because of the close proximity of the School, Railway Station and Doctors Surgery, to the detriment of highway and pedestrian safety;*

*- the bulk and massing of the predominantly three storey extra care building would be out of keeping with the character and appearance of the locality, leading to the over development of the area, and would have an adverse impact upon the setting of the listed railway station building, albeit less than substantial but still a significant harmful impact, and there are no public benefits sufficient to outweigh this harm.*

*The proposed development would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17; Site Allocations and Management of Development (SAMDev) Plan policies MD2, MD13 and SI.1 and would not satisfy the environmental role of sustainable development set out in the National Planning Policy Framework.”*

This revised application deletes the proposed 74 Extra Care apartments from the development and excludes the area which that structure would have occupied from the application site. The proposed mix of bungalows and houses, their designs, road and public open space layout and vehicular access arrangement remain identical to the previous application.

- 1.2 The proposals relate to agricultural land, situated on the eastern edge of Albrighton. The land is part of an allocation for residential development (ref ALB002) in the Adopted SAMDev plan, with the southern portion of this allocation already having planning permission through the its allocation for development in the Bridgnorth District Local Plan (ref ALB1) and the grant of outline permission in December 2011 (ref 08/0907) and reserved matters approval in June 2015 (ref 14/05456/REM), and planning permission 15/02448/FUL granted on the 16<sup>th</sup> April 2018 following completion of the related Section 106 Agreement.

- 1.2 The proposed vehicular access to the site would be from Shaw Lane. The land which currently contains the school access drive and the adjacent field access,

along with part of the garden to the dwelling on the northern side of the present access arrangement, would be combined to form a 5.5 metre wide access road with 2 metre wide footway on the northern side and a 2.2 metre wide footway on the southern side. The access road would, beyond the school entrance, follow a curving 'S bend' alignment. The south side of this road section would be public open space that would incorporate an existing pond and an attenuation pond. There would be a 12 space parking area for railway station users on the southern side of this road section.

- 1.3 Along the northern side of the access road, where it would revert to a relatively straight alignment, there would be three pairs of semi-detached two bedroomed bungalows, two pairs of which would have an outlook over the public open space opposite. Each of these properties would have two tandem car parking spaces. The southern boundary of this area of public open space would be with the school grounds, with the eastern end formed by a private drive serving three detached dwellings and a pair of semi-detached two bedroomed dwellings. There would be variations in terms of handling and fenestration treatment to the four bedroomed detached dwellings. All these dwellings would have two off-road parking spaces, with the detached dwellings also featuring a single integral garage. The semi-detached pair of dwellings at the entrance to the private drive would be dual aspect, with one of the units also fronting the main access road.
- 1.4 Towards the centre of the site there would be a staggered cross roads. The southern spur would be a short cul-de-sac serving three detached dwellings and a semi-detached dwelling pair on its western side. This road has been re-aligned to line up with a cul-de-sac in planning permission 15/02448/FUL for housing development to the south, to allow for a pedestrian and cycle connection, but there would be no vehicular access connection to proposed development to the south. These house designs would also feature variations in handling and fenestration treatment, with two off road parking spaces each and single garages for the detached units. On the eastern side of the cul-de-sac, and immediately south of the main access road, would be an area of open space which would be adjacent to two large trees and a hedgerow along the southern site boundary. This area of open space would contain a second attenuation pond as part of the surface water drainage system.
- 1.5 The northern spur off the cross roads would also form a cul-de-sac and would have a pair of dual fronted properties either side of the junction: That to the west would be a semi-detached pair, with that on the eastern side being the end of a terrace of four dwellings. The houses on the western side of the road would be in the form of a pair of semi-detached dwellings and a terrace of four, with a terrace of four on the eastern side. They would be mix of two bedroomed dwellings, with the mid terrace units containing three bedrooms, with the third bedrooms over an open fronted parking area giving access also to their rear gardens. Each dwelling would have two off-road parking spaces. There would be an area of public open space adjacent to the cul-de-sac turning head.
- 1.6 The main access road would continue on a straight alignment in the eastern portion of the site up to the eastern site boundary. To the east of the public open space

referred to in paragraphs 1.3 and 1.4 above, there would be a row of three short terraces, each containing four dwellings. This grouping would contain six two bedroomed and six three bedroomed dwellings, in a similar form to the other short terraces in the development, but with the dwelling at the western end of the group having its main entrance on the side, overlooking the public open space. Each property would have two off-road parking spaces.

- 1.7 There would be a loop road off the northern side of the main access road that would enclose a further area of public open space. Around the northern edge of this loop there would be a mix of semi-detached and terraced dwellings. There would be two short private drives each serving four dwellings, with the remaining properties having parking spaces accessed direct from the loop road. The group would contain 12 two bedroomed and 4 three bedroomed dwellings, again with each having two off-road parking spaces.
- 1.8 The proposed dwellings would be a mix of 36 two bedroomed, 16 three bedroomed and 6 four bedroomed dwellings. The elevations would include a mix of facing brick with rendered elements; projecting gables, pitched roof and flat roofed open canopy porches, bay windows, dual pitched and flat roofed dormers, juliet balconies, brick string courses, window heads and sills, variations in ridge heights to elements of the detached dwelling designs and within the semi-detached and terraced units. Some of the detached dwellings (plots 55, 64) would feature first floor glazing to the front gable extending up into the gable apex. The roofs would be a mix of gabled and hipped roofs of grey interlocking tiles.
- 1.9 The landscaping scheme would include the retention of existing boundary hedgerow and trees and trees within the site around the pond; new native hedge and tree planting to the site boundary with the school; new hedging to supplement fencing to edges of the public open space close to the railway boundary; trees and sections of hedges to front garden boundaries and new tree planting within the areas of public open space. Some 75 new trees are proposed of 19 species, including field maple, horse chestnut, alder, snowy mespil, silver birch, beech, wild cherry, oak, whitebeam mountain ash and lime. The hedging would be a mix of maple, hazel, hawthorn, holly, privet and guelder rose.
- 1.10 The six bungalows would be for people over the age of 55, and 30 of the dwellings would be for general needs housing at affordable rents. The 30 general needs two and three bed houses would be let and managed by The Wrekin Housing Trust, with the balance (a mix of 28 two, three and four bed houses) being open market properties.
- 1.11 A Planning and Design and Access Statement; Transport Assessment; Landscape Management Plan; Flood Risk Assessment ; Noise Report; Ecological Report; Arboricultural Survey and Report; Affordable Housing Statement and Phase 1 Site Appraisal and Heritage Statement accompany the application drawings. (Some of these documents make reference to extra care apartments which do not form part of this current planning application).

## **2.0 SITE LOCATION/DESCRIPTION**



2.1 The application site is situated to the east of Shaw Lane and is currently agricultural land. The access from Shaw Lane is bordered by existing residential properties and their gardens. Adjacent to part of the southern site boundary is St Marys Primary School and associated land, with agricultural land adjoining the remainder of this boundary. (The latter land forms part of the allocated housing site and has planning permission for residential development – Ref. 15/02448/FUL). The eastern site boundary adjoins agricultural land. To the north is the Wolverhampton to Telford railway line, a residential property and a range of buildings formerly used as a builders yard with permission for residential development and access to those properties, along with an area of field outside of the current application site. The area beyond the private access is used for caravan storage. To the west are the long rear gardens to properties on Shaw Lane.

2.2 The site has an area of approximately 2.83 Hectares.

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

3.1 The views of the Parish Council are contrary to the Officer recommendation. The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Officer, consider that the material planning considerations raised and the Committee decision on the previous application warrant the application being determined by the South Planning Committee.

### **4.0 Community Representations**

#### **- Consultee Comments**

(Where consultees have made more than one comment, the latest comments are set out first in order to show where earlier concerns have been overcome).

4.1 Albrighton Parish Council – Object on a number of grounds despite approving development in this area of the village as outlined in the Neighbourhood Plan ‘Light’ of June 2013:

-One of the key problems identified by members is the issue of access to the site. The proposal would see a large number of extra vehicles in the area of Shaw Lane/Station Road that is already heavily congested as residents make use of the Primary School and the medical centre and people travelling from the railway station use local streets to park their cars. The station car park which was included in the original proposal for this area of the village, to remove on street parking by commuters, appears to have been lost and this is a major concern for the council and makes the application difficult to support. The local Footpath Group have requested that if this application is considered that a bridleway or footpath is provided across the development to encourage locals to access this area on foot.

-Councillors were also concerned about the ability of the drainage system to cope with the extra houses and apartments and the additional workload for the doctors that would inevitably result from the development. Members also noted that there was a reduction in the amount of open space, which now seems to comprise of one sports pitch, which falls far short of the needs outlined in the Neighbourhood Plan.

-Because of the range of serious issues that this planning application has raised

the parish council requests that this application is considered for refusal.

4.1.1 Donington with Boscobel Parish Council – Object:

1- Access, there is already a huge problem on Station Road and Shaw lane with cars parking in every available space nose to tail causing congestion. Other road users become backed up trying to pass each other and get through under the bridge, on occasions this has even halted emergency vehicles from accessing the road. This ongoing problem will only be amplified if a) the proposed application does not include adequate parking (for train station users) as was originally put forward. b) the proposed application does not confirm provision of vehicular access from Kingswood road from the South to help elevate the traffic.

2- Drainage, there are already problems with the drainage system in the village not being able to cope, as was seen again, only earlier this year when large numbers of residents became flooded. The amount of properties being proposed would surly only aggravate this situation more.

3- Amenities, the size of the development will be putting extra pressure on already busy local amenities such as the doctors, which will inevitably cause residents already residing in the village and accessing these facilities a lower level of service.

4.2 SC Highways Development Control – No Objection:

It is noted that the application submitted is a variation to previously submitted application 17/03774/FUL, which retains the residential element of the Development but removes the extra-care facility. In terms of Highway considerations, we would therefore consider that the application has reduced the number of trips generated by the previous development by removing the extra care facility. However, It should be noted that in terms of the number of trips generated, the main area of Highway concerns related to the residential element of the previous development, as this was expected to generate the majority of trips in the peak hour. Shropshire Council as Highway Authority would continue to raise concerns with regard to the proposed development, and the majority of comments previously made in association with application 17/03774/FUL are still considered relevant.

It remains Shropshire Councils position that in line with the original highway and transport consideration of the potential development site, through the SAMDev process, that vehicular access for the proposed development is best served from Kingswood Road, and that the access off Shaw Lane, should be used predominantly for pedestrian and cycle access, with only vehicular access to the school being maintained via Shaw Lane, and emergency vehicular access to serve the proposed development and the Development to the south. This would maximise sustainable connectivity for the new development, as well as minimise any potential conflict of child pedestrian activity and vehicular traffic along the current school driveway. It is understood however that we can only consider that application submitted, and that whilst the proposed development is aligned that this could take place in the future, no vehicular access off Kingswood Road is currently proposed, as this requires substantial infrastructure and third party approval.

The Developer's proposed road design/site layout appears to have been focused principally on serving the new development. It is not considered that sufficient consideration has been given to the potential conflict around the school, and its potential use as a local community hub (breakfast/after school clubs/events/etc.)

Resulting in a mitigation proposal, which are limited to within the vicinity of the School entrance, proposing a raised plateau, (which is supported) and a pedestrian barrier along one footway to segregate children, using that footway, from the passing traffic. As an Authority in recent years we have moved away from the installation of pedestrian barriers unless there is a specific problem with pedestrians crossing at an inappropriate location. It is therefore not considered that this is an appropriate mitigation measure for this location.

Of particular concern is that applicant has failed to appreciate that this development will significantly alter the local highway situation adjacent to the established primary school and Shaw lane. Such that any school related travel behaviours currently experienced are likely to change. Specifically this development proposal will create a situation where parents, visitors and staff will have direct vehicular access and unrestricted on-street parking opportunities, immediately outside and in close proximity to the school entrance, which has not been available previously. Thereby, reducing the current trend of walking to school, as current on-street parking provision is at a premium, and is mostly used by the adjacent residents.

It should also be noted that, the new access/estate road will provide an opportunity for existing local residents, as well as commuters to park their vehicles, especially with the proposed additional station parking closer to their homes and/or the adjacent railway station. This will then have the knock on effect of generating further vehicular trips passing the school entrance in both directions. With drivers, setting down or picking up children and/or seeking to park along this new formed cul-de sac street. There will also be the need for these vehicles to undertake U-turning movements either within the carriageway or utilising private accesses and/or junctions, again presenting potential conflicts with pedestrians, other vehicles and new residents.

It is acknowledged that the tight radius bend between the school and the proposed development will be an effective vehicle speed reducing feature. However, this road design does not meet the Council's emerging highway specification for adoptable roads, and details of the road construction will need to be submitted for approval prior to commencement.

Details of proposed station parking have been submitted as part of the application, it is understood that these spaces will be privately managed which is supported, however in terms of location they are located on the apex of the bend. The location of the spaces is not considered ideal from a Highways perspective as no direct access to the station can be provided, and if the spaces are occupied then vehicles are likely to park on the adjacent highway network, causing an obstruction to the free flow of vehicles and potentially compromising Highway safety of all road users, specifically pedestrians.

Despite the above, In terms of the location of the development then it is considered that it is in a sustainable location, within close proximity to local amenities such as the Primary School, Medical centre and Railway station. Therefore, there are opportunities for sustainable travel modes, reducing the number of vehicular trips generated by the Development. The applicant has demonstrated that a satisfactory access can be provided, in terms of providing a carriageway width of 5.5 metres with a 2 metre footway which meets Shropshire Councils required standards.

In terms of Policy considerations, Paragraph 109 of the NPPF states; *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

Shropshire Council as Highway Authority's view with regard to the previously submitted application was that the application could not be refused on Highway grounds as we could not demonstrate that the impact on the road networks would be severe. Any changes to this position would need to be justified. In relation to the application under consideration then the application has removed the extra care facility, thus removing a proportion of the trips generated by the Development. It remains Shropshire Council as Highways Authority position, that whilst we remain concerned about the likely impact of the Development on the surrounding Highway network, we cannot demonstrate that the Development will have an unacceptable impact on Highway safety, or the cumulative impacts on the road network would be severe, and therefore continue to raise no objection to the granting of consent.

It is felt a more appropriate position would be to require the applicant to undertake a number of improvements to the transport network, to mitigate the impact on the surrounding network.

These measures are as follows;

- 1) Parking within the site should be restricted, it is recommended that a condition is attached to any permission granted to require the Developer to introduce a restriction on parking on the main access road within the site, prior to the occupation of say the 25th dwelling, this will reduce the concerns with regard to vehicles driving into the site to locate a parking space during school time or prior to catching a train from the nearby station. A Highway contribution can either be secured through a Section 106 Agreement or a clause inserted within the Section 38 agreement that requires the Developer to make a contribution to cover the cost of a formal Traffic Regulation Order to restrict parking within the site.
- 2) Details of the permitting scheme for the station parking should be submitted for approval prior to commencement and remain in place for the duration of the development.
- 3) Details of access to the site via the junction with Shaw Lane should be submitted for approval prior to commencement, it is recommended that these details include a raised plateau at the junction with Shaw Lane, this will reduce vehicle speeds for vehicles entering the site and restrict parking within close proximity to the junction and protect the proposed visibility splays.
- 4) A construction management plan should be submitted and approved prior to commencement that controls all vehicles within the site, however specifically restricts construction vehicles entering the site between 8.15-9am and 2.45-3.30pm, depending on school times.
- 5) Details of the construction of the road, should be submitted for approval prior to occupation of any part of the development, all visibility splays within the site should be maintained and kept clear at all times.

- 4.3 SC Ecology – No Objection:  
Great Crested Newt Habitat Suitability Survey was carried out in May 2017 and a Phase 1 Preliminary Ecological Appraisal in July 2017 by Stefan Bodnar.

#### Habitats

Habitats on the site consist of improved grassland, hedgerows, mature and semi-mature trees, and a pond.

Trees and hedgerows should be retained where possible. 'If any trees or hedges are unavoidably lost to accommodate the scheme, suitable compensation planting should be carried out.'

The landscaping scheme should include native tree, hedgerow, shrub and wildflower planting, using native species of local provenance.

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

A Habitat Management Plan should be produced for the site, particularly in relation to pond improvements.

Connectivity should be maintained and enhanced along the southern boundary (to ensure that the ponds are not isolated from each other), along the northern boundary (along the railway line, which is an ecological corridor) and along the eastern boundary (to connect the southern and northern boundaries).

#### Bats

Four trees on the site contain potential roosting features: two ash trees in the northern hedgerow, one oak tree in the southern hedgerow and one crack willow at the pond margin.

None of the trees will be directly affected by the development. Should any works to the mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works.

Bat boxes should be erected on the new dwellings to provide additional roosting opportunities for bats.

The lighting scheme for the site should be sensitive to bats and follow the Bat Conservation Trust's guidance. There should be no illumination of the hedgerows, trees, pond or location of bat boxes.

#### Badgers

A pre-commencement survey should be carried out to determine whether any setts are present on or within 30m of the site and whether there is any evidence of foraging or commuting on the site. If any evidence of badgers is observed during the pre-commencement survey, an appropriate mitigation strategy will be required.

#### Great crested newts

There are a number of ponds within 500m of the site. Pond 1 is an on-site pond. Pond 2 lies adjacent to the eastern boundary. Pond 3 lies approximately 115m to the south-east. Pond 4 lies approximately 265m to the south-west. Pond 5 lies approximately 410m to the south-west. Pond 6 lies approximately 25m to the north.

The ponds were subject to Habitat Suitability Index (HSI) assessments in 2015 by Tyler Grange. Ponds 1 and 5 were calculated as having 'Good' suitability to support great crested newts, Ponds 3 and 4 had 'Average' suitability and Pond 2 had 'Below Average' suitability. Pond 6 was not identified during the 2015 survey (it may not have existed at the time). An additional pond was identified approximately 115m to the south; this pond was small and nearly choked up so does not seem to exist any more.

Tyler Grange carried out presence/absence surveys in 2015. Pond 4 'was scoped out following the HSI assessment as it was considered not to be suitable for GCNs due to the fact it comprised a garden duck pond of brick and concrete construction with vertical edges and the presence of fish.'

No great crested newts were recorded during the surveys. Smooth newts were recorded in Ponds 2, 3, 5 and the additional pond and frogs (or tadpoles) were recorded in Ponds 1, 2 and the additional pond.

HSI assessments in May 2017 calculated Ponds 1 and 5 as having 'Below Average' suitability and Pond 4 as having 'Poor' suitability. Ponds 2, 3 and 6 were dry at the time of the survey 'and showed little evidence of holding water in recent times.'

Suitable terrestrial habitats for amphibians are limited to the hedgerows and pond margin.

No further consideration of great crested newts is required but the following working methods should be

In order to protect amphibians from harm, section 4 of the Great Crested Newt Habitat Suitability Survey and Newt Mitigation Strategy contains the following method statement that should be followed in full prior to and during development:

- A toolbox talk will be provided to site staff.
- 'Any clearance of vegetation, leaf litter and masonry should be carried out carefully and any common newts or other amphibians other than great crested newts found, should be removed immediately to a place of safety.'
- 'Carefully strip any paved area or gravel on which the development is to take place.'
- The duration of groundworks will be kept as short as possible.

- Works will be undertaken during daylight hours only.
- Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape.
- Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.
- If a great crested newt is discovered at any time, works must immediately cease and a suitably qualified ecologist contacted for advice.

The on-site pond (and adjacent pond, if possible) should be enhanced as part of this proposal and measures to undertake this should be included within a Habitat Management Plan.

Connectivity between the on-site pond and the wider site must be maintained and enhanced. There must be no illumination of the pond. Refugia and/or hibernacula should be created in suitable locations on the site, e.g. around existing ponds and along the southern boundary. The site layout should include amphibian.-friendly drainage solutions. These elements should be included in the Habitat Management Plan.

### Reptiles

Tyler Grange carried out a reptile survey on the site in July 2014. No reptiles were recorded but a small number of toads were observed.

Update surveys are not considered necessary, provided that the method statement and enhancements recommended in relation to amphibians are followed in full.

### Birds

The hedgerows and trees provide potential nesting opportunities for birds.

Any vegetation removal should take place between September and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if any active nests are present, works cannot commence until the young birds have fledged.

The mature trees contain suitable roosting opportunities for owls. 'The grassland is currently unmanaged and has developed a tussocky sward with a high number of field voles present, its structure and prey availability make the site highly suitable for foraging birds of prey and owls. A foraging kestrel was seen on site during the survey, and the site could provide foraging habitat for barn owl and tawny owl'.

Bird boxes should be erected on the new dwellings to provide potential nesting opportunities for a range of bird species. The apartment building is particularly suitable for swift boxes.

### Other species

The site boundaries and the pond margin provide suitable habitats for hedgehogs

Connectivity around the site should be retained and enhanced through the use of

hedgerows and, where fencing is to be used, gaps in the gravel boards.

Hedgehog boxes should be located in suitable locations on the site, e.g. around the site boundaries.

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated.

Conditions recommended requiring a pre-commencement survey/check for badgers; approval and implementation of a habitat management plan; submission of a report demonstrating the implementation of the great crested newt reasonable avoidance mitigation measures strategy; approval of an external lighting plan; provision of bat, bird and hedgehog boxes.

#### 4.4 SC Regulatory Services – No Objection:

– Recommend contaminated land condition and noise insulation condition for properties in close proximity to the railway line be attached to any approval:

Patrick Parsons on behalf of Jessup Brothers Ltd, have submitted a Phase I Site Appraisal, Shaw Lane, Albrighton; ref. B16295 dated December 2016. The Phase I Report has also reviewed previous site investigations by Komex and Worley Parsons on behalf of Second Site Property Holdings Ltd and National Grid Property Holdings Ltd (Gas Companies).

The proposed development site includes what is thought to be an area where former infrastructure (tanks/gasholder) associated with the Albrighton Gasworks were located. The actual gasworks (now a builders yard) where the primary coal gas manufacturing works were carried out is less than 15m from the site boundary in places and is known to be significantly contaminated as no remediation has been carried out and many of the below ground gasworks features and associated contamination remain. This site has been subject to a site investigation required by a previous planning permission and a current application is being considered. Public Protection has not had the benefit of seeing these reports by Komex and Worley Parsons and would welcome copies in order to review any additional information associated with the use of part of the proposed development site as part of the gasworks.

Having regard to the above the full contaminated land conditions should be included if permission was granted.

Having regard to the above partial land use as part of the gasworks, the Environment Agency should be consulted as it meets their consultation matrix.

In relation to noise an assessment has been provided that specifies mitigation. Recommend the following condition should this application be granted approval:

Glazing and ventilation with the ability to provide the mitigation stated in Table 5 and table 7 of the noise.co.uk noise report reference 17522-1 shall be installed to all facades marked in section 13.7 of the same report. In addition a 1.8m high close



boarded fence with a minimum density of 15kg per square metre shall be installed along the boundary of the site that adjoins the railway to the north.

Reason: to protect the health and wellbeing of future residents.

- 4.5 Environment Agency – No response received to consultation on the current application. The Environment Agency raised No Objection to previous application 17/03774/FUL and this revised proposal raises no new issues with regard to potential contamination: Their previous comments from January 2018 are set out below:

**Groundwater:** The site is located above a Secondary Aquifer, groundwater Source Protection Zone (SPZ3), WFD groundwater body, WFD drinking water protected area and contains a surface water body. We consider the previous gas works land use to be potentially contaminative. The site is considered to be of high sensitivity and could present potential pollutant/contaminant linkages to controlled waters.

We have reviewed the Phase 1 Site Appraisal (Ref: B16295, dated 16.12.2016) and are satisfied that the risks to controlled waters posed by contamination at this site can be addressed through appropriate measures. However, further details will be required in order to ensure that risks are appropriately addressed prior to the development commencing and being occupied. It is important that remediation works, if required, are verified as completed to agreed standards to ensure that controlled waters are suitably protected.

Groundwater is potentially at shallow depth and the site is located in a groundwater source protection zone (SPZ3); we do not agree with the desk study conclusions that there is a low risk to controlled waters and further comprehensive intrusive investigation and analysis will be required. We are aware of a development proposal adjacent to this site for which we have recommended contaminated land conditions. We are aware that significant soil and groundwater impacts have arisen as a result of the former gasworks activities on the adjacent site. Therefore as well as the former gasworks infrastructure on this site there may also be off site sources of gas works contamination to take into account and the scope of intrusive investigation works and monitoring should be designed accordingly. When undertaking the required further site investigation reference should be made to the DoE Industry Profile for gas works (<https://www.clare.co.uk/useful-government-legislation-and-guidance-by-country/198-doe-industry-profiles>) to ensure that a comprehensive list of potential gas works' contaminants is tested. For example in addition to the determinands proposed, analysis for ammonia, nitrate, sulphide, sulphate, thiocyanates, complex and free cyanide should also be included.

**Condition:** No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority: 1. The results of a site investigation based on the submitted Site Appraisal and a detailed risk assessment, including a revised CSM. 2. Based on the risk assessment in (1) an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan

providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long term monitoring and maintenance plan as necessary. 3. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in (2). The long term monitoring and maintenance plan in (2) shall be updated and be implemented as approved.

**Reason:** To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and the Environment Agency's approach to Groundwater Protection (formerly Groundwater Protection Principles and Practice (GP3)).

**Condition:** If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

**Reason:** To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and the Environment Agency's approach to Groundwater Protection (formerly Groundwater Protection Principles and Practice (GP3)).

Piling or any other foundation designs using penetrative methods can result in risks to controlled waters. It should be demonstrated that any proposed piling will not result in contamination of groundwater.

**Condition:** Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

**Reason:** To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF), paragraphs 109, 120, 121 and the Environment Agency's approach to Groundwater Protection (formerly Groundwater Protection Principles and Practice (GP3)).

(The NPPF paragraph references related to those in the pre-July 2018 version. The equivalent paragraphs in the new NPPF are paragraphs 170, 178 and 179).)

- 4.6 Severn Trent Water – No Objections:  
The Asset Protection Manager (West) has commented: "We welcome the opportunity to make further comment on this site and please forgive us for the delay in responding, given recent incidents in storm events we have concerns that this

new development will impact it in ways we don't fully understand currently. The developer has a right of connection to public sewers which we fully respect however we would really appreciate it if we were able to apply amended drainage conditions to the site as proposed.

The first condition would be to afford us time to understand further the implications of adding foul flows to the sewer in Shaw Lane as proposed:

**Condition:** The development hereby proposed shall not commence until a full hydraulic modelling exercise has been undertaken on the surrounding sewerage system and the impact on sewers in Shaw Lane and elsewhere is understood.

**Reason:** To confirm that the site will not experience flooding within the red line nor exacerbate existing issues within the catchment, to confirm whether improvement works to the network or changes to the on-site drainage proposals are required to avoid this, to protect the environment.

(NB – we are commencing the hydraulic modelling work shortly and would hope to be able to discharge this condition within 6-8 weeks)

We would also like to pre-empt the outcome of the modelling by adding a further condition, that we could discharge at the same time as the first if the modelling returns a low risk.

**Condition:** The development hereby shall be occupied at a rate to be agreed in writing with Severn Trent Water Ltd. until any necessary changes and/or improvement works identified in condition 1 are completed.

**Reason:** to prevent creating or exacerbating any flooding inside or outside the site boundary, to protect the environment.

Ultimately the issue of sewer capacity sits with the sewerage undertaker to resolve. Developers have a right of connection for domestic flows to the nearest suitable sewer and if Severn Trent want to change the connection point or need to provide additional capacity in the sewerage system to accommodate the flows from new developments then we have the right to do that (at our cost) but we do sometimes need the planning system to support us in terms of providing time for us to fully understand what needs to be done and then get that designed and built. We usually only request pre-commencement conditions in the case of surface water flows into foul or combined sewers, since these enter the system from very early in the development process, whereas foul flows are only an issue once properties are occupied hence us asking for support to agree phasing of the occupations of this site with the developer.

I hope this puts some context around what we are trying to achieve and we can work with SCC and the developer to agree on the phasing requirements (or discharge the condition entirely if low risk) once we have completed the modelling exercise in the coming weeks."

Following further discussions with Severn Trent the conditions suggested by them have, with their agreement and that of the agent, been amended to the following to accord with the tests for conditions set out in Government Guidance:

1) *Before development commences a phasing plan for the development, linked to*

*the results of the full hydraulic modelling exercise undertaken on the surrounding sewerage system and the timetable for implementation of any remedial measures identified as being needed in order to accommodate the foul drainage flows from this development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan, with the dwellings being occupied at a maximum rate linked to the completion of any off-site sewer remedial measures required as a result of the modelling exercise, which has been approved in writing by the Local Planning Authority in consultation with Severn Trent Water Ltd.*

*Reason: The condition is a pre-commencement condition to prevent creating or exacerbating any flooding inside or outside the site boundary, to protect the environment.*

*2) No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development, in line with the approved phasing plan, is occupied/brought into use (whichever is the sooner).*

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

#### 4.7 SC Affordable Housing - No Objection.

The proposal relates to the provision of 58 dwellings; comprising 28 market dwellings broken down into 16 x 2 bed, 6 x 3 bed and 6 x 4 bed, together with 30 affordable rented homes and 6 x 2 bed affordable rented bungalows. The scheme is supported and welcomed from an affordable housing perspective. There is evidence of high housing need in Albrighton whereby 44 households are currently on the housing waiting list. Typically, this would be substantially less than actual need, given that many households would not consider the housing waiting list as an option for them. The affordable housing need in Albrighton is exacerbated by the high cost of market housing when compared to household income. The median house price for the town is £214,000 whereas the median household income is £31,764. The lack of affordable housing taken together with relatively slow turnover of properties, potentially worsens the situation. The average waiting time for a housing in Albrighton is 65 months (Shropshire Homepoint). Between the beginning of 2017, just 14 properties have been advertised as being available for rent through Homepoint. In addition, the Registered Provider (Wrekin Housing Trust) have been successful in securing Homes England grant funding for the affordable dwellings, however, grant availability is time limited and dependent upon commencement on site in early 2019 at the latest. In view of this, the proposal will show early delivery and provision of much needed affordable housing. Planning conditions should reflect the need of a Local Letting Plan to ensure a balanced community through the allocation process. The housing provided by this scheme would be a hugely beneficial in addressing in part the housing waiting list for this Parish.

#### 4.8 SC Conservation – No Objection:

The new scheme has removed the area closest to the listed Railway Station from the development. The proposed residential development is considered to be at a distance that would not readily impact upon the setting of the station in this instance.

#### 4.9 West Mercia Constabulary – No Objection to application 17/03774/FUL

Applicants should aim to achieve Secured by Design (SPD) award status. No further comments made in respect of this revised application.

4.10 SC Archaeology – No Objection:

An archaeological and heritage desk-based assessment (EDP, April 2015, Report Reference EDP2602\_02b) was recently compiled in relation to this application site (available under application 15/02448/FUL). This report concluded that the current proposed development site is considered to have a low archaeological potential for all periods.

In addition to the results of the desk based assessment, it is noted that the transcription of the Tithe Award map for Albrighton Parish of 1846 indicates that the western extent of the development area was known as Great Show or Brick Kiln Field. It also records a Pit, which today forms the pond lying within this part of the application site, and may represent the remains of a former clay pit. There is therefore some potential for below ground remains relating to postmedieval brick kilns to be present within the proposed development site, and as such the application site is considered to be of low to moderate archaeological potential.

RECOMMENDATION:

In view of the above, and in relation to Paragraph 199 of the NPPF and Policy MD13 of the SAMDev component of the Shropshire Local Plan, it is advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This programme of archaeological work should comprise a watching brief during ground works associated with the development. An appropriate condition of any such consent would be: -

Suggested Conditions:

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.

4.11 SC Parks and Recreation – No Objection:

Based on the current design guidance (SAMDev Policy MD2) the development will provide 156 bedrooms and produces a requirement for 4680 sq m of Open Space. The total Open Space created within this development is 7425 sq m and therefore exceeds the minimum requirement by some 2745 sq m, ensuring that the policy requirement is met.

The inclusion of public open space is critical to the continuing health and wellbeing of the local residents. Public open space meets all the requirements of Public Health to provide space and facilities for adults and children to be both active physically and mentally and to enable residents to meet as part of the community.

4.12 SC Drainage – No Objection:

The proposed drainage details, plan and calculations for surface and foul water drainage should be conditioned on any planning permission that is issued.

1. The proposed surface water drainage strategy in the FRA is acceptable in principle.

As the land is all rural, apart from the access road, the urban figure of 0.75 used in the discharge rate calculations is too large. The parameter should be recalculated using the actual amount of non-urbanised greenfield area and use that figure as the allowable discharge. A climate change of 35% should be used as per the Council's SuDS Manual.

The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

2. Information on the proposed maintenance regime for any sustainable drainage system proposed, including details of who will take responsibility should be provided to ensure that the drainage system remains in good working order throughout its lifetime.

3. Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas.

The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development.

4. Highway gully spacing calculations should be provided.  
Should gullies be the only means of removing surface water from the highway, spacing calculations will be based on a storm intensity of 50mm/hr with flow widths of:  
0.5m on all carriageways with footways, or;  
0.75m on all carriageways adjacent to a flush soft verge, or;  
1.0m on carriageways which have a hard-shoulder.

Gully spacing shall be no less than 20m on balanced carriageways except in vulnerable areas for 1 in 100 year storm events.  
Close spacing of gullies on a development will increase maintenance liability for both emptying and of the road surface around the ironwork. Amending the vertical profile or installing kerb drains should be considered where spacings are less than 20m. Alternatively, to reflect the increased liabilities, a commuted sum would be applied to any gully within the minimum 20m spacing.

In addition Shropshire Councils Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12 requires that exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site, or contribute to surface water flooding of any area outside of the development site.

Therefore the proposed management of exceedance flows generated by this return

period must also be considered and catered for.

This must be demonstrated by the provision of a contoured plan of the finished road levels showing the proposed management of any exceedance flow. (The discharge of any such flows across the adjacent land would not be permitted).

Vulnerable areas of the development, where exceedance is likely to result in the flooding of property, or contribute to flooding outside of the development site, highway gully spacing should be doubled over the entire length of highway contributing to the vulnerable area to ensure a 100mm/hr storm event is managed or attenuated on site.

4.13 Network Rail – No Objection in principle:

-The developer will remain fully responsible for the vehicle parking spaces included for station customers to use; signage should show that the spaces are for railway station customer parking only.

-A Risk Assessment and Method Statement should be submitted direct to Network Rail for all works to be undertaken within 10m of the operational railway.

-Trespass proof fencing should be provided adjacent to the boundary with the railway/railway land, with any existing Network Rail fencing and boundary treatments retained; any fencing over 1.8m in height will require Network Rail approval of details of foundations and wind loading calculations.

-No scaffolding to over-sail the railway.

-Any use of vibro-compaction machinery/piling machinery or piling to be the subject of a method statement to be submitted to the Network Rail Asset Protection Engineer for agreement.

-All drainage flows should be directed away from the railway, with soakaways at least 30m from the railway boundary and surface and foul waters less than 30m from the railway boundary in closed sealed pipe systems.

-High kerbs or crash barriers should be installed where turning areas are adjacent to the boundary with the operational railway.

-Public Comments

4.14 18 Objections have been received which are summarised below. The full text of the comments may be viewed on the planning file:

-No objection to land being put to residential use, but totally unacceptable to access from Shaw Lane.

-Previous application rejected by Planning Committee on access grounds and access must be made from Kingswood Road.

-Entrance should be at the Smithy end of Shaw Lane.

-Traffic congestion an ever increasing problem on Shaw Lane.

-Parents have problems parking when dropping off and picking up children from school.

-Visitors to doctors surgery have difficult problems getting parked.

-Rail users park their cars all day along Shaw Lane.

-Access to development is ill thought out and an accident waiting to happen.

-Another 64 homes would mean the arrival of around another 100 vehicles.

-Ask if anyone from the Planning Department has stood and observed Shaw Lane and the traffic and pedestrian flows.

- Traffic survey has proved to be incorrect and more realistic figures for parking were submitted covering a longer period of time.
- Assessment of station parking flawed; many of the commuters park in the adjoining roads as far as the junction of Station Road and Cotswold Drive and it is doubtful they have been included in the count.
- Traffic and noise reports are not an accurate representation.
  
- What is proposed for the land where the extra care building was previously proposed?
- Speculate that a further planning application for a 3 storey building would be forthcoming.
  
- Water drainage issue has not been resolved and, in view of recent local flooding, will become a further problem in the not too distant future.
- Would exacerbate the flooding issue.
- Severn Trent consistently fail to enhance the current drains network.
- Surface water from the proposed site has managed to travel 120 yards from the field down garden to door sill due to very poor drainage.
- Drains in Shaw Lane have always been an issue with blockages and water from proposed development would cause significant issues to those downstream of connections.
- Concerned about possible dewatering issues and impact on pond ecology with any change to the water table.
- Drainage connections should be to the south.
- Land is now acting as a flood plain due to the very high water table and any substantial building on this site without up to date, independent and proper assessment of flood risk should not be supported.
- Site plan out of date omitting newly constructed house on Shaw Lane.
- Supporting documents not updated to take account of removal of extra care facility from application.
- Density of housing not sustainable.
- Noise and pollution levels would rise, and dust would be detrimental to health of school children, staff and local residents.
  
- During construction phase many trades will be waiting for site access at 7 to 8am and leave at 4/5pm just in time for existing peak traffic volumes.
- Builders traffic could only access via Shaw Lane, via Station Road (through the village) or Station Road having come under the 10ft 6in height railway bridge, causing bottleneck in Shaw Lane/ at the bridge/village centre.
  
- Was broad support for the original Boningale Homes proposal.
- Applicants have not taken account of concerns raised at public meetings.
  
- No evidence of any dialogue with Boningale Homes to facilitate access from the south to address part of previous refusal reason.
  
- Object to Wrekin Homes owning the majority of the proposed houses; starter houses for young couples are needed to keep the village going and do not need any more care houses or apartments.
- No provision for first time buyer who do not come under the Wrekin Housing scheme.



- 4.14 Albrighton and District Civic Society – Object:
- Current application still includes the same point of access/off Shaw Lane that was a reason for refusal of the previous application.
  - Previous application not rejected on drainage grounds and seemed to rely on Severn Trent carrying out a check/model test to ascertain if the present system is able to accept drainage water from the site.
  - Common sense that adding water in a northerly direction will increase flooding risk in the north of the village.
  - Unacceptable to deal with vital drainage matter as a condition and it should be considered a ground for rejection.
  - Council's Flood and Water Manager on 30<sup>th</sup> July 2015 states that drainage should only be discharged southwards.
  - No drainage water should be connected into the sewers in Shaw Lane and Station Road.
  - Area which was once a gas works is understood to contain contaminated ground which would potentially affect run-off water into the public supply.

- 4.15 St Marys School – Comment:
- Priority is to ensure proposals have no negative effects on the school and its operation.
  - Lichfield Diocesan Trust owns the area of the school buildings and the top part of the drive, with Shropshire Council owning the playing fields and former caretaker's house.
  - Current exclusive use of school access allows school to manage the peak flow of children and parents at the start and end of the day by closing off all vehicular access along driveway and member of staff standing by gates onto Shaw Lane.

At peak times up to 200 children are deposited or collected at the school within a short period of time.

Current application includes measures discussed with the school comprising;

- a) Pedestrian barrier on the footway that leads directly to the school.
- b) A wider footway on the school side
- c) Raised platform to slow traffic by school.

Ask that safety advice be taken on the detail of the pedestrian barrier with regard to start and finishing point and road crossing point(s). Would like parking restrictions to design out the possibility of parking between Shaw Lane and the school entrance.

Pleased to see that the application includes for the replacement of the existing fencing adjoining the school, replacing it with 2m high paladin mesh fencing with hedging in front, which is in line with Secured by Design for New School guidance. The preference is that the Boningale Homes fence in that development to the south matches what is proposed in this application. Pedestrian and vehicular gates at the entrance to the school shown on site layout drawing 04 should be provided as part of the fencing and to a similar specification.

- 4.16 Albrighton Development Action Group – Object:
- Current application still includes traffic access to/from Shaw Lane which was one of the points causing refusal of the previous application.

- Drainage waters from the site could not be connected into the sewers in Shaw Lane and/or Station Road as this would increase the risk of flooding.
- Council's Flood and Water Manager on 30<sup>th</sup> July 2015 states that drainage should only be discharged southwards.
- Issue of which direction drainage water is to go should be dealt with now and not later in some piecemeal fashion.
- True impact of the application cannot be assessed without an understanding of the nature and scale of the area marked "Future Development".

## 5.0 THE MAIN ISSUES

Principle of development  
 Siting, scale and design of structures and impact on setting of heritage assets  
 Landscaping and Ecology  
 Open Space  
 Residential and School Amenity  
 Highway Safety and Parking  
 Drainage  
 Contamination  
 Housing Mix  
 Archaeology

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The land comprising the application site is part of the housing land allocation ALB002 set out in the adopted Shropshire Council Site Allocations and Management of Development (SAMDev) Plan under the settlement policies set out in that document. The schedule S1.1a: Housing Sites for land east of Shaw Lane (ALB002) has a provision guideline of 180 units. The Development Guidelines set out in this housing allocation state:

*"The provision of affordable housing as part of the development should have particular emphasis on intermediate housing for local needs, assisting any innovative forms of community-led provision as appropriate. Amongst the market housing, a proportion of one or two bed units will be sought.*

*Development proposals should help provide additional parking in the vicinity of Albrighton railway station. As part of the development, land will be provided on or adjoining the site for open space and leisure facilities including a children's play area, adult football pitch, youth shelter, multi-use games area and leisure centre/sports hall, with good pedestrian connections to the village.*

*Proposals must provide for the long term comprehensive development of this site and facilitate an eventual through-road between Kingswood Road and the northern end of Shaw Lane. The site layout should allow for integration with future development on the safeguarded land over the longer term."*

6.1.2 The Albrighton Neighbourhood Plan 'Light' was endorsed by Shropshire Council in September 2013. Whilst the ANPL has not been subject to independent examination and has not gone through a referendum, and as such does not form

part of the Development, it is a material consideration that reflects the views of the community. That document also identifies the land which includes the current application site as a location for up to 180 dwellings.

- 6.1.3 There is no in-principle Development Plan Housing Policy objection to residential development on this land. The acceptability or otherwise of this proposal is to be determined by the consideration of the detailed planning issues set out below.

## **6.2 Siting, scale and design of structures and impact on setting of heritage assets**

- 6.2.1 The National Planning Policy Framework (NPPF) at section 12 places an emphasis on achieving good design and achieving well-designed places in development schemes. At paragraph 127 it seeks to ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; sympathetic to local character and history while not preventing or discouraging appropriate innovation or change; establish a strong sense of place; to optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and to create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users. The themes of the NPPF are reflected in Core Strategy policy CS6 which seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, and are safe developments. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 relates to Sustainable Design and complements policy CS6, seeking to ensure, among a number of matters, that development responds appropriately to the form and layout of existing development in the vicinity; reflects locally characteristic architectural design and details; and to embrace opportunities for contemporary design solutions which take reference from and reinforce local distinctiveness.

- 6.2.2 The proposed house types would be well proportioned and appropriate for this location. The proposed external finishes would reflect features found in and around Albrighton. The inclusion of short projecting front gables to some dwellings, in a variety of forms and styles, bay windows, canopy porches and variations in ridge heights and setbacks from the roads would provide variety and interest to the street scenes. The areas of open space would give a spacious quality to the development, appropriate to this edge of village setting.

- 6.2.3 There is a requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 for local authorities to have a specific duty to have special regard to the desirability of preserving listed buildings or its setting or any features of special architectural or historic interest which it possesses in the carrying out of statutory functions (Section 66). There is a similar duty (Section 72) with regard to having special regard to the impact of developments upon the setting of Conservation Areas. The Heritage Assessment Statement submitted with the previous application identified that the listed buildings in the locality include the Albrighton Railway Station and foot bridge, and railway bridge, all listed grade 2. It assessed the impact of the proposed development on these designated heritage assets in accordance with Section 12 of the then current National Planning Policy

Framework (NPPF) (Now Section 16 of the revised version). It asserted that the development would not be visible and hence would have a negligible impact on the station buildings as a group from the platforms; there would be no inter-visibility with the railway bridge. The Conservation Officer concurred that the harm to the designated heritage assets at Albrighton Railway Station would be less than substantial in this case, but the Planning Committee (following the Committee site visit) came to the view that the harm would still be significant in respect of the impact of the proposed three storey extra care building. That structure however does not form part of the current application, which is identical in all other respects. It would therefore be consistent for the Committee to conclude that the current proposal would not harm the character and appearance of the locality, would not be an over development of the area, and would not have an adverse impact upon the setting of the listed railway station building. This re-submitted proposal without the extra care apartments addresses that section of refusal reason relating to a significant harmful impact set out at paragraph 1.1 above. A refusal on the grounds of an unacceptable impact on the character and appearance of the locality and setting of listed buildings could not be sustained in this case.

- 6.2.4 The two Albrighton Conservation Areas are some 250 metres and 400 metres respectively from the application site and would not be impacted upon by the proposed development, due to the topography and the presence of existing built development.

### **6.3 Landscaping and Ecology**

- 6.3.1 Core Strategy policies CS6 and CS17 seeks to ensure developments do not have an adverse impact upon protected species, and accords with the obligations under national legislation. SAMDev Plan policy MD12 sets out how the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved. The Planning Ecologist has assessed the scheme and is content that Great Crested Newts are not a constraint at this site. There are no badger setts that would be affected by the proposals. The four trees identified as having bat roosting potential would be retained in the development. Conditions are recommended which include approval and implementation of a habitat management plan; adherence to the great crested newt reasonable avoidance mitigation measures strategy; approval of any external lighting; provision of bat, bird and hedgehog boxes and a pre-commencement check for badger activity. It is considered therefore that the proposals would not harm ecological interests.
- 6.3.2 The proposed development would retain the existing trees that are of landscape significance within the site, incorporating them into two of the areas of public open space. The new tree and hedge planting proposed would be of appropriate species and the proposed positioning within the areas of public open space, in selected positions in the street scene in private gardens and on site boundaries, would enhance the townscape.
- 6.3.3 It is considered therefore, for the reasons explained in Section 6.2 of this report and paragraphs 6.3.1 and 6.3.2 above, that the proposed development would be appropriate in scale, density, pattern and design as required by Core Strategy policy CS6 and SAMDev Policy MD2 and would not detract from the quality of the built environment and landscape setting to this part of Albrighton, satisfying also Core Strategy policy CS17, SAMDev Plan policy MD12 and the neighbourhood

plan 'light' design considerations set out in policy ALB11.

#### **6.4 Open Space**

6.4.1 The Council adopted in January 2012 Open Space Interim Planning Guidance. This guidance has been updated and incorporated into the adopted Site Allocations and Management of Development Plan (SAMDev) in policy MD2 which advises that the amount of public open space to be provided by a residential development should be calculated on the basis of 30 sqm per bedroom. Sustainable urban drainage (SuDS) areas may be counted as part of the open space in a development where they are shown to be capable of dual use. For example a SuDS pool which does not hold water permanently and has gentle gradients to its banks can function as part of the public open space. Two of the areas of public open space would accommodate attenuation ponds (SuDs pools) in this case.

6.4.2 The quantity of public open space that would be provided within four areas of the development, would amount to some 7425sqm (Excluding the pond), exceeding the target of 4680sqm from applying the 30sqm per bedroom standard set out in policy MD2. Open space can be in the form of space for play, recreation, formal or informal uses including semi-natural open space. It is considered that the amount of open space in the various forms which would be delivered by the proposed development would be acceptable in the context of SAMDev policy MD2.

#### **6.5 Residential and School amenity**

6.5.1 Core Strategy policy CS6 seeks to safeguard residential amenity. The nearest dwellings to the proposals are Dashworth Cottage adjacent to the northern site boundary, properties along Shaw Lane and the caretakers dwelling at the school. In the case of Dashworth Cottage, and the planning permission for dwellings on the adjacent builder's yard (ref 17/02469/FUL), the development scheme proposes bungalows to the south/south west of them to ensure that privacy would not be unduly harmed and to ensure no significant loss of sunlight/daylight or overbearing impacts. With respect to the properties on Shaw Lane and the former caretakers dwelling, all the proposed dwellings are to the east of the existing school buildings and this separation distance across a field area, coupled with the juxtaposition of existing and proposed buildings, would ensure that residential and school amenity would not be unduly harmed in terms of privacy, daylight/overshadowing and the new development would not be overbearing.

6.5.2 There would be no residential amenity conflicts in terms of unacceptable overbearing or privacy impacts within the development itself. A noise and vibration assessment has been submitted with the application which makes recommendations for attenuation in respect of glazing to be incorporated in the specification of windows in properties near to the railway line. The Council's Regulatory Services Team are content with the findings of the noise report and recommend a condition requiring the specified standard of glazing to be installed, together with a 1.8m high fence with a minimum density of 15kg per square metre be installed along the boundary of the site that adjoins the railway to the north, in order to safeguard the residential amenity of the proposed development.

6.5.3 It is almost inevitable that building works anywhere cause some disturbance to adjoining residents. This issue can be addressed by conditions requiring the

submission and approval of a construction method statement and restricting construction times to 07.30 to 18.00 Monday to Friday; 08.00 to 13.00 on Saturdays and no construction on Sundays, Bank or Public Holidays.

- 6.5.4 The school premises would be adjacent to the large area of open space in the application site which contains the existing pond, with the side gardens of two dwellings abutting the remainder of the boundary with the school and associated land. The application drawings show the existing fence to the boundary with the school retained and supplemented with new hedge planting by the open space, and a 1.8m high close boarded fence installed to enclose the side and rear gardens of the dwellings. Comments received have expressed concern that the proposed development would increase the vulnerability of the school premises to crime and impact on the school's safeguarding obligations to school children. It is not uncommon for school grounds to be surrounded by residential development or to have public footpaths in close proximity. The presence of the proposed houses would give passive surveillance of areas of the school grounds, which it is suggested would be an enhancement to security. Details of fencing to enclose the rear garden areas and the edge of the public open space would be conditioned on any approval issued, to allow the adequacy of the existing fencing on this boundary to be reviewed.

## 6.6 Highway Safety and Parking

- 6.6.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 108 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all users. At paragraph 109 it states:

“ Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced. It seeks to achieve safe development and part of achieving this is to ensure the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.

- 6.6.2 The previous application 17/03774/FUL, was refused by the South Planning Committee, contrary to the Officer recommendation, on a highway matter relating to the sole vehicular access being proposed from Shaw Lane. This element of the refusal reason states:

*“It is acknowledged that the application site forms part of an adopted Development Plan housing allocation and would deliver new market housing and a high level of affordable housing broadly in line with the development guidelines for the site set out in Policy S1.1a of the SAMDev Plan. However, these benefits are not outweighed by a combination of negative factors which comprise:*

*- the vehicular access to the development being solely onto Shaw Lane with no assurance at this stage that access from Kingswood Road to the south could be achieved, which is the preferred option for the site as shown on the SAMDev Policies Map*

*SIMap, with the consequence that the nature and scale of the development would create traffic flows that would exacerbate the existing traffic congestion already experienced in the Shaw Lane area because of the close proximity of the School, Railway Station and Doctors Surgery, to the detriment of highway and pedestrian safety;*

The current application has not amended the proposed vehicular access arrangement to the site from Shaw Lane.

- 6.6.3 The applicants have re-submitted the previous Transport Assessment, along with a Technical Note dated July 2018 which concludes:

*“A Transport Assessment was produced in July 2016 that clearly demonstrated the proposed site access would operate well within accepted thresholds of capacity for a larger development comprising 74 extra care apartments, six bungalows and 58 houses. It therefore follows that the site access junction will continue to operate entirely satisfactorily for the smaller development proposed.*

*This Technical Note clearly demonstrates that the predicted traffic flows on Shaw Lane resulting from this development will be very modest, even when taking into account the traffic flows from the Boningale Homes development.*

*In the opinion of Savoy Consulting Shaw Lane will continue to operate well within the capacity of the local highway network, even when considering the existing on-street parking that takes place in the morning peak resulting from parents dropping off their children at the primary school and some patients at the GP surgery who choose to park on-street although there is a surgery car park available for their sue. In summary, therefore, Savoy consulting is of the very firm opinion that there will be no unacceptable impact on highway safety and the residual cumulative impacts on the road network cannot be classified as ‘severe’ as defined in paragraph 109 in the July 2018 National Planning Policy Framework.”*

- 6.6.4 The Council’s Developing Highways Area Manager (South and Central) comments are set out in full at paragraph 4.2 above. Assessed against the bullet points set out in paragraph 108 of the NPPF, the site is in a sustainable location close to local amenities and public transport facilities, giving opportunities for sustainable travel modes which the travel plan would promote; the access into the site incorporating the pedestrian barrier by the school entrance and the carriageway and pavement widths, together with parking restrictions, would achieve a safe and suitable access to the site for all people, with pedestrian and cycle access also being achievable from the remainder of the allocated housing site to the south; and the alterations to Shaw Lane associated with the widened access road would be an improvement measure to assist in limiting the impacts of development. While the Highways Area Manager has a number of concerns, as set out in 4.2 above, taken together these matters are not sufficient to change the Officer view that it is not possible to demonstrate the proposed development would have an unacceptable impact on highway safety, or that the cumulative impacts on the road network would be severe.

There is no fundamental access capacity or local road capacity issues, which in turn would lead to conditions detrimental to highway safety, that would justify a refusal on highway safety grounds in this case, with the mitigation that can be achieved through planning conditions and clauses in a Section 106 Agreement to

address the measures raised in the Highways no objection response. The Section 106 Agreement would secure the provision of a raised table on Shaw Lane at the point of access into the site and restrict parking on the access road, with conditions 3 to 8 in Appendix A addressing the other matters.

- 6.6.5 The proposed road, footpaths and highway verges adjacent to Plot 55 on the southern site boundary would be taken up to the site boundary as part of the works that are subject to this application. The Council's Developing Highways Area Manager has previously advised that, in the event of the highways in this application and those in planning permission 15/02448/FUL being constructed and offered for adoption, once the roads become part of the public highway there would then be the opportunity to move the point at which there would be a restrictor to prevent the through movement of vehicles to/from Shaw Lane and Kingswood Road, should it be deemed desirable for a proportion of the housing development in the current application site to be served from Kingswood Road.

(At the time of writing this report it was hoped to arrange a meeting with the developers who have control of the adjacent areas of land which form the housing allocation and representatives of the Parish Council to discuss the vehicular access arrangements/options. The Bonningale Homes representative was not available on the dates suggested and has set a pre-condition of a scheme being submitted for their consideration prior to such a meeting. The applicants have responded that whilst they are happy to have discussions with Bonningale Homes over a combined access, they feel that their proposals include a fully workable and technically compliant access. This current application has to be considered on the basis of the proposed access to Shaw Lane contained within it, as it is the only part of the application site that abuts an existing highway).

- 6.6.5 The SAMDev Plan Housing site allocation S1.1a (ALB002) policy sets out a number of development guidelines setting out what it is expected development proposals for the land will achieve: These include the statement –

*“Proposals must provide for the long term comprehensive development of this site and facilitate an eventual through-road between Kingswood Road and the northern end of Shaw Lane. The site layout should allow for integration with future development on the safeguarded land over the longer term.”*

- 6.6.6 The proposed site layout would leave open the option of an easterly extension of the main access road into the safeguarded land. The proposed site layout plan alignment of the southern cul-de-sac would align with a road in the layout of the residential development in planning permission 15/02448/FUL. This alignment would provide a through route for pedestrian and cyclists, but not for motor vehicles, in accordance with the above development guideline.
- 6.6.7 The two parking spaces proposed for each dwelling accords with the parking standards of the former Bridgnorth District Council for Southeast Shropshire and matches that which has been accepted in the schemes for the southern part of this allocated housing site. It is considered that the amount of off road parking proposed for the residential accommodation would be adequate and not result in conditions detrimental to highway safety.



- 6.6.8 The SAMDev Plan Housing site allocation S1.1a (ALB002) policy includes Development Guidelines which include the statement:

*“Development proposals should help to provide additional parking in the vicinity of Albrighton railway station.”*

This is echoed by the Albrighton Neighbourhood Plan Light policy ALB2b which states that any development will be expected to provide or enable the provision of additional parking adjacent to Albrighton railway station in order to serve the parking needs of rail passengers using the station. Both policies are silent on the quantity of parking or how it would be managed. If this parking is to be provided within the housing site allocation the expectation is that this would be in the north west corner of the allocation, closest to the railway station with the pedestrian route being the shortest possible via Shaw Lane. Vehicular access to the car park area would be either from the south via Kingswood Road and the road infrastructure in the approved schemes for residential development in the southern half of the allocation, or from Shaw Lane if that access and the immediate local road network is shown to have adequate capacity. This area, however, is excluded from the current application site.

- 6.6.9 The applicants have responded to this development guideline by including in the proposed site layout an area for 12 car parking spaces for the benefit of users of the railway station. (The station approach and forecourt can accommodate 26 vehicles with tight parking). These spaces would be positioned on the southern side of the access road. The car parking would be on the basis of permit holders only, with permits issued by Jessup who would retain ownership of the spaces. They state that appropriate signage would be erected adjacent to the spaces setting out how permits could be obtained. The application would therefore deliver an increase of some 46% in the amount of off-road parking available in the immediate locality for railway station users. The survey and assessment carried out by the applicants in response to queries raised in connection with the previous application has been re-submitted with this application. This states:

**“BACKGROUND**

It was described in the report to planning committee that the station approach and forecourt could accommodate 26 vehicles with tight parking.

**SURVEY**

A count of passengers using the station was carried out on the morning of Tuesday 20<sup>th</sup> March 2018, between 05.43 and 08.30. This period covered all trains departing the station that would be used by commuters.

On arrival at 05.43am it was observed that 2 vehicles had been parked on the station car park overnight and 7 residents' vehicles were parked outside properties in Shaw Lane.

The count was as follows:

**Albrighton - New Street Dep 05.58am**

- 1 commuter was dropped off at the station
- 2 vehicles with one commuter in each parked on the car park
- 5 commuters arrived at the station on foot
- 8 commuters boarded the train.

**Albrighton - Shrewsbury Dep 06.26/ New Street Dep 06.32am**

8 commuters arrived by car and parked on the station  
 1 commuter arrived by car but parked on the main road some 100mtrs away  
 4 commuters arrived on foot  
 1 commuter arrived on a bicycle and deposited it in the bicycle store  
 14 commuters boarded the train.

**Albrighton - Shrewsbury Dep 07.04am**

1 commuter arrived by car and parked on the car park  
 1 commuter arrived on foot  
 2 commuters boarded the train

**Albrighton - New Street Dep 07.50am**

9 vehicles arrived at the station parking in the remaining spaces  
 07.40am - car park is full  
 8 vehicles arrived after 07.40am and had to park on the roadside  
 4 commuters were dropped off

29 commuters arrived on foot  
 50 commuters boarded the train

**Albrighton - Shrewsbury Dep 07.59am**

3 commuters were dropped off  
 4 commuters arrived on foot  
 7 commuters boarded the train

It was observed that 6 commuters got off the train arriving from Shrewsbury at 07.59am

**Albrighton - New Street Dep 08.21am**

5 vehicles arrived and had to park on the roadside  
 3 commuters were dropped off  
 21 commuters arrived on foot  
 29 commuters boarded the train

On leaving the station area at 08.30am it was observed that a total of 14 vehicles were parked on the roadside with further vehicles parked in Shaw Lane outside the Albrighton Medical Practice but as the surgery was open it was presumed that the occupants of these vehicles were attending appointments with their G.P.

**ANALYSIS**

During the period covered the figures show 20 vehicle being parked by rail users, plus the 2 cars parked overnight. In addition one space was taken by those undertaking the survey, with a further 14 parking on the road. The total number of cars being parked by rail users was therefore 34 (20+14).

However 26 spaces should be available so the shortfall in spaces is 8 if the railway car parking was solely used by rail users.

**COMMENTS**

According to a report published by the Office of Rail and Road Data published in December 2017 Albrighton Station had a total of 99,380 entries and exits over a 12 month period By comparison Shifnal Railway Station had 166046 entries and exits during the same period.

Albrighton station has 26 car parking spaces, Shifnal 20 spaces. Based on passenger numbers there are 4320 entries and exits per parking space at Albrighton compared to 8302 entries and exits per parking space at Shifnal. Whilst this may indicate that Albrighton station possibly has an appropriate number of parking spaces when

compared to other stations, this does not cater for all rail users at the station.

To alleviate on-street parking a total of 12 car parking spaces are proposed within the development for rail users, the furthest of these being approx. 330m from the railway station. Taking an average walking speed of 3 miles per hour this would take approx. 4 minutes to walk to the station. It is considered that this is a reasonable distance to walk and that the provision of the 12 spaces more than makes up for the current shortfall of 8 spaces at the station. We would expect that any residents of the new development who wished to use the station would walk, this not impacting on the current situation.”

- 6.6.10 The Committee accepted in the June 2018 consideration of the previous application that the provision of these spaces and their management as proposed would address the development guideline of the SAMDev Plan housing allocation S1.1a (ALB002) by providing additional parking: This matter did not form part of the reasons for refusing application 17/03774/FUL and there has been no material change in circumstances since June this year to now warrant a different decision on this stationing parking issue and the provision made in the proposed development.

## 6.7 Drainage

- 6.7.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. SAMDev Plan policy MD2 also seeks to incorporate sustainable drainage techniques in developments. A Flood Risk Assessment has been submitted with the application. This confirms that the proposed development falls within flood zone 1. The objective of the sequential test in the NPPF and the associated Technical Guidance is to direct new development to the least flood-prone areas: This scheme meets this objective and passes the sequential test. The Flood Risk Assessment comments that the sustainable drainage system be designed for the 1 in 100 year storm event, plus climate change (25%) with discharge of surface water from the site restricted to Greenfield run-off rates, achieved via the installation of flow control devices. The main foul and surface water drainage for the development would be adopted by Severn Trent Water.
- 6.7.2 The comments of the Severn Trent Asset Protection Manager (West), as set out at 4.6 above makes it clear that:  
“Ultimately the issue of sewer capacity sits with the sewerage undertaker to resolve. Developers have a right of connection for domestic flows to the nearest suitable sewer and if Severn Trent want to change the connection point or need to provide additional capacity in the sewerage system to accommodate the flows from new developments then we have the right to do that (at our cost) but we do sometimes need the planning system to support us in terms of providing time for us to fully understand what needs to be done and then get that designed and built.”

The underlining above shows that the responsibility for ensuring that there is adequate sewer capacity rests with the sewerage undertaker (Severn Trent in this case) and not the applicant. The support sought by Severn Trent in this instance would be achieved through the two pre-commencement conditions below, which

have been agreed with Severn Trent and the applicant:

*1) Before development commences a phasing plan for the development, linked to the results of the full hydraulic modelling exercise undertaken on the surrounding sewerage system and the timetable for implementation of any remedial measures identified as being needed in order to accommodate the foul drainage flows from this development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan, with the dwellings being occupied at a maximum rate linked to the completion of any off-site sewer remedial measures required as a result of the modelling exercise, which has been approved in writing by the Local Planning Authority in consultation with Severn Trent Water Ltd.*

*2) No development shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development, in line with the approved phasing plan, is occupied/brought into use (whichever is the sooner).*

6.7.3 The Council's Flood and Waste Water Management Team and Severn Trent Water are content that the precise foul and surface water drainage details can be the subject of the above conditions on any planning approval issued in this case. The work carried out so far, including the surface water drainage strategy in the Flood Risk Assessment is acceptable in principle, and sufficient in conjunction with the agreed pre-commencement drainage conditions to ensure that the proposal would not increase the risk of flooding elsewhere or cause pollution of the water environment.

## **6.8 Contamination**

6.8.1 Shropshire Core Strategy policy CS6 seeks to secure safe development. With regard to contamination, the NPPF advises at paragraph 178 states that decisions should ensure that decisions take account of matters including pollution from previous uses and that adequate site investigation information, prepared by a competent person, is presented. It continues at paragraph 179 that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

6.8.2 A Phase 1 Site Appraisal Report has been submitted which has been produced by Patrick Parsons. This recommends that a Phase 2 ground investigation be commissioned to include a review all existing site investigation information; window sampling investigation to confirm ground conditions and collect samples for analysis; installation of gas monitoring wells; chemical analysis of soils followed by a risk assessment so that the risk to human health and controlled waters can be determined; and geotechnical and geochemical soils testing of the founding strata to assess strength and suitable grade(s) of buried concrete. The Council's Regulatory Services Team and The Environment Agency are content that these further investigations and the appropriate remediation can be addressed satisfactorily through appropriate conditions on any planning permission issued.

**6.9 Housing Mix**

- 6.9.1 Throughout the whole development of 64 units there would be 36 two bedroomed properties; 16 three bedroomed properties and 6 four bedroomed properties; with 6 two bedroomed bungalows for the over 55 age groups. The proportion of affordable dwelling units would be some 56.25%, (36 units) which is well in excess of the minimum current 15% prevailing rate for affordable housing in Albrighton under Core Strategy policies CS9 and CS11. The applicant has advised that they are working with Wrekin Housing to deliver the affordable homes proposed and that grant funding is in place from Homes England. The precise dwelling mix is a marketing decision for the applicant, but it is considered that the mix of development proposed here is varied and would be in accordance with Core Strategy policy CS11 and SAMDev Plan policy MD3, which seek to achieve mixed, balanced and inclusive communities, and the development guidelines to the SAMDev housing allocation S1.1a (ALB002) when considered in conjunction with the range of properties included in permission 08/0907 and the associated reserved matters 14/05456/REM, together with 15/02448/FUL, for the southern part of this housing allocation. (Cumulatively there would be 185 dwellings comprising of 9 one bedroomed; 70 two bedroomed; 54 three bedroomed; 47 four bedroomed and 5 five bedroomed dwellings. on the allocated housing site). The Albrighton Neighbourhood Plan Light does not have the status or weight of a statutory Neighbourhood Plan in determining applications and pre-dates the SAMDev Plan. It has the aspiration that development on the allocated housing site should deliver at least 20% of the units as one and two bedroomed properties and this figure would be comfortably exceeded by this specific development proposal. While the absence of one bedroom accommodation is clearly less than the 40% of the total of one and two bedroom accommodation referred to in the Neighbourhood Plan Light, this proposal would deliver a high number of two bedroom units in the form of 42 properties (bungalows and two storey dwellings) out of a total of 64 properties. A refusal relating to a 40%/60% one bed/two bed unit balance not being achieved could not be sustained.
- 6.9.2 The Council's Affordable Housing Team has no objections to the number and mix of affordable dwellings in this area of high housing need. A Section 106 Agreement would be required as part of any grant of planning permission to ensure that the accommodation remains affordable and be of the appropriate tenures.

**6.10 Archaeology**

- 6.10.1 Core Strategy policies CS6 and CS17 and SAMDev Plan policy MD13 seek to protect the historic environment, which includes areas of archaeological interest. They accord with paragraph 189 of the NPPF. An Archaeological and Heritage Assessment has been submitted with the application. The Council's Archaeology Team have studied this report and note that the 1846 Tithe Award map indicates the western extent of the development area was known as Great Show or Brick Kiln Field and it records a pit, which today forms the pond. They consider there to be some potential for below ground remains relating to the post-medieval brick kilns to be present, with the site having low to moderate archaeological potential. A condition requiring a programme of archaeological work to be approved by the local planning authority is recommended as part any planning permission issued, and this would comprise of a watching brief during ground works associated with the development.

**7.0 CONCLUSION**

- 7.1 The proposed residential development on this land, which forms part of an allocated housing site within the adopted SAMDev Plan, is acceptable in principle.
- 7.2 There are considered to be no other material considerations of sufficient weight to override the clear NPPF guidance, at paragraph 11, of a presumption in favour of sustainable housing development as exemplified by this scheme. The development of this land, on part of an allocated housing site, would not detract from the wider landscape setting of Albrighton or the immediate locality, including the setting of listed buildings in the area. The site layout and design of the bungalows and houses would not unduly harm neighbour amenity. There are no ecological, tree protection, archaeological, drainage or contamination reasons that would justify a refusal of planning permission, with appropriate planning conditions being able to safeguard these interests. The amount of open space that would be provided within the development, in various forms, is satisfactory. Affordable housing would be provided in excess of the current prevailing rate.
- 7.3 The proposed internal road network would not be detrimental to highway safety; and the site is within walking distance of local services and facilities. The proposed layout would not prejudice an eventual through road between Kingswood Road and the northern end of Shaw Lane and would provide a pedestrian and cycle connection to the residential development land to the south. The layout would allow for integration with future development on the safeguarded land over the long term. Station parking would be provided in response to the housing allocation development guideline, with appropriate operation of these spaces achieved through a management plan secured through a planning condition.
- 7.4 There is no fundamental access junction capacity or local road capacity constraints for the scale of development proposed. Taking account of the highway related measures which can be secured through the recommended conditions and the Section 106 Agreement, and that a safe and suitable site access would be achieved for vehicles and pedestrians which takes into account the presence of the school premises, it is considered the proposals would not have an unacceptable impact on highway safety and the residual cumulative impacts of the development on the road network would not be severe. In such situations the National Planning Policy Framework states clearly that development should not be prevented or refused on highway grounds.

**8.0 Risk Assessment and Opportunities Appraisal****8.1 Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

#### **Central Government Guidance:**

National Planning Policy Framework

National Planning Practice Guidance

**Shropshire Core Strategy:**

- CS1 Strategic Approach
- CS3 The Market Towns and other Key Centres
- CS6 Sustainable Design and Development Principles
- CS9 Infrastructure Contributions
- CS11 Type and Affordability of Housing
- CS17 Environmental Networks
- CS18 Sustainable Water Management

**Site Allocations and Management of Development Plan:**

- MD1 Scale and Distribution of Development
- MD2 Sustainable Design
- MD3 Delivery of Housing Development
- MD12 The Natural Environment
- MD13 The Historic Environment
- S1 Albrighton Area

SPD on the Type and Affordability of Housing  
Open Space IPG

Albrighton Neighbourhood Plan ‘Light’ June 2013

RELEVANT PLANNING HISTORY:

15/02448/FUL: Residential Development of 65 dwellings with access and associated works (Amended Description) at land east of Shaw Lane, Off Kingswood Road, Albrighton. (Relates to land south of the current application site, but originally included this land as well).

11. Additional Information

View details online:

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

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

- Design and Access Statement
- Landscape Management Plan
- Transport Assessment
- Arboricultural Survey and Report
- Flood Risk Assessment
- Noise Report
- Ecological Report
- Newt Survey and Mitigation Strategy

Cabinet Member (Portfolio Holder)  
Cllr R. Macey

Local Member  
Cllr Malcolm Pate

Appendices  
APPENDIX 1 - Conditions



## APPENDIX 1

### Conditions

#### CONDITION(S)

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

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

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

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

3. Before the first occupation of any houses and bungalows in the development a Travel Plan for those properties shall be submitted to and approved in writing by the Local Planning Authority. The approved travel plan shall be implemented within one month of the first occupation of any house or bungalow.

Reason: In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with guidance in the NPPF.

4. Prior to the commencement of the development full engineering details of the new access roads, footways, pedestrian safety barriers, parking areas, highway surface water drainage, street lighting and carriageway marking/signs shall be submitted to and approved in writing by the Local Planning Authority. The works shall be fully implemented in accordance with the approved details with the estate roads, footways, vehicle manoeuvring and turning areas constructed to at least base course macadam level and made available for use before the dwellings that they would serve are first occupied, and the pedestrian safety barrier adjacent to the school entrance installed in accordance with a timetable which has been approved in writing by the Local Planning Authority.

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

5. Before the dwellings on plots 55 to 59 are first occupied details of the construction, width and alignment of pedestrian and cycle path from the head of the turning head adjacent to plot 55 to the south western site boundary shall be submitted to and approved in writing by the Local Planning Authority. The path shall be constructed in accordance with the approved details prior to the first occupation of plots 55 to 59.

Reason: To provide pedestrian and cycle connectivity through the allocated housing site, in accordance with SAMDev Plan policy S1.1a (ALB002), in the interests of achieving a sustainable development and options to the use of the private car for local trips.

6. Before the first occupation of any residential property the station parking spaces shall be constructed and details of a management plan for the operation of those parking spaces, together with details of signage, shall be submitted to and approved in writing by the Local Planning Authority. The signage shall be installed and the use of the parking area shall commence in accordance with a timetable which has been approved in writing by the Local Planning Authority and the station parking spaces shall thereafter be operated in accordance with the approved management plan.

Reason: In the interests of highway safety and residential amenity.

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

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

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

8. Demolition and construction work shall not take place outside the following times:

- Monday to Friday 0730hrs to 18.00hrs
- Saturday 08.00hrs to 13.00hrs
- Nor at any time on Sundays, bank or public holidays.

Reason: In the interest of the amenity of the occupants of surrounding residential properties.

9. The development shall be carried out in accordance with the recommendations of the Arboricultural Report by Tree Heritage Ltd in respect of land at Shaw Lane, Albrighton (Ref: TH17-74, dated 24th July 2017).

Reason: To safeguard existing trees and hedgerows on site and prevent damage during building works in the interests of the visual amenity of the area.

10. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

11. Before development commences a phasing plan for the development, linked to the results of the full hydraulic modelling exercise undertaken on the surrounding sewerage system and the timetable for implementation of any remedial measures identified as being needed in order to accommodate the foul drainage flows from this development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan, with the dwellings being occupied at a maximum rate linked to the completion of any off-site sewer remedial measures required as a result of the modelling exercise, which has been approved in writing by the Local Planning Authority in consultation with Severn Trent Water Ltd.

Reason: The condition is a pre-commencement condition to prevent creating or exacerbating any flooding inside or outside the site boundary, to protect the environment.

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

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

13. No development approved by this permission shall commence until a programme of archaeological work has been secured based on a specification (written scheme of investigation) submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall thereafter be carried on in complete accordance with the approved specification.

Reason: The site is known to hold archaeological interest and as such the information is required prior to commencement to ensure that any archaeology is recorded and taken into account in the development of the site.

14. Before any dwelling is first occupied a scheme of fencing to secure the south western boundary of the application site adjacent to the school premises shall be submitted to and approved in writing by the Local Planning Authority, and shall have been installed in accordance with the approved details. The fence shall thereafter be maintained in place.

Reason: In the interests of maintaining school security and to safeguard visual and residential amenity.

15. a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.

b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the

Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

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

16. Before first occupation of the dwellings on plots 13-16 and 27-40, glazing and ventilation with the ability to provide the mitigation stated in Table 5 and table 7 of the noise.co.uk noise report reference 17522-1 shall be installed to all facades marked in section 13.7 of the same report. In addition a 1.8m high close boarded fence with a minimum density of 15kg per square metre shall be installed along the boundary of the site that adjoins the railway to the north. Glazing and ventilation that conforms to the minimum standards set out in the noise report and the close boarded fence along the boundary with the railway shall be maintained in place for the life time of the development.

Reason: to protect the health and wellbeing of future residents.

17. Piling or any other foundation designs and investigation boreholes using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF) and the Environment Agency's approach to Groundwater Protection (formerly Groundwater Protection Principles and Practice (GP3)).

18. Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy that sets out appropriate actions to be taken during the works.

Reason: To ensure the protection of badgers, under the Protection of Badgers Act 1992.

19. No development shall take place (including demolition, ground works and vegetation clearance) until a habitat management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Description and evaluation of the features to be managed;
- b) Ecological trends and constraints on site that may influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a works schedule (including an annual work plan and the means by which the plan will be rolled forward annually);
- g) Personnel responsible for implementation of the plan;
- h) Detailed monitoring scheme with defined indicators to be used to demonstrate achievement of the appropriate habitat quality;
- i) Possible remedial/contingency measures triggered by monitoring;
- j) The means through which the plan will be implemented.

The plan shall be carried out as approved, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

20. Prior to first occupation / use of the buildings, an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the great crested newt RAMMS, as set out in section 4 of the Great Crested Newt Habitat Suitability Survey and Newt Mitigation Strategy (Stefan Bodnar, October 2017).

Reason: To demonstrate compliance with the great crested newt RAMMS.

21. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

22. Prior to first occupation / use of the buildings, the makes, models and locations of bat, bird and hedgehog boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 10 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 10 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).
- A minimum of 5 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

- A minimum of 5 artificial nests, of either integrated brick design or external box design, suitable for small birds (32mm hole, standard design).
- A minimum of 5 hedgehog boxes.
- A minimum of 1 barn owl box.

The boxes shall be sited in suitable locations where they will be unaffected by artificial lighting and in accordance with a schedule which has been approved in writing by the Local Planning Authority. The boxes shall thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

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

Reason: To ensure that the external appearance of the development is satisfactory, in the interests of the visual amenities of the area.

### **Informatives**

1. In arriving at this decision Shropshire 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 38.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

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

Shropshire Core Strategy policies:  
CS1 Strategic Approach  
CS3 The Market Towns and other Key Centres  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

Site Allocations and Management of Development Plan:  
MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD12 The Natural Environment  
MD13 The Historic Environment  
S1 Albrighton Area

SPD on the Type and Affordability of Housing  
Open Space IPG

## Albrighton Neighbourhood Plan Light June 2013

3. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990. The S106 may include the requirement for a financial contribution and the cost of this should be factored in before commencing the development. By signing a S106 agreement you are legally obliged to comply with its contents, irrespective of any changes to Planning Policy or Legislation.

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

5. Barn owls are protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended). It is a criminal offence to kill, injure or take a barn owl; to take or destroy an active nest; to take or destroy an egg; and to disturb their active nests. An active nest is one that is being built, contains chicks or eggs, or on which fledged chicks are still dependant. Barn owls can breed at any time of the year in the U.K. There is an unlimited fine and/or up to six months imprisonment for such offences.

6. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. To avoid harming hedgehogs during the works, site clearance (including removal of piles of deadwood and other potential hibernation sites) should be undertaken between April and October. Materials should not be stacked in the working area before then unless they are raised up on pallets, or similar.

If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal and scrub removal should be carried out outside of the bird nesting season which runs from March to August inclusive.

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. No clearance works can take place with 5m of an active nest.

If during construction birds gain access to any of the buildings and begin nesting, work must cease until the young birds have fledged.

8. It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences.

Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition).

If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.

9. Dewatering the proposed excavation may lower groundwater levels locally and may affect nearby domestic and licensed groundwater sources and other water features. Should the proposed activities require dewatering operations, the applicant should locate all water features and agreement should be reached with all users of these supplies for their protection during dewatering. Subject to a detailed impact assessment, to be carried out by the applicant, compensation and/or monitoring measures may be required for the protection of other water users and water features. The applicant should note that under the New Authorisations programme abstraction for dewatering to facilitate mineral excavation or construction works will no longer be exempt from abstraction licensing. On 31st October 2017, DEFRA/Welsh Government (WG) announced that the transitional arrangements for licensing of the currently exempt abstractions for trickle irrigation, quarry dewatering, geographically exempt areas and other exempt abstractions will come in to force on 1st January 2018. The applicant should contact the National Permitting Service (NPS) to confirm the legal requirements. When scheduling their work, the applicant should be aware that it may take up to 3 months to issue an abstraction licence. We consider any infiltration Sustainable Drainage System (SuDS) greater than 2.0 m below ground level to be a deep system and are generally not acceptable. All infiltration SuDS require a minimum of 1.2 m clearance between the base of infiltration SuDS and peak seasonal groundwater levels. All need to meet the criteria in our Groundwater



Protection position statements G1 to G13. In addition, they must not be constructed in ground affected by contamination.

10. Any facilities, above ground, for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata.

Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge into the bund.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from lorry parks and/or parking areas for fifty car park spaces or more and hardstandings should be passed through an oil interceptor designed compatible with the site being drained. Roof water shall not pass through the interceptor.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hard standings susceptible to oil contamination shall be passed through an oil separator designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

The Environmental Permitting Regulations make it an offence to cause or knowingly permit any discharge that will result in the input of pollutants to surface waters or groundwater.

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Committee and date  
 South Planning Committee  
 20 November 2018

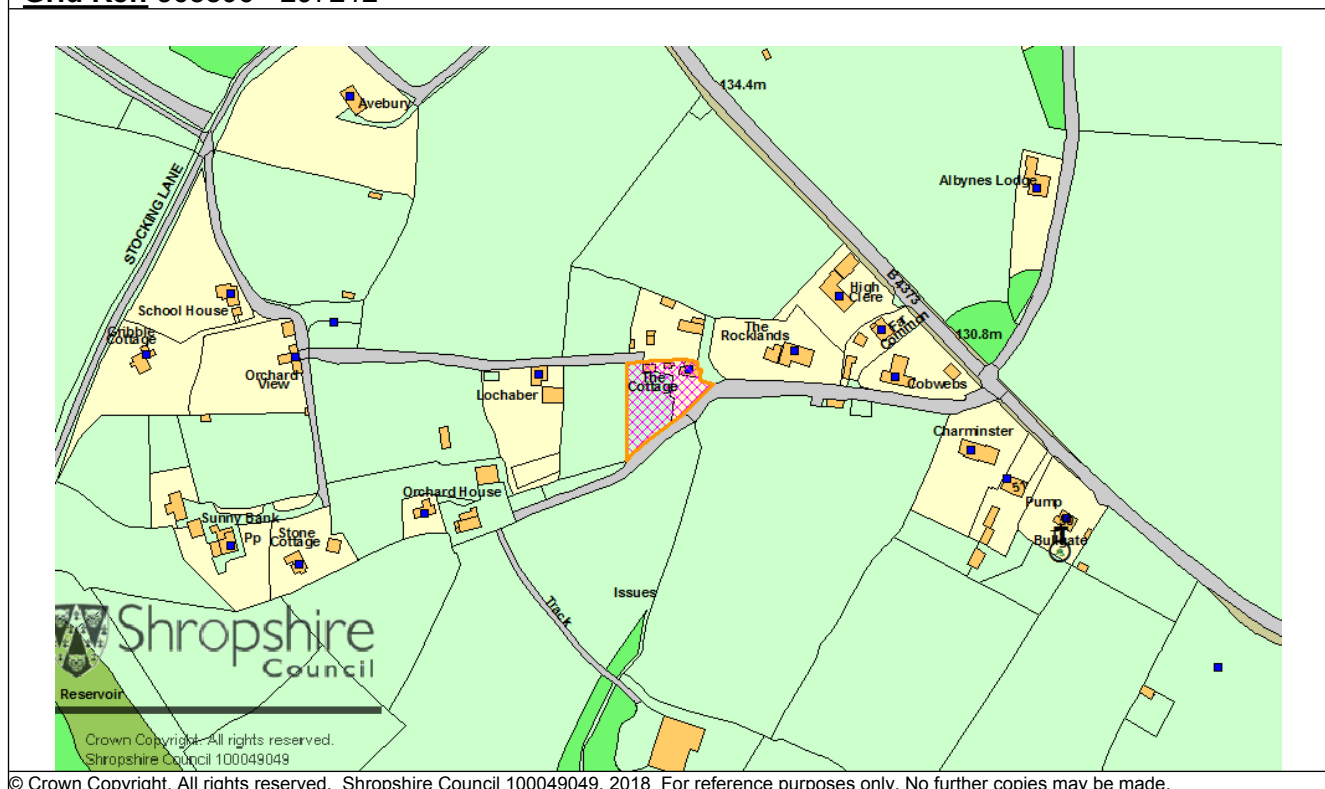
## Development Management Report

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> 18/04281/FUL	<b>Parish:</b>	Astley Abbotts
<b>Proposal:</b> Erection of one dwelling following demolition of existing buildings; formation of vehicular access and parking area; change of use of agricultural land to domestic garden land (revised scheme)		
<b>Site Address:</b> The Cottage Nordley Bridgnorth Shropshire WV16 4SX		
<b>Applicant:</b> Mr Anthony Walker		
<b>Case Officer:</b> Emma Bailey	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>	

**Grid Ref:** 368896 - 297212



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks full planning consent for the construction of a dwelling to replace The Cottage, Nordley.
- 1.2 The replacement dwelling would be of a traditional, farmhouse cottage-style design with brick external walls, a brick chimney, a plain tiled roof and timber windows. On ground floor level, the dwelling would feature a hallway, downstairs w/c, living room, utility room and open plan kitchen/diner and sun room. Four double bedrooms (one ensuite), a landing, bathroom and a balcony would feature above.
- 1.3 Please note that this application originally proposed the inclusion of a basement, but this has since been removed from the scheme and amended plans have been received to reflect this change.
- 1.4 This application is a resubmission of application ref: 18/01952/FUL for a replacement dwelling on this site which was withdrawn before a decision was issued.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The land subject to this application is split between the existing dwellinghouse and its curtilage to the east of the site and adjoining pasture land to the west. The amount of land currently associated with the domestic use is around 500 square metres. The remaining pasture land has an area of around 2930 square metres.
- 2.2 The site is located within an area defined by planning policy to be open countryside. It is situated within the hamlet of Nordley approximately three miles north of the market town of Bridgnorth. Nordley does not have its own settlement boundary.
- 2.3 The Cottage is one of a small number of dwellings that is accessed down a single width bridleway (route code 0104/6R/6) from the B4373 road linking Bridgnorth and Broseley. This track is not lit, nor does it have a pavement, and it is in a poor condition in places. This track reaches the application site and then splits into two with the northern boundary of the site abutting the bridleway and the southern boundary of the site abutting a public footpath (route code 0104/4Z/1).
- 2.4 The existing cottage and its respective outbuildings are clustered to the north-eastern edge of the application site and are clearly visible from both rights of way. The dwelling abuts the northern boundary, with its residential curtilage forward of the front elevation. The topography of the land falls away gently from the north to the south.

2.5 It is noted that a hedgerow previously delineated the extent of residential garden from the adjoining pasture land, and this has since been removed. However, this boundary is clearly shown on the submitted existing and site location plans. Further, when examining the property using Google Street View, the extent of the residential curtilage of the property cannot be disputed. Domestic paraphernalia including a small green house and a washing line can be seen within the garden area to the front of the dwelling. This area is laid to lawn and appears well tended. The area beyond the hedgerow boundary appears uncultivated with the appearance of paddock/pasture land. Photographs of the hedgerow in situ have also been submitted to the Council by the local community and have been added to the planning file for reference. The amount of residential curtilage associated with the existing dwelling and the adjoining agricultural land use is therefore clear and well established for the avoidance of any doubt.

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

3.1 The Parish Council recommendation is contrary to the Officer recommendation. The Chair and Vice Chair of the Committee, in consultation with the Principal Officer, consider that material planning issues have been raised which warrant consideration by the South Planning Committee.

### 4.0 **COMMUNITY REPRESENTATIONS**

Please note that all comments are available to view in full on the Shropshire Council website.

#### **Consultee Comments**

#### 4.1 Astley Abbots Parish Council – Object:

1. The Parish Council strongly objects to the proposed development being built within the agricultural field part of the site. This application refers to extended garden to accommodate the proposed new dwelling. However it is not evident if planning consent is required for change of use from agriculture to domestic garden.

2. The Parish Council would like to see the existing cottage redeveloped and if required and permissible an extension added to the existing.

3. If this is not possible the parish council would like the new development built on the same footprint as the existing dwelling to comply with planning policy.

4. It is evident from the site hedging has been removed between the garden area and the field. The remains of a hedge appeared to be on site at the time of the site visit. the line of the hedge can be clearly seen in the application.

5. The drawings show a cottage style property at least double the size of the existing with a basement. i.e. not like for like. There is still evidence of modern design at the rear of the proposed new dwelling. i.e. not like for like.

6. The engineering report recommends further reports are commissioned on the existing cottage. There is no evidence these have been completed to provide the relevant evidence that there is no alternative other than to

demolish the cottage.

- 4.2 Shropshire Council (Drainage)  
Recommend informatives if minded to approve.
- 4.3 Shropshire Council (Regulatory Services)  
No objection.
- 4.4 Shropshire Council (Trees)  
Recommend conditions if minded to approve.
- 4.5 Shropshire Council (PROW)  
Recommend informative if minded to approve.
- 4.6 Shropshire Council (Affordable Housing)  
No affordable housing contribution required.
- 4.7 Shropshire Council (Highways)  
Recommend informatives if minded to approve.
- 4.8 Shropshire Council (Conservation)  
No objection.
- 4.9 Shropshire Council (Ecology)  
Recommend conditions and informatives if minded to approve. Completed EPS 3 Tests Matrix form added to the end of Officer Report.

### **Public Comments**

- 4.10 Neighbour letters were sent and a site notice was positioned on the boundary of the application site.

Ten letters of representation have been received at the time of writing this Report, objecting to the development. The points raised by contributors which are material planning considerations to this application are listed as follows:

- ☐ The existing dwelling should be refurbished and extended (if required)
- ☐ New development should be kept within the existing garden area/on the same footprint
- ☐ Works have already commenced on site
- ☐ Discrepancies with the application form/supporting statement
- ☐ The replacement dwelling is larger than the existing dwelling
- ☐ The retained shed will be out of keeping with the development
- ☐ Access/highways concerns
- ☐ Boundary treatments
- ☐ Loss of a historic cottage, would affect the character and heritage of the area

- ☐ Would overshadow surrounding dwellings
- ☐ Appearance/visual impact
- ☐ The dwelling would be situated on agricultural land, does this mean that any farmer/land owner can build a house?
- ☐ Drainage

The following points raised by contributors relating to the development that are not material planning considerations and cannot be considered as part of the determination of this planning application are listed as follows:

- ☐ Matters relating to the construction phase
- ☐ Land ownership matters
- ☐ Neighbour disputes

Please note that land ownership matters are legal matters, therefore should objectors wish to pursue this issue they would need to contact a solicitor for further advice.

## 5.0 THE MAIN ISSUES

- ☐ Principle of development
- ☐ Siting, scale and design of structure
- ☐ Visual impact of the replacement dwelling
- ☐ Residential amenity
- ☐ Other matters

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that all planning applications must be determined in accordance with the adopted development plan 'unless material considerations indicate otherwise'.

6.1.2 Paragraph 11 of the revised National Planning Policy Framework (2018) builds on this wording by encouraging planning to look favourably upon development, unless the harm that would arise from any approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

6.1.3 The National Planning Policy Framework (NPPF) has been published by national government and represents guidance for local planning authorities. It is a material consideration to be given significant weight in the determination of planning applications.

6.1.4 SAMDev Plan policy MD7a relates to managing housing development in the Countryside. With regard to replacement dwelling houses policy MD7a.3 advises that such dwellings will only be permitted where the

dwelling to be replaced is a permanent structure with an established continuing residential use. It continues that replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling has been previously extended or a larger replacement is approved, permitted development rights will normally be removed.

- 6.1.5 Shropshire Council's Type and Affordability of Housing Supplementary Planning Document (SPD) supplements policy MD7a and states that the following considerations should be taken into account regarding replacement dwellings:
- ☐ The visual impact of the replacement dwelling on the surroundings and the need to respect the local character of the area, taking account of bulk, scale, height and external appearance of the resultant dwelling.
  - ☐ A requirement to be sympathetic to the size, mass, character and appearance of the original building. A replacement dwelling should ordinarily be sited in the same position as the original dwelling.
  - ☐ The existing balance of housing types and tenures in the local area, and the need to maintain a supply of smaller and less expensive properties in the local area that are suitable for the needs of many newly-forming households.
- 6.1.6 The principle of replacement dwellings is therefore accepted, subject to further planning considerations.
- 6.2 Siting, scale and visual impact of the replacement dwelling**
- 6.2.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policy CS6 'Sustainable Design and Development Principles' require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. Furthermore, development is required to preserve and enhance the amenity value of the wider area to which it relates including the safeguarding of residential and local amenity.
- 6.2.2 Paragraph 127 of the revised NPPF reinforces that developments should be 'sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change'.
- 6.2.3 The proposed replacement dwelling would be situated to the south-west of the existing dwelling to be demolished and would therefore be sited further into the plot on agricultural land. It is proposed to increase the size of the residential curtilage from 500 square metres to 1500 square metres to accommodate the new dwelling, with the remaining 2000 square metres being maintained as pasture land and divided from the garden by post and rail fence.



- 6.2.4 A significant amount of supporting information has been submitted with the application to justify this change in location, which is described as resulting from a need to avoid tree protection areas, an existing well and through the siting of a sewage treatment plant.
- 6.2.5 The dwelling would broadly match the design of the existing dwelling, being a two storey farmhouse cottage-style building with a chimney and a two storey side 'extension' which is set back and down from the main bulk of the building. The existing dwelling is noted to have a painted pebbledash appearance whereas the appearance of its replacement would be brick. The proposed external materials are considered to be appropriate to existing dwellings nearby and their specification would be conditioned on any approval notice.
- 6.2.6 It is acknowledged that the replacement dwelling would be larger than that which it is replacing. The external footprint of the existing building measures around 73 square metres, with some additional domestic outbuildings totalling 22 square metres. Following a visit to the site it is considered that these outbuildings are permanent in their construction. Perhaps most notably, the dilapidated timber 'shed' building houses a bathroom and so there is an element of permanence to it despite its condition. Officers are of the opinion therefore that the total footprint of built development on this site totals approximately 95 square metres.
- 6.2.7 It is pertinent to note that the existing metal sheep shed, being agricultural in its use, cannot be considered as 'previously developed land' as per 'Annex 2: Glossary' of the NPPF. In any event, this building lies outside of the residential curtilage of The Cottage and so cannot be considered as domestic development.
- 6.2.8 The replacement dwelling would consolidate the existing dwelling and associated outbuildings into one building with a footprint of 103 square metres, which is acceptable. The height of the proposed building, whilst taller than the existing dwelling, would not appear overly dominant in its setting. Due to the low density of housing in this area, the dwelling would not be overbearing to neighbours, nor would there be any significant degree of overlooking.
- 6.3 **Letters of representation**
- 6.3.1 At the time of writing this Report, ten letters of representation have been received, objecting to the development. Please note that all responses are available to view in full on the Council's website. The key points raised are briefly considered in turn below.
- 6.3.2 The existing dwelling should be refurbished and extended (if required)  
This comment is noted. However officers are of the opinion that sufficient information has been submitted to support this application to demonstrate that extending and refurbishing the dwelling would not be viable or appropriate. Further, no objection to the demolition of the building by

Shropshire Council's Conservation team has been raised. It would therefore be unreasonable of the Council to require this building to be retained.

6.3.3 New development should be kept within the existing garden area/on the same footprint

This comment is noted. However it is acknowledged that the existing dwelling and its associated curtilage is small by comparison to neighbouring dwellings and is subject to a number of constraints. From the submitted plans it has been adequately demonstrated that the replacement dwelling is to be sited as near to the original dwellinghouse as it can be within the parameters of what is required by building regulations, and as such its position is acceptable.

6.3.4 Works have already commenced on site

Officers are aware that works have commenced on site. Shropshire Council's Enforcement team have been involved with this case. It has been agreed that as the works that have been undertaken directly relate to a live planning application it is not appropriate to enforce (if it is necessary to do so) until a decision has been issued.

6.3.5 Discrepancies with the application form/supporting statement

All valid documents that are submitted with a planning application are taken in good faith by the Council as being factually correct unless significant information comes forward which proves otherwise. In this case the inaccuracies raised are not considered to hold significant weight as to affect the overall determination of the planning application.

6.3.6 The replacement dwelling is larger than the existing dwelling

It is noted that the replacement dwelling would be larger than that of the existing dwellinghouse, including an increase in its footprint by around eight square metres to 103 square metres. This is considered to be modest, and therefore acceptable.

It is pertinent to note that through the evolution of construction methods and materials, a larger amount of living accommodation can be achieved on a smaller building envelope. By comparison, an affordable dwelling is allowed a footprint of 100 square metres, which is only 3 square metres smaller than what is being proposed here. Whilst it is not proposed that this dwelling is affordable in its type, its size is considered reasonable and would not constitute a dwelling that would be any less affordable than the surrounding housing stock, and this would similarly apply if the existing building was refurbished and extended. A condition removing permitted development rights on any approval notice would ensure that the dwelling could not be extended without prior notification to the Council.

6.3.7 The retained shed will be out of keeping with the development

This comment is noted. However, given that this building already exists on site, it would be decision of the land owner to retain or remove it from the land.

6.3.8 Access/highways concerns

Shropshire Council's Highways team have been consulted as part of this application, who have raised no objection to the development subject to the inclusion of conditions and informatives on any approval notice.

6.3.9 Boundary treatments

Details of boundary treatments (including whether any hedgerow is to be reinstated) would be conditioned upon any approval notice.

6.3.10 Loss of a historic cottage, would affect the character and heritage of the area

Shropshire Council's Conservation team have been consulted as part of this application, who have made comments in relation to the development. These are discussed later into this Report.

6.3.11 Would overshadow surrounding dwellings

The nearest dwellings would be that of Lochaber, approximately 40 metres to the west, and The Rocklands, approximately 50 metres to the north east. Shropshire Council generally encourages separation distances between dwellings to be a minimum of 21 metres, and as such these distances are acceptable.

6.3.12 Appearance/visual impact

As discussed earlier in the Report, the visual impact of the development is considered to be acceptable in its setting as a farmhouse cottage-style dwelling. Samples of external materials would be required by planning condition to ensure that they would be appropriate in this location.

6.3.13 The dwelling would be situated on agricultural land, does this mean that any farmer/land owner can build a house?

It is pertinent to note that every planning application is considered on its own merits and as such an approval on this site would not necessarily set a wider precedent. In this case, the development relates to the replacement of an existing dwelling which has been demonstrated by the agent as being unviable to refurbish and extend. The site is also subject to a number of constraints which would make building a replacement dwelling on the same footprint difficult. The submitted plans demonstrate that the replacement dwelling would be situated as close to the existing dwelling as practicably possible when taking into consideration these constraints, and is therefore considered to be acceptable.

6.3.14 Drainage

Shropshire Council's SUDs team have been consulted as part of this application, who have raised no objection to the development subject to the inclusion of informatives on any approval notice.

#### 6.4 Conservation considerations

- 6.4.1 SAMDev Policy MD2 'Sustainable Design' and Core Strategy Policies CS6 'Sustainable Design and Development Principles' and CS17 'Environmental Networks' require development to be designed to a high quality by being sustainable in its design, inclusive and accessible in its environment and respecting and enhancing local distinctiveness. This is expanded upon within SAMDev Policy MD13 'Historic Environment' which stipulates that Shropshire's heritage assets should be protected, conserved, sympathetically enhanced and restored where appropriate. Proposals are required to preserve and enhance the amenity value of the wider area to which they relate including the safeguarding of residential and local amenity.
- 6.4.2 Prior to the submission of this application, both the case officer and Conservation Officer met on site with the agent to discuss the proposal and examine the condition of the existing dwellinghouse to be demolished. Shropshire Council's Conservation team were consulted as part of this application and their comments read as follows:  
'...I feel that the proposed scheme now put forward has provided sufficient justification for the loss of the existing building and the relocation of the new dwelling on the site to cope with the many site constraints. In terms of the design there has been a significant improvement from the previous scheme and the cottage style is much more appropriate as a replacement dwelling here and if the scale is acceptable in policy terms I consider that the proposed dwelling could be accommodated on this site from a conservation perspective.'
- 6.4.3 The comments made by the Conservation Officer are accepted. In this case, the application has been supported by a significant amount of information which demonstrates that its renovation and extension would not be viable or appropriate. While it is acknowledged that the development would result in the demolition of a building of some historic merit, this is very limited, and it is not considered in this case that this is sufficient for the Council to reasonably expect the dwelling to be retained and restored.

#### 6.5 Other Matters

##### 6.5.1 Affordable Housing

Paragraph 63 of the revised NPPF (July 2018) advises that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas, where policies may set a lower threshold of 5 units or fewer. This site is not within a designated rural area and is for a replacement dwelling, and not an additional property. As such an affordable housing contribution is not required.

## 6.5.2 Ecology

An Ecological Appraisal was carried out on site in March 2018 by Greenscape Environmental. This was followed by bat activity surveys in May and June 2018.

The following bat activity was recorded on site:

- ☐ One bat dropping in one of the roof voids of the dwellinghouse
- ☐ On 7 May 2018 no roosting behaviour was recorded during an emergence survey, however 'common and soprano pipistrelles were recorded foraging along the lane to the rear of the property
- ☐ On 21 May a common pipistrelle was seen 'emerging from the ridge... No further emergence was observed, but bat activity was recorded along the lane to the north of the building. The pipistrelle bat foraged around the north side of the cottage between the trees and cottage for most of the evening'.
- ☐ A roost was potentially identified in an ash tree, however this is situated outside of the application site 'and should not be negatively impacted by the development'
- ☐ On 6 June a common pipistrelle was recorded emerging from a tile in the roof. A soprano pipistrelle was foraging 'up the lane' and a myotis 'was recorded and continued to forage low along the lane'.
- ☐ 'One common pipistrelle bat was recorded emerging from the ridge of the cottage. This was from a raised area on the northern aspect close to the trees'. The roost is considered to be a day roost for an individual common pipistrelle.

From the recordings listed above, works will require a European Protected Species Licence from Natural England. A European Protected Species 3 Tests Matrix has been completed and included at the end of this Report.

No evidence of nesting birds was observed in any of the buildings, however the buildings and hedgerows are considered to provide potential nesting opportunities.

Holes for field voles were observed, 'identified from feeding remains and latrines'.

No evidence of any other protected or priority species was observed on, or in close proximity to, the site.

Shropshire Council's Ecology team have accepted these findings and recommended the inclusion of a condition and informatives if the application is recommended for approval. With regard to the European Protected Species Test 1, the existing dwelling is in a poor condition that would require significant renovation in order for it to be brought to modern day efficiency and living standards. The building is of limited historic or architectural interest and as such the renovation of the building would not be appropriate financially. The replacement of the dwelling would ensure that living standards are raised and a greater level of sustainability and

efficiency can be achieved. With respect to test 2, there is no satisfactory alternative in this case. The site is located within the open countryside where new development is largely resisted. The Council has worked proactively with the agent to ensure that the replacement dwelling causes the least amount of harm on its environment. The proposal would ensure the longevity of appropriate living accommodation on this site.

### 6.5.3 Trees

It is noted that Shropshire Council's Trees team has requested a planning condition requiring details of a tree and shrub planting scheme. However, in this case Officers consider that it would be more appropriate to apply a broader landscaping condition to any approval notice. A landscaping condition would require additional details such as boundary treatments, which is particularly relevant given that a degree of hedgerow removal has already occurred on site. Such a condition would also be relevant in relation to the comments received from Shropshire Council's Ecology team, who specify that a 'landscaping scheme should include tree and shrub planting using native species of local provenance. Replacement hedgerow planting is recommended'.

## 7.0 **CONCLUSION**

7.1 Based on the information submitted against the above considerations, the proposal as amended is considered to be acceptable and accords with the principal determining criteria of the relevant development plan policies.

7.2 Approval is therefore recommended subject to conditions.

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

### 8.1 **Risk Management**

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev)  
Plan policies:

CS1 - Strategic Approach  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing  
 CS17 - Environmental Networks  
 MD1 - Scale and Distribution of Development  
 MD2 - Sustainable Design  
 MD7A - Managing Housing Development in the MD7A - Managing Housing Development in the  
 Countryside  
 MD12 - Natural Environment  
 MD13 - Historic Environment

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

18/01952/FUL Erection of dwelling and detached 3-bay garage/workshop with plant room following demolition of existing buiding(s); formation of new vehicular access; erection of 6ft high boundary walls; siting of temporary building during construction WDN 6th July 2018

11. Additional Information

View details online: <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PF0A4BTDGC900>

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)                  Design and Access Statement                  Building Surveyor Report                  Structural Report                  Ecology Report                  Phase 2 Ecology Report</p>
<p>Cabinet Member (Portfolio Holder)                  Cllr R. Macey</p>
<p>Local Member                   Cllr Christian Lea                  Cllr William Parr</p>
<p>Appendices                  APPENDIX 1 – Conditions                  APPENDIX 2 – European Protected Species – Three tests</p>



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

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

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

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

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

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

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

4. No retained or overhanging tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree works shall be carried out in accordance British Standard 3998: 2010 Tree Work - Recommendations, or its current version.

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

5. All demolition, conversion and development shall occur strictly in accordance with section 6 of the Phase 2 Surveys for Bats (Greenscape Environmental, June 2018).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species.

6. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

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

7. Prior to the commencement of development, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of any trees and hedges to be planted in association with the development, including species, locations or density and planting pattern, type of planting stock, size at planting, means of protection and support, measures for post-planting maintenance and replacement of losses and boundary treatments.

The approved landscaping scheme shall be implemented as specified and in full no later than the end of the first planting season (November to February inclusive) following completion of the development. If within a period of three years from the date of planting, any tree or shrub, or any tree or shrub planted in replacement for it, dies or is otherwise lost or destroyed, another tree or shrub of a similar specification to the original shall be planted at the same place during the first available planting season.

Reason: to ensure satisfactory tree and shrub planting as appropriate to enhance the appearance of the development and its integration into the surrounding area.

8. No development shall take place in relation to the cottage until either:  
a) a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained from Natural England and submitted to the Local Planning Authority; or  
b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

Reason: To ensure the protection of bats, which are European Protected Species.

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

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

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

10. Prior to first occupation/use of the building, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority and subsequently installed. The following boxes shall be erected on the site:

- A minimum of 1 external woodcrete bat box or integrated bat brick, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 1 artificial nest, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks or boxes) and/or house martins (house martin nesting cups).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 175 of the NPPF.

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

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

- Any extension or alteration to the dwellinghouse, including the insertion of any additional windows or dormer windows
- Any addition or alteration to its roof
- The erection of a porch
- The formation of additional hard surfacing
- The erection of any fences, gates or walls
- The construction of any free standing building within the curtilage of the dwelling

Reason: To enable the Local Planning Authority to monitor the amount of development occurring on site and to safeguard the character and visual amenities of the area.

### **Informatives**

1. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required by the National Planning Policy Framework, paragraph 38.

2. In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework

Shropshire Council Core Strategy:  
CS01 - Strategic Approach  
CS05 - Countryside and Green Belt  
CS06 - Sustainable Design and Development Principles  
CS11 - Type and Affordability of Housing  
CS17 - Environmental Networks

Shropshire Council Site Allocations and Management of Development (SAMDev) Plan:  
MD01 - Scale and Distribution of Development  
MD02 - Sustainable Design

MD03 - Delivery of Housing Development  
 MD07A - Managing Housing Development in the Countryside  
 MD12 - Natural Environment  
 MD13 - Historic Environment

Type and Affordability of Housing Supplementary Planning Document (SPD)

### 3. RIGHTS OF WAY INFORMATIVE

It appears that Bridleway 6R in the Parish of Astley Abbots runs along the track to the north of the development area and access to the new property appears to be off this bridleway. Although not directly affected by development the bridleway will need to be taken into consideration at all times both during and after development and the applicant has to adhere to the following criteria:

- The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
- Building materials, debris, etc must not be stored or deposited on the right of way.
- There must be no reduction of the width of the right of way.
- The alignment of the right of way must not be altered.
- The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
- No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

The health and safety of users of this bridleway is paramount so please ensure all construction traffic allows for the safe passing of people on foot, bicycle and horseback at all times.

### 4. HIGHWAYS 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 new utility connection, or

- undertake 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.

## 5. DRAINAGE INFORMATIVES

A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at: <http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.

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

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

## 6. ECOLOGY INFORMATIVES

### Nesting birds informative

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

It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences.

All vegetation clearance, tree removal, scrub removal and/or conversion, renovation and demolition work in buildings should be carried out outside of the bird nesting season which runs from March to August inclusive.

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 or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and 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.

## General site informative for wildlife protection

Widespread reptiles (adder, slow worm, common lizard and grass snake) are protected under the Wildlife and Countryside Act 1981 (as amended) from killing, injury and trade. Widespread amphibians (common toad, common frog, smooth newt and palmate newt) are protected from trade. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. Reasonable precautions should be taken during works to ensure that these species are not harmed.

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

If piles of rubble, logs, bricks, other loose materials or other potential refuges are to be disturbed, this should be done by hand and carried out during the active season (March to October) when the weather is warm.

Areas of long and overgrown vegetation should be removed in stages. Vegetation should first be strimmed to a height of approximately 15cm and then left for 24 hours to allow any animals to move away from the area. Arisings should then be removed from the site or placed in habitat piles in suitable locations around the site. The vegetation can then be strimmed down to a height of 5cm and then cut down further or removed as required. Vegetation removal should be done in one direction, towards remaining vegetated areas (hedgerows etc.) to avoid trapping wildlife.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

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

Any common reptiles or amphibians discovered should be allowed to naturally disperse. Advice should be sought from an appropriately qualified and experienced ecologist if large numbers of common reptiles or amphibians are present.

If a great crested newt is discovered at any stage then all work must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) should be contacted for advice. The Local Planning Authority should also be informed.

If a hibernating hedgehog is found on the site, it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

## Landscaping informative

Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.

## APPENDIX 2

### EUROPEAN PROTECTED SPECIES: The ‘three tests’

#### Application reference number, site name and description:

18/04281/FUL  
The Cottage Nordley Bridgnorth Shropshire WV16 4SX  
Erection of one dwelling following demolition of existing buildings

#### Date:

16th October 2018

#### Officer:

Sophie Milburn  
Assistant Biodiversity Officer  
sophie.milburn@shropshire.gov.uk  
Tel.: 01743 254765

#### Test 1:

Is the development ‘**in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

The existing dwelling is in a poor condition that would require significant renovation in order for it to be brought to modern day efficiency and living standards. The building is of limited historic or architectural interest and as such the renovation of the building would not be appropriate financially. The replacement of the dwelling would ensure that living standards are raised and a greater level of sustainability and efficiency can be achieved.

#### Test 2:

Is there ‘**no satisfactory alternative?**’

There is no satisfactory alternative in this case. The site is located within the open countryside where new development is largely resisted. The Council has worked proactively with the agent to ensure that the replacement dwelling causes the least amount of harm on its environment. The proposal would ensure the longevity of appropriate living accommodation on this site.

#### Test 3:

Is the proposed activity ‘**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range’?

Bat surveys between May and June 2018 identified a day roost for an individual common pipistrelle



under a ridge tile.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

The likely offences cannot be avoided through mitigation measures secured through planning conditions as the building is going to be converted.

Section 6 of the Phase 2 Surveys For Bats (Greenscape Environmental, June 2018) sets out the following mitigation, compensation and enhancement measures, which will form part of the licence application:

- 'A pre-commencement check will be conducted by the RC using a strong torch and borescope where appropriate.'
- 'Removal of the roof will ideally occur when bats are least likely to be present, but as this is low impact there is no time constraint.'
- 'The RC will be present on site when the roof is removed carefully by hand, particularly the ridges and around gables.'
- 'The removal of the roof will not take place if the temperature has been below 4°C for 4 consecutive days and nights.'
- 'If a bat is found when the RC is not present then work will stop in that area IMMEDIATELY and the RC contacted for advice.'
- 'The bat can only be handled by the RC or authorised person unless it is in immediate danger. The bat must be carefully placed in a well ventilated lidded box with a small container (preferably a plastic bottle lid) with water in it. The container must be kept in a quiet and safe place.'
- 'Care should be taken to avoid rousing the bat whilst transferring to a suitable location, this may be a suitable hibernation box or alternative roost. This must provide a safe, quiet environment with stable cool temperature with relatively high humidity which is safe from disturbance.'
- 'If the bat is underweight or injured it will be cared for by a experienced bat carer until such times that is strong enough to be released into a suitable alternative replacement roost on site.'
- 'The bat compensation will be created following the instructions in the method statement and the client will agree that any bat box erected must stay in place for a minimum of 5 years post development.'
- 'Provision will be made for roosting opportunities for bats with the erection of one Schwegler 3FF bat box in the nearby trees.'
- 'There will be no external lighting to the north of the new dwelling so the integrity of the foraging area for bats remains intact'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of common pipistrelles at favourable conservation status within their natural range, provided that the conditions set out in the response from Sophie Milburn to Emma Bailey (dated 16th October 2018) are included on the decision notice and are appropriately enforced. The conditions are:

- Working in accordance with protected species survey;
- European Protected Species Licence;
- Erection of bat boxes; and
- Lighting plan.

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Committee and date  
 South Planning Committee  
 20 November 2018

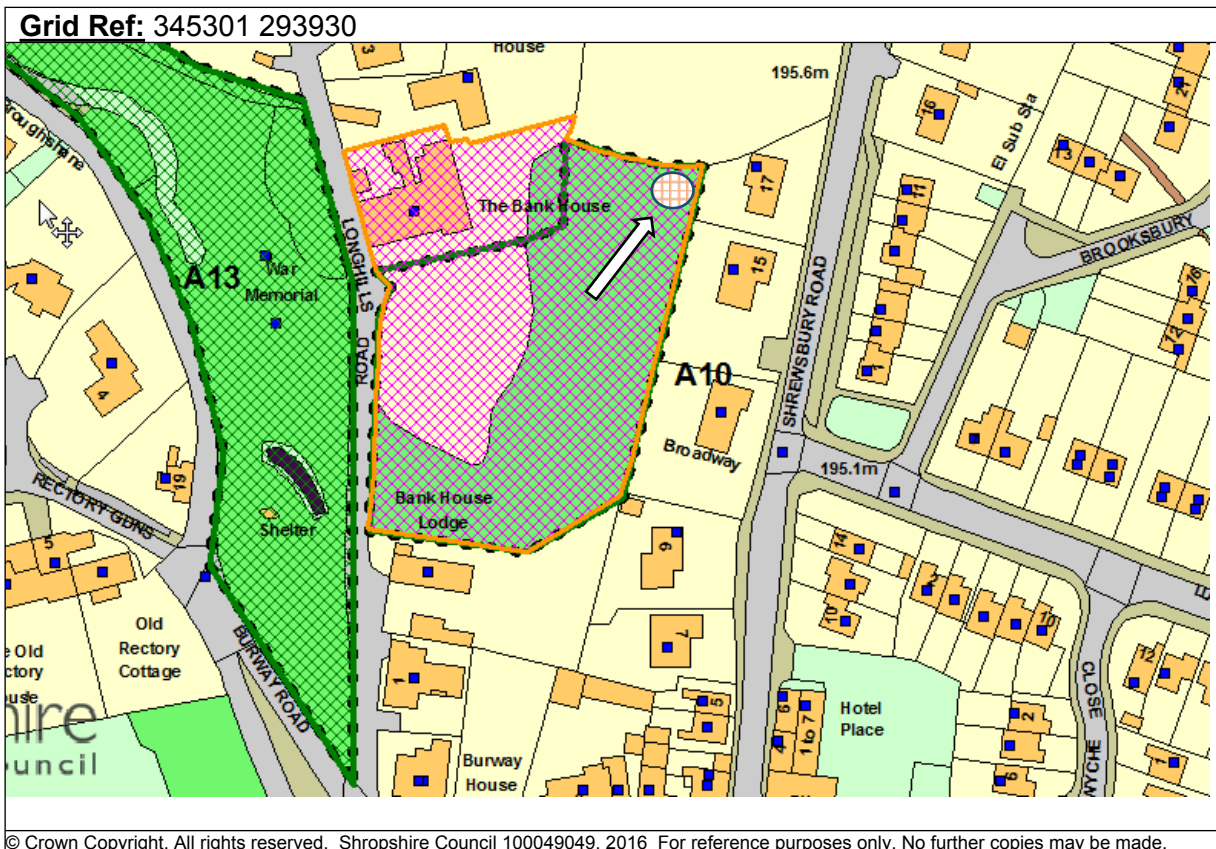
## Development Management Report

Responsible Officer: Martin Sutton

email: [martin.sutton@shropshire.gov.uk](mailto:martin.sutton@shropshire.gov.uk) Tel: 01743 254634

### Summary of Application

<b>Application Number:</b> 18/04768/TPO	<b>Parish:</b>	Church Stretton
<b>Proposal:</b> To fell 2No Douglas fir trees protected by The Council of the South Shropshire District Council, (Church Stretton)		
<b>Site Address:</b> Bank House, Longhills Road, Church Stretton, Shropshire, SY6 6DS		
<b>Applicant:</b> Mr D Newbrook		
<b>Case Officer:</b> Dougal Purce	<b>email:</b> <a href="mailto:trees@shropshire.gov.uk">trees@shropshire.gov.uk</a>	



**Recommendation:- Refuse**

The trees make a contribution to the diversity and character of the Church Stretton skyline and tree-scape, as such they help to contribute to the character and amenity of the area; therefore, in accordance with the aspirations set out in the Church Stretton Town Design Statement, the loss of these trees should be a matter of necessity rather than convenience.

This application has been supported by submissions from a Civil Engineer an Estate Agent and a report from a Consulting Arboriculturist and whilst some of the points raised in this supporting information are pertinent others are essentially conjecture. From a purely technical assessment, at this time the trees appear to be in good condition and many of the concerns raised regarding falling branches could be addressed through appropriate management of the trees. It is recommended that light, targeted pruning coupled with monitoring is a more appropriate alternative in the short to medium term to the removal of these trees.

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

- 1.1 To fell two Douglas fir trees protected by the South Shropshire District Council, (Church Stretton) Tree Preservation Order 1959 that are located on the boundary between Bank House and 17 Shrewsbury Road.
- 1.2 The applicant has submitted the application in response to concerns raised by their neighbour, the owner of number 17 Shrewsbury Road (a bungalow), regarding the size and proximity of the trees and past history of branch failures onto the garden / property and the possibility of future branch or whole tree failures and how they could affect the safety of the property and its occupants and the market value of number 17 Shrewsbury Road.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The trees are situated in the north east corner of the grounds at Bank House, Longhills Road and have grown in close proximity to each other. Tree 48 is growing hard up against the boundary with number 17 Shrewsbury Road and tree 49 is set back from the boundary by approximately 5m and is to the north and west of tree 48; in recent reports by the applicant's arboricultural advisor the trees are identified as being between 25m and 30m tall.
- 2.2 The garden boundary at Bank House is between 10m and 11m to the west of the dwelling at 17 Shrewsbury Road and is on raised ground approximately 6m above the bungalow's floor level. The surrounding ground comprises shallow soils over a substrate identified on the geology of Britain website as "Stretton Shale Formation – Mudstone". To accommodate number 17 Shrewsbury Road, a section of the shale bank has been excavated leaving the lower reaches of the western plot of garden at a level with the gutters on

the bungalow, the garden then climbs approximately 4m over a distance of 8m to the boundary.

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

- 3.1 The Local Member has requested that the application be referred to the relevant Planning Committee within 21 days of electronic notification of the application and as agreed by the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman, based on material planning reasons.

### **4.0 COMMUNITY REPRESENTATIONS**

Pease Note: All representations and supporting documents are available to view in full on the Council's website.

#### **4.1 Consultee comments:**

Three consultee comments have been received, two are in support of the application; the other raised no comment.

- 4.1.1 Church Stretton Town Council raised the following representation:  
*"We would not want to see any other trees lost from this bank as they are prominent in the landscape. Support this proposal on grounds of perceived risk".*

- 4.1.2 The Shropshire Council Historic Environment team had no comments to make on this application in respect of archaeological matters".

#### **4.2 Public Comments:**

One public comment has been received in support of the application and this was submitted by the owner of the neighbouring property 17 Shrewsbury Road. It is presented in full below:

- 4.2.1 Representation by Dr Norwich owner of 17 Shrewsbury Road:  
*"As the owner of the property most badly affected by these trees I strongly support this application.*

*Douglas fir are non-native forest trees which can grow to 300 feet and which have no place in the urban environment let alone close to housing. In their native area they are regarded as a menace in any built environment they are regarded as a menace to property and persons because of their size and their propensity to drop heavy branches quite sporadically and without reference to any particular or severe weather conditions.*

*These trees have grown very substantially in the 41 years since my family has owned 17 Shrewsbury Road, Church Stretton and the property and its rear garden are totally dominated by the trees causing loss of light, invasion of the garden by huge roots, damage to the dividing fence and a constant fall of brash and intermittent dropping of very heavy branches which have caused repeated damage to the roof of the house and on one occasion knocking my then 90 year old Mother over as she emerged from the back door of the house. The rear garden which was once fully cultivated is now covered in thick brash and totally unusable,*

*There is a constant risk of further damage to the roof of the house and further costs of repairs in fact the roof is now going to have to be replaced owing to the damage but this work cannot be done until the risk of further damage is alleviated.*

*It is completely obvious to any reasonable person that these trees represent a significant danger to lives and property. Reports by Mr Newbrook's tree expert and an independent structural engineer attest to that. In addition the property is blighted and seriously devalued by the risks described above and by the related ongoing legal and insurance risks.*

*It is high time that the Council recognised the dangers of this situation about which they have been repeatedly warned and they should now do the right thing and give permission for these trees to be removed without further delay and before someone is killed or injured”.*

## **5.0 THE MAIN ISSUES**

- 5.1 The applicant wishes to fell two mature Douglas fir trees protected by an area Tree Preservation Order raised by South Shropshire District Council, and whilst the applicant has not stated that they will plant replacement trees they have indicated a preference for replacement planting with a dwarf conifer *Abies delavayi* Var *Forestii* (Jacks Forrest's Silver fir).
- 5.3 The applicant's stated reasons for wanting to remove the trees are that: These trees are growing rapidly, and are now posing a nuisance and grave danger due to their inordinate size and location, because:
- (a) The trees are growing on a steep slope on friable soil.
  - (b) The bungalow is exactly down wind and down the gradient and complete failure of either tree would result in a direct hit on the bungalow which would be decimated
  - (c) Falling material from the trees has caused structural damage to the roof of the bungalow.
  - (d) Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden.
  - (e) Such falling debris represents a prospective risk to life.

- (f) The trees are now so large that they are robbing light and making the garden at the bungalow impossible to manage.
- (h) With the trees remaining the value of 17 Shrewsbury Road will be seriously affected and may put off potential buyers and or make the property uninsurable.
- (g) All this amounts to a blight ever advancing, being visited on my neighbours property.

## 6.0 OFFICER APPRAISAL

### 6.1 The trees are growing on a steep slope on friable soil [Point (a)]. –

6.1.1 The applicant has raised this point to support their concern that one or both of the trees if it / they fell over could cause catastrophic damage to the neighbouring bungalow and its residents.

6.1.2 The Civil Engineer's notes submitted in support of the application discusses briefly the properties of shale, suggesting how it might through weathering associated with root activity become disrupted and further weakened by root penetration affecting the shear strength of the substrate (shale), reducing its strength as the trees become wind loaded. The report offers no information on what assessments such as trial holes or other tests were made to corroborate the immediate or near future likelihood of such an occurrence and as such can only be considered as informed conjecture.

6.1.3 The Civil engineer's report suggests that the root systems of Douglas fir trees "*normally consist of tap roots but that in shallow soils plate like systems develop*". Typically Douglas firs can develop a tap root where conditions are favourable - this tends to be a characteristic of young trees on deep well drained soils, but with age Douglas fir typically develop root systems comprised of shallow and sloping lateral roots and where circumstances are favourable, sinker roots dropping down from the laterals. However, Douglas fir like most potentially large trees, are capable of adapting their root systems in response to the mechanical influences of above ground factors and in accordance to a range of ground constraints, such as physical barriers and water / nutrient gradients; this allows them to establish and thrive on a wide range of terrains and soil types.

6.1.4 Section 2.1 of the arboricultural report submitted by Marlow Consulting Ltd states that there is no evidence of instability or movement in the ground around the base of the trees and no obvious significant defects in the trunks, the Council Tree Team agree with this finding. The majority of mature trees and woodland to the west of Ludlow road are either in the conservation area or part of a tree preservation order and since Shropshire Council became the planning authority for Church Stretton we have not observed or had reports to

indicate a significantly higher incidence of tree failures along the band of Stretton Shale substrate than on the numerous other rock substrates' in the area.

6.1.5 Whilst it is reasonable to assume that there is some potential for the trees to be windblown as a result of the growing medium and substrate sheering, the applicant has provided no actual evidence that this is in fact an imminent threat meriting the removal of the trees. Regular monitoring for ground cracks, heave or a decline in the conditions of the trees could be monitored as indicators of possible problems.

**6.2 The bungalow is exactly down wind and down the gradient and complete failure of either tree would result in a direct hit on the bungalow which would be decimated.** [Point (b)]

6.2.1 As discussed above, it has not been established that complete failure of one or both trees is an immediate likelihood. This particular concern appears to be based on the assumption that the tree would fall towards 17 Shrewsbury Road if windblown, but a number of factors suggest that this is only one of a number of possible directions they could go if failure occurred:

- (a) Tree 48, which is the closest to the boundary, has a slight growth lean to the north-west meaning its weight is to some extent away from the boundary.
- (b) As is shown on the plan in appendix A, prevailing winds are from the South-West, storms from that direction pass across the site tangentially from SW to NE rather than towards the bungalow, suggesting that the most likely storm loading would push the trees to the north-west of the bungalow.
- (c) Tree 49 is set back from the steeper section of the bank and is on a flatter section of ground, its crown load and weight distribution do not indicate that it is more likely under extreme loading to fall towards the bungalow than in some other direction.

**6.3 Falling material from the trees has caused structural damage to the roof of the bungalow** [Point (c)]:

6.3.1 The Structural Engineer's report states that he understands that the trees have shed branches some estimated to weigh 20kg and that this has resulted in structural damage to the roof of the property. This statement is not supported by any evidence such as photographs, tenders for repairs or a building surveyor's assessment etc. identifying the extent or nature of the structural damage.

6.3.2 In 2017 the owner of the 17 Shrewsbury Road (Dr Norwich) stated that “, *For the sake of clarity the recent Storm Doris resulted in the roof of the house sustaining 6 holes and given the weight of the branches which fell on the old but substantially stable roof which did not need immediately replacing it now needs to be replaced at accost of £16,000.*” Since 2017 Dr Norwich has had



the opportunity to support this claim with evidence as discussed above in section 6.3.1, but to date has not done so.

6.3.3 In paragraph 1 of his identification of the trees and description of the works the applicant states that: *“,,,Then during storm Doris on 23<sup>rd</sup> February 2017 a bough flew of one of the trees onto the roof of the bungalow holing it and requiring immediate reinstatement by a builder to stem water egress. Fortunately a builder was on hand and repairs partly carried out during the storm, and I gladly settled the invoice of £60 knowing that even a minimal delay in repairs would have resulted in extensive damage.”*

6.3.4 The above statements appear to offer some minor contradiction between the extent of damage caused during storm Doris. Photographs of the roof of 17 Shrewsbury Road certainly show that there has been a need to replace a number of slates in the recent past (See Appendix 3), this accords with the applicant’s statement. But in the absence of evidence supporting the claims of structural damage necessitating £16,000 pounds worth of roof repairs we can only assume that the damage to date, although distressing for the owner, has required £60 worth of repairs and was arguably superficial not structural.

6.4 **Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden and Such falling debris represents a prospective risk to life.** [Points (d) & (e)].

6.4.1 It is clear that there has been some incidence of branches from one of these trees falling into the grounds of 17 Shrewsbury Road, this was an integral consideration in the previous two applications for the removal of these trees (17/00982/TPO & 18/00741/TPO). In both instances the Council refused consent to remove the trees but instead recommended that the likelihood of branch failures could be significantly reduced through the light end weight reduction of the longest branches and removal of poorly formed lion’s tailed branches, although this should not exceed one in 4 branches; to date this advice has not been acted upon.

6.4.2 The arboricultural report contests this approach stating the following:

- *“Marlow Consulting Ltd recommended thinning of the branches of an adjacent Douglas fir (Tree 37) to reduce the risk of branch failure, which was carried out. I understand from Mr Newbrook that the tree has continued to shed branches since the thinning works were carried out.”*  
And
- *“In my opinion, the thinning and end weight reduction of branches is ineffective in reducing the risk of branch failure. Reducing the end weight of branches would be expensive, would stimulate side growth, which would increase the risk of branch failure and would have to be repeated regularly, at the same time only marginally reducing the risk of branch failure, if at all. In my experience Douglas fir have a propensity to shed*

*branches as a result of moderate winds and snow fall, and not as a result of exceptional weather events such as storms. Given the trees' exposed and alleviated (sic) position this potentially could be at any time of year."*

- 6.4.3 The thinning of the neighbouring Douglas fir was given consent under application 17/00982/TPO but we consider that the extent of the subsequent thinning operation was overly heavy and contributed to the further failures. The Council's recommendations for trees 48 & 49 was not for a wholesale crown thinning operation but rather for the targeted removal or end weight reduction of branches with form that made them more prone to failure than the average well formed branch on the trees'. This point would have been discussed and clarified had an application been submitted to the Council for such works, but to date no such application has been received by the Council.
- 6.4.4 The winter of 2017-18 saw four named storms hit Shropshire between September and January (Storms Aileen, Ex-Hurricane Ophelia , Brian, & Eleanor) and more recently storm Bronagh & Callum. Most of these storms included sustained and strong winds with gust of over 50Mph. Further to this the county had three bouts of heavy snow last winter, the first of which stuck and froze to trees, and across the county a great many trees failed or lost large limbs. It is notable that whilst some small branches have snapped from these two trees the extent of large branches lost over that period has been low.
- 6.4.5 The applicant states that: *“,,on one occasion a few years ago, a falling branch narrowly missed striking Dr Norwich's elderly mother who happened to be in the garden at the time”*. Dr Norwich in his representation expands upon this stating that trees have caused: *“,,invasion of the garden by huge roots, damage to the dividing fence and a constant fall of brash and intermittent dropping of very heavy branches which have caused repeated damage to the roof of the house and on one occasion knocking my then 90 year old Mother over as she emerged from the back door of the house”*.
- 6.4.6 Using the peer reviewed Quantified Tree Risk Assessment methodology developed by Mike Ellison of Cheshire Woodlands, we consider that the likelihood of harm occurring from a falling branch is actually quite low and the fact that it did occur was at the unfortunate end of odds that appear to have been in the region of a 1 in 50,000 likelihood of a person suffering significant harm. This conclusion is based on the following considerations:

<b>Assessment based on Quantified Tree Risk Assessment - version 5.3/17</b>		
<b>QTRA Headings</b>	<b>SC Trees Comments</b>	<b>QTRA wheel value</b>
Target occupancy	Assuming the average use of the garden is ≤2.4 hours a day (876 hours/year or 36 whole days per year) and typically people tend not to spend prolonged periods of time in their gardens during bad or poor weather when the risk of failures is highest, and that a branch could fall anywhere in the garden but the area occupied	2

	is likely to be varied making a person a moving target e.g. they can only occupy a small section of the garden at any one time and the branch might not necessarily land in that spot at the same time as it is occupied.	
Size of falling part	The applicant’s arboriculture report identifies a section of a large branch in the garden of 17 Shrewsbury Road 75mm in diameter. Using this as an indicator we shall assume branches as large as 100mm in diameter might fall into the garden.	4
Probability of failure	To be conservative we shall assume that the probability of failure of a branch between 100mmØ and 25mmØ is between 1 in10 and >1 in100 in any given year.	2
An explanation of how the QTRA functions can be viewed at: <a href="https://www.qtra.co.uk/cms/index.php?section=4">https://www.qtra.co.uk/cms/index.php?section=4</a>		

Whilst we do not refute the possibility of a branch falling into the garden the above assessment suggests the likelihood of harm occurring is relatively low.

**6.5 Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden. [Point (e)].**

6.5.1 The fall of larger brash is discussed above in section 6.4 but consideration should also be given to the fall of smaller brash / detritus. The fall of small detritus such as twigs, small branches and fruit / cones is common amongst most trees and in this case the detritus appears to have accumulated over a considerable period of time and could have been collected as it fell; as such it would not have been a significant chore any worse than that tolerated by any other resident living next to mature trees. We do not consider this in itself to be a good reason for the removal of two prominent, protected trees.

**6.6 The trees are now so large that they are robbing light and making the garden at the bungalow impossible to manage. [Point (f)].**

6.6.1 The property’s orientation faces east to south-east in a valley running more or less south to north, this means the property receives direct sunlight from when the sun rises over the hills to the east until at least 13:00hrs. After this time some trees at Bank House may have a shading effect, but due to the steep ground behind No 17 this effect is also caused by the physical geography and the loss of these trees would only provide a marginal increase in afternoon light. Trees 48 & 49 are to the west- west-north of the bungalow and are unlikely to cause direct shade to much of the grounds other than when the sun is at its highest part of its solar path during the summer months.

**6.7 With the trees remaining the value of 17 Shrewsbury Road will be seriously affected and may put off potential buyers and or make the property uninsurable. [Point (g)]**

This point is supported by a letter from Wrights Estate Agents of Church Stretton to Dr Norwich which concludes *“Taking into account the above with the trees remaining the value of the property will be affected and seriously may put all potential buyers off.”* The statement is based on the following summarised points:

**6.7.1 Report comment –** *“If damage to the roof continues a roofing company would consider the wholesale replacement of the roof more expedient than effecting repairs, and if the damage had not occurred the life of the roof might have been extended”.*

**SC Trees response -** This point has been discussed in section 6.3 above and is not supported by hard evidence, so at this time it can only be regarded as conjecture rather than fact.

**6.7.2 Report comment -** The report notes that tree roots can have detrimental effects on buildings and walls which can affect the saleability of a property.

**SC Trees response -** The bank has been excavated into bedrock between the tree and the bungalow it is highly unlikely that roots have crossed this excavation and are a structural issue in this instance, certainly no evidence has been supplied to support the comment.

**6.7.3 Report comment -** When selling a property the seller is obliged to advise potential buyers of any disputes or problems associated with the property and bring to the fore any insurance claims that have taken place.

**SC Trees response -** It is not clear that there is a dispute between the owner of 17 Shrewsbury Road and the applicant. The applicant has in fact stated that he gladly settled the £60 invoice to effect repairs after storm Doris and has obligingly submitted three applications to remove the trees. To date, to the best of the Tree Team’s knowledge Shropshire Council has not been informed of any historic or pending insurance claims associated with the Douglas firs. With regards to problems, we consider appropriate crown management ought to significantly reduce the occurrence and severity of many of the problems highlighted by the applicant.

**6.7.4 Report comment -** The insurance issue is also a concern, because if there has been a claim this will affect premiums and possibly make the property uninsurable; in this paragraph the report draws attention to tree 48 having a detrimental effect on a section of the boundary fence.

**SC Trees response -** As discussed above in section 6.7.3 the Council is unaware of any relevant insurance claims and with regards to the matter of the fence it seems reasonable to suggest that the fence could be repaired without the need to resort to an insurance claim, especially if it is likely to affect the value of the property or the cost of insurance in the future.

6.7.5 **Report comment** - If legal action has occurred between the owner of the property and Shropshire Council resulting from the refusal of a planning application to work on the trees “*...this certainly will cause serious problems in selling.*”

**SC Trees response** - the Council’s Tree Team is not aware that the owner of the bungalow has engaged in any actual legal action against the Council resulting from the refusal of applications to remove these two trees, so at this time the point is academic. If this application is refused consent and the applicant for a third time opts not to use their right to challenge the decision by an appeal to the planning inspectorate, there is still no good reason why the owner of 17 Shrewsbury Road should immediately choose to resort to legal action. As has always been the case if Dr Norwich considered the decision to be wrong, there is nothing stopping him from submitting his own application to fell the trees and if not satisfied with the outcome making an appeal to the Planning Inspectorate.

6.7.6 There are many properties in Church Stretton along streets such as Madeira Walk, Trevor Hill or Woodcote Edge that enjoy an intimate relationship with large trees, including Douglas fir. In recent years many of these properties have been put on the market and been sold without a rush of applications for the removal of the surrounding trees, suggesting that the housing market in Church Stretton is more tolerant of large trees than is being suggested in this application.

**6.8 Effects on the immediate and broader amenity of the area**

6.8.1 The Church Stretton Town Design Statement states that “*A particular feature of Church Stretton is the presence of many fine specimen conifers on the valley sides. Many of these evergreens were planted in the mid-19<sup>th</sup> century when there was a desire to create a landscape of trees interspersed with large houses. This rapid development of the town at the end of the 19<sup>th</sup> century and beginning of the 20<sup>th</sup> century was accompanied by further tree planting, designed to complement the town’s status as a resort.*”

6.8.2 As is shown in the photographs in Appendix 3, these two Douglas fir trees fit with the description in the Town Design Statement and as such they play an important part in the character and amenity of the area. The loss of these trees may at some juncture be necessary, but at this time it is not evident that their removal is necessary without first seeking retention through appropriate management.

6.8.3 Because there are many parts of Church Stretton where properties enjoy an intimate relationship with large trees the removal of these two trees at Bank House might very well be taken as setting the bar against which the retention of other equally prominent trees will or won’t be tolerated.

## **7 CONCLUSION**

- 7.1 Whilst the trees are large, at this time they are exhibiting signs of good physiological condition and whilst the incidences of branch failures have indicated structural failures, these have primarily been under adverse weather conditions and there has to date been no apparent attempt to take the option of crown management in order to reduce the likelihood and significance of future branch failures.
- 7.2 The supporting documents have introduced a number of pertinent points for consideration, but many of them are unsupported by strong evidence that from a technical stand point makes the removal of the trees imperative before other methods of management have been tried. As has been discussed in section 6.4.6 the probability of harm occurring is relatively low at this time and can be reduced by appropriate crown management.
- 7.3 Review of the growth rate and stability of the structural parts of these trees over the long term will almost certainly lead to the removal of these trees at some point in the future. The Council Tree Service's interpretation of the current situation is founded on a technical assessment of the application. It is acknowledged that other non technical considerations regarding the effects of overbearing trees might support the expedience of letting the trees go, but such a conclusion must be drawn with due consideration for the context of these trees in relation to the many other trees in Church Stretton where comparable situations exist.

## **8. RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

- 8.1.1 There are two principal risks associated with this recommendation as follows:
- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - 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 made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

- 8.2.1 Article 8 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.

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

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

## **8.3 Equalities**

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

## **9. FINANCIAL IMPLICATIONS**

- 9.1 There are likely financial implications of 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 dependant on the scale and nature of the proposal.

- 9.2.1 If a person establishes that loss or damage has been caused or incurred in consequence of:

- (a) the refusal of any consent required under The Town and Country Planning (Tree Preservation)(England) Regulations 2012;
- (b) the grant of any such consent subject to conditions; or
- (c) the refusal of any consent, agreement or approval required under such a condition,

Subject to the following points below that person could be entitled to compensation from the authority.

- 9.2.2 No claim, other than a claim may be made under the regulations—

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

9.2.3 No compensation shall be payable to a person—

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.

9.3 The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

## 10. BACKGROUND

10.1 Relevant Planning Policies:

Core Strategy and Saved Policies: CS6 & CS 17  
SAMDev Plan MD2 & MD12  
Church Stretton Town Design Statement  
AONB Management Plan

10.2 Relevant planning history:

17/00982/TPO  
18/00741/TPO

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

- (i) The applicant has submitted an extended (4 sided) section 7 to their application form titled identification of trees and description of works.
- (ii) Civil Engineers statement to Dr Norwich – Longmynd Consultants dated 21 May 2018
- (iii) Estate agents statement to Dr Norwich – Wrights Estate Agents dated 13<sup>th</sup> April 2018
- (iv) Tree Condition Report – Marlow consulting dated 14<sup>th</sup> May 2018.



11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PGOLIHTD09600>

**Cabinet Member (Portfolio Holder)**

Cllr R. Macey

**Local Member**

Cllr David Evans

Cllr Lee Chapman

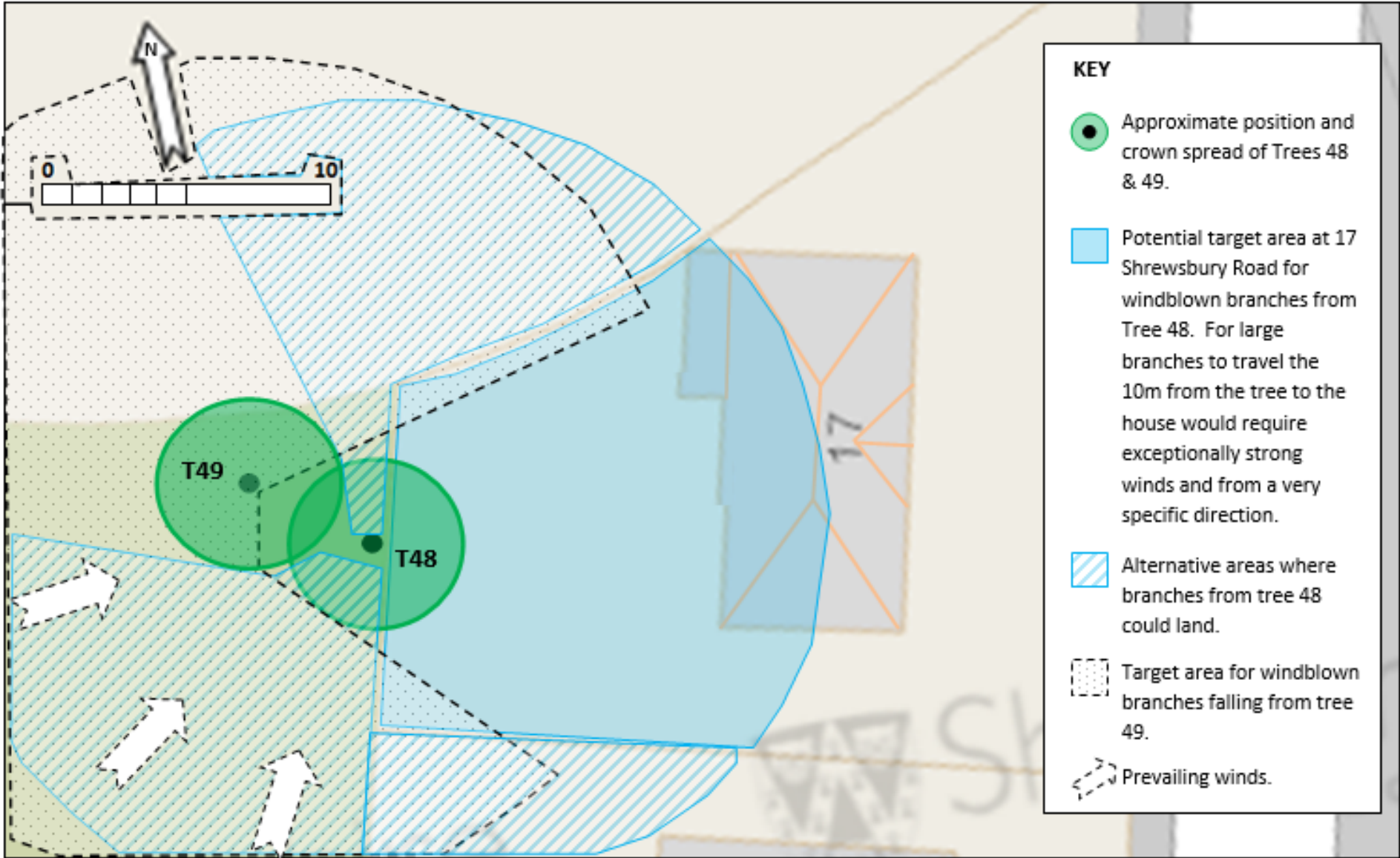
## Appendices

### APPENDIX 1 – Conditions

In the advent of the Planning Committee determining in favour of this application the following conditions are recommended.

- 1 The works shall be carried out as described in the application and in accordance with the recommendations of BS3998 2010.  
Reason: In the interests of visual amenity.
- 2 The works shall be carried out within 2 years from the date of this permission.  
Reason: To avoid confusion over unimplemented consents.
- 3 Any tree removed as a result of this application being approved shall be replaced. Details of species, planting stock size and exact location of replacement tree/s to be submitted and agreed in writing with the Local Planning Authority prior to the felling of the protected tree. The replacement tree/s is/are to be maintained for a minimum period of 5 years and any replacement tree that fails within that period shall be replaced by another of similar specification. Replacement trees are to be planted in the next planting season following the felling of the protected trees.  
Reason: To ensure the current level of amenity tree cover is maintained in the long-term.

**Plan 1** – The plan offers an indication of the possible target zones for windblown branches from trees 48 & 49. As is shown by the solid blue zone the rear garden and west facing elements of the bungalow form only a segment within the possible direction that branches could be carried, and whilst the prevailing winds have potential to carry branches into the grounds of No17 it takes an uncommonly strong wind to carry a branch heavy enough to cause structural damage 8 to 10m.



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The trees as seen from Shrewsbury Road with No17 in the foreground





Front side and rear views of 17 Shrewsbury road the new tiles show the extent of damage to the bungalow

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Committee and date

South Planning Committee

20 November 2018

## Development Management Report

### SCHEDULE OF APPEALS AND APPEAL DECISIONS

AS AT 20<sup>th</sup> NOVEMBER 2018

<b>LPA reference</b>	17/01357/COU
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Nicholas Corns
<b>Proposal</b>	Change of use of redundant agricultural building to B2 (General Industry)
<b>Location</b>	Buildings At Small Heath Farm Ashford Bank Claverley Shropshire
<b>Date of appeal</b>	16.10.2018
<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>	17/03840/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegate
<b>Appellant</b>	Mr Mario Nicholas
<b>Proposal</b>	Erection of extension to existing building to create two additional residential flats (revised scheme)
<b>Location</b>	Holmwood Clive Avenue Church Stretton Shropshire SY6 7BL
<b>Date of appeal</b>	16.10.18
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

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