



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

Date: Wednesday, 9 January 2019

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

**Date:** Thursday, 17 January 2019  
**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**

Ted Clarke (Chairman)

Nat Green (Vice Chairman)

Nick Hignett

Pamela Moseley

Tony Parsons

Alexander Phillips

Ed Potter

Kevin Pardy

Keith Roberts

David Vasmer

Vacancy

**Substitute Members of the Committee**

Peter Adams

Roger Evans

Hannah Fraser

Ioan Jones

Jane MacKenzie

Alan Mosley

Harry Taylor

Dan Morris

Lezley Picton

Claire Wild

Your Committee Officer is:

**Shelley Davies** Committee Officer

Tel: 01743 257718

Email: [shelley.davies@shropshire.gov.uk](mailto:shelley.davies@shropshire.gov.uk)

# AGENDA

## 1 Apologies for absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the Central Planning Committee held on 20<sup>th</sup> December 2018 – To Follow.

Contact Shelley Davies on 01743 257718.

## 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 2 p.m. on Wednesday, 16<sup>th</sup> January 2019.

## 4 Disclosable Pecuniary Interests

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

## 5 Development Land To The West Of Lesley Owen Way, Shrewsbury - 18/04674/REM (Pages 1 - 20)

Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 16/00476/OUT for mixed residential development of 40 dwellings to include affordable houses; formation of vehicular access (from Lesley Owen Way) and estate roads.

## 6 Proposed Rural Exception Site North of Condover, Shrewsbury - 18/04797/FUL (Pages 21 - 52)

Erection of 20 affordable dwellings; formation of vehicular access with visibility splay; all associated works.

## 7 Proposed Concierge Glamping Site at Hencote Farm, Cross Hill, Shrewsbury - 18/04537/ADV (Pages 53 - 60)

Erect and display 2No. externally illuminated roadside feature display entrance name signs.

## 8 Cressage Men's Club, Sheinton Road, Cressage, Shrewsbury - 18/05041/FUL (Pages 61 - 68)

Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective).

**9 Schedule of Appeals and Appeal Decisions (Pages 69 - 90)**

**10 Date of the Next Meeting**

To note that the next meeting of the Central Planning Committee will be held at 2.00 pm on Thursday, 14<sup>th</sup> February 2019 in the Shrewsbury Room, Shirehall.

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Committee and date  
 Central Planning Committee  
 17 January 2019

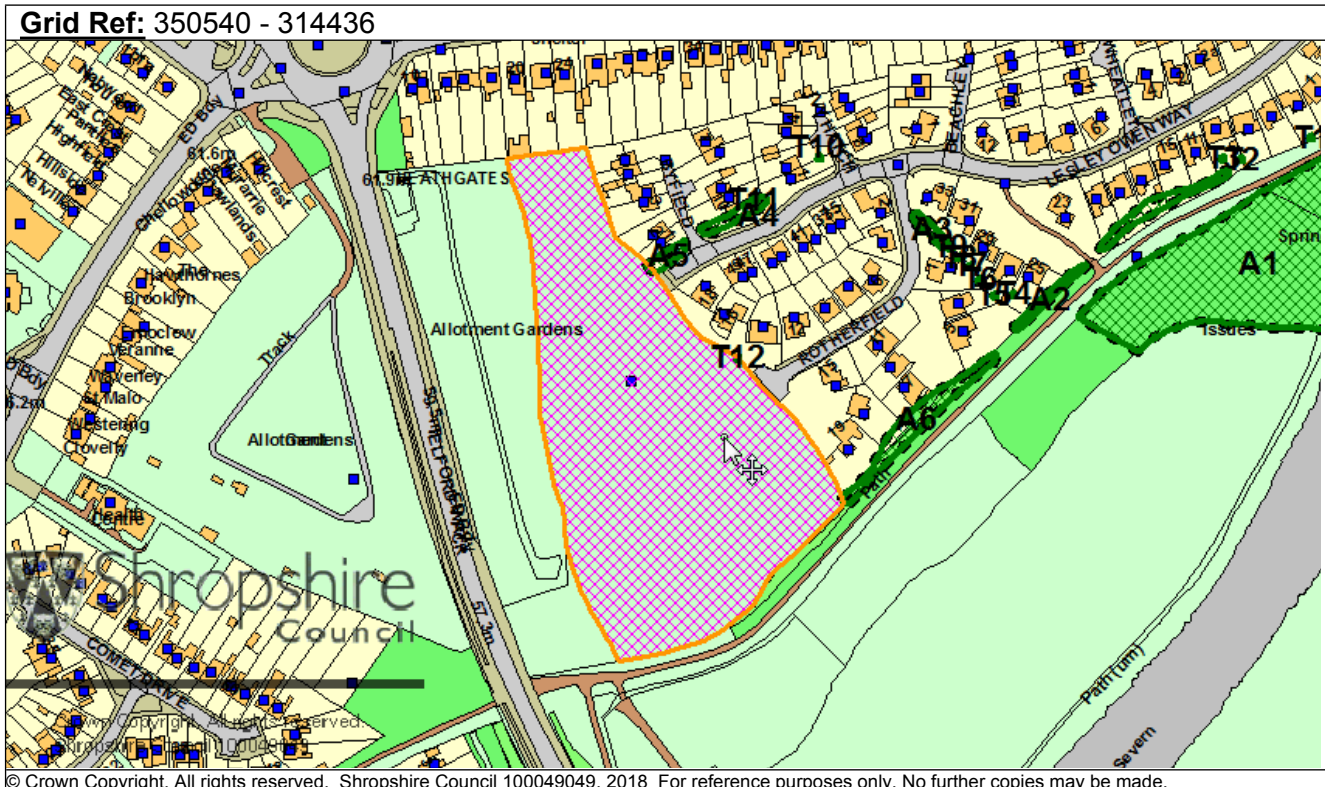
Item  
5  
 Public

## Development Management Report

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

### Summary of Application

<b><u>Application Number:</u></b> 18/04674/REM	<b><u>Parish:</u></b>	Shrewsbury Town Council
<b><u>Proposal:</u></b> Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 16/00476/OUT for mixed residential development of 40 dwellings to include affordable houses; formation of vehicular access (from Lesley Owen Way) and estate roads		
<b><u>Site Address:</u></b> Development Land to The West Of Lesley Owen Way Shrewsbury Shropshire		
<b><u>Applicant:</u></b> Jessup Brothers		
<b><u>Case Officer:</u></b> Jane Raymond		<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@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 relates to the approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 16/00476/OUT for mixed residential development of 40 dwellings to include affordable houses; formation of vehicular access (from Lesley Owen Way) and estate roads.

1.2 As part of this application for Reserved matters details of the following have been submitted for approval as required by the following conditions attached to the outline planning permission:

4. Surface water drainage
5. Updated tree protection plan
6. Updated phase 1 and where appropriate phase 2 ecological surveys
7. Construction Environmental Management Plan (CEMP)
8. A scheme of landscaping
9. A habitat management plan.
10. Provision of nesting opportunities for swifts
11. Details of bat boxes or bat bricks.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a vacant roughly rectangular field which is narrower to the North and is situated to the East of allotments accessed off Telford Way located further to the West of the site. The Northern boundary is shared with the rear gardens of three properties that face Sundorne Road to the North, there are residential properties to the East accessed off Lesley Owen Way and to the South is a public footpath / public bridleway / cycleway and further to the South is the River Severn.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the application has been requested by the Local Member to be referred to committee within 21 days of receiving electronic notification based on material planning reasons. In addition the Town Council have submitted a view contrary to officers and the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

### 4.0 Community Representations

#### 4.1 - Consultee Comments

4.1.1 **WSP on behalf of SC Drainage:** The drainage layout is acceptable however the Environment Agency should be consulted regarding the part of development in Flood Zone 2 of the River Severn.

4.1.2 **Environment Agency:** The EA have not responded to the consultation but they are not a statutory consultee for development in Flood Zone 1. At the Outline stage they provided the following comments: *I would have no comments to offer on the application as the site lies wholly within Flood Zone 1, the low risk Zone. Whilst the Flood Map does indicate a small portion of Flood Zone 2 detailed modelling has confirmed that, in fact, the whole site is within the low risk zone.*

4.1.3 **WSP on behalf of SC Highways:** No Objection subject to the development being carried out in accordance with the approved details, and the recommended conditions and informatives.

Observations/Comments: It is considered that this proposed residential development is unlikely to have a severe adverse impact on the adjacent local highway network. As it forms a minor extension to an existing residential estate. As there are some local amenities nearby, then there is opportunity for sustainable movement. The proposed new links to the adjacent estate roads and existing cycle route, will also be of benefit to the local community.

The highway plans and information submitted, are not sufficiently detailed to undertake a full technical appraisal. Subsequently, the developer will need to submit these details separately, to satisfy the highway authority's highway adoption requirements prior to starting the development's construction.

4.1.4 **SC Affordable Housing:** This Reserved Matters proposal relates to the provision of 40 affordable dwellings comprising 26 x 2 beds , 10 x 3 bed, 2 x 2 bed bungalows and 2 x 3 bed bungalows (wheelchair accessible). The tenure will be a mix of rented and rent to buy/shared ownership. The properties will be owned and managed by Wrekin Housing Trust and rented to those on the Housing Register. The Housing Enabling and Development Team expressed a requirement for wheelchair standard bungalows and Wrekin Housing Trust have been willing to assist and work with the Council to support these specific requirements. There is high affordable housing need in Shrewsbury and this scheme will be fully supported by the Housing Enabling and Development team. Any planning permission should be subject to a legal agreement which will need reference for the need for a Local Letting Plan.

4.1.5 **SC Learning and Skills:** Shropshire Council Learning and Skills reports that the local infant and junior schools are currently close to capacity. It is forecast that the cumulative effect of developments will require additional school place capacity to be created to manage pupil numbers. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements. In the case of this development it is recommended that any contributions are secured via CIL funding.

4.1.6 **SC Ecology:** I have read the above application and the supporting documents including the:

- Great Crested Newt Habitat Suitability Survey & Newt Mitigation Strategy prepared by Dr Stefan Bodnar (Revised December 2018).
- Habitat Management Plan prepared by Dr Stefan Bodnar (December 2018).

- Construction & Environmental Management Plan/Ecological Enhancement Scheme for Lesley Own Way prepared by Dr Stefan Bodnar (December 2018).
- Badger Survey prepared by Dr Stefan Bodnar (29th August 2018)

Condition 6: Information to cover condition 6 has been provided. The mitigation strategy for gcn has been modified. The mitigation will be on site only, consisting of: 6 refugia, 6006 sq. m (0.6 hectares) of semi-improved grassland, SUDs pond. Although the proposed enhancement area to the south of the development site is less than the outline planning permission SC Ecology does not object to this proposal. The area to the south of the development is still available for gcn/badgers and will be considered under its own ecological merits if it comes forward for development. I am satisfied that the great crested newt mitigation is sufficient to obtain a licence from Natural England, and therefore I accept the reduced area of great crested newt enhancement land provided.

Objections have been raised regarding Badgers. I would refer to Natural England's Badger Standing advice which is freely available on the Gov.uk website.

*'A sett is any structure or place which shows signs indicating it's currently being used by a badger'.*

There is no current outlier sett on site (please refer to Stefan Bodnar report dated 29 August 2018, site visit 21st July & 27th August 2018). An artificial badger sett is not required to be shown on the site plan at Reserved Matters Stage. The planning system cannot enforce that an artificial badger sett is included within the development proposal as it is not essential for this proposal to proceed.

Prior to development a badger survey, in line with Natural England's standing advice, will be undertaken. If an active sett is identified on site (or within 30m of the site) update mitigation measures will be submitted and approved in writing by the LPA prior to any development commencing.

In addition to the above, commuting routes have now been retained on site along the boundary of the allotment, and land for foraging is available on site. The area to the south of the development (below the cycle path) is still available. SC Ecology does not object to this proposal and is satisfied that the reserved matters application is acceptable.

Condition 7: Information regarding the CEMP has been provided and is sufficient to support this application.

Condition 8 Landscape Plan: The landscape plan which has been submitted contains several non-native species. I accept that more formal planting areas can benefit from non-native species due to their appearance. The ecologist has provided a list of none native species which may be beneficial for wildlife.

In addition to the landscape plan provided, prior to commencement of development a scheme to enhance the eastern and southern boundary of the development site shall be submitted in writing for the approval of the local planning authority. The submitted scheme shall set out measures proposed to enhance the boundary along the allotment, and canal path, for biodiversity with the inclusion of: 1) a native



mixed species hedgerow, 2) field margin left to provide tussocky grassland. The agreed planting scheme shall be implemented in the first planting season and retained thereafter.

Condition 9 Habitat Management Plan: The information submitted in support of the Habitat Management Plan condition is sufficient. Providing works are carried out as proposed, I am satisfied that this condition can be discharged.

Condition 10 & 11: Information regarding bird and bat boxes has been provided and is sufficient.

Recommendation: SC Ecology is satisfied that conditions 6, 7, 8, 9, 10 and 11 can be discharged.

Please note: There is an existing planning condition regarding a pre-commencement Badger Survey. This will remain on the outline planning decision notice.

Recommends a condition regarding additional landscaping.

4.1.7 **SC Rights of Way:** No further comments to make on this application

4.1.8 **SC Trees:** Satisfied with the proposed landscaping and notes the inclusion of 3 new *Quercus robur* Oak trees to be included as long lived large canopy trees. These need to be identified on the planting plan to ensure correct planting and assumes they are referenced as T18 T19 and T22.

Provided the submitted Arboricultural Method Statement is adhered to the existing trees on site should be protected, the following condition should be imposed:

4.2 - **Public Comments**

4.2.1 **Shrewsbury Town Council:** The Town Council objects to this application.

The Town Council reluctantly accepts the principle of development on this site as per the approval of outline for 29 dwellings. It therefore considers the erection of 40 dwellings as a significant over-development of the site and certainly not within the sentiment of the existing outline permission.

The layout of these properties is too close to existing boundary measures and is one that is likely to undermine existing local neighbouring uses.

Such an increase in dwellings will have too much a strain on the local infrastructure which cannot cope with the existing development pressures, particularly around traffic and access through Lesley Owen Way to the Highways network and the impact on local services such as schools.

There has been very little consideration to the existing environmental benefit to this site and the effect such a development will have on the flora and fauna with the applicant accepting that no work had been done to communicate with statutory bodies like the Shropshire Wildlife Trust to preserve wildlife.

Members wish to understand more about the boundary treatments, particularly the retention of the existing hedgerow and adjacent ditch to ensure good management of water flow within the site resulting in no flood impact in the neighbouring allotment site.

The Town Council agrees in principle to a development on this site but consider 40 dwellings to be too high to cope with the local infrastructure. Such a development will impact on existing traffic problems and oversubscribed local schools. They wish to see the allotment holder's concerns addressed including the preservation of wildlife on this site, maintenance of the hedgerow line, maintenance of the ditch to manage the floodwater and to reconsider the layout to move houses away from the boundary with the allotments.

4.2.2 **Local Member (Cllr Pardy):** Requests that the application is determined at committee and objects to the application on the following grounds:

- I) Beyond expectations of the Outline Application
- II) Encroachment upon wildlife corridor
- III) Overdevelopment
- IV) Highways

4.2.3 **Shropshire Badger Group** (summary of comments on proposal as first submitted):

Appears to rescind conditions Nos. 6 and 8 of the outline.

The outlying sett was found to be inactive when surveyed in 2018 but by definition, an outlying sett is one that is used occasionally and seasonally; therefore no conclusion can be drawn to its status based on one visit.

We know the local badger population depend on this field as a valuable foraging resource in an area where available foraging is at a premium. It also forms a significant part of the territory of this badger clan and contains several commuting routes.

The application now proposes 40% more housing and a greatly increased amount of land-take on the site with the possibility of little or no mitigation for badgers.

Shropshire Badger Group feel that the following measures should be reinstated to mitigate the significant disruption that will undoubtedly be caused to the local clan:

- Reinstatement of the wildlife corridor running along the edge of the allotments.
- Reinstatement of the wildlife corridor that has now been removed to allow creation of Plot 1 garden and driveway. Badgers will undoubtedly attempt to follow their traditional commuting route through this property resulting in damage and complaints.
- Re-routing of the cycle path across the area of open space which fragments it and reduces the value to wildlife as well as potentially increasing the level

of disturbance.

- Reinstatement of the artificial sett which was agreed in the 16/00476/OUT Decision to provide some compensation for the loss of habitat and available refuge areas for badgers.

#### 4.2.4 **Heathgates Allotment Holders** (summary of comments on proposal as first submitted):

- Concerns with the increase in the number of buildings close to the allotment boundary and the lack of attention on the boundary to the needs of the allotment neighbours.
- Cutting to the tree line and the removal of the hedge destroys an important protection for the allotment from north and easterly winds and the micro-climate it affords us and should be retained.
- Details of the management of the boundary area has been deleted from the original plan and should be reinstated.
- Removal of the hedge along this line will seriously affect the privacy of the allotments and the site.
- Completely removing the hedge at the north end is unacceptable and the plans should be reconsidered.
- Running along the hedge and fence line is a ditch which is important for the drainage from the allotment and is also therefore critical for the wellbeing of the cultivation management on the allotment.
- This line and drainage from the allotments must be maintained and managed at least to the current standard to ensure that the allotments are not affected by the development.
- This drainage feeds in to the current Council maintained wildlife pool and is also an important feature in maintaining the wellbeing of this area.
- No attention is given in the new application to the wildlife in the area, particularly badgers who visit regularly.
- Badger management must be included in any plans for the site development otherwise there will be issues in the gardens of any new development.

#### 4.2.5 **Shrewsbury & Newport Canals Trust (SNCT):** SNCT understands that the development as currently proposed remains outside the boundary of the old canal route and therefore should not have a significant impact on the eventual canal restoration. We do, however, note the proposal for a footpath across the site to meet what is currently a footpath and cycleway along the line of the canal. We would draw your attention to the fact that, when the canal is reinstated, this will meet the canal on the opposite bank away from the towpath. If the proposed path is felt to be a significant feature of the scheme we would be grateful if this could be re-

routed to exit the site away from the line of the canal. If the developers would prefer not to make this change we would appreciate provision being made for the installation of a suitable footbridge with sufficient clearance for the passage of typical canal boat traffic. We can provide the relevant dimensions for such a bridge design if required.

We would also ask that officers and members are mindful of the close proximity of the canal route when giving any approval to the current proposals, particularly if the developers see a need for any associated services or other elements of the development to reach across the line of the canal. If this is proposed or there are any other aspects of the development which might have an adverse impact on a future canal restoration we would ask that SNCT is invited to join a dialogue with the developers and the council to seek a suitable solution.

#### 4.2.6 **14 letters of objection received summarised as follows:**

- Increased number of dwellings from 29 at outline stage to 40 which is an increase of 40%
- An earlier proposal (over 20 years ago) has been refused
- Additional traffic making it difficult getting on and off the estate
- Disruption, noise and dust and parking of workers vehicles during the construction phase.
- The roads leading to the site are bendy and uneven and have blind spots with potential hazards.
- Visibility from cul-de-sacs onto Lesley Owen Way is poor and additional vehicles will increase the existing dangers.
- Construction vehicles passing at the entrance off Sundorne Road will result in them mounting the curb with fatal consequences for pedestrians.
- The width of Lesley Owen way is often reduced due to parked visitor and delivery vehicles and is unable to sustain additional traffic.
- There has been considerable developments along Sundorne Road and the resultant increase and expected increase in traffic onto Heathgates roundabout will increase pollution beyond the current level.
- Increased traffic resulting in frequent tail backs on Telford Way and Sundorne Road at peak times.
- The Heathgates roundabout already has the highest pollution compared to any other in Shrewsbury. Telford Way, Sundorne Road, Ditherington Road and Whitchurch Road are already at the point of maximum capacity with queues of traffic constantly backing up trying to gain access to the roundabout. Another 80 plus cars exiting Lesley Owen Way will exacerbate the conditions along this road and increase pollution problems beyond what

is safe and reasonable

- Objects to the footpath leading to/from Rotherfield which is not necessary and is unsuitable for any more pedestrians or cyclists and will attract anti-social behaviour.
- The addition of a footpath from the canal path and in very close proximity to Telford Way is unnecessary and will encourage people to take shot cuts through the estate.
- This is one of the few remaining green spaces in Shrewsbury and should be retained.
- The beauty and tranquillity of the area will be spoiled
- Destruction of habitat and impact on wildlife.
- Loss of beautiful landscape and views
- The compensatory area referred to at outline stage is already a wild area
- The protected area for wildlife has been omitted
- There is considerable badger activity in the area and no provision for displaced bats
- A large tree which was home to bats was demolished following the first ecological report in 2013
- Local schools,, doctors and dentists are at capacity
- All new dwellings should have solar panels fitted as standard
- Existing internet is poor and additional users will see a further reduction in download/upload speeds.
- The houses on plots 1, 2, 3 and 4 should be bungalows and not houses to reduce the impact on the residents in Rotherfield
- House will overlook existing properties resulting in loss of privacy and affect the visual amenity currently enjoyed by residents
- The open outlook from existing houses will be destroyed
- Possible risk of subsidence and drainage issues.

## 5.0 THE MAIN ISSUES

The principle of residential development of this site was established at the outline stage with all matters reserved for later approval including layout and number and type off dwellings. The main issues for consideration are the details reserved for

later approval and the details required to be submitted by condition at this reserved matters stage:

- Access
- Layout, scale and appearance
- Impact on residential amenity
- Landscaping, tree protection and ecology (conditions 5, 6, 7, 8, 9, 10 and 11)
- Surface water drainage (Condition 4)

## 6.0 OFFICER APPRAISAL

### 6.1 Access

6.1.1 Access was not included at the outline stage but as pointed out by Highways at the time it is somewhat implicit that *'access to the site would be derived via and extension of Lesley Owen Way. This is confirmed by the indicative layout drawing which shows a potential housing scale and layout'* Highways also made the following comments:

*'The highway authority consider that a level of housing development is acceptable but that access, scale and design would need to be considered further as part of any subsequent reserved matters application. This would include further consideration of traffic calming measures being introduced to mitigate the impact of the development, in particular the interface between the site and current termination of Lesley Owen Way. Issues regarding the junction of Lesley Owen Way and Sundorne Road have been raised and again mitigation measures will need to be properly considered dependent upon the scale of development promoted'.*

6.1.2 Highways have reviewed the proposed layout and access to the site which includes the scale of development proposed and have no objection to the proposal. They have not requested traffic calming measures within the new development or along the existing Lesley Owen Way or any alterations to its junction with Sundorne Road.

6.1.3 Highways have commented that it is a minor extension to an existing residential estate road and considers that the proposal is unlikely to have a severe adverse impact on the adjacent local highway network.

6.1.4 They have commented that the layout plans are not sufficiently detailed to undertake a full technical appraisal but this refers to the technical details relating to the construction of the road and its adoption under Section 38 of the Highways Act 1980 and for the construction of works on the existing public highway under Section 278. The developer will need to submit full construction details separately, to satisfy the highway authority's highway adoption requirements.

6.1.5 Paragraph 109 of the NPPF advises that *'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'*. It is considered that the proposal would not result in unacceptable highway safety

implications or have a severe adverse impact on the adjacent local highway network.

## 6.2 **Layout, scale and appearance**

6.2.1 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.

6.2.2 Many of the objections refer to the proposal being an overdevelopment of the site and that the number of dwellings and the developable area being greater than at the outline stage. An indicative layout was submitted at the outline stage but the description of development did not include the number of dwellings, and the layout was for illustrative purposes only. The amount of development (layout and scale including number and size of houses) has not yet been determined and is to be considered at this reserved matters stage.

6.2.3 Notwithstanding this the agent has provided the following information in response to the concerns about over development of the site compared to the illustrative layout at the outline stage:

1. *The site developable area for the outline scheme of 29 houses is 0.97 hectares, the area for the reserved matters application of 40 houses is 0.96 hectares, a decrease of 1%.*
2. *The building footprint for 29 houses is 1654m<sup>2</sup>, and 2043m<sup>2</sup> for 40 houses, an increase of 23%.*
3. *The number of bedrooms for the 29 houses is 82, for the 40 houses is 92, an increase of 13%.*
4. *Maximum number of persons for 29 houses is 145 and 174 for 40 houses, an increase of 20%.*

*So, although the increase in the number of dwellings is 38% the actual increase in impact on the area is much less.*

6.2.4 The developable area of the site is proposed to be the same (or slightly reduced) to that indicated at the outline stage with the remaining area to be enhanced for wildlife. However the amount of development (layout, scale, number and size of houses) was not determined at the outline stage and is for consideration now as part of this application for reserved matters. An assessment of whether the proposed amount of development is acceptable should be based on an assessment of the applications merits and not a comparison with something that was never previously approved.

6.2.5 The proposal is for 40 affordable dwellings including a mix of tenures and includes 26 x 2 beds houses, 10 x 3 bed houses, 2 x 2 bed bungalows and 2 x 3 bed bungalows. It is considered that the mix of size and type of dwellings is appropriate and has also been agreed with the affordable housing team to meet the local need

including disabled access.

6.2.6 The layout provides satisfactory spacing between the dwellings and good separation distance from existing dwellings, and provides adequate sized rear gardens and off road parking. The houses and bungalows are traditional in design with pitched roofs and front facing gables with external materials being a mixture of brick and render. It is considered that the layout, scale and appearance of the development is acceptable, does not represent an over development of the site and would have no adverse impact on the character and appearance of the locality.

### 6.3 Impact on residential amenity

6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development '*creates 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*'.

6.3.2 Development has the potential to impact on residential amenity due to the proximity and scale of new buildings that might appear overbearing or obtrusive or result in overlooking and a loss of privacy. The proposed houses are all sufficiently far away from existing houses that they would have no adverse impact on residential Amenity.

6.3.3 The proposed dwellings nearest to existing dwellings are plot 1, plot 39 and plot 40. Plot 1 is a semi-detached house with its side gable facing the front of 18 Rotherfield. Due to the distance between and the difference in ground levels the development will not appear overbearing or result in a loss of privacy. Plots 39 and 49 are proposed to be bungalows and are also sufficiently distant from the rear of properties in Sundorne Road that they would have no adverse impact.

6.3.4 The concerns of the allotment holders are noted but allotments are not afforded the same level of privacy as private residential gardens and are often close to residential gardens in many situations. The revised plans do however indicate that the existing hedge will be retained in addition to a narrow wildlife corridor and buffer between the private rear gardens of the new houses and the existing allotments.

### 6.4 Landscaping, tree protection and ecology (conditions 5, 6, 7, 8, 9, 10 and 11)

6.4.1 A revised landscaping plan has been submitted that indicates the landscaping of the developed area and the enhancement of the undeveloped area. The proposal includes a revised tree protection plan as required by condition 5 and the tree officer has no objection to the proposal subject to a condition which will ensure the protection of all existing trees to be retained.

6.4.2 The existing trees are not within a Conservation area or protected by a TPO so could be removed without the Councils consent. The previous removal of a tree with potential for roosting bats did not require consent from the Council. Approval of this development will secure the retention of the important higher value trees on this site in addition to the provision of enhanced landscaping which includes the



planting of three Oak trees to be planted with sufficient space to enable them to grow and become long lived large canopy trees.

- 6.4.3 Condition 6 required the submission of an updated phase 1 and where appropriate phase 2 ecological survey and an assessment of impacts from the development, and a detailed ecological mitigation strategy. This condition also stipulated the provision of an area within the red line boundary for Great Crest Newt mitigation no less than 4670m<sup>2</sup> and also an area for wildlife enhancement to the south of the site.
- 6.4.4 The Councils Ecologist has confirmed that there is no requirement for the area to the south of the site to be enhanced in order to make this proposal acceptable from an ecological perspective. It has been agreed that managing or attempting to enhance this area for wildlife would be counterproductive and the best wildlife enhancement would be to leave it as it is. This area will still be available for GCN and badgers post development and should a proposal come forward in the future it would be considered under its own ecological merits.
- 6.4.5 With regards to the land within the application site the area proposed for Great Crested Newt mitigation is more than originally shown on the indicative layout at the outline stage. The on-site mitigation will consist of 6 refugia, 6006m<sup>2</sup> (0.6 hectares) of semi-improved grassland and a SUDs pond. This is an increase of over 1300m<sup>2</sup> and has been achieved as the recreational open space originally indicated to the west of the existing houses will now be semi-natural open space with no defined footpath. This amendment is partly in response to existing residents objecting to the use of this land for recreation and to the provision of a footpath link to Rotherfield.
- 6.4.6 Officers consider that there is no requirement for additional recreation ground in this location due to the sports pitches, recreation grounds and play facilities in close proximity to the site in Sundorne. The area of land enhanced for Great Crested Newts and Badgers within the site boundary is significantly higher than that anticipated at the outline stage. Although the whole of the site might be suitable for terrestrial habitat for newts and the proposed development will reduce the amount of undeveloped land the proposed enhancement of over 6000sqm of the land within the red line boundary will more than compensate for the loss of terrestrial habitat.
- 6.4.7 Condition 6 also recommended that an artificial badger sett should be included in the updated ecological mitigation. The Councils Ecologist has however confirmed that based on the information submitted is satisfied that there is no requirement for an artificial badger sett. The planning system cannot enforce that an artificial badger sett is included within the development proposal when it is not essential for this proposal to proceed. Condition 13 on the outline consent remains relevant and will ensure that the site is re-inspected for badger setts prior to commencement of any development and appropriate mitigation proposed to include an artificial badger sett if considered necessary.
- 6.4.8 Ecology is satisfied that land for foraging will still be available on site (and to the south of the site) and commuting routes for badgers will still be available due to the change in layout of the site, and retention of a green corridor along the allotment

boundary. Initially questioned whether measures are being put in place to ensure that post development the badgers do not have access into residential gardens such as badger proof fencing. Condition 16 on the outline consent requires that all garden fencing should be badger proof.

- 6.4.9 Condition 7 required the submission of a Construction Environmental Management Plan (CEMP). The Councils Ecologist has confirmed that the submitted CEMP is satisfactory and is approved. The condition requires that all construction activities shall be adhered to and implemented strictly in accordance with the approved CEMP in order to protect features of recognised nature conservation importance.
- 6.4.10 Condition 8 required the submission of a landscaping plan and the Councils Ecologist has confirmed that the submitted landscaping proposal is acceptable but could be further enhanced by additional native species planting to the hedgerow on the eastern and southern boundary of the development. a condition is recommended regarding this.
- 6.4.11 Condition 9 required the submission of a habitat management plan. The Councils Ecologist has confirmed that the submitted plan is satisfactory and is approved.
- 6.4.12 Condition 10 and 11 required the submission of details for the provision of nesting opportunities for swifts and the details of the location and design of a minimum of 10 bat boxes or bat bricks. Ecology have confirmed that the submitted details and information are acceptable and these conditions require that the approved details are implemented in full prior to the occupation of the dwellings.

## 6.5 **Surface water drainage (Condition 4)**

- 6.5.1 Condition 4 required details of the proposed surface water drainage be submitted as part of the reserved matters. Drainage have confirmed that the submitted drainage details are acceptable but that the Environment Agency should be consulted regarding the part of development in Flood Zone 2.
- 6.5.2 The EA previously provided comments and advised that the site lies wholly within Flood Zone 1, the low risk Zone and that whilst the Flood Map does indicate a small portion of the site in Flood Zone 2 the detailed modelling confirms that the whole site is within the low risk zone.

## 6.6 **Other matters**

- 6.6.1 Shrewsbury and Newport Canals Trust (SNCT): SNCT has submitted comments (and has previously commented) regarding the proposed footpath from the housing site to join with the footpath and cycleway which is on the line of the Shrewsbury Canal. It is concerned that when the canal is restored the path would meet the canal on the non-towpath side and there would be no access to the towpath. This is exactly the same situation that will affect all footpaths that currently join the old towpath route (now a national cycle route) to the south of Sundorne Road. This situation would need to be resolved for all existing footpaths (and roads) if the canal is restored. However as the footpath in relation to this application joins the old tow path and National Cycle Route 81 adjacent to the A5112 Telford Way with pavements either side there is already provision in place for both cyclists and

pedestrians to cross the canal (if restored) and the River Severn.

- 6.6.2 Developer contributions: Highways have confirmed that no developer contributions are required for traffic calming measures on either the new estate road or Lesley Owen Way or for alterations to the junction with Sundorne Road. Any works to the existing Highway or surfacing materials and construction of the new road to an adoptable standard will be subject to a section 38 and section 278 agreement.
- 6.6.3 The application is already subject to a S106 agreement to secure affordable housing and this requires the landowner to confirm the affordable housing tenures and dwelling types and in accordance with a Local Letting Plan to be agreed with the Council as requested by the Affordable Housing team.
- 6.6.4 Shropshire Council Education (Learning and Skills) have confirmed that the local infant and junior schools are currently close to capacity and that it is forecast that the cumulative effect of developments will require additional school place capacity to be created to manage pupil numbers. In this case they have recommended that any contributions are secured via CIL.

## 7.0 CONCLUSION

- 7.1 The principle of development has been established by the outline permission. It is considered that the proposed access and layout of the site is acceptable and would not result in unacceptable highway safety implications or have a severe adverse impact on the local highway network. The scale, density, design and appearance of the dwellings would have no adverse impact on the character and appearance of the locality or adversely impact on residential amenity. The proposed landscaping and habitat management is acceptable and the proposal includes more than satisfactory ecological mitigation and enhancement and appropriate measures for the protection of the significant trees to be retained. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, MD12 and MD13 and the aims and provisions of the NPPF.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

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

in any event not later than six weeks after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

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

**Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:**  
CS6, CS17, MD2, MD12 and MD13

### RELEVANT PLANNING HISTORY:

**16/00476/OUT** Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way GRANT 22nd February 2018

## **11. Additional Information**

### **List of Background Papers**

18/04674/REM - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder) - Cllr R. Macey

Local Member - Cllr Kevin Pardy

Appendices

APPENDIX 1 – Conditions

**APPENDIX 1**

**Conditions****STANDARD CONDITION(S)**

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

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

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

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

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- a construction traffic management (& HGV routing plan) and community communication protocol.

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

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

3. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Arboricultural Method Statement and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection'. The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

4. Notwithstanding the submitted and approved landscaping plan prior to above ground works commencing a scheme to enhance the eastern and southern boundary of the development site shall be submitted in writing for the approval of the local planning authority. The submitted scheme shall set out measures proposed to enhance the area for biodiversity. The agreed planting scheme shall be implemented in the first planting season following commencement of development and retained thereafter. Any trees planted that are lopped, felled or die within five years of first planting shall be replanted.

Reason: To seek a biodiversity enhancement consistent with Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework.

5. All hard and soft landscape works shall be carried out in accordance with the approved plans. The works shall be carried out prior to the occupation 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.

6. No above ground works shall take place until details of the design and construction of any new roads, footways, street lighting, accesses, together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the buildings are occupied.

Reason: To ensure a satisfactory access to the site.

7. The garages, car ports and car parking spaces indicated on the approved plans shall be provided prior to the first occupation of the dwellings hereby approved and shall be kept available for the parking of motor vehicles, at all times. The garages, car ports and car parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Reason: To ensure an appropriate level of parking is provided for the lifetime of the development.

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Committee and date  
 Central Planning Committee  
 17 January 2019

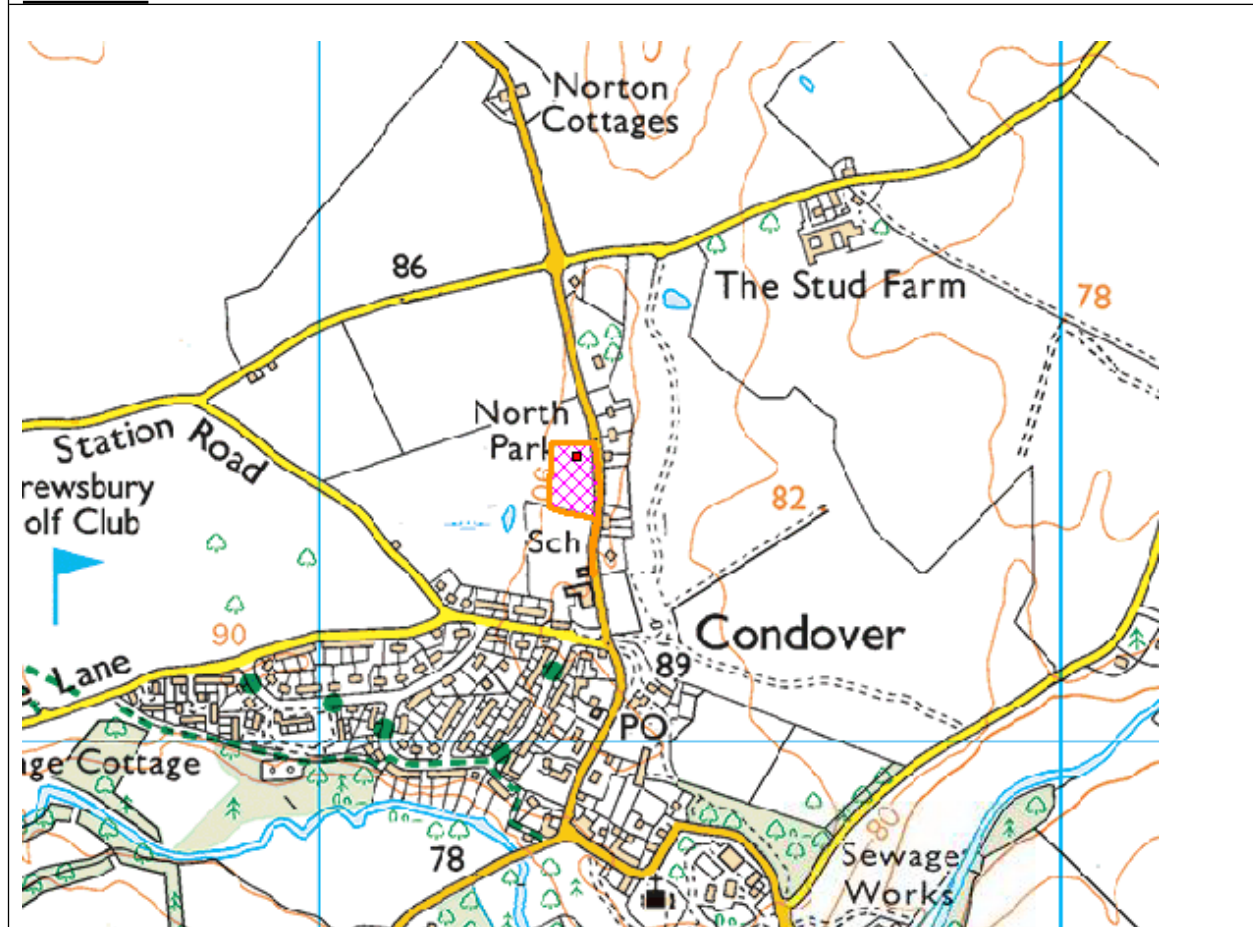
Item  
6  
 Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 18/04797/FUL	<b>Parish:</b>	Condover
<b>Proposal:</b> Erection of 20 affordable dwellings; formation of vehicular access with visibility splay; all associated works.		
<b>Site Address:</b> Proposed Rural Exception Site North of Condover, Shrewsbury, Shropshire		
<b>Applicant:</b> South Shropshire Housing Association		
<b>Case Officer:</b> Andrew Sierakowski	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	
<b>Grid Ref:</b> 349347 - 306386		



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This is a full application that has been submitted by the South Shropshire Housing Association for the erection of 20 affordable dwellings, formation of vehicular access with visibility splays and associated works, on land immediately to the north of Condover C. of E. Primary School.
- 1.2 The house types proposed will comprise 10 two-bedroom and 10 three-bedroom houses for people with a local connection in need of affordable housing. The design, the application states, is intended to create a group of dwellings that are of an appropriate scale for the site and neighbouring properties and in keeping with surrounding development. The dwellings would be two storey with elevational treatments aimed at giving a cottage village appearance in accordance with the requirements of the Pre-Application advice (Ref. PREAPP/18/00095) issued on 20th March 2018. The proposed housing aims to blend into the established streetscape by maintaining materials and architectural styles of existing buildings in the area, including brick detailing, render, small gables and a mixture of roof styles.
- 1.3 The site has been designed so that the houses are positioned on both sides of the road layout, with plots parallel to Shrewsbury Road. The internal access road has been designed to maximise the space and soften the appearance, and maintain the village feel. The road layout will also allow safe access for refuse and emergency vehicles.
- 1.4 Each dwelling would have 2 car parking spaces in front or to the side in a tandem or side by side arrangement and large rear gardens. Parking in this arrangement will reduce the visual impact of cars to the front of house and help to hide them from view to enhance the street scene.
- 1.5 The layout uses low maintenance planting and lawned gardens, with the site boundary defined by a native hedge mix and trees to soften the impact, within which individual plot boundary treatments will be made up of timber fences.
- 1.6 The application states that as part of the site selection process several sites were considered but others were discounted for various reasons including poor relationship to the village and amenities, unsuitable terrain and unavailability. The site that is the subject of this application was selected as the preferred option because it is fairly level, suitable for building, because there are nearby service connections, it is in close proximity to the village amenities and because it has a good relationship to other housing.
- 1.7 The site forms part of a larger arable agricultural field and well screened from the adjacent Shrewsbury Road by a well-established hedge and is within easy walking distance of local amenities and transport links.
- 1.8 Shrewsbury Road adjacent to the site ranges from 4.2m to 5.6m in width around the proposed new site entrance. The main access into the site would be a newly created,

access road providing a minimum of 2.4 x 43m visibility splays and an adoptable 4.8m estate road, including a pedestrian footpath within the development, all constructed to Shropshire Council Highways adoptable standards. Due to the visibility splay, a small part of the existing hedge will be removed and replanted behind the splays, so as not cause any loss of landscaping or biodiversity.

- 1.9 An adopted footpath is proposed from the southern point of the site connecting to the existing footpath adjacent to the Primary School. The intention is that this footpath link will provide connectivity to the centre of the village, local amenities and the school, and also provide a safe link for existing properties along Shrewsbury Road. The application states that Condover C. of E. Primary School, Shropshire Council and Shropshire Highways have all been consulted about the path and are supportive of it.
- 1.10 The application states that the surface water drainage system will be designed in accordance with BRE Digest 365 and will deal with storm water. Foul water will be discharged to a mains sewer which is located at the front of the site along the northern boundary.
- 1.11 The application is accompanied by an Ecological Appraisal, Landscape and Visual Appraisal, and Tree Condition Report/Arboricultural Impact Assessment/Method Statement and Tree Protection Plan.
- 1.12 The site forms part of a larger area of land to the north and east of Station Road and the west of Shrewsbury Road that was the subject of an Outline Planning Application Ref. 14/00335/OUT for the erection of 47 dwellings (including 7 affordable houses), a school hall, car parking area and an enlarged school playing field, allotments, a village green and informal open space. This was refused consent in November 2014 and was subsequently subject to an appeal APP/L3245/W/15/3007929 that dismissed in January 2016.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is part of a larger area of arable agricultural land currently accessed from Station Road to the west with the Shrewsbury Road running north-south to the east.
- 2.2 The site extends to 0.53 hectares adjoining the north side of Condover C. of E. Primary School. It lies outside the development boundary for Condover but adjoins a strip of ribbon development consisting of private housing lying directly opposite on the east side of Shrewsbury Road.
- 2.3 Shrewsbury Road is an adopted highway with a 30mph speed restriction, linking Condover with the A49, which runs to Shrewsbury to the north and Ludlow to the south.
- 2.4 The residential development on the east side of Shrewsbury Road, has a number of different sized dwellings on differing plot areas with a selection of elevational treatments. Whilst offering variety, no single architectural theme is dominant. Other land on the east side of Shrewsbury Road is subject to a number of planning permissions though dwellings have yet to be constructed.

- 2.5 Condover is a rural community with a village shop/post office, pre-school, primary school, church, golf course, village hall and social club and benefits from a regular bus service to Shrewsbury.
- 2.6 There is a large public sports field to the west of the site, within a short walking distance. This provides a substantial public open space with sports including football and cricket being played there. There is also a new woodland park and walk that provides children's play equipment.
- 2.7 Within Condover and its parish there are opportunities for work and employment at the Condover Industrial Estate, Condover Hall Activity Centre, Hanson Aggregates, Farm Friends Nursery, Cartwright Farms and other agricultural businesses.

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

- 3.1 The Parish Council have provided views contrary to the Officers recommendation. The Local Member has been consulted and has requested that the application be determined by the Committee. The Principal Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised require a committee determination of the application.

### **4.0 COMMUNITY REPRESENTATIONS**

- 4.1 Condover Parish Council: There have been two responses from Condover Parish Council as follows:
- 4.2 First Response: The Parish Council states that it is its expectation that its comments will be given detailed attention. It states that it is anticipated that all parties will recognise the effort by the Parish Council to increase the 'value' of proposed development to the local community by improving road safety and access to the school and village amenities, and also to target any housing delivered towards meeting a current gap in provision, namely affordable home ownership.
- 4.3 The Parish Council seeks confirmation that this scheme, if approved, would be community-led as indicated in the Design and Access Statement.
- 4.4 The Parish Council states that it has not been furnished with evidence of housing need. It states that the recent experience of the development at Brook Close, which it refers to as a "community-led housing scheme", would suggest all local eligible housing need for rented accommodation has been met, in Condover village and indeed in the Parish area. As a result, it states that the cascade for letting Brook Close was pushed beyond the Parish boundary. It states that this is not to say local village and Parish residents do not require affordable rented housing, rather that unless the eligibility criteria relating to household size and bedroom entitlement are varied, existing data referring to housing need would not in practice be relevant to this application. It contends that people not entitled to the proposed housing should not be presented as evidence of need for the housing. The Parish Council requests evidence of eligible housing need for additional rented housing in Condover which could realistically be met by this proposed development.

- 4.5 Condover Parish Council furthers states that it is developing a Neighbourhood Plan, in consultation with local residents, businesses and Shropshire Council. Local priorities for housing, it states, are emerging to meet housing needs and aspirations through staged mixed development over the full period of the Neighbourhood Plan/Shropshire Local Plan. A 100% affordable housing development of the scale proposed, delivered as a Rural Exception Site would, it states, conflict with the preference for integrated mixed development, delivered in a measured way over the life of the Neighbourhood Plan. Further, it would undermine the Parish Council's aim of promoting and supporting sustainable, diverse community life.
- 4.6 The Parish Council states that it has requested but not been provided with details of the anticipated cost to the purchaser of the shared ownership dwellings, as proposed. This should include the percentage purchase options proposed, the respective costs of these options, together with the corresponding rents and service charges.
- 4.7 Condover it further argues, has already 'over-delivered' against the SAMDev housing targets. The Parish Council seeks assurance that any housing brought forward on this proposed site would be off-set against any new housing development targets set within the emerging revised Shropshire Local Plan.
- 4.8 Second Response: In its second response the Parish Council confirms its objection set out in its initial response on the grounds that the proposed site is outside the development boundary and that in response to the last planning appeal, the Planning Inspector had been very specific that development of the top of the field would spoil the vista and appearance of the village, but that development at the lower end of the field would not have this negative impact.
- 4.9 The Parish Council re-emphasises that it is developing a Neighbourhood Plan, which would inform and help to manage development based on housing needs and community requirements. It states that bringing forward a site of this scale before the conclusion of the Neighbourhood Plan would undermine emerging local priorities and pre-empt decision-making within the Neighbourhood Plan process. However, the second response from the Parish Council also states that it is willing to work with the developer to secure a number of changes to the application which would enable the Parish Council to withdraw its objections, as follows:
1. The roadside footpath to be extended for the full length of the development;
  2. Provision of off-road school parking as part of the development or Provision of roadside layby style parking for the full length of the development;
  3. The scale of the development is reduced in size and limited to 10 "affordable" shared ownership properties only. This is on the basis that since SAMDEV came into force, 29 new properties had already received planning permission in Condover (of which 11 are "affordable") against a total provision in the Plan for 24. There was concern that provision of a further 20 "affordable" homes would be inappropriate, too many, too fast and would affect the sustainability/character of the community. The recent 10-property "Community Led Housing Development" took a considerable period of time to let, and it is the view of the Parish Council that there would insufficient demand from local people who would in practice be eligible for 10 further rented dwellings;

4. As part of the Design and Access statement the developer states "An Affordable Housing Development was completed in the village a few years ago which is highly thought of in the community and it is intended that our proposal will build on the values and significance demonstrated". The Parish Council sought confirmation that the development would be managed in an identical way i.e. through a community led approach; and
5. That local couples without children who meet the eligibility for housing criteria should be able to secure 2 bedroomed properties even though it may be considered as under occupation.

The Parish Council concludes that should agreement be secured with respect to the above five points then the Parish Council would not object to this planning application. The Parish Council requests that this application be determined by the Shropshire Council Planning Committee.

#### **4.10 Public Comments**

4.11 Three representations have been received from local residents, which in summary make the following points:

- That the site is a good site but would be improved if the path to the school was on the field side of the existing hedge away from the road with provision for bicycles;
- That since 2015, 17 dwellings have been built in Condover, one is under construction, a further 8 approved and there is other development too. There is now the prospect of 20 more on agricultural land. It would appear that applications largely determine what is happening on the ground rather than being made in response to any coherent overall planning policy;
- That there are problems accessing the A49 south of Bayston Hill where there is restricted visibility to the left and fast-moving traffic in both directions. The need is for a roundabout, traffic lights or an extension of the 30mph speed limit and until such time that it is built, no further expansion within the village of Condover should be permitted;
- That the provision of more affordable houses in the village is to be welcomed, but that Shrewsbury Road has become increasingly busy over the past few years with a considerable proportion of users of this road failing to observe the speed limit, and the size of lorries and tractors has increased. In consequence, walking into the village has become an unpleasant and hazardous experience;
- That further development along Shrewsbury Road will add to the traffic. The footpath should be extended as far as the entrance to the group of houses known as The Coppice. This would make life safer and more pleasant for people living north of the village and using the village amenities such as the Post Office and Village Hall;
- That the access to the site is not ideally situated, as visibility to the north is limited by a bend in the road and rising ground. For visibility, it would be better to site the

access to the north of the proposed houses, where there would be visibility along a slight downward slope in both direction; and

- That access on foot to the nearby sports field and woodland play area involves using roads which have no footpath.

#### **4.12 Technical Consultees**

4.13 Shropshire Council – Affordable Homes: Comment that the proposal is for 20 affordable houses for local people and should therefore be considered as an Exception Site under the relevant planning policies.

4.14 The scheme comprises; 10 x 2 bed, 10 x 3 bed dwellings and would be equally split between shared ownership and affordable rented tenure. The shared ownership dwellings will be offered with initial shares of between 25 and 75% with rent and service charges applied to the remaining share. This tenure provides an excellent opportunity for households to obtain a foot on the property ladder. The advantages of this tenure is that it requires a mortgage and deposit that is commensurate with the percentage purchased. The maximum share that can be acquired by the household will be 80%, which ensures that the dwelling will remain as affordable in perpetuity. There will be households in which there will be no opportunity or indeed desire to purchase even a small percentage and therefore the rented tenure will support this group of housing needs. The properties will be let in accordance with the local connection criteria imbedded in the Type and Affordability of Housing SPD together with a Local Letting Plan. The Housing Enabling and Development team are confident that there is sufficient need to support a development of this size.

4.15 Shropshire Council - Highways: Advise that there is no objection in terms of principle of development, as the site is located adjacent to the Primary School and in close proximity to other local amenities within the village of Condover. They do however recommend the following amendments to the layout of the site:

- That the footway indicated on the northern side of the estate road entering the site should be continued around the access radii and along the full length of the site road frontage up to the northern boundary of the property;
- That the visibility for the access to Plot 1 is restricted by the hedgerow around the junction and that section of hedgerow should be removed;
- That the position of the access to Plot 20 is not suitable and should be repositioned. This will necessitate the removal of a section of hedgerow around the site access junction with the adjacent public highway; and
- That Service strips are provided throughout the site.

4.16 As a result of the above comments the proposed layout has been revised to incorporate all four requested amendments, that SC Highways has advised is now acceptable.

4.17 Shropshire Council - Education: No Comment.

- 4.18 Shropshire Council - Ecology: Have reviewed the report of the Ecological Assessment that was undertaken on the site between May and August 2018 and make the following observations:
- 4.19 Habitats: Habitats on the site consist of arable land, agricultural weeds, an intact species-rich hedgerow along the eastern boundary and fencing. The landscaping scheme should include tree and shrub planting using native species of local provenance.
- 4.20 Bats: There are no potential roosting features on the site. The hedgerow is likely to be used by foraging and commuting bats. The lighting scheme for the site should be sensitive to bats (and other wildlife) and follow the Bat Conservation Trust's guidance. Bat boxes should be erected on the new dwellings to provide potential roosting opportunities for bats.
- 4.21 Great Crested Newts: There is a pond approximately 50m to the south-west of the site and another approximately 110m to the south. Both ponds were found to be dry during each of the site visits. Habitat Suitability Index assessments calculated both ponds as having 'Poor' suitability to support Great Crested Newts.
- 4.22 Birds: The hedgerow along the front of the site provides potential nesting opportunities for birds. Hedgerow 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. Bird boxes should be erected on the new dwellings to provide replacement and additional nesting opportunities. Boxes suitable for starlings (listed as 'red' on the list of Birds of Conservation Concern), house sparrows (red), swifts (amber) and/or house martins (amber) would be most valuable.
- 4.23 Other species: The hedgerow may be used by foraging and commuting hedgehogs. The following working methods should be followed to protect common amphibians, reptiles and small mammals that may enter the site during the works:
- Removal of potential refugia should be carried out by hand between March and October when the weather is warm;
  - The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife;
  - Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife;
  - Trenches should be covered overnight or contain a ramp so that any animals that become trapped have a means of escape;
  - Any common reptiles or amphibians discovered should be allowed to naturally disperse;
  - Advice should be sought from a suitably qualified ecologist if large numbers of common reptiles or amphibians are present;
  - If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and a suitably qualified ecologist contacted for advice; and
  - If a great crested newt is discovered at any stage then all work must immediately halt and a suitably qualified ecologist contacted for advice.



- 4.24 SC Ecology recommend the inclusion of conditions relating to landscaping, the provision of bat and bird boxes and the submission of a lighting plan for the lighting to be installed on the site and informatives relating to nesting birds and wildlife protection.
- 4.25 Shropshire Council - SUDS: Offer no objection subject to the inclusion of a condition requiring the submission of drainage details and the an informative on surface and foul water drainage.
- 4.26 Shropshire Council - Conservation (Historic Environment): Comment at the pre-application stage that proposed layout and style of properties should reflect the local vernacular in design and use of materials and are concerned that the submitted design does not satisfactorily reference this and leads to the creation of an awkward suburban incursion into the countryside. They are specifically concerned that the construction of solid fencing as a boundary treatment will exacerbate the detrimental effect on the rural character of this entrance to the village, and the proposed presentation of blank side elevations of the properties at the entrance to the site does nothing to reinforce a coherent aesthetic to the development. They consider that the strong traditional design and vernacular character of pairs of estate cottages could be better incorporated within the scheme if it is otherwise deemed acceptable.
- 4.27 Shropshire Council - Archaeology: Advise that the Shropshire Historic Environment record indicates that two cropmark pit alignments (HER 04919) are located c. 125m and c. 250m west of the proposed the proposed development site respectively. These features are thought to comprise the below ground remains of a land boundary of likely later Bronze Age or Early Iron Age date. A 2014 geophysical survey that included the area of the proposed development site, carried out in relation to a previous planning application (Ref. 14/00335/OUT), revealed a number of anomalies that were interpreted as agricultural features of possible medieval date. Given this and the proximity of the prehistoric pit alignments the proposed development site is considered to have low moderate archaeological potential.
- 4.28 Given this archaeological potential, and in line with SAMDev Policy MD13 and the NPPF Paragraph 141, SC Archaeology initially advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This they advised, should comprise a watching brief during the initial soil stripping or instructive ground works on the site. In response to this advice the applicant has submitted a Written Scheme of Investigation, which the SC Archaeology has confirmed is acceptable, and accordingly now recommend the inclusion of a condition requiring implementation of the submitted Written Scheme of Investigation.

## 5.0 THE MAIN ISSUES

- **Principle of the Development (including siting, scale, design and visual impact);**
- **Local Need and the Level and Type of Affordable Housing Provision;**
- **Prematurity in relation Emerging Neighbourhood Plan; and**
- **Other Matters**

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of the Development

- 6.1.1 In terms of the principle of the development, the Core Strategy Policy CS1 sets out a settlement hierarchy for Shropshire, with new development focussed in Shrewsbury, the main Market Towns, and other identified Key Centres whilst Policy CS4 seeks to ensure that in rural areas, those settlements defined as Community Hubs and Community Clusters are the focus for new development and investment.
- 6.1.2 In support of Core Strategy Policies CS1 and CS4, the adopted Site Allocations and Management of Development Plan (SAMDev Plan) (December 2015), Policy MD1 and the supporting Schedule MD1.1: Settlement Policy Framework identify Condover as part of a Community Cluster which comprises the villages of Dorrington, Stapleton and Condover
- 6.1.3 SAMDev Policy MD1 and Schedule MD1.1. are supported by Settlement Policy S16.1(vii) which identifies that development by infilling, groups of houses and conversions of buildings may be acceptable on suitable sites within the development boundaries for the villages identified on the Policies Map, with a housing guideline of around 20 to 25 in Condover.
- 6.1.4 The Policy identifies that there are two allocated housing sites in Condover which are identified on the Policies Map, comprising land opposite Condover C of E Primary School (Site CON006) and land east of Shrewsbury Road (Site CON005), which have identified provision of 5-10 houses each. The Policy identifies that the Parish Council's Village Design Statement seeks phasing of the two sites in Condover and stresses the need for the sites to include an element of affordable housing. The application site is situated immediately adjacent to, but outside, the development boundary which runs along Shrewsbury Road and opposite site CON005.
- 6.1.5 Outside the development boundary Policy CS5 applies. This states that new development will be strictly controlled in accordance with national planning policies for protecting the countryside, although this allows for some development on appropriate sites which maintain and enhance countryside vitality and character, where its improves the sustainability of rural communities by bringing local economic and community benefits, and particularly where its relate to affordable housing/accommodation to meet a local need in accordance with national planning policies and Policy CS11;
- 6.1.6 Policy CS11 on the Type and Affordability of Housing aims to ensure future housing need and to ensure the creation of mixed, balanced and inclusive communities. This includes ensuring adequate provision of affordable housing in accordance with the targets set through the Core Strategy, including permitting Exception schemes for local needs affordable housing on suitable sites in and adjoining Shrewsbury, Market Towns and Other Key Centres, Community Hubs, Community Clusters and recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.
- 6.1.7 Policy CS11 is turn supported by a more detailed policy statement in relation to the way affordable housing will be delivered in Shropshire in the Council's Type and Affordability of Housing Supplementary Planning Document (SPD) adopted in September 2012, Chapter 5 of which deals with Rural Exception Sites for local people.
- 6.1.8 In this policy context the first issue as a Rural Exception Site is whether the development meets the criteria for the policy both as a Rural Exception Site in principle

and the secondly the criteria to be applied in the determination of planning applications for such sites. There is then a further issue, which arises from the Parish Council's comments, in relation to the scheme being "community led", which is concerned with the amount, and allocation of the housing to be provided in relation to local need in Condover. I will deal with this second set of issues under a separate heading below.

- 6.1.9 In relation to the overall principle, this is not itself being disputed by the Parish Council, who both except the need for at least some additional affordable homes provision in Condover, insofar as they have indicated that there may be a basis, with some change to the design of the development, for them to withdraw their objection, to development on the site proposed.
- 6.1.10 The general principles relating to the development of Rural Exception Sites are now well established, with Paragraph 77 of the National Planning Policy Framework (NPPF) making clear that local planning authorities should support opportunities to bring forward Rural Exception Sites that will provide affordable housing to meet identified local needs. The NPPF defines Rural Exception Sites as being small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural Exception Sites, it states, seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.
- 6.1.12 The details of the how this advice is applied in Shropshire is set out in the Development Plan policy, as I have set out above, and in particular through Chapter 5 of the Council's Type and Affordability of Housing SPD. This makes clear (in paragraph 5.1 that "Exception Sites" are locations that would not normally obtain planning permission for new housing development, but the exception is made because it is development of affordable housing for local people. The sites can involve a number of dwellings (usually between 2 and 25) or be "single plot" exception sites. The former are normally developed by Registered Providers (housing associations) for a mixture of rental and shared ownership, as in the case in this application. There are criteria to be applied in relation to providing for local need, prioritising local people, tenure and ensuring affordability in perpetuity. Housing need is the main underlying issue, which if this can be demonstrated, then the other aspects of prioritising local people and the tenure and affordability considerations can be regulated either through a s.106 agreement or conditions, detailing the requirements and restrictions that will ensure that the dwellings constructed, remain available as affordable homes to meet the needs of the local community in perpetuity.
- 6.1.13 In relation to need, the application in this case states, that Shropshire Homepoint data identifies housing need in the area indicating that there are currently 18 persons/families on the waiting list for properties in Condover, with evidence of a local connection in the area. It also states that the Shropshire Council Housing Enabling Officer anticipates that there will also be hidden demand in the village once the development has started. The aim of the application to address this need by providing two and three-bedroom options for people in need of affordable housing. The properties would be allocated in accordance with the Council's local lettings criteria. As such the application confirms that there is a currently identified level of local need which justifies the number of houses proposed.

- 6.1.15 The second part of the test of whether the development is acceptable in principle is concerned with the criteria for Rural Exception Sites relating to the location, scale and design of the development. These, together with the criteria relating to providing for local need, prioritising local people, tenure and ensuring affordability in perpetuity are set out in paragraphs 5.4 and 5.5 of the SPD.
- 6.1.16 In relation to location, the SPD states that Exception Sites must be demonstrably part of, or adjacent to, a recognisable named settlement. It states that sites that do not lie in a settlement, constituting isolated or sporadic development, or which would adversely affect the landscape, local historic or rural character (for example due to an elevated, exposed or other prominent position) should not be considered to be acceptable.
- 6.1.17 In this case it cannot be argued that the site is isolated or sporadic development; it lies adjacent to the development boundary for Condover, immediately adjacent to the Primary school and is within easy walking distance of other social and community facilities in the village. It is visually detached from the rest of the village by the adjacent school playing field to the immediate south, but with the development of the two allocated sites on the east side of Shrewsbury Road almost immediately adjacent to the site, it will with the development of these sites, become part of the continuous built up area of Condover, albeit that much of this is characterised by individual houses set back in their plots with hedges along the street and road frontages.
- 6.1.18 The Parish Council's comments in its second response confirms its objection on the grounds that the proposed site is outside the development boundary, but this is only a qualified objection to the extent that it also states that its objection could potentially be overcome, i.e. the objection is not necessarily one which is fundamentally opposed to development of the site. The fact that the site is outside the development boundary where housing would not otherwise be approved, is the reason for the application being submitted as a Rural Exception Site. As such in terms of the location if it meets the criteria for such a Site, which in this case I consider that it does, then it cannot be considered to be contrary to Policies CS5 or CS11 or otherwise a justifiable reason for refusal.
- 6.1.19 Turning to the issue of scale and design, one other point that arises from the Parish Council's comments relates to the reference to the appeal decision on Application Ref. 14/00335/OUT (as detailed above). The Parish Council argues that the Planning Inspector in his appeal decision letter considered that development of the larger site that was the subject of the application and appeal at that time would unacceptably spoil the vista and appearance of the village. This is correct, although it was not the main issue in the stated reason for refusal in his decision to dismiss the appeal and uphold the Council's decision to refuse the application. This was he stated in the conclusion to his decision letter, because the application was primarily for additional market housing of the scale proposed and was outside the settlement boundary at a time when the Council had demonstrated a 5 year supply of deliverable housing land. As such approval was not justified.
- 6.1.20 The Parish Council in their comments also state that the Inspector concluded that "the development at the lower area of the field would not have this negative impact". This however is not an inaccurate reflection of the Inspector's comment in that he was concerned with the impact of the development as a whole, and was in fact more

critical of the impact on the lower end of the site adjacent to Station Road than the upper end of the site. He concluded that:

*“Although the proposed layout would seek to retain much of the existing hedgerow along the two adjacent roads and would also provide scope for additional planting, to be submitted under reserved matters, it would result in a significant number of breaks in the existing mature hedgerow to provide means of access. Some of these gaps would be relatively large, particularly along the narrow Station Road, which has an attractive appearance as a rural lane. Even though the proposed footway along that road would be set behind the hedge, it would need to join onto the existing highway by the creation of a gap in the hedgerow, and also gaps would need to be created for driveways and the proposed access road to part of the site. This would result in a harmful erosion of the rural character and appearance of that section of Station Road”.*

6.1.21 He was also concerned about the impact on the Shrewsbury Road, but in particular about the impact of the proposed layby adjacent to the school play field. In relation to this he commented that

*“Whilst there would be fewer gaps created in the hedgerow along Shrewsbury Road, the provision of a lay-by to be used for parking near to the School playing fields would be likely to reduce the level of planting adjacent to that road. In addition, some of the proposed houses would back onto that road and their rear elevations would be clearly visible over the remaining hedgerow. I agree with the Council’s submissions at the hearing that the proposed layout would not be consistent with the existing development along Shrewsbury Road, which generally fronts that road. With the provision of the proposed network of roads from Shrewsbury Road and a new footway and lay-by, it would provide the look of a suburban estate, which would fail to reflect the semi-rural character of the other development along that road. As such, the proposed development would seriously harm the character and appearance of that part of Shrewsbury Road and the approach to Condover Village”.*

6.1.22 Given these comments on the previous application, the Parish Council nevertheless raises a valid point about the impact of the development in terms of the scale and design in relation to the vista and appearance of the village. Whilst I consider that some weight can be attached to these comments, the scale of the development proposed in the current application is significantly less than in the application submitted in 2014 and would include only one point of access on to the Shrewsbury Road, no layby and would retain most of the existing hedge along the frontage with Shrewsbury Road. This together with the additional housing development along the east side of the Shrewsbury Road, combine to ensure that the impact along the eastern boundary of the site, will be substantially less significant than the impact of the development for which the 2014 application was submitted. It is proposed to include a footpath link to the school to the south, but this I consider to be essential to ensure safe pedestrian access from the site to the school and the centre of Condover as there is no pavement along Shrewsbury Road north the school, which is currently a significant hazard, as stated by objectors, to pedestrians who wish to walk from the existing houses to the north into the centre of the village, as well from the residents of the proposed housing.

6.1.23 The applicant has accordingly amended the application to include a further length of footpath to the north the junction of the internal access road with the Shrewsbury Road, as requested by the Parish Council. I do not consider this to be necessary in relation to

the development proposed, and it will add an additional urbanising feature to the development. The applicant is however willing to offer this in response to the Parish Council's request and it will improve pedestrian safety in a location where there is currently a significant hazard.

6.1.24 The proposal does not by contrast include the layby adjacent to the school requested by the Parish Council. Not only was the Inspector critical of this specific aspect of the development proposed in the 2014 planning application and subsequent appeal, but there is simply no justified need in asking for this in relation to the proposed affordable homes, as the occupiers of the houses would have no need to use these spaces, given they will be amongst the closest houses adjacent to the school. A requirement to include this cannot therefore reasonably be justified to make the development acceptable.

6.1.25 In overall terms therefore, I consider that the Principle of the Development in this case meets the criteria for the granting planning permission for the development of the site, as a Rural Exception Site. There is confirmed local need, conditions can be attached the consent setting out the requirements and restrictions that will to ensure that the dwellings constructed remain available as affordable homes to meet the needs of the local community in perpetuity, and the scheme can be considered to be acceptable in terms of its location and scale and layout.

6.1.26 As such there is a clear identified assessed need which has been confirmed by the Council's Housing Enabling Officer. The development accordingly meets the requirements as a Rural Exception Site of Core Strategy Policies CS1, C4, CS5 and CS11. Whilst as a Rural Exception Site it is outside the settlement boundary it is immediately adjacent to it and close to all the major community facilities in Condover and is adjacent to both of the allocated housing sites identified in the SAMDev on the Policies Map.

## **6.2 Local Need and the Level and Type of Affordable Housing Provision**

6.2.1 The issues under this second heading essentially arise from the comments of the Parish Council (set out above) but also form part of the overall need argument relating to the Principle of the Development set out above.

6.2.2 The overall need case is as set out in paragraph 6.1.13 above and had been confirmed by the Shropshire Council Housing Enabling Officer and by the Affordable Homes Officer (see above).

6.2.3 It is the identified level of need that the Parish Council is concerned about, not the need itself and it acknowledges that there is a "current gap in provision". In particular its concern is that additional provision should be community-led and it does not consider that housing need has been demonstrated, based on the recent experience in letting Brook Close development, which was granted planning permission in 2015 (Ref. 15/00671/FUL) and undertaken by Severnside Housing.

6.2.4 Although allocations for Brook Close have been made on the basis of the Shropshire Council's Housing Allocations Policy, the Parish Council states that the cascade for letting Brook Close has pushed beyond Parish boundary, and accordingly their concern is that local need in Condover is not at a level to justify development of the scale

proposed. Brook Close was a Community Led Exception Site Scheme and as such the Community Group were able to define through a Local Lettings Plan a requirement for a connection to a specific area of the Parish cascading to a wider geography over time. This Local Letting Plan effectively overrides the local connection area outlined in SPD Type and Affordability of Housing.

- 6.2.5 The allocations policy and how this operates is not itself at issue and this, for planning purposes, is set out in the Council's Type and Affordability of Housing SPD. This identifies the "Cascade Approach" to allocations, which is to apply once new housing has been built and reallocation of housing is to be made when properties become empty and available. Paragraphs 5.43 and 5.44 set out how the cascade will be applied. They state that:

*"5.43 A balance needs to be struck between keeping the affordable housing for local people, and affordable housing lying empty if there are no local persons at that time who are eligible to occupy the affordable housing. While exception sites are for local people and they will rightly be considered first, if there are no eligible local persons in housing need then the property must be made available to a wider catchment area of potentially eligible occupiers.*

*5.44 The 'cascade' approach is a progressive widening of the local area over time until an eligible person in housing need is found. The two important elements of a cascade are the geographic extent, and the time required before moving to the next level of the cascade. Such provisions may be revised from time to time, taking account of advice received from registered providers, mortgage lenders, financial advisors, government advice and other best practice. This is especially relevant for Shared Ownership and Single Plot affordable dwellings".*

- 6.2.6 If initial need is based upon the need at the time that any application for planning permission is submitted, and that need is identified as entirely local, then the cascade should not and will need to apply, and this is the case in terms of need that has been presented in relation to this application (as set out above). As such issue of the operation of the cascade is not directly relevant in the context of the current application. If the Parish Council is concerned that the operation of the cascade is resulting in allocations to prospective tenants from outside the Parish, then this will only occur in accordance with the allocations policy after the application of a priority order which should in the first instance offer local needs affordable homes to prospective tenants in accordance with the Policy, i.e. people with a local connection in preference to people from outside the Parish or without a connection to the Parish. This is ensured through the Planning Permission by the inclusion, as a standard condition for Rural Exception Sites, as set out in the Council's Type and Affordability of Housing SPD, that all lettings must meet the local connection and/or cascade requirements set out in the SPD. This is to ensure that compliance with the requirements with Core Strategy Policy CS11 and the SPD.

### **6.3 Prematurity in relation to the Emerging Neighbourhood Plan**

- 6.3.1 A further issue arising from the comments of the Parish Council, is its concern that it is the in the early stages of developing a Neighbourhood Plan for the Parish which, in line with the Local Plan Review, will also to cover the period to 2036. As set out above it states that local priorities for housing are emerging to meet housing needs and

aspirations through staged mixed development over the full period of the Neighbourhood Plan/Shropshire Local Plan. As part of the approach it is currently seeking to bring forward, it states that the development of a 100% affordable housing site of the scale proposed, delivered as a Rural Exception Site would conflict with the Parish's preference for integrated mixed development, i.e. sites that are a mix of market housing and affordable homes.

- 6.3.2 Members will be aware that the Shropshire Local Plan Review Consultation on Preferred Sites started on 29th November 2018 and is due to continue until the 31 January 2019. It should be noted that this does not as yet include any specific proposals for Condover, but instead states that the amount of development to be delivered through site allocations and through windfall development will be determined by the Condover Parish Neighbourhood Plan.
- 6.3.3 What this issue raises, is the question of just how much weight can be attached to the emerging Neighbourhood Plan, and whether the current application can potentially be refused on the basis that it would be prejudicial to the strategy and objectives to be set out in the future neighbourhood plan and therefore whether granting of planning permission would be premature?
- 6.3.4 The position currently is that Condover Parish Council submitted an application to Shropshire Council for the designation of a Condover Parish Neighbourhood Plan Area in April 2017, which was approved by Cabinet in September 2017. Since then it is understood that the Parish Council has set up a Steering Group to take forward work on the Plan, although as yet no draft Neighbourhood Plan has been prepared, published or been subject to statutory consultation.
- 6.3.5 In this situation the question is what status and weight can be attached to the Neighbourhood Plan? There is specific guidance on this point set out in the Planning Practice Guidance (PPG) on Neighbourhood Planning. This makes clear that the status of the Neighbourhood Plan is the same as the legal status as the Local Plan once it has been approved at a referendum. At this point it comes into force as part of the statutory development plan and applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (s.38(6) of the Planning and Compulsory Purchase Act 2004). The Condover Parish Neighbourhood Plan is clearly not yet at this stage, and as such does not form part of the statutory development plan
- 6.3.6 The question then is, can any weight be attached to the emerging plan, and if so how much? Planning Practice Guidance (Paragraph: 007 Reference ID: 41-007-20170728) on this point advises that an emerging neighbourhood plan may, although not part of the statutory development plan, be a material consideration and that as such it is for the decision maker in each case to determine what weight to give to it. It refers to Paragraph 48 of the NPPF which sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider, its states include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, as part of the development plan, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and



effectiveness of the consultation that has informed the plan proposals. And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority's publicity period.

6.3.7 Paragraph: 008 Reference ID: 41-008-20170728 of the PPG on Neighbourhood Planning specifically addresses the question of the circumstances in which it might be justifiable to refuse planning permission on the grounds of prematurity. It refers to Annex 1 of the National Planning Policy Framework which explains how weight may be given to policies in emerging plans. However, in the context of the Framework and in particular, the presumption in favour of sustainable development it states that

*“arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:*

- (a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and*
- (b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area”.*

6.3.8 It goes on to state that:

*“Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process”.* (Paragraph: 014 Reference ID: 21b-014-20140306).

6.3.9 In the light of the above advice and the fact that there is yet not even a draft Neighbourhood Plan, the stated preference of the Parish Council that local priorities for housing should be met through staged mixed development over the full period of the Neighbourhood Plan/Shropshire Local Plan, cannot at this stage be attributed any significant weight and certainly not the degree of weight required to warrant refusal of the current planning application.

6.3.10 One further point arising from Paragraph: 008 Reference ID: 41-008-20170728 of the PPG on Neighbourhood Planning is that it makes clear that the policies of the NPPF must be taken into account as a material consideration. As I have set out in paragraph 6.1.10 above, the general principles relating to the development of Rural Exception Sites are now well established with Paragraph 77 of the NPPF which makes clear that local planning authorities should support opportunities to bring forward Rural Exception Sites that will provide affordable housing to meet identified local needs. In this context and with the stated policy set out in Core Strategy Policy CS11, any policy that may be set out in the Draft Neighbourhood Plan that is inconsistent with Policy CS11 and

Paragraph 77 of the NPPF is unlikely to meet what are known as the “basic conditions” that must be satisfied when the Plan is submitted for Independent Examination and before it can be submitted for referendum. These include “having regard to national policies and advice contained in guidance issued by the Secretary of State” and that it is “in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)”. On this basis, refusing the application at such an early stage in the preparation of the Neighbourhood Plan, and on the basis of informal statement of a future preferred policy approach, that were to be incorporated into the submission draft of the Neighbourhood Plan, that carries a potentially significant risk of not meeting the “basic conditions” is unlikely to be defensible at appeal.

6.3.11 For the reasons I have set out above, I consider that refusal of the application on the basis of the Parish Council argument that the development of a 100% affordable housing site of the scale proposed, delivered as a Rural Exception Site would conflict with the Parish’s preference for integrated mixed development, i.e. sites that are mix of market housing and affordable homes, could not be sustained on appeal.

## 6.4 Other Issues

6.4.1 Highway Safety: There are three highway safety issues that have been raised by objectors in relation to highway safety. The first concerns the access on to the A49 south of Bayston Hill. Whilst this may be a valid highway safety concern, it is simply too remote from the site to amount to valid material consideration, particularly given the other potential vehicular routes into and out of Condover. Second in relation to the provision of footpath along Shrewsbury Road, this has been addressed by the applicant, and I have recommended a condition requiring the completion of the proposed footpaths along Shrewsbury Road prior to the occupation of the development. And third, in relation to visibility, it is proposed as part of the landscaping works to realign and replant the hedge along the front of the site to improve and ensure satisfactory visibility and SC Highways have advised that the proposed layout and design is acceptable. In relation to highway safety, the scheme can accordingly be considered to be acceptable in relation to Core Strategy Policy CS6 and SAMDev Policy MD2.

6.4.2 Ecology: The SC Ecologist has advised that the proposed scheme is acceptable subject to the inclusion of conditions relating to landscaping, the provision of bat and bird boxes and the submission of a lighting plan for the lighting to be installed on the site (and informatives relating to nesting birds and wildlife protection). With the inclusion of these conditions the scheme can be considered to be compliant with Core Strategy Policy CS15, SAMDev Policy MD12 and the NPPF Paragraph 175 and the legal requirements of the Habitats Regulations/Directive in relation to the protection of European Protected Species and the Council can be considered to have complied with the statutory duty to protect biodiversity under s.40 of the Natural Environment and Rural Communities Act 2006.

6.4.3 Drainage: The SC SUDS team have advised that the proposed scheme is acceptable subject to the inclusion of a condition require the submission of surface and foul water drainage details. The scheme can accordingly be considered to be acceptable in terms of the drainage requirements of Core Strategy Policies CS6 and CS18, SAMDev Policy MD2 and the NPPF Paragraph 163.

6.4.4 Impact on the Historic Environment: In response to the comments of SC Conservation the applicant has advised that the design dwellings and site layouts were developed bearing in mind comments received in the Shropshire Council Pre-Application enquiry response (PREAPP/18/00095 dated 20 March 2018) with the curved access road and pairs of dwellings with cottage type elevations. They state that as with many villages in Shropshire, Condover has developed over time with many different architectural elements in evidence throughout the village with no one style dominating. This is the case along the Shrewsbury Road, with a combination of Edwardian and other twentieth century cottages, mainly constructed in semi detached pairs. The proposed dwellings are shown with varied features to reflect this architectural blend, with which it is not inconsistent. As such there is no substantive basis on which to argue that the design of propose dwellings is inconsistent with other nearby and adjacent properties along the Shrewsbury Road. The retention of most of the hedge along the Road frontage along the Shrewsbury Road, will not only serve in part to screen the proposed houses, and absorb them into the landscape once developed, but will retain a feature which is common with most of the other properties along the Shrewsbury Road. As such the scheme as proposed can be considered to be acceptable in terms of the requirements of the Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD13 and the NPPF Paragraph 127.

6.4.5 In relation to archaeology, SC Archaeology has confirmed that the scheme is acceptable, subject to the inclusion of a condition requiring implementation of the submitted Written Scheme of Investigation. As such the scheme as proposed can be considered to be acceptable in terms of the requirements of the Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD13 and the NPPF Paragraph 199.

## **7.0 CONCLUSION**

7.1 The proposed development of 20 affordable dwellings as a Rural Exception Site is acceptable in terms of: the principle of the development (including siting, scale, design and visual impact); local need and the level and type of affordable housing provision; the issue of prematurity in relation emerging neighbourhood plan; and other matters. It is therefore in accordance with Shropshire Local Development Framework Adopted Core Strategy (March 2011), Policies CS1, CS4, CS5, CS6, CS11, CS17 and CS18, the Shropshire Council Site Allocations and Management of Development Plan (SAMDev Plan) (December 2015), Policies MD1, MD2, MD12 and MD13 and the NPPF.

## **8.0 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, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party.

- 8.1.2 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.
- 8.1.3 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.

## **9.0 Financial Implications**

- 9.1 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**

### **10.1 Relevant Planning Policies**

#### 10.2 Central Government Guidance:

- National Planning Policy Framework (2018); and
- National Planning Practice Guidance (Updated 2018).

#### 10.3 Core Strategy and Saved Policies:

- Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011):
  - Policy CS1: Strategic Approach;
  - Policy CS4: Community Hubs and Community Clusters;
  - Policy CS5: Countryside and Green Belt;
  - Policy CS6: Sustainable Design and Development Principles;
  - Policy CS11: Type and Affordability of Housing;
  - Policy CS17: Environmental Networks; and
  - Policy CS18: Sustainable Water Management.
- Shropshire Council, Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015):
  - Policy MD1: Scale and Distribution of Development;
  - Policy MD2: Sustainable Design;
  - Policy MD12: Natural Environment;
  - Policy MD13: Historic Environment; and
  - Settlement Policy S16 Shrewsbury.

#### 10.4 Supplementary Planning Documents (SPDs):

- Type and Affordability of Housing Supplementary Planning Document (Adopted September 2012)

#### 10.5 Other Relevant Documents

- Condover Village Design Statement (May 2010)

#### 10.6 Relevant Planning History

:

- 14/00335/OUT: Outline Planning Application for the erection of 47 dwellings (including 7 affordable houses), school hall, carparking area and enlarged school playing field for existing school, allotments, village green and informal open space, that was refused consent in November 2014 and which was subsequently subject to an appeal APP/L3245/W/15/3007929 that dismissed in January 2016;
- PREAPP/18/00095 Rural Exception Site for 20no. affordable units with affordable rent and shared ownership.

## 11. Additional Information

[View details online:](#)

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

- Planning Application Supporting Statement (Undated);
- Ecological Assessment (May 2018);

- Landscape and Visual Appraisal (October 2018);
- Landscape Mitigation Plan 2992-001 Rev A (16<sup>th</sup> October 2018); and
- Tree Condition Report/Arboricultural Impact Assessment/Method Statement and Tree Protection Plan (13th March 2018).

Cabinet Member (Portfolio Holder)

- Cllr R. Macey

Local Member

- Cllr Dan Morris

Appendices

- APPENDIX 1 - Conditions

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

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

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

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

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

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

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

- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- a Construction Traffic Management Plan, including all HGV routing & unloading proposals; and
- an appropriate community liaison and communication strategy, to inform affected local residents and businesses, throughout the works.

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

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

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

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

5. Prior to first occupation/use of the buildings, a landscaping plan, shall be submitted for the prior written approval to the local planning authority. The submitted plan shall include:
- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
  - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - d) Native species used are to be of local provenance (Shropshire or surrounding counties);
  - e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works; and
  - f) Implementation timetables.

The plan shall be carried out as approved.

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

6. Prior to first occupation/use of the buildings, the makes, models and locations of bat and bird 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 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species; and
  - A minimum of 6 artificial nests, 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.

7. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The 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.

8. No above-ground development shall commence until samples/precise details of all external materials/finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and thereafter maintained.

Reason: To ensure that the external appearance of the development is satisfactory, in accordance with Policies CS4, CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

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

9. Prior to the commencement of development, the tree protection measures set out in the Tree Condition Report/Arboricultural Impact Assessment/Method Statement and Tree Protection Plan prepared by Arborist & Ecological Services Ltd dated 13th March 2018 should be installed and subject to the written approval of the Local Planning Authority. Thereafter the tree protection barriers should remain in place throughout the duration of the development and only be taken down once all machinery, equipment and surplus materials have been removed from site. The tree protection barriers shall define a construction exclusion within which there is to be no construction related activity of any kind without the prior written approval of the Local Planning Authority.

Reason: To safeguard significant trees and hedges in order to safeguard the residential amenities of neighbouring properties, in accordance with Policies CS6, CS11 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

10. The programme of archaeological work for the development approved by this permission shall be carried out in complete accordance with the Written Scheme of Investigation by Aeon Archaeology submitted on December 2018 (v1.0).

Reason: The site is known to hold archaeological interest.

11. The existing hedge along the frontage with Shrewsbury Road shall be retained as shown on Drawing No. 268-01-02 Rev A Block Plan dated September 2018.

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.

12. The affordable dwellings hereby approved shall be for rent or shared ownership in the number indicated on the approved plan and shall not be let or occupied other than either:-

- a) under a tenancy in accordance with the normal letting policy of a Registered Provider; and/or

- b) by way of a Shared Ownership lease or equity share arrangement whereby the occupier cannot progress to or achieve a share greater than 80% of the whole (unless subject to Homes England grant funding);

Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 to ensure affordability in perpetuity.

13. In addition to the requirements of the Shropshire Affordable Housing Allocation Policy and Scheme, all lettings by Registered Providers shall meet the local connection and/or cascade requirements set out in the Shropshire Type and Affordability of Housing SPD or any policy or guidance that may from time to time replace it.

Reason: To ensure compliance with Shropshire Core Strategy Policy CS11 with regard to local needs and prioritisation for local people.

14. The affordable housing units for rent shall be advertised through the Shropshire Choice Based Letting scheme and allocated through the Shropshire Housing Allocation Policy and Scheme. The affordable housing units for sale shall be advertised in the Shropshire Choice Based Letting scheme.

Reason: To ensure that all affordable properties are advertised to local people and that the Shropshire Housing Allocation Policy and Scheme (in combination with any local lettings plan) is applied in allocating the affordable properties for rent.

15. The development hereby permitted shall not be brought into use/occupied until the internal access road, including the junction with Shrewsbury Road, visibility splay and footpaths, including the footpath along the frontage with Shrewsbury Road and the footpath link connecting with the existing footpath adjacent to the Condover Primary School, have been completed and the car parking for each dwelling completed before that dwelling is occupied, as shown on the approved Drawing No. 268-01-02 Rev A Block Plan dated September 2018.

Reason: To ensure completion of the internal access road and the provision of adequate car parking, to avoid congestion on adjoining roads, and to protect the amenities of the area.

16. The car parking spaces to be provided shall be kept available for the parking of motor vehicles at all times. The car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Reason: To ensure an appropriate level of parking is provided for the lifetime of the development.

17. The site shall be landscaped in accordance with the approved Landscaping Plan (Ref. SA30963 21). All planting/seeding/turfing comprised therein shall be completed during the first planting/seeding seasons following the substantial completion or first occupation of the dwelling, whichever is the sooner. Any trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, to safeguard the visual amenity of the adjacent Shropshire Hills Area of Outstanding Natural Beauty, and to help ensure a reasonable standard of privacy in neighbouring properties, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

### **Informatives**

#### **General**

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.

#### **Ecology**

##### **Nesting Birds**

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/or 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 the building and begin nesting, work must cease until the young birds have fledged.

##### **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.

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).

## **Drainage**

1. The proposed surface water drainage system for the site should be detailed. This should illustrate how the development will comply with Shropshire Council's Surface Water Management: Interim Guidance for Developers and the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework for the particular flood zone/ site area (any Flood Risk Assessment required should comply with this) and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures such as the following:

- Surface water soakaways (Designed in accordance with BRE Digest 365)
- Swales
- Infiltration basins
- Attenuation ponds
- Water Butts
- Rainwater harvesting system
- Permeable surfacing on any new access, driveway, parking area/ paved area
- Attenuation
- Greywater recycling system
- Green roofs

2. 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.

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

Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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. The allowances set out below must be applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area

Less than 25 10

30 8

35 6

45 4

More than 50 2

Flats & apartments 0

Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum. Curtilage means area of land around a building or group of buildings which is for the private use of the occupants of the buildings.

4. Highway Gully Spacing calculations should be submitted for approval. Where a highway is to be adopted and gullies will be the only means of removing surface water from the highway, footpaths and paved areas falling towards the carriageway, spacing calculations will be based on a storm intensity of 50mm/hr with flow width of 0.75m, and be in accordance with DMRB CD526 Spacing of Road Gullies (formerly HA102) Gully spacing calculations must also be checked in vulnerable areas of the development for 1% AEP plus climate change 15 minute storm events. Storm water flows must be managed or attenuated on site, ensuring that terminal gullies remain 95% efficient with an increased flow width.

The provision of a finished road level contoured plan showing the proposed management of any exceedance flows should be provided. Vulnerable areas of the development are classed by Shropshire Council as areas where exceedance flows are likely to result in the flooding of property or contribute to flooding outside of the

development site. For example, vulnerable areas may occur where a sag curve in the carriageway vertical alignment coincides with lower property threshold levels or where ground within the development slopes beyond the development boundary.

Shropshire Councils Surface Water Management: Interim Guidance for Developers, paragraphs 7.10 to 7.12 (Local Standard D of the SUDS Handbook) requires that exceedance flows for events up to and including the 1% AEP plus CC should not result in the surface water flooding of more vulnerable areas (as defined above) within the development site or contribute to surface water flooding of any area outside of the development site.

By calculating highway gully spacings in this way it will ensure a highway surface water drainage system for a site which is fully compliant with regulations and is of a sufficiently robust design.

5. The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations.

### **Section 38 Agreement**

If it is the developer's intention to request Shropshire Council, as Highway Authority, to adopt the proposed roadworks as maintainable at the public expense, then details of the layout, alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations shall be submitted to: Highways Development Control, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND.

No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into for all work on, within or abutting the public highway (including all footpaths and verges).

<https://shropshire.gov.uk/roads-and-highways/development-on-the-highway/housing-and-industrial-estate-roads/>

This planning permission does not authorise the applicant to:

- construct any means of access over the publicly maintained highway (footway/verge) or
- carry out any works within the publicly maintained highway, or
- authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or
- undertaking the disturbance of ground or structures supporting or abutting the publicly maintained highway, or
- undertake the placing of a skip, scaffolding, hording or fencing on or immediately adjacent to the highway, or
- use the highway for any purpose associated with the construction of this development, such as unloading delivery vehicles, parking of plant or machinery or

- the storage of materials, etc.

The applicant should in the first instance contact Shropshire Councils Street works team.

See: <https://shropshire.gov.uk/roads-and-highways/application-forms-and-charges/>

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.

It should also be noted that the Developer may be directed by Shropshire Council to carry out works, within the public highway, overnight or at weekends (outside of the scope of the planning consent) to ensure through traffic disruption and health & safety requirements are managed appropriately.

### **Waste Collection**

The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

Please see: <https://shropshire.gov.uk/media/2326/shropshire-refuse-and-recycling-planning-guidance-september-2015.pdf>

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<u>Committee and date</u>
Central Planning Committee
17 January 2019

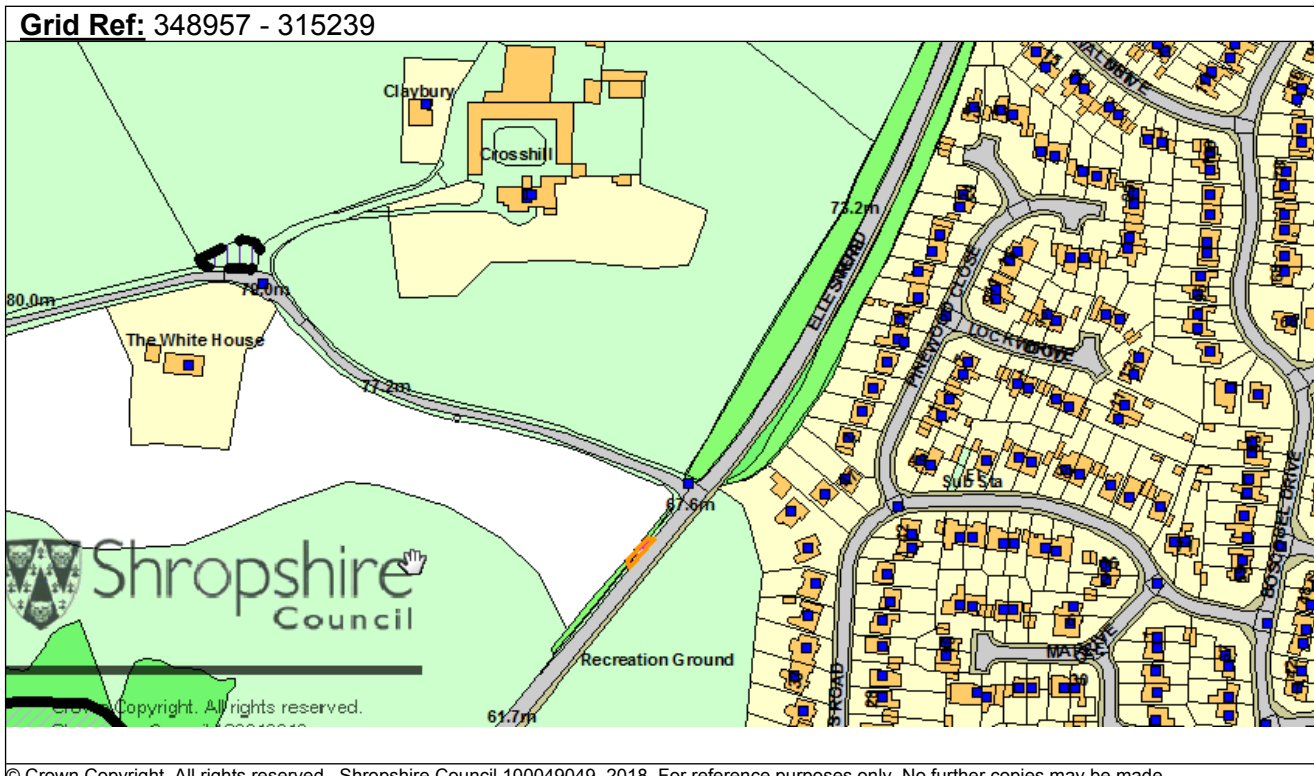
<u>Item</u>
<b>7</b>
Public

## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 18/04537/ADV	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erect and display 2No. externally illuminated roadside feature display entrance name signs		
<b>Site Address:</b> Proposed Concierge Glamping Site at Hencote Farm Cross Hill Shrewsbury Shropshire		
<b>Applicant:</b> Mr Andrew Stevens		
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	



**Recommendation:** Grant advert consent subject to the conditions set out in Appendix 1.

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

1.1 This application relates to advert consent to erect and display two externally illuminated roadside feature display entrance name signs.

**2.0 SITE LOCATION/DESCRIPTION**

2.1 The signs will be located either side of the entrance drive that serves the Hencote estate vineyard, winery and restaurant that is accessed off Ellesmere Road to the North of Shrewsbury.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The Town Council have submitted a view contrary to officers and the Planning Manager in consultation with the committee chairman, vice chairman and the Local Member agrees that the Town Council has raised material planning issues and that the application should be determined by committee

**4.0 Community Representations****4.1 - Consultee Comments**

4.1.1 There are no statutory consultees for this application.

**4.1.2 - Public Comments**

4.1.3 **Shrewsbury Town Council** - The Town Council objects to this application as Members consider the signs, which sit on the edge of Shrewsbury Conservation Area, to be unnecessarily big. They question the need for the signs to be illuminated and if lighting is essential request that conditions be imposed whereby the lights are turned off outside of business operating hours.

4.1. **Three letters of objection** received from the public summarised as follows:

Note these comments were received in relation to earlier signs displayed at the site  
These signs have now been removed and the frames that remain will also be removed from the site.

Only one sign is necessary.

One sign obliterates the other sign

The two signs are a distraction to road users

The signs are too large and inappropriate and look like signs at the entrance to a 'Harvester' style restaurant that are designed to attract passing trade.

The signs should be more discrete and appropriate for a 'country estate'.

Any signs should be smaller and for information only and not advertising purposes.

It is not necessary for the signs to be illuminated

Illuminated signs in addition to the lights already at this site are incompatible with

protecting the increasingly fragile tranquility of Winney Hill and environs, and insufficiently minimises light disturbance for local wildlife.

## 5.0 THE MAIN ISSUES

The NPPF and the advert regulations advise that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

## 6.0 OFFICER APPRAISAL

### 6.1 Impact on public safety and amenity

6.1.1 Planning Practice Guidance advises that *'amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement'*.

6.1.2 Officers initially considered that the signs were too large and that illumination was inappropriate in this location which although close to the urban boundary of Shrewsbury is situated in countryside. The agent was advised that it was considered that the proposed signs would adversely affect the visual amenity of the area due to their scale and proposed illumination not being in keeping with the character of the locality where they are proposed to be sited.

6.1.3 The applicant has since temporarily erected the signs so that the scale and visual impact of the signs could be better assessed. The signs do not contain any advertising material but simply display the name of the estate 'Hencote' and the company logo of a tree.



- 6.1.4 It is considered that having regard to the design and materials proposed and the limited advertising material being displayed the signs are an appropriate scale given the context of the site and would have no adverse impact on the visual amenity of the locality. Landscaping is also proposed including planting and boulders and it is considered that this will soften the appearance of the signs and enhance the appearance of the entrance to the site.
- 6.1.5 The signs will frame the access to the site and are angled to face in opposite directions so that they can be viewed by traffic approaching from either direction. Due to there being no advertising material to read, the signs would not be a distraction to drivers. They are also positioned so that they will not impact on the visibility of drivers exiting the site. It is therefore considered that the proposal would have no adverse impact on highway or public safety.
- 6.1.6 The signs are proposed to be illuminated by low level lights to externally illuminate the surface of the signs. The proposed illuminance levels or lux will be 9 lumens per square metre (9 cd/m<sup>2</sup>). Illuminance is a measure of how much luminous flux is spread over a given area and is a measure of the intensity of illumination on a surface. A luminance level of 9 cd/m<sup>2</sup> is very low and it is considered that it would have no adverse impact on visual amenity or result in glare to drivers. However in order to minimise any unnecessary illumination at night a condition is recommended so that the signs are only illuminated when the restaurant and winery are open to the public.

## 7.0 CONCLUSION

- 7.1 Subject to the recommended conditions it is considered that the scale, location, design and materials of the proposed signs and proposed illumination would have no adverse impact on public safety and would have no adverse impact on the character and appearance of the site or the visual amenity of the locality. It is considered that the proposed development meets the criteria of national guidance on advertisements and of Core Strategy Policy CS6.

## 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  
Advert Regulations

**Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:**  
CS6

**RELEVANT PLANNING HISTORY:**

15/03349/FUL Erection of a winery, visitor centre (to include a restaurant and event hall) and maintenance building; formation of court yard, service yard, visitors car parking; landscaping to include boundary fencing and entrance gates; associated facilities GRANT 24th March 2016

16/01596/FUL Change of use from Holiday lets to a Private Hotel (C1) use. GRANT 9th June 2016

17/04363/FUL Creation of a concierge 10 unit glamping site for tourism and leisure operation (using previously approved vehicular access); formation of car parking area GRANT 19th January 2018

11. Additional Information

**List of Background Papers**

18/04537/ADV - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder): Cllr R. Macey

Local Member: Cllr Alex Phillips

**APPENDIX 1: Conditions**

**STANDARD CONDITION(S)**

1. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. No advertisement shall be sited or displayed so as to—

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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

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

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

7. Prior to the installation of external illumination of the sign full details of the external lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details and shall thereafter be maintained.

Reason: To enable the Local Planning Authority to minimize light spillage beyond the site and thus minimize the potential for light pollution and safeguard residential and local amenity.

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

8. The sign permitted by this consent shall only be illuminated during the opening hours of Hencote restaurant, winery and visitor centre.

Reason: To minimize the potential for light pollution and safeguard residential and local amenity.





Committee and date  
 Central Planning Committee  
 17 January 2019

Item  
8  
 Public

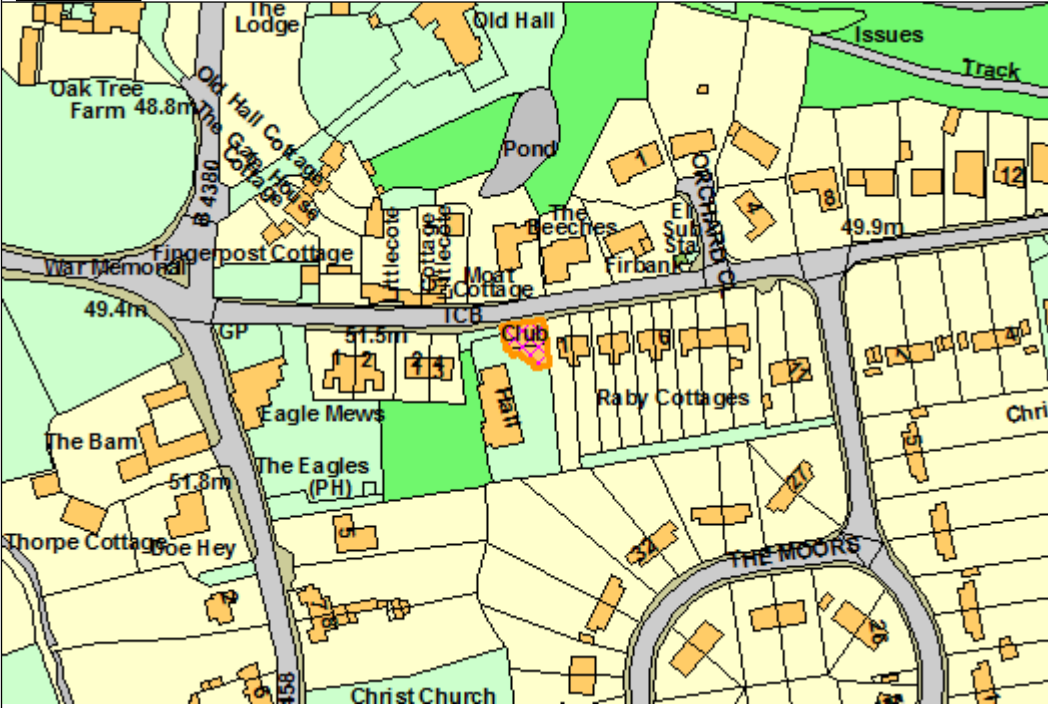
## Development Management Report

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

### Summary of Application

<b>Application Number:</b> 18/05041/FUL	<b>Parish:</b>	Cressage
<b>Proposal:</b> Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective)		
<b>Site Address:</b> Cressage Men's Club, Sheinton Road, Cressage, Shrewsbury, SY5 6BY		
<b>Applicant:</b> Cressage Social Club, Cressage Social Club		
<b>Case Officer:</b> Andrew Sierakowski	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 359265 - 304134



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

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This is a retrospective application under s.73A Town and Country Planning Act 1990 for the installation of a decked area on the western gabled end of the Cressage Social Club.
- 1.2 The decked area has already been completed and comprises a five-sided area of decking measuring 5.70m x 4.35m constructed on slightly rising ground so that it is 0.66m above ground level on the north side adjacent to the pavement along Sheinton Road and 0.20m high above ground level on the south side. It is constructed of standard unstained treated timber decking boards and posts and includes a handrail, constructed of boards at a height of 0.56m above the level of the decking. The sides are finished off with horizontally mounted boards. There are concrete steps up to the decking on the north side and a ramp on the south side, adjacent to entrance to the club. The purpose of the decking is to provide an outside seating area that accommodates benches.

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

- 2.1 The site comprises an area adjacent to the western gable end of the Cressage Social Club, on the south side of Sheinton Road, approximately 90m east of the junction of Sheinton Road, the B4380, Station Road, and the A458 Much Wenlock to Shrewsbury Road.
- 2.2 Cressage Village Hall is located behind the Social Club on the south side of Sheinton Road, with residential properties making up most of the other properties along the north and south side of Sheinton Road, including directly opposite the Club. The Village Hall includes a car park at the rear of the Social club, the access into which, is immediately adjacent to the area of decking.
- 2.2 The Social Club is a single storey red brick-built building with flat-roofed extensions to the side adjacent to the area of decking and to the rear.

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

- 3.1 The Parish Council have provided views contrary to the Officers recommendation. The Local Member has been consulted and has requested that the application be determined by the Committee. The Principal Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised require a committee determination of the application.

### **4.0 COMMUNITY REPRESENTATIONS**

- 4.1 Cressage, Harley & Sheinton Parish Council: The Parish Council has objected to the application as the structure is already in use and for the following reasons:

- The visual impact of the decking;
- Because licensing rules state that a beer garden should not be within view of a bedroom, but it is;
- The noise impact which is made worse by the structure being raised like a stage and in summer when neighbours have windows open or when they are using their gardens;
- Proximity to adjacent and nearby dwellings given the above objections;
- Pedestrian safety in that there is no gating, inadequate barriers and the structure is adjacent to a narrow pavement and car park meaning there is a high risk of young children running into the path of traffic; and
- Because the open nature of the structure means it is used by members of the public who are not members of the working men's club with the potential to lead to anti-social behaviour and unregulated use of the structure.

4.2 The Parish Council also raises the following objections in relation to the licensing of the premises as the following need to be regulated were the structure to be permitted:

- Rules regarding the passage of alcohol outside area need to be complied with - e.g. where glasses are used;
- Measures need to be put in place to ensure members of the public are signed in or are bonafide members of the club carrying alcohol out;
- A litter safety policy is needed;
- Insurance implications of having such a structure and ensuring compliance with licensing.

### 4.3 Public Comments

4.4 There has been one letter of objection from a neighbour although the letter does not include an address. The letter expresses concern about noise and visual intrusion on the neighbouring residential properties, invasion of privacy, and the safety of families with young children on the decking area because of the close proximity to Sheinton Road and the lack of gate to prevent a young child running into the road.

### 4.5 Technical Consultees

4.6 SC SuDS: No objection.

### 5.0 THE MAIN ISSUES

- Residential Amenity; and
- Siting, scale and design.

### 6.0 OFFICER APPRAISAL

#### 6.1 Residential Amenity

6.1.1 In terms of residential amenity, which is the primary concern of the Parish Council and the neighbouring objector, there is potentially an issue that noise and overlooking could have an impact on the adjacent properties. There are potentially two properties in

particular, that could be affected, these being the two immediately adjacent properties to the west and north of the Social Club. Both however are relatively well screened by the presence of fences, trees and hedges, so that there is unlikely to be any significant overlooking, and whilst the north side of the decked area is 0.66m high, this is not so high that it will have a major impact in terms of increasing overlooking or have any impact on noise. Because of the proximity of the decking to the adjacent pavement, the most significant impact is likely to be the slightly overbearing impact on passing pedestrians, albeit that this would only be transient.

- 6.1.2 Whilst it is understandable that there are concerns that use of the decking, particularly on summer nights could give rise to additional noise and disturbance, from a planning perspective there is currently no control over the use of the outside area adjacent to the Social Club for social gatherings. It is also already an area that will be frequented by visitors to the adjacent Village Hall and entering, leaving and attending events there that may similarly spill out on the outside area adjacent to the hall and the Social Club. In addition, the area of decking is relatively small and is not capable of accommodating a significant number of people, particularly compared with the number that may attend an event at the Village Hall. On the other hand, it may to some extent result in the presence of people and the noise of people talking and mingling resulting low level noise for longer periods of time and in a less transient way than is currently the case. Overall, however, it is difficult to argue that the area of decking would give rise to any more significant noise and disturbance, than the current activities in and around the Social Club and the Village Hall.
- 6.1.3 In response to the concerns raised by the Parish Council and the neighbouring objector, the Social Club has offered to limit the use of the area of decking to no later than 9pm at night and has indicated that it would be agreeable to the inclusion of a condition limiting its use up to this time. This will ensure that there is no late-night disturbance arising from the use of the decking in association with the activities at the Social Club. I have accordingly included a condition to this effect.
- 6.1.4 In terms of the safety concerns for children, it is not a structure that it is intended to be used as a play area for children, and whilst the concern is again understandable, it raises the question of how far the planning process can reasonably be used to ensure safety of children in a location and for a use where, if there are children present, it is essentially a matter for parental control and supervision. Given the proposed use this is essentially a matter for the Social Club to consider rather than being one for control through the planning system. Similarly, in relation to concerns about the decking attracting unsocial behaviour, whilst this is a possibility, it is not an issue that is likely to be so significant that additional controls or requirements could reasonably be placed on the Social Club to somehow prevent this.
- 6.1.5 In relation to the licensing issues, that are matter for the licensing authority, and cannot correctly be addressed through planning control. It is a matter for the Social Club to ensure that it obtains a licence and to comply with any of the requirements of the licence including any that may be relevant to the use of the area of decking.
- 6.1.6 As such whilst the concerns over noise and disturbance are understandable, in the context of the existing use and the location, I do not consider these are so significant to warrant refusal of consent. As such whilst Core Strategy (March 2011), Policy CS6,

seeks to safeguard amenity, the proposed installation of the decking would not itself have such a significant impact as to warrant being considered contrary to Policy CS6.

## **6.2 Siting, Scale and Design**

- 6.1.1 In relation to siting, scale and design, the area of decking that has been constructed is slightly unusual for a street frontage and is essentially similar to an area of decking that might be constructed on the rear of a residential property or possibly attached to a pub. As such it seems a little incongruous in the street scene along Sheinton Road. However, the buildings along the adjacent section of the road, which include the Village Hall and residential properties, are of varying ages, designs, forms and material finishes including Victorian/Edwardian houses and mid and late 20th century properties with timber-framed, brick and rendered finishes. Some are located on the street front and others set back behind high hedges and walls. There is no coherent architectural style and there is a plethora of different material finishes although much of the length of the road is fronted by hedges, so that it feels quite green.
- 6.1.2 In terms of development plan policy, the Shropshire Local Development Framework Adopted Core Strategy (March 2011), Policy CS6 on Sustainable Design and Development Principles and the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Adopted Plan (December 2015), Policy MD2 on Sustainable Design seek to ensure new development is sustainable and appropriately designed in relation to its context.
- 6.1.3 In particular, the policies seek to ensure the design of new development responds appropriately to the form and layout of existing development and the way it functions, including the mixture of uses, streetscape, building heights and lines, scale and that it reflects locally characteristic architectural design and details including building materials, form, colour and the texture of detailing.
- 6.1.3 In the context of the mix of uses, architectural styles and material finishes along Sheinton Road, I do not consider that the area of decking, whilst constructed of off-the-shelf materials, looks so out of place, that planning permission should not be granted.

## **7.0 CONCLUSION**

- 7.1 Although the concerns about potential noise and disturbance are understandable, these are not likely to be so significant, especially with a restriction on the hours of use to no later than 9pm, offered by the applicant, to warrant refusal of consent. Similarly, in the context of the mix of uses, architectural styles and material finishes along Sheinton Road, the siting, scale and design of the decking is not so out of place as to warrant refusal on consent. Accordingly, it can be considered to be acceptable in relation to Core Strategy Policy CS6 and SAMDev Policy MD2.

## **8.0 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, 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.

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.

## **9.0 Financial Implications**

9.1 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**

10.1 Central Government Guidance:

- National Planning Policy Framework (2018).

10.2 Core Strategy and Saved Policies:

- Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011):
  - Policy CS6: Sustainable Design and Development Principles.
- Shropshire Council, Site Allocations and Management of Development (SAMDev) Plan (Adopted December 2015):
  - Policy MD2: Sustainable Design.

10.3 **Relevant Planning History**

- PREAPP/10/02487 Alterations to Village Hall REC;
- 18/05041/FUL Application under Section 73A of the Town and Country Planning Act 1990 for the formation of a decked area (retrospective) PCO;
- SA/80/0653 Erection of a pitched roof rear extension to provide beer store, server lounge and WCs (as per amended plans received 1/10/80). PERCON 21st October 1980;
- SA/82/0345 Alterations and additions of 2 no. flat roofed extensions to provide lounge, beer store and servery at rear, and side entrance lobby. PERCON 25th May 1982;
- SA/87/0622 Alterations and additions to provide a single storey flat roof beer store extension. PERCON 30th July 1987; and
- SA/95/0577 Erection of a first-floor extension to provide a two-bedroom flat. REFUSE 26th July 1995

**11. Additional Information**

View details online:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) <ul style="list-style-type: none"> <li>• Cllr R. Macey</li> </ul>
Local Member <ul style="list-style-type: none"> <li>• Cllr Claire Wild</li> </ul>
Appendices <ul style="list-style-type: none"> <li>• APPENDIX 1 - Conditions</li> </ul>

## **APPENDIX 1**

### **Conditions**

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

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

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

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

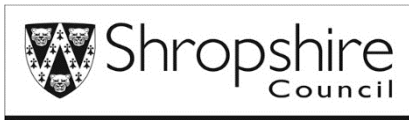
Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

3. The decked area hereby approved shall not be used between 9.00pm and 9.00am.

Reason: To safeguard the residential amenity in compliance with the Shropshire Council, Shropshire Local Development Framework: Adopted Core Strategy (Adopted March 2011), Policy CS6: Sustainable Design and Development Principles.





<u>Committee and date</u>
Central Planning Committee
17 January 2019

<u>Item</u>
9
Public

## Development Management Report

Responsible Officer: Tim Rogers

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

<b>LPA reference</b>	17/05992/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	R J Randles And Daughter
<b>Proposal</b>	Erection of a primary agricultural workers dwelling with detached double garage
<b>Location</b>	Proposed Agricultural Workers Dwelling At Oakfield Farm Cruckton Shrewsbury
<b>Date of application</b>	14.12.2017
<b>Officer recommendation</b>	Refusal
<b>Committee decision (delegated)</b>	Delegated
<b>Date of decision</b>	08.03.2018
<b>Date of appeal</b>	25.05.2018
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	04.12.2018
<b>Date of appeal decision</b>	13.12.2018
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>
<b>Details</b>	

<b>LPA reference</b>	17/05772/OUT
<b>Appeal against</b>	Appeal Against Refusal
<b>Appellant</b>	The Saxonby Group
<b>Proposal</b>	Outline application for the erection of 36No dwellings and associated infrastructure (to include access, appearance, layout and scale)(re-submission)
<b>Location</b>	Proposed Residential Development Land To The West Of Ellesmere Road Shrewsbury
<b>Date of application</b>	30.11.2017
<b>Officer recommendation</b>	Grant Permission
<b>Committee decision (delegated)</b>	Committee Refusal
<b>Date of decision</b>	18.04.2018
<b>Date of appeal</b>	06.07.2018
<b>Appeal method</b>	Hearing
<b>Date site visit</b>	27.11.2018
<b>Date of appeal decision</b>	04.01.2019
<b>Determination time (weeks)</b>	
<b>Appeal decision</b>	<b>ALLOWED</b>
<b>Details</b>	

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## Appeal Decision

Hearing Held on 4 December 2018

Site visit made on 4 December 2018

**by Andrew Owen BA(Hons) MA MRTPI**

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

**Decision date: 13<sup>th</sup> December 2018**

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**Appeal Ref: APP/L3245/W/18/3203558**

**Oakfield, B4386 from Yockelton Ford Heath junction to junction with A5, Cruckton, Shrewsbury SY5 8PS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by RJ Randles and Daughter against the decision of Shropshire Council.
  - The application Ref 17/05992/FUL, dated 13 December 2017, was refused by notice dated 8 March 2018.
  - The development proposed is erection of single primary agricultural workers dwelling.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matter

2. A planning obligation was submitted at the hearing which sought to ensure that the dwelling would only be occupied by an agricultural worker, that no accommodation in addition to that shown on the plans would be created, and that if the dwelling was no longer needed by an agricultural worker and the above restriction lifted, a financial contribution toward the provision of affordable housing would be paid to the Council. This obligation was signed and dated by both parties and I have taken it into account.

### Main Issues

3. The main issues are whether there is an essential need for a dwelling to accommodate an agricultural worker and the effect of the proposed garage on the character and appearance of the area.

### Reasons

#### *Background*

4. Oakfield is an active farm with 250 sheep (comprising 50 lambing ewes and 200 lambs), around 25 calves (approximately half of which are less than a year old and half are between 18 and 24 months old) and a significant arable component including barley, wheat and some vegetables. It is adjacent to Hollybank farm which is operated separately. Until Mr RJ Randles became ill in 2011 he was the farmer at the site and lived in the dwelling, also known as Oakfield, positioned at the front of the farm complex. As a result of his illness

he subsequently moved away from the farm and now lives in Pontesbury. His daughter, Caroline, is his partner in RJ Randles and Daughter and she also lives off site in Minsterley around 15 minutes' drive away. Since 2013 the house at Oakfield has been lived in by Helen, another daughter of Mr Randles, but she is employed elsewhere and is not involved in the farm business. I heard at the hearing that the house is owned jointly by Helen and Mr Randles. Mr Randles turned 70 this year and is gradually reducing his involvement in the farm whilst Caroline simultaneously increases hers such that he can fully retire. In recognition of this, he has not taken a proportion of the profits from the business since April this year.

*Essential need*

5. Policy MD7a of the Shropshire Site Allocations and Management of Development (SAMDEV) Plan and policy CS5 of the Shropshire Core Strategy (the 'Core Strategy') identify that housing in the countryside will be strictly controlled. However one exception is houses for agricultural workers where there are no other dwellings that could meet the need and where there is an essential functional and financial need. I address these aspects in turn.
6. Part 2.a. of policy MD7a refers to other suitable and available dwellings which could meet the need including any recently sold or otherwise removed from the ownership of the business. It was explained to me at the hearing that the dwelling at Oakfield is not owned by the company RJ Randles and Daughter, consistent with the blue line on the site location plan, and that it is not legally available to the business. I acknowledge this, I recognise that Mr Randles does not have a controlling interest in the house, and I understand the reasons why Helen and not Caroline moved into Oakfield in 2013. However I do not find it credible that a house partly owned by Mr Randles as the retiring farmer, cannot be deemed available to his daughter who wishes to continue in her father's footsteps, particularly when the other owner of that house is such a close relative. Indeed I consider it is circumstances like this that the policy specifically seeks to address. Conversely if it was considered that the house was not available, such an argument could be easily engineered at other farms to justify new dwellings which would circumnavigate the aims of the policy. Furthermore, the ownership boundary plan of 2016 would suggest the house was part of the same holding as the farm at that time, and therefore it would not appear to have been recently<sup>1</sup> removed from the business. I consider therefore that the proposal would be in direct conflict with this part of the policy.
7. I now turn to the functional need. I heard at the hearing that none of the calves are born on site, but that instead they are brought onto the site regularly throughout the year. As young calves they need feeding with milk twice a day. Also, due to their young age, they are susceptible to illness which may need regular medication, and accidents such as getting stuck in gates. With regard to the sheep, although 50 ewes lamb in the spring, the vast majority of the lambs are brought in to the farm. It is not disputed by the Council that during lambing, there is an essential need for a worker to be present on site and Caroline advised that the lambing period lasts for around three months overall. The representation from a local vet also supports the need for a constant on site presence at lambing time.

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<sup>1</sup> Defined as 3 years in the Type and Affordability of Housing Supplementary Planning Document (SPD)

8. I accept there may be emergency incidences such as animals escaping onto the road, or an animal endangering themselves which, if such occasions occurred outside of normal working hours, could be resolved quicker if Caroline resided on the site. However I would not expect such instances to be common. Furthermore, though I appreciate it is not the responsibility of Helen to act as a 'night watchman' for the farm out of working hours, she would no doubt be aware of any major incidents and would be able to contact Caroline promptly, as would the occupiers of Hollybank farm who, I gather, are also relatives.
9. In respect of the arable side of the business, the vegetables grown, including carrots, potatoes and swedes, are harvested by hand and I accept that this is a labour intensive operation. The growing of barley, wheat and grass also involves time consuming work that, as stated in the Standard Man Days calculation in the appellant's evidence, necessitates a full time worker alone. However the arable side of the business does not generate an essential need for a farm worker to live at the site.
10. I understand that crime has taken place at the site with vehicles, machinery and hay stolen. This is despite the fact that there is already CCTV installed, an active presence on the farm during the day, and with the house at Oakfield being occupied at night. Whilst this is obviously regrettable, I do not consider the presence of a further dwelling and its occupants, in addition to Oakfield, would be likely to act as a materially greater deterrent to criminals.
11. The farm shop on site sells some vegetables grown on the farm, and some other produce, such as eggs and potatoes, from other sources. This is presently not a manned shop and so it uses an honesty box system. I understand takings from here exceed £20,000 a year suggesting this system works very effectively, and I heard at the hearing that the shop also acts as a valued community facility. However, as there is already a presence at the farm during the day to allow re-stocking, and as it is not proposed that the shop would be permanently manned, I do not consider that were Caroline to be resident on the site, this would be of any significant benefit to the running of the shop.
12. Overall, I recognise that there is an extraordinarily large amount of work involved in managing the farm and by reducing the frequent trips back and forth to the site from Minsterley whilst trying to simultaneously raise a family would be an enormous benefit for Caroline personally. Indeed I do not doubt that Caroline will need assistance from farm workers as her father retires, not least because, so I understand, some tasks require two people. In that regard, the Council do not dispute the Standard Man Days figures that show that overall the farm generates a need for two full time workers. Nonetheless, from the evidence before me, whilst I consider there would be functional advantages to the business for Caroline to be permanently resident on the site, I find there is little essential functional need for a worker to be permanently resident on the site, aside from during the lambing period.
13. Turning to the financial aspect, I have been provided with accounts for a 5 year period up to April 2018. These show annual profits varying between roughly £13,000 and £24,000 each year and assets of around £70,000. The profits have been divided equally between Mr Randles and his daughter and these have effectively been their wages. From the current financial year onwards, the profits will exclusively be for Caroline's benefit. Were the profits to continue in a similar vein, or even improve due to the ability to have more lambing taking

- place on site, I would consider the business to be viable and sustainable. Furthermore, as I understand Caroline's partner is employed elsewhere and has an income, she could be supported by her partner too.
14. The accounts do show there is currently little scope to finance the construction of a new dwelling. However, again, with Caroline's partner's support, and as they would have their existing property in Minsterley to sell, I am content that the cost of providing the dwelling, whilst not specified, would most likely be met without endangering the viability of the business.
  15. Nonetheless, I also consider that the business could sustain making modest profits without an on-site residential presence. Indeed it has done so for the past few years. It is the appellant's view that were the appeal to fail, the long term consequence may be that Caroline can no longer financially sustain the farm and so would rent it out to tenant farmers. Whilst this would clearly be regrettable for her and her family, it would benefit another farmer and, despite the comments from Mr Hodges that this would be contrary to the character of the area, I consider any harm to that character would be minimal.
  16. In summary, I believe that the business is viable in the long term and could support the cost of building the development, but I do not consider its viability is reliant on the provision of the dwelling. Moreover, though there would be advantages to having a permanent residential presence throughout the year on site, not least relating to the care of the calves, I do not consider it is essential to the continued successful function of the farm. I am also not satisfied that the existing house at Oakfield could not be available to the business.
  17. I recognise the Council's SPD advises that consideration may be given to farmers who wish to retire on the farm, which would appear to support secondary dwellings at farms in order to sustain them. However that is not directly comparable to this case where the farm has already been operating profitably for some years without an on-site presence. I also note the reference in paragraph 79 of the National Planning Policy Framework to those taking a majority control of a farm business, but this still relies on there being an essential need for a worker to reside on site, which I do not believe there is.
  18. The development would therefore be contrary to policies MD7a and CS5 as described above, and the SPD which supports such dwellings where there is an essential need. I find no conflict with policies MD7b of the SAMDev or CS6 of the Core Strategy as those relate more closely to the design of development in the countryside.
  19. I have considered the examples provided by the appellant of other cases where farm workers dwellings have been granted planning permission. However, notwithstanding that I have no details of the evidence that was presented in support of those proposals; from the information I do have, most of the cases appear to relate to much larger farms in terms of the range of operations and number of animals compared to the proposal before me. Consequently, they are not directly comparable.
- Character and appearance*
20. The proposals include the erection of a double garage ancillary to the house. It would be modest in terms of its footprint. Its roof, whilst appearing quite large, would not be unnaturally steep or disproportionate to the building below.

Moreover, when seen in the context of the proposed two-storey dwelling and the nearby tall, albeit much shallower roofed, agricultural buildings, I do not consider the garage would appear incongruous. It therefore would not harm the character or appearance of the area and would accord with policies CS6 of the Core Strategy and MD7b of the SAMDev which require development to be well designed, and policies MD2 and MD12 of the SAMDev and CS17 of the Core Strategy which aim to ensure development responds to existing development and local distinctiveness.

### **Other Matters**

21. The submitted planning obligation would ensure, among other things, that were the dwelling to not be needed by an agricultural worker, and its agricultural occupancy restriction lifted, a financial contribution to the provision of affordable housing elsewhere would be made. Although this is a benefit to which I give weight, the weight is only very limited as it is designed to balance the harm resulting from a new unrestricted dwelling in the countryside which would be contrary to policies CS5 and MD7a.
22. I also recognise the support for the proposal from interested parties including local councillors in so far as the development would support the rural economy. Nonetheless, I do not consider the ability of a worker to live on the site is fundamental to that and the vitality of the countryside.

### **Conclusion**

23. Though I do not consider the garage would harm the character and appearance of the area, and I acknowledge the limited benefit of, potentially, a contribution to affordable housing, these matters are substantially outweighed by the lack of essential need for an agricultural worker to live permanently on site.
24. Therefore, for the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

*Andrew Owen*

INSPECTOR

**APPEARANCES**

FOR THE APPELLANT

Caroline Randles Appellant

RJ Randles Appellant

Stuart Thomas Berrys

Mark Morison Berrys

FOR THE LOCAL PLANNING AUTHORITY

Philip Mullineux Principal Planning Officer

INTERESTED PERSONS

Allan Hodges Pontesbury Parish Council

Roger Evans Local ward councillor

**DOCUMENTS SUBMITTED AT THE HEARING**

Planning obligation dated 3 December 2018

Unaudited accounts for year ending 5 April 2018





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## Appeal Decision

Hearing Held on 27 November 2018

Site visit made on 27 November 2018

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State

Decision date: 04 January 2019

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**Appeal Ref: APP/L3245/W/18/3206619**

**Land off Ellesmere Road, Shrewsbury (Grid ref Easting: 349252 Northing: 313968)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by The Saxonby Group against the decision of Shropshire Council.
  - The application Ref 17/05772/OUT, dated 29 November 2017, was refused by notice dated 18 April 2018.
  - The development proposed is the erection of 36 dwellings and associated infrastructure.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 36 dwellings and associated infrastructure on land off Ellesmere Road, Shrewsbury (Grid Ref Easting: 349252 Northing: 313968) in accordance with the terms of the application, Ref 17/05772/OUT, dated 29 November 2017, subject to the conditions in the schedule at the end of this decision.

### Procedural matters

2. The application was submitted in outline with access, layout, scale and appearance to be determined at this stage. The illustrative plans that have been submitted as part of the application have been taken into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. A certified copy of an agreement made under section 106 of the Town and Country Planning Act 1990 was submitted after the hearing closed. It secures the provision of affordable housing on site and a contribution towards a highway improvement. Its terms are addressed in more detail within the decision.
4. The Council is undertaking a partial review of its development plan. The 'Shropshire Local Plan Review – Consultation on Preferred Sites' document has recently been published. However, as it is currently the subject of public consultation and the Local Plan Review has not yet been the subject to public examination I attach limited weight to the contents of this document.

### Main Issues

5. The main issues in this appeal are:
  - whether the appeal site would be a suitable location for the proposed development having regard to the strategy of the development plan; and,

- the effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Planning policy and location of development*

6. The development plan for the area includes the Shropshire Core Strategy (adopted in 2011) and the Shropshire Site Allocations and Management of Development (SAMDev) Plan (adopted in 2015). Of the various development plan policies I consider policies CS1 and CS5 of the Core Strategy and policies MD3 and S16 of the SAMDev to be the most relevant to the first main issue.
7. In order to further sustainability objectives, and in the interests of protecting the countryside, policy CS1 of the Core Strategy sets a development strategy for Shropshire. Its approach is to concentrate development on Shrewsbury, Market Towns and other Key Centres. Outside of the development boundaries for these settlements is the open countryside where new development is governed by policy CS5 of the Core Strategy.
8. The appeal site is described on the planning application form as a vacant agricultural field. It is located adjacent to, but outside, the settlement development boundary for Shrewsbury and is not an allocated site. As a consequence, for planning policy purposes it lies within the open countryside where policy CS5 of the Core Strategy applies. This policy requires that new development is strictly controlled in accordance with national policies that protect the countryside.
9. Consistent with the National Planning Policy Framework's ('the Framework') section on rural housing policy CS5 supports development on appropriate sites which maintain and enhance countryside vitality and character. As the site is surrounded by residential development towards the edge of the town it is not in an isolated location where the Framework advises that new housing should be avoided. The remaining requirement of the Framework in relation to the countryside is to be found under the chapter titled 'Conserving and enhancing the natural environment'. It requires that in decision taking the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic benefits of the best and most versatile agricultural land are taken into account.
10. Policy S16(3) of the SAMDev confirms that new housing development in the Shrewsbury Area will be delivered using a combination of existing brownfield sites and a range of new greenfield sites, including windfall opportunities.
11. Policy MD3 of the SAMDev deals with the delivery of housing development. Paragraph 3.18 of its justified reasoning explains that 'windfall' development on sites both within settlements and in the countryside form an important part of the housing land supply. The supply of housing in Shrewsbury exceeds the settlement guideline figure for Shrewsbury of 6,500. In such circumstances policy MD3(2) of the SAMDev advises that decisions on planning applications will have regard to, amongst other matters, the increase in the number of dwellings relative to the guideline figure, the benefits of the development and its impacts, including the cumulative impacts.
12. Subject to the consideration of the matters identified by the above policies being supportive of the proposed scheme it was agreed by the parties at the hearing that the scheme would be acceptable. I concur with that assessment and so it is to these matters that I now turn.

### *Character and appearance*

13. The appeal site is a field of pasture. Prior to the recent large development of housing on its northern side it formed part of an area of open countryside that reached into the north western side of the town. However, with the housing development that has occurred to the north and along the embankment to the rear, in public views the site forms a pocket of undeveloped countryside that is visually isolated from the open countryside that surrounds the town.
14. The site does not form part of a valued landscape and surrounded by residential development its value as an open field in visual amenity terms is limited to short distance views when the site comes into view. Owing to the dense front boundary hedge and downward slope of the site from the front to rear, on the approach from the north the pasture and pond within the field are not apparent from Ellesmere Road. On the approach from the south, these features are only briefly glimpsed through a field gate. As a result, the main effect of the field is to provide an open undeveloped gap between the terraced housing of Greenfields to the south and the closely spaced detached housing immediately to the north.
15. The Council accepted at the hearing that in principle residential development on the site is acceptable subject to a design that respects the character and appearance of the area.
16. Given the conflicting requirements of respecting the open character of the countryside of which the appeal site forms a part and respects the townscape the design response has to do more than create a transition between terraced and closely spaced detached housing. It has to retain countryside and provide views of it. In my judgement, the proposed development would strike an appropriate balance in this regard.
17. Wider gaps than are found between other buildings on this side of Ellesmere Road would provide a more open setting to the development in keeping with its rural character. The site access would be the widest gap and would open up views of the countryside, including the pond within the rear half of the site which would be retained. In terms of the townscape, the two apartment buildings to the front of the site in height and set back from the road would respect development on both sides. The scheme would result in a coarser grain of development and buildings of a greater depth than is characteristic of the area. However, the variation in roofline, recessed and projecting elements of the buildings and use of different materials would break up the scale and mass of the buildings. As a result, they would be visually interesting and complement, rather than dominate, neighbouring houses.
18. For all of these reasons, I therefore conclude that the proposed development would make efficient use of the site whilst complementing the character and appearance of the countryside and the town. As a result, it would comply with policy CS6 of the Core Strategy and policy MD2 of the SAMDev which require the protection of the character and appearance of a locality through high quality design that respects local design features.

### **Other matters**

#### *Affordable housing and local infrastructure*

19. The submitted section 106 agreement has been properly completed. I have assessed it having regard to the requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) and the

- tests in paragraph 56 of the Framework. The agreement secures the on-site provision of affordable housing and a contribution towards a pedestrian crossing on Ellesmere Road.
20. In relation to affordable housing, in order to comply with policies CS9 and CS11 of the Core Strategy and meet the need that exists in the county, 10% of the housing to be built on the site needs to be affordable. The submitted agreement in meeting this level of provision passes the relevant tests. At the discretion of the appellant, the level of provision exceeds the 10% requirement.
  21. In the interests of highway safety, and to comply with policy CS9 of the Core Strategy, £24,000 towards the cost of a pedestrian crossing of Ellesmere Road is sought. A financial contribution is therefore necessary in relation to this matter to make the development acceptable in planning terms. Based upon the information provided, I am satisfied that the sum sought is fairly and reasonably related in scale and kind to the proposed development and directly related to the proposal. Accordingly this contribution also passes the relevant tests and requirements.
  22. Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) prevents the pooling of more than five planning obligations made since 6 April 2010 towards a specific infrastructure project or particular type of infrastructure. The provision of affordable housing is excluded from this requirement of this regulation. In relation to the highway contribution, it relates to a specific project for which there have been less than five previous contributions. I therefore find that the contributions secured comply with regulation 123(3).
  23. For these reasons given, I have therefore taken into account all the provisions of the submitted agreement.
  24. Concern has been expressed that local schools do not have the capacity to accommodate the additional pupils generated by the development. However, the local planning authority confirmed that a Community Infrastructure Levy would be payable in relation to the scheme which would address its effects on local education provision.
  25. Paragraph 4.169 of the justified reasoning to policy S16 of the SAMDev advises that the development of land to the west of Ellesmere Road would need to be coordinated with and, where necessary, help fund the Shrewsbury North West Relief Road. However, as this does not part of the wording of the policy it is not a policy requirement. Moreover, on the basis of the Transport Assessment that accompanied the application it is accepted by the Council that the traffic generated by the new development would not have a material impact on the operation of Ellesmere Road. On the basis of the submitted assessment, I agree with that position.

#### *Flood risk*

26. The appeal site is situated within Flood Zone 1 which has the lowest probability of flooding. The incorporation of a sustainable drainage system would prevent surface water from the site increasing flood risk elsewhere whilst also preventing on site flooding. The proposed development is therefore acceptable in flood risk terms.

#### *Highway safety*

27. The number of parking spaces that would be provided as part of the scheme and the design of the site access meets the council's standards. The position of the Council is that subject to funding being secured toward the provision of a pedestrian crossing on Ellesmere Road the scheme would be acceptable in highway safety terms. Based upon what I have read and seen of the site, I have no reason to disagree with that position.

#### *Noise*

28. The apartments that directly face Ellesmere Road need to be acoustically treated in order to protect them from noise and disturbance from road traffic. The survey work upon which the need for these works was identified was carried out during the mid to late morning on one day during the normal working week. Given that this would have monitored flowing traffic which is noisier than stationary traffic, I am satisfied that the monitoring period was sufficient to correctly specify the insulation works required.

#### **Overall Conclusions: The Planning Balance**

29. In relation to the first main issue, although the appeal site is located within the countryside the development plan is supportive of residential development on the appeal site subject to compliance with policy CS5 of the Core Strategy and policy MD3 of the SAMDev. Given that the supply of housing in Shrewsbury exceeds the guideline figure for the settlement the balance in policy MD3(2) applies.
30. The supply of housing in Shrewsbury to 2026 exceeds the settlement housing guideline figure of 6,500 by over 1000. Given the shortfall in delivery that can occur, the proposed dwellings would provide greater confidence that the housing guideline figure for the town would be met. The proposed apartments would also increase the range of housing available in the town. As a result, I find, on balance, the increase in dwellings relative to the guideline would be beneficial.
31. In terms of benefits, environmentally the scheme would enhance the ecology of the site by improving the habitat for great crested newts, birds and bats. It would also provide public access, which currently does not exist, to the rear half of the site which includes the pond. Socially, in the context of the Framework which seeks to significantly boost the supply of homes, the scheme would increase the provision and choice of housing in the town. It would also provide more affordable homes than required by the development plan. Economically, the development would generate construction employment and the additional households would increase the spending power of the local community to the benefit of businesses and services in the area. I attach significant weight to these benefits.
32. In relation to the character and appearance of the area, I have found that given the context of the site the design of the scheme would complement the countryside and townscape. The site is described as vacant agricultural land. I have not been made aware of the agricultural classification of the site. Even if the site was classified as the best and most versatile agricultural land at 0.8 hectares in area the amount of land that would be developed would result in minimal economic harm.
33. Taking all these matters into account, the balance of considerations required by policy MD3(2) clearly indicates that exceedance of the settlement housing guideline should not weigh against the proposal. Overall the scheme would

maintain and enhance vitality and character and bring local economic and community benefits in compliance with policy CS5 of the Core Strategy and policy MD3. I therefore conclude that the proposed development complies with the development plan and that the appeal should be allowed.

*Conditions*

34. In the interests of certainty, I have imposed a condition specifying the relevant drawings that the development is to be carried out in accordance with. In order to ensure that the development complements its surroundings further details on materials, the features of the buildings and boundary treatments are required. In addition, the reserved matter, landscaping, needs to be implemented and to ensure that any planting becomes well established it needs to be well maintained.
35. In the interests of nature conservation an environmental management plan for the period of construction, a habitat management plan, a lighting plan and the installation of bird and bat boxes are required. To ensure that great crested newts are protected the environmental management plan and habitat management plan need to accord with the work already carried out on this issue.
36. As a large development a sustainable drainage scheme rather than a surface water drainage scheme is required to comply with government guidance. Given that foul water drainage is a matter controlled by Building Regulations condition 13 suggested by the Council is therefore unnecessary.
37. As part of a ground investigation report bore holes revealed the presence of made ground containing old domestic type waste, ash and clinker. However, it appears only topsoil was analysed for contamination. Given that housing is a sensitive end use, a contaminated land site investigation report that complies with relevant guidance and identifies any necessary remediation is required.
38. To protect the buildings from the risk of flooding minimum ground floor slab levels are required in accordance with the Flood Risk Assessment. However, in the interests of visual amenity the actual levels do not need to be agreed because the buildings have to be constructed in accordance with the submitted plans which show the height of the buildings in relation to neighbouring development and road level.
39. To protect the privacy obscured glazing is necessary in the elevations of the apartment buildings closest to the site boundary facing neighbouring development. So that satisfactory noise levels are achieved within the apartments facing Ellesmere Road glazing with a good acoustic performance and trickle vents needs to be installed. To comply with paragraph 110 of the Framework charging points for electric vehicles are required. In the interests of protecting badgers a survey prior to the commencement of development is required.
40. I have required all these matters by condition, revising and amalgamating the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance and to avoid duplication.
41. Following the close of the hearing the appellant provided written consent to conditions 6, 7, 9 and 10 being pre-commencement conditions.



42. A condition has been suggested requiring that a European Protected Species Mitigation Licence is obtained. However, a condition that requires compliance with another regulatory regime fails the test of necessity.
43. A condition was suggested removing permitted development rights for the erection of gates, fences, walls or other means of enclosure. Planning Practice Guidance though is clear that such rights should only be removed exceptionally and such circumstances do not exist in this case.

*Ian Radcliffe*

Inspector

### **Schedule**

- 1) Details of landscaping, (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. The submitted details shall include:
  - a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
  - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
  - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
  - d) Native species used are to be of local provenance (Shropshire or surrounding counties);
  - e) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works;
  - f) Implementation timetables.
  - g) Grading and mounding of land areas, including the levels and contours to be formed, and the nature of the material, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.
- 2) Unless as otherwise approved by the reserved matter scheme, all soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

- 3) Application for approval of the reserved matter shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall take place not later than two years from the date of approval of the reserved matter.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - L200 Proposed Site Plan, received 9th March 2018
  - L201 A Block A Plans, received 9th March 2018
  - L202 Block B Plans, received 9th March 2018
  - L203 A Block C Plans, received 9th March 2018
  - L204 Block A Elevations as Proposed, received 9th March 2018
  - L205 Block B Elevations as Proposed, received 9th March 2018
  - L206 Block C Elevations as Proposed, received 9th March 2018
  - L210 Proposed Ecology Site Plan, received 13th March 2018
  - L024 Key Street Elevation and Section through Block B, received 14th January 2018
  - 02432-01 B Indicative Access Design, received 9th March 2018
  - 02432-02 B Swept Path Analysis, received 9th March 2018
  - 7122-3 Streetscene, received 30th November 2017
  - 7122-4 Inner Streetscene (x2), received 30th November 2017
  - 7122-6 Inner Site Streetscene, received 30th November 2017
  - 7122-7 Rear View Streetscene, received 30th November 2017
  - L000 Location Plan as proposed, received 30th November 2017
- 6) No development shall commence until an Environmental Management Plan for the construction period has been submitted to and approved in writing by the local planning authority. The submitted plan shall include:
  - a) An appropriately scaled plan showing 'Wildlife/Habitat Protection Zones' where construction activities are restricted, where protective measures will be installed or implemented and where ecological enhancements (e.g. hibernacula, integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots) will be installed or implemented;
  - b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
  - c) Requirements and proposals for any site lighting required during the construction phase;
  - d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
  - e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
  - f) Identification of Persons responsible for:
    - i) Compliance with legal consents relating to nature conservation;
    - ii) Compliance with planning conditions relating to nature conservation;
    - iii) Installation of physical protection measures during construction;
    - iv) Implementation of sensitive working practices during construction;.



- v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
- vi) Provision of training and information about the importance of 'Wildlife Protection Zones' to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan.

- 7) No development shall take place until a habitat management plan has been submitted to and approved in writing by the local planning authority. The submitted 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 financial and legal means through which the plan will be implemented.

The plan shall be carried out as approved.

- 8) The plans submitted in relation to conditions 6 and 7 shall accord with the Great Crested Newt Mitigation Mitigation and Management (Turnstone Ecology, November 2017), unless otherwise approved in writing by the local planning authority.
- 9) 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.
- 10) 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.
- 11) Prior to their use in the development hereby approved details and samples of the materials to be used for the external walls and roofs shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 12) Prior to their use in the development hereby approved details of all eaves, verges, windows (including head, sill and window reveal details), doors, rainwater goods, chimneys, dormers, canopies, brickwork type and bond shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 13) Prior to their use in the development hereby approved details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be constructed prior to the development being first occupied.
- 14) Prior to first occupation of any of the dwellings hereby approved on the site details of the makes, models and locations of bird and bat boxes have been submitted to and approved in writing by the local planning authority. The following boxes shall be erected on the site prior to first occupation of any of the dwellings on the site :
- A minimum of 5 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 8 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes).

- A minimum of 4 artificial nests, of either integrated brick design or external box design, suitable for house martins (house martin nesting cups).

- The A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for sparrows (32mm hole, terrace design).

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.

- 15) Prior to first occupation of any of the dwellings hereby approved on the site a lighting plan shall have been 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 prior to first occupation of any of the dwellings on the site and thereafter retained for the lifetime of the development.
- 16) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 17) Prior to the use of the car parking spaces a minimum of one electric vehicle (EV) plug ready charging point shall be installed for every 10 parking spaces or part thereof provided.
- 18) Ground floor slab levels shall be no lower than 54.00m AOD in accordance with the recommendations of the submitted AECOM Flood Risk Assessment dated 17 May 2016.
- 19) Before the development hereby permitted is first occupied the windows in the north and south facing elevations of Blocks A and C shall be fitted with top-opening casement windows and glazed with obscure glass only. The windows shall thereafter be retained in the approved form in perpetuity.

- 20) Glazing in the façade facing Ellesmere Road shall be a minimum standard of 6-12-6 and shall have acoustically attenuated trickle vents that achieve equal noise attenuation to the glazing.

-----End of Conditions Schedule-----

## **APPEARANCES**

### FOR THE APPELLANT:

Miss Reid	Of Counsel
Mr Thomas	Berrys
Mr Belchere	Hookmason Architecture
Mr Cambray	Mara Homes Shrewsbury Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Rogers	Shrewsbury Council
Mr Hall	Shrewsbury Council
Mr Vout	Planning consultant

### INTERESTED PERSONS:

Dr Wolfe	Local resident
Councillor Phillips	Ward councillor

## **DOCUMENT SUBMITTED AT THE HEARING**

- 1 E-mails dated 26/11/18 and 27/11/18 confirming that the Council's solicitor could make manuscript amendments to the signed s106 agreement on behalf of Mr & Mrs Gannon

## **DOCUMENT SUBMITTED AFTER THE CLOSE OF THE HEARING**

- 1 Certified copy of the section 106 agreement – submitted, as agreed with the Inspector, within 7 days of the close of the hearing.

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