



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

Date: Friday, 17 May 2019

Committee:
North Planning Committee

Date: Tuesday, 28 May 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

Roy Aldcroft
Nicholas Bardsley
Gerald Dakin
Pauline Dee
Rob Gittins
Roger Hughes
Vince Hunt
Mark Jones
Paul Milner
Peggy Mullock
Paul Wynn

Substitute Members of the Committee

Joyce Barrow
Karen Calder
Steve Davenport
Ann Hartley
Simon Jones
Matt Lee
David Minnery
John Price
Brian Williams

Your Committee Officer is:

Emily Marshall Committee Officer

Tel: 01743 257717

Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Election of Chairman

To elect a Chairman for the ensuing year.

2 Apologies for Absence

To receive apologies for absence.

3 Appointment of Vice-Chairman

To appoint a Vice-Chairman for the ensuing year.

4 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 30th April 2019, attached, marked 2. (TO FOLLOW)

Contact: Emily Marshall on 01743 257717

5 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 2.00 p.m. on Friday, 24th May 2019.

6 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.

7 Land South Of The Woodlands, Peplow, Market Drayton, Shropshire (19/01359/OUT) (Pages 1 - 14)

Outline application (layout for consideration) for residential development

8 Oakfield, Middleton Road, Oswestry - 18/05057/FUL (Pages 15 - 30)

Erection of 3no. detached dwellings following demolition of existing structures; Formation of new vehicular access.

9 Appeals and Appeal Decisions (Pages 31 - 36)

10 Date of the Next Meeting

To note that the next meeting of the North Planning Committee will be held at 2.00 pm on Tuesday, 25th June 2019, in the Shrewsbury Room, Shirehall, Shrewsbury.



Committee and Date
 North Planning Committee
 28th May 2019

Item
7
 Public

Development Management Report

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

Summary of Application

Application Number: 19/01359/OUT	Parish:	Hodnet
Proposal: Outline application (layout for consideration) for residential development		
Site Address: Land South Of The Woodlands Peplow Market Drayton Shropshire		
Applicant: FW Brown And Co (Lincs) Ltd		
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk	

Grid Ref: 363127 - 324920



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

Recommended Reason for Approval

REPORT**1.0 THE PROPOSAL**

1.1 This application seeks outline planning permission for a residential development comprising four dwellings. The layout of the proposed development is to be dealt with as part of this outline application but the issues of appearance, scale, access and landscaping are to be dealt with as reserved matters at a later date.

1.2 This is a resubmission of a previous application and has reduced the number of dwellings to 4 and includes a landscaped buffer area.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located within the settlement of Peplow and is adjacent to a group of 4 semi-detached dwellings. Peplow is identified in the SAMDev as part of a Cluster with Marchamely and Wollerton.

2.2 The land is currently used for agricultural purposes with a mature hedgerow and trees along the road frontage.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:
(i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
(ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online**4.1 Consultee Comments****4.1.1 Parish Council:** objects

- it was deemed unsuitable in scale for the location
- the proposals were out of character with the existing housing in the location

4.1.2 **Affordable Housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.1.3 **Highways:** No objection – subject to the development being constructed in accordance with the approved details and the recommended conditions and informative notes.

The application is seeking outline consent with all matters reserved, except for

layout for a residential development of 4 dwellings on a plot of land located between Peplow House and No.1 The Woodlands. The application is a resubmission of an earlier application for 5 dwellings under reference 19/00228/OUT.

Layout is to be considered as a determined matter. Access has not been included as a matter to be determined but its position will be determined by the approved layout? The details have been given as an 'Indicative' Site Block Plan (Drawing No. Rev C) with the layout of the site being inconsistent with the details shown on the Drainage Layout Plan (Drawing No. WL-DL-100)?

From the highway perspective, the application site as determined by the red line, the number of properties proposed, served by means of a private drive with a single point of access is considered to be acceptable in principle. The access will however need to be formed over quite a deep highway verge and ditch. Culverting of the new access road over the watercourse requires Ordinary Watercourse Consent from Shropshire Council. Visibility splays commensurate with the prevailing highway conditions will also need to be demonstrated as part of the detailed matters submission, requiring all vegetation/shrubs being cleared within the visibility envelope.

Based upon the information contained within the application it is considered that, subject to the above conditions being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

4.1.3 **Ecology:** No objection

Providing the mature trees adjacent to the site are retained and there is no loss of bat roosting habitat I do not object to this proposal.

In order to enhance the site for biodiversity the recommended conditions and informatives should be included on a planning decision notice.

4.1.4 **Tree Officer:** No objection

The mature frontage trees are clearly an important feature of this proposal and shown as retained on the submitted plan with a new access through the trees. A full application needs to include a Tree Protection Plan and an Arboricultural Method Statement to provide a methodology for implementation of any site layout that has the potential to result in loss or damage to a tree prepared in accordance with BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection.

4.1.5 **Drainage:** No objection subject to the inclusion of the recommended conditions.

4.1.6 **Regulatory Services:** No objection

Regulatory services have reviewed the application and have no objection subject to the inclusion of the recommended informative is provided to the applicant.

4.2 **Public Comments**

4.2.1 Three letters of representation have been received with the following concerns raised:

- Lack of consultation by developer to the local residents
- There are factual errors in the submitted information.
- Peplow has met more than its share of the number of dwellings required by

the policies.

- No mains water is available in the area and development could affect the borehole water supplies
- Treatment works has no additional capacity for new housing
- Roadside ditch is not free flowing due to blockages to treatment plant.
- Infrastructure such as phone, mobile phone and internet are abysmal and will be exacerbated if further development is permitted.
- Additional housing on the narrow lane will pose a highway safety risk.
- Loss of privacy to neighbouring properties
- The layout and density is not in keeping with other development in the area.
- Better use of brownfield development should be made first before agricultural land is used.
- Unacceptable loss of trees and vegetation which will affect wildlife in the area.

5.0 THE MAIN ISSUES

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

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.
- 6.1.2 Peplow is identified in SAMDev as being part of the community cluster with Marchamley and Wollerton. Peplow is a loose knit community with small pockets of development spread over a relatively wide area. The adopted policy indicates approximately 15 dwellings over the period to 2026 for the cluster achieved through infilling, conversions and small groups of houses on suitable sites within the village of Peplow.
- 6.1.3 Concerns have been raised that the number of dwellings approved in Peplow has exceeded its share of this amount. However the policy does not imply that this is a maximum number of dwellings for the Cluster but a guide as to the level that should be achieved. The latest figures show that within the cluster 3 completions have taken place within the period 2011/12 to 2017/18 with a further 3 sites having

permission which had not commenced as at 31st March 2018. However this does not meet the requirement of at least 15 dwellings across the cluster and therefore on the basis that 15 is not a maximum and the cluster has not achieved this target this is not a basis on which it would be possible to defend a refusal of the current application.

6.1.4 As previously identified, the site is adjacent to residential dwellings which lie to the north east of the site. Agricultural land extends to the south east and west with the highway passing to the north west. The land to the south east separates the site from the residential curtilage of Peplow House and another small collection of dwellings which is typical of the pattern of development in Peplow. Within Peplow there are a wide range of housing ranging from large detached properties set within very large gardens to smaller cottages set within modest gardens.

6.1.5 In view of the above it is the opinion of officers that the principle of development in this area which is adjacent to existing dwellings within the village is acceptable and in accordance with adopted local policies S11.2(viii) and CS4 of the Shropshire LDF.

6.2 **Affordable Housing**

6.2.1 This proposal is for the construction of four dwellings and is therefore does not meet the criteria where an affordable housing contribution is to be paid or dwelling provided.

6.3 **Design, Scale and Character**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. The National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. In addition policy MD2 of SAMDev builds on policy CS6 and deals with the issue of sustainable design.

6.3.2 Concern has been expressed that the proposal does not reflect the pattern and form of development that is currently within the village. In addition it is raised that there are a lack of services such as mains water, drainage, internet etc. available and that any development will cause these to be made worse.

6.3.2 As previously described in this report Peplow comprises many different styles and sizes of property. The current application is only dealing with the potential layout of the site, but it is clear that the intention is to provide a variety of size of dwelling as required by adopted local policies. Plots 1 and 2 take reference from the neighbouring semi-detached properties. They would follow the angle and line of the existing properties with parking spaces and large rear gardens provided. Plots 3 and 4 are to be detached dwellings of differing sizes with the land adjacent to plot 4 to be landscaped to provide screening but also to provide improvements to the ecology and biodiversity of the area.

- 6.3.3 In terms of the services available such a water and landline telephones, this would be the responsibility of the developer to provide them but is not a reason to justify refusal of an application.
- 6.3.4 Overall from the above it is the opinion of officers that the layout of the proposal is acceptable and it is in keeping with the pattern and form of development within the village and surrounding area. Therefore the proposal complies with policies CS6 and MD2 of the Shropshire LDF.
- 6.4 **Impact on Residential Amenity**
- 6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.4.2 Concerns have been raised by a local resident that the proposal would give rise to a potential loss of privacy to neighbouring properties.
- 6.4.3 It is appreciated that the application does not provide the full details of the design of the proposed dwellings. However any future application would need to take into consideration the potential impact of the development on the residential amenities of the area. The layout of the site is however for determination and it is possible to determine a number of issues in relation to the proposal. None of the proposed dwellings will have elevations that will provide direct overlooking that would reduce existing privacy levels. Plot 1 is parallel to 1 The Woodlands and while there maybe views over part of the rear garden from the rear elevation, this would be no more that experienced from No. 2 The Woodlands. In terms of Plot 4, the nearest dwelling is Peplow House. The nearest wall of Peplow House that faces the site is in excess of 40 metres from the development. There is no adopted policy in relation to separation distances for privacy, but a general guide used is for a minimum of 21 metres uninterrupted views between habitable room windows. As this distance is exceeded and there will be additional landscaping on the land to the side of Plot 4 it is considered that there would be no loss of privacy as a result of the proposal.
- 6.4.4 Overall in view of the above comments officers are of the opinion that the development would not result in a detrimental impact on the residential amenities of the area. Therefore the proposal is in accordance with policy CS6 of the Shropshire Core Strategy.
- 6.5 **Highways**
- 6.5.1 A number of concerns have been raised that the highway is a narrow single track road and any extra traffic will be a danger to highway safety.
- 6.5.2 The proposal has been assessed by the Council's Highway Development Control Manager. No objection to the proposal has been raised. The provision of a single access to serve four dwellings is acceptable, however as part of any reserved matters application the full details for the proposed access will need to be provided. This will include visibility splays and details as advised in their response. A number of conditions and informatives have been recommended for

inclusion on any planning permission that may be granted.

6.5.3 While Officers appreciate the comments received from local residents the proposal is considered to be acceptable with no sustainable highway grounds on which to base an objection.

6.6 Ecology

6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats. Policy MD12 of SAMDev further supports the principle of protecting and enhancing the natural environment. Therefore the application has been considered by the Council's Ecologist.

6.6.2 It has been raised as a concern by local resident that the loss of trees and vegetation to achieve the development would have a detrimental impact on the wildlife of the area.

6.6.3 The scheme as submitted has included an appropriate habitat report and no objection has been raised to the proposal provided that the mature trees adjacent to the site are retained and there is no loss of bat roosting habitat. The Council's Ecologist has recommended a number of conditions and informatives to ensure that appropriate enhancements and protection is in place.

6.6.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF policy CS17 of the Shropshire Core Strategy and policy MD12 of SAMDev

6.7 Trees

6.7.1 The Council's Tree Officer has viewed the application and raised no objection to the proposal. However it is identified that the mature frontage trees are an important feature and are to be retained. Any subsequent application for the site will require a Tree Protection Plan and Arboricultural Method Statement to be submitted. This is to provide a methodology for implementation of any site layout that has the potential to result in loss or damage to a tree prepared in accordance with BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection. A condition has been recommended for inclusion to ensure these are provided.

6.7.2 Overall from the information provided it is considered by officers that the proposal is acceptable and in accordance with policies CS17 and MD12 of the Shropshire LDF.

6.8 Drainage

6.8.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.

6.8.2 Concerns have been raised regarding the proposed means of drainage of the site. It is stated that the ditch is not free flowing due to obstructions in the culvert and

that the water treatment plant does not have capacity to deal with more properties.

6.8.3 In terms of surface water drainage, the details submitted indicated that run off is to be dealt with through a soakaway system with holding tank to limit the run off in to the ditch. The use of permeable surfacing will also reduce the amount of surface water run off that will be entering the system. The foul drainage is indicated to be connected to the existing treatment plant that serves the neighbouring properties.

6.8.4 The Council's Drainage Engineer has assessed the information submitted and raised no objection. However, conditions have been recommended for inclusion to ensure that appropriate schemes for foul and surface water drainage are installed as well as obtaining appropriate consents for works to the watercourse.

6.8.5 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.

6.9 **Private Water Supplies**

6.9.1 Local residents have raised concern that there is no mains water supply and houses in the area are supplied from boreholes. There are fears that additional usage of these could impair the water supplies and in addition development could contaminate the supplies.

6.9.2 The Council's Regulatory Services Officer has viewed the proposal and raised no objection to the proposal on these grounds. They have recommended however, that an informative be placed on any decision advising a future developer of the requirements to protect the supplies.

7.0 **CONCLUSION**

7.1 Overall in view of the above it is considered by officers that the proposed development is appropriate in its layout and will provide a mix of housing as required by adopted policy. While concerns have been raised in relation to the proposal, most of these can be overcome or are matters for future developers of the site to deal with. As such the proposal is in accordance with the NPPF and policies S11.2(viii), CS4, CS6, CS17, CS18, MD2, and MD12 of the Shropshire LDF.

8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

8.1 **Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions,

rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 **FINANCIAL IMPLICATIONS**

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

10. **Background**

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

Settlement: S11 - Market Drayton

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD2 - Sustainable Design

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

19/00228/OUT Outline application for residential development (5 dwellings) WDN 6th March 2019

19/01359/OUT Outline application (layout for consideration) for residential development PCO

PREAPP/18/00427 Proposed residential development of upto 5 dwellings PREAIP 11th

September 2018

19/00228/OUT Outline application for residential development (5 dwellings) WDN 6th March

2019

19/01359/OUT Outline application (layout for consideration) for residential development PCO

11. Additional Information

View details online:

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

Cllr R. Macey

Local Member

Cllr Karen Calder

Appendices

APPENDIX 1 - Conditions

Conditions**STANDARD CONDITION(S)**

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. The development shall be carried out strictly in accordance with the approved layout plan.

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

5. As part of the first submission of reserved matters a Tree Protection Plan and an Arboricultural Method Statement shall be included. It shall provide a methodology for implementation of any site layout that has the potential to result in loss or damage to a tree prepared in accordance with BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection.

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

6. The first submission of reserved matters shall include a landscaping plan. The submitted plan 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) Boundary treatments.

The plan shall be carried out as approved, by the end of the first planting season following construction of any dwelling on site.

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

7. As part of the first application for the approval of reserved matters full details of the means of access, including the layout, construction and sightlines shall be submitted. The agreed details shall be fully implemented before the development/use hereby approved is occupied/brought into use.

Reason: To ensure a satisfactory means of access to the highway.

8. As part of the first application for the approval of reserved matters details for the parking, turning, loading and unloading of vehicles shall be submitted. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

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

9. Prior to first occupation / use of the building[s], the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 external woodcrete bat box or integrated bat roost feature, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, 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 opportunities for bats, in accordance with MD12, CS17 and section 175 of the NPPF.

10. Prior to first occupation / use of the building, the makes, models and locations of bird boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 5 artificial bird boxes, of either integrated brick design or external box design, suitable for House Sparrow, Swallow & Wren should be installed on site. The boxes should be sited in an appropriate location and thereafter maintained for the lifetime of the development.

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

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

11. 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. 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.

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Committee and Date
 North Planning Committee
 28th May 2019

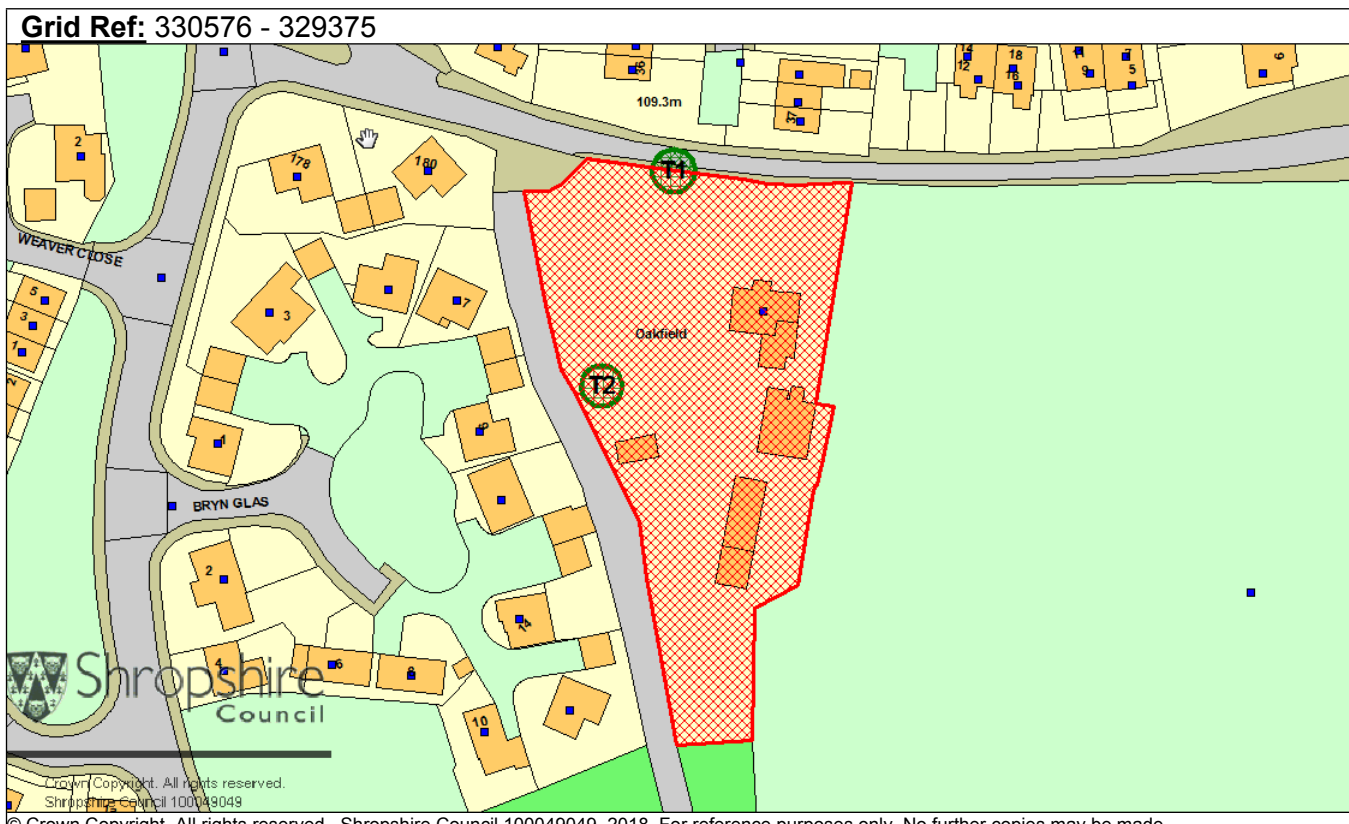
Item
8
 Public

Development Management Report

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

Summary of Application

Application Number: 18/05057/FUL	Parish: Oswestry Town
Proposal: Erection of 3no. detached dwellings following demolition of existing structures; Formation of new vehicular access	
Site Address: Oakfield Middleton Road Oswestry Shropshire SY11 4LU	
Applicant: Mr Roger Roberts	
Case Officer: Shannon Franklin	email: planningdmne@shropshire.gov.uk



Recommendation:- Approval subject to the conditions as set out in appendix one attached to this report.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks planning permission for the erection of 3no. detached dwellings following demolition of existing. The scheme will result in 4no. dwellings being accommodated within the site boundary which currently accommodates a single dwelling know as Oakfield.
- 1.2 During the determination of the application the scheme has been amended in accordance with both Officers comments, together with the SC Highways and the SC Trees consultee comments.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located to the western edge of Oswestry on the southern side of Middleton Road. The site, which is roughly triangular in shape narrowing to the southern end, is accessed from the northwest corner with the existing dwelling located to the north eastern side.
- 2.2 The sites boundaries are formed of mature tree and hedge planting to the north, southwest and southeast, with additional mature trees contained within the site. In a wider context the site is bounded to the north and west by existing residential development, and to the south and east by open countryside. The land to the east and south is allocated as Oswestry Sustainable Urban Extension for development under SAMDev Policy S14.1

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council object to the scheme and following discussion between the Principal Planning Officer, together with the Chair of the Committee, it was concluded that the decision should be made via committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.1 Oswestry Town Council – Objection – 19.11.2018

The Council wish to object to this planning application citing the loss of trees and a hedgerow as a result of the development. The additional traffic onto a busy road would increase concerns regarding safety - Middleton Road has been identified as a site of community concern by Oswestry Town Council. The entrance/exit onto the site is on a bend this again raises concerns regarding road safety.

4.1.2 SC SUDS – No Objection – 07.11.2018

Conditions and informatives recommended.

No objection subject to the implementation of appropriate conditions and

informatives.

4.1.3 **SC Trees – No Objection – 09.05.2019**

Conditions recommended.

I have reviewed the revised site layout and consider that it provides a better relationship between the retained trees and the proposed dwellings, although I note that the canopy of the oak tree appears to have shrunk! However, I think that on balance the layout is sustainable and would withdraw my objection providing appropriate tree protection measures and landscape planting are provided. It is recommended that Permitted Development Rights allowing the construction of extensions, garages, conservatories or other structures be removed, to ensure that retained trees are not put at risk by future alterations to the buildings.

Additional Information Required – 04.04.2019

There are a number of trees on this site and an Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 31 individual trees and 3 hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The majority of the trees on the site are small, relatively young, ornamental specimens and I would agree with the sentiments of the AIA that, whilst attractive in their own right, they lack the prominence to be considered as significant elements of the landscape or character of the wider area. The AIA has identified six trees within the site that it considers significant, both in terms of current and future visual amenity and ecological value and has proposed that these be retained and incorporated into the site layout along with all the boundary hedgerows.

This is a reasonable proposition, as it would retain the significant trees on the boundary of and to the front of the site and maintain connectivity with the area of trees to the south and the network of existing hedgerows.

I would raise significant concerns about the proximity of tree T7 to the proposed dwelling on plot 2, and also the potential for this tree to cast shade over the dwelling and the garden areas of both plot 2 and plot 3. The tree is still in early maturity and can be considered to become significantly larger. The site layout needs to take account of this, as recommended in the AIA.

In its current incarnation would create a situation that would in the future lead to the loss of a significant tree and the consequence of this would be a substantial degradation of the character of the area. It is advised that the site layout be

redesigned to accommodate the tree

Landscape planting of trees forms an important element of a development of this type and will help to reinforce the screening provided by the retained trees, mitigate the loss of canopy cover and provide an attractive and appropriate setting for the development. In my view there is insufficient planting indicated for the site, particularly on the west boundary. This needs to be considered and the application should also be supported by a landscape proposal including trees planting prepared in accordance with BS8545: 2014.

4.1.4 **SC Highways (Mark Wotton, Area Manager – North & Central Developing Highways) – No Objection – 15.05.2019**

Following submission of revised plans, and as per our previous discussions on this application and with the applicant, I consider the access proposals are acceptable and an improvement upon the previous access proposals. Conditions regarding the implementation of the scheme and to provision of visibility splays are recommended.

No Objection – 29.11.2018

In principle there is no objection to the development of the site. The site however sits adjacent to the Mosaic housing application for 150 houses. As part of that application (17/06025/OUT) widening works are shown along Middleton Road, across the frontage of Oakland. My understanding is that it falls under the same ownership. On the basis that the improvements shown to Middleton Road in respect of the adjacent land application submission, are shown in relation to this application then highway matters would be satisfied.

4.1.5 **SC Ecology – No Objection – 26.11.2018**

No objection subject to the imposition of appropriate conditions and informatives.

4.1.6 **SC Affordable Housing – No Objection – 28.11.2018**

If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Council's housing needs evidence base and related policy pre-dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.2 - Public Comments

4.2.1 This application was advertised via notice at the site and the residents of eight neighbouring properties were individually notified by way of publication. At the time of writing this report, one representation had been received in response to this publicity, objecting to the scheme.

4.2.2 The reasons cited within the response for objecting are summarised as follows:

- Negative impact on amenity of the area and neighbouring properties;

- Traffic and highways network implications;
- Visual and ecological impact from the removal of trees and hedging;
- Detrimental impact upon the character of the area.

5.0 THE MAIN ISSUES

- **Principle of development**
- **Siting, scale and design of structure**
- **Visual impact, trees and landscaping**
- **Highways**
- **Residential amenity**
- **Other matters**

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Policy CS1 of the adopted core Strategy outlines the strategic approach to development across Shropshire indicating that within the north west area 5,775 dwellings are to be constructed within the plan period up to 2026.
- 6.1.2 Subsequently, Policy CS3 identifies Oswestry as a Market town which will provide a focus for major development including provision of an additional 750+ dwellings within a Sustainable Urban Extension, alongside employment and infrastructure provision.
- 6.1.3 SAMDev Policy S14 reiterates this position stating that Oswestry will accommodate 2,600 dwellings to 2026 and new housing development will be delivered through the allocation of a combination of existing brownfield sites within the town and a range of new greenfield sites, together with an allowance for windfall development which reflects available opportunities and past rates.
- 6.1.4 The application site is located within the development boundary, as identified in the SAMDev policy maps and within the development boundary, where Policy CS3 supports residential development. The development will be situated in an established residential area within the urban development boundary of Oswestry. It is close to essential services and facilities that could be accessed by foot or by cycle and the Town Centre is readily accessible by public transport. The location of the development therefore accords with the NPPFs presumption in favour of sustainable development and the Shropshire LDF Policy CS3.
- 6.1.5 In terms of design and the layout of the proposal Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; seeks to ensure development is sympathetic to the size, mass, character and appearance of the surrounding area. Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.
- 6.1.6 Section 12 of the National Planning Policy Framework; Achieving well-designed places, reinforces these goals at a national level, by requiring design policies to

reflect local aspirations ensuring developments are sympathetic to local character, visually attractive and establish a strong sense of place.

- 6.1.7 Shropshire Core Strategy Policy CS17: Environmental Networks is concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreational values and function of these assets.
- 6.1.8 Due to the size of the development the applicant is not required to pay an Affordable Housing Contribution as per Policy CS11 of the Core Strategy, however the development will be liable for a Community Infrastructure levy.

6.2 Siting, scale and design of structure

- 6.2.1 The application seeks to provide three additional dwellings within the curtilage of the existing property known as Oakfield. Currently the site comprises of a single dwelling, a large garden area, driveway and turning space together with a number of outbuildings used for domestic storage.
- 6.2.2 The three additional dwelling to be formed will be sited to the west and south of the existing dwelling, serviced by an extension of the existing driveway to form a central access road running south through the site. Plot 1 is located to the rear of the site comprising of a single dwelling and a detached double garages and plots 2 and 3 to the western boundary of the site, again with detached garaging.
- 6.2.3 The siting of the individual dwellings within the plots are considered to be acceptable, with each retaining a generous rear curtilage and sufficient space for parking and turning. It is not considered that a linear layout is appropriate in this instance taking into account the siting of the existing dwelling on site and the layout and orientation of the neighbouring dwellings to the west.
- 6.2.4 In terms of scale it is recognised that the dwellings are generously proportioned, with each dwelling being four bedroomed, however given the scale of the existing house and the properties to the west, the overall bulk, ridge heights and number of dwellings proposed on site is considered to be proportionate.
- 6.2.5. The design of the dwellings is reflective of neighbouring dwellings; brick built two storey and 1 and a half storey dwellings. No concerns with regards to the design features or detailing is identified at this stage.
- 6.2.6 The siting, design and scale of the proposed development of three dwellings, within the exiting curtilage of Oakfield is considered to be acceptable.

6.3 Visual impact, trees and landscaping

- 6.3.1 The main viewpoint of the proposal will be from Middleton Road to the north. The hedging fronting this boundary will be retained with some cutting back and reduction in height required to provide the appropriate visibility splays. Resultantly, view of the development will be limited to those into and out of the site entrance in the northwest corner of the site. Plots 1 and 2 will be clearly visible to receptors passing the site entrance but are considered to be in character and of an appropriate appearance taking into account the context of the existing street scene and the neighbouring dwellings approximately 16.5m to the west. Plot 1 will be screened from views form the road frontage buy the existing and proposed dwellings.

- 6.3.2 Neighbouring residents occupying the dwelling to the west on Bryn Glas will have some views of the proposal from the windows to their upper floors however given the orientation of the dwellings, the separation of the properties by mature hedging and an access track it is not consider this will have any significant negative impact on the locality. Additionally, some trees will be retained within the site to reduce intervisibility between dwellings and neighbours.
- 6.3.3 The site currently comprises of a landscaped garden, lawns and trees. The proposal will see a number of trees removed and fencing installed to form the boundaries between the new plots to be created. The gardens to the three properties will be laid to grass with the outer boundaries to the site retained. Within the site the most valuable and mature tree specimens including an Oak Tree and a Lime Tree; which are both subject to a Tree Preservation Order, will be retained and protected throughout the course of the development.
- 6.3.4 While the comments of the Parish Council with regards to tree loss are noted, and it is accepted that the loss of trees should be avoided where possible, the SC Trees consultee has confirmed that the proposal is acceptable in this regard. As the gardens to the three dwellings created establish additional ornamental planting, including tress and hedging, will establish therefore improving both the visual appearance and the provision of trees on site.

6.4 Highways

- 6.4.1 The prosed highways access to the site has been altered throughout the course of the development to accord with the comments of the highways consultee and the planning officer. It is proposed that the existing highways access will be widened to 5.0m and all four properties on site; the existing Oakfield and three proposed dwellings, will utilise this main entrance.
- 6.4.2 The applicant has demonstrated that the required visibility splays can be accommodated while retaining the majority of the hedge and that parking and turning areas proportionate to each four bedroomed dwelling can be provided within each plot. It is therefore considered that the highways arrangement proposed is acceptable and no significant concerns are raised.

6.5 Residential Amenity

- 6.5.1 Officers have considered the implications of the proposed development on neighbour residents amenity and conclude that the scheme is acceptable. The separation between each of the four dwellings on site and the placement of their windows ensure that no concerns over privacy or amenity arise internally within the site. When considering the neighbours at Bryn Glas, the orientation of the proposed dwellings to face north and the separation distance of in excess of 19.0m from the nearest elevation ensure that any overlooking would be negligible. In addition the mature hedging forming the site boundary which is to be retained and the access track between the site and the neighbouring dwelling ensure that the developments will not have a shared boundary thereby mitigating any amenity impact further.

6.6 Other Matters

- 6.6.1 The proposed development site lies immediately west of land allocated as Oswestry Sustainable Urban Extension for development, under SAMDev Policy S14.1. Should

the current pending application on this site be granted then the site will be bounded on all sides by residential development.

6.6.2 It is noted that part of the Oswestry SUE site application considers the widening of Middleton Road to provide access and therefore the neighbouring developer has an option to purchase a strip of land to the front of the current application site. As a result of this the applicant has ensured that all development required to facilitate the provision of the three dwelling on site occurs outside of this land.

6.6.3 While Officers note that alterations to the highways arrangements and loss of additional trees and hedging may occur as a result of the neighbouring development, this current application is determined on its own merits and the information supplied.

7.0 CONCLUSION

7.1 The provision of three dwellings on a site within the development boundary of Oswestry is acceptable in principle and supported by Officers. The works are judged to be in scale and character with the original dwelling on site and of no demonstrable harm in terms of visual impact. No impact upon neighbouring residents is identified and the highways and trees considerations are appropriate. As such the proposal is in accordance with the determining criteria of the relevant policies including CS3, CS6 and MD2 and as such approval is recommended.

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:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing
 CS17 - Environmental Networks
 MD2 - Sustainable Design
 MD12 - Natural Environment
 National Planning Policy Framework

RELEVANT PLANNING HISTORY:

OS/99/10696/FUL Erection of replacement garage and implement shed GRANT 2nd August 1999
 OS/77/7902/FUL Alterations and extensions to provide a lobby and greenhouse GRANT 14th September 1977
 OS/93/8091/FUL Alterations and additions to existing dwelling GRANT 11th February 1993
 18/05057/FUL Erection of 3no. detached dwellings following demolition of existing structures;
 Formation of new vehicular access PDE

11. Additional Information

View details online:

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

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

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

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

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a tree planting scheme, prepared in accordance with of BS 8545: 2014 Trees: from nursery to independence in the landscape - Recommendations has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that there is no nett loss of trees from the urban area and to provide natural landscape features that help to integrated the development into the local environment

5. 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: The condition is a pre-commencement condition 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

6. Prior to first occupation / use of the building[s], the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority.

A minimum of 1 external woodcrete bat box or integrated bat roost feature, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, 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 opportunities for bats, in accordance with MD12, CS17 and section 175 of the NPPF.

7. Prior to the development hereby permitted being first occupied, the access, access road and parking areas shall be implemented in accordance with the approved plans.

Reason: To provide a satisfactory means of access to the site.

8. Prior to the development hereby permitted being first occupied, 2.4 x 90 metres visibility splays shall be provided in an easterly direction and 2.4 x 43 metres in the westerly direction, all growths and/or obstructions in advance of the visibility splays shall be lowered to and thereafter maintained at a height not exceeding 0.3 metres above the level of the adjoining highway carriageway.

Reason: In the interests of highway safety.

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

9. 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. 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.

10. All demolition, conversion, site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with the Ecological Appraisal prepared by Greenscape Environmental Ltd (September 2018), unless otherwise approved in writing by the Local Planning Authority.

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

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

Reason: To maintain the scale, appearance and character of the development and to safeguard the retained trees on site.

12. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

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

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

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.

13. No construction (and/or demolition) works shall take place before 7am on weekdays and 9am on Saturdays nor after 6pm on weekdays and 1pm on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

Informatives

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.
2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation.
3. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
4. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

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

5. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.

6. Ecology Informatives

A) Nesting bird informative

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

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

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

If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there

are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest.

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

B) Great crested newts informative

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended).

It is a criminal offence to kill, injure, capture or disturb a great crested newt; and to damage, destroy or obstruct access to its breeding and resting places (both ponds and terrestrial habitats). There is an unlimited fine and/or up to six months imprisonment for such offences.

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.

C) Landscaping informative

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

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<u>Committee and Date</u>
North Planning Committee
28 th May 2019

<u>Item</u>
9
Public

Development Management Report

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

SCHEDULE OF APPEALS AS AT COMMITTEE 28th May 2019

Appeals Lodged

LPA reference	18/05487/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Wilson
Proposal	Erection of a single storey lean-to extension
Location	The Coach House Alkington Hall Alkington Whitchurch
Date of appeal	23/04/2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	18/05488/LBC
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr and Mrs Wilson
Proposal	Alterations in connection with erection of a single storey lean-to extension to rear affecting a Grade II.* Listed Building
Location	The Coach House Alkington Hall Alkington Whitchurch
Date of appeal	23/04/2019
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals determined

LPA reference	18/03422/OUT
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Gaddoure
Proposal	Outline application (all matters reserved) for the provision of three holiday chalets
Location	Summerhill, Trefonen, Oswestry Shropshire, SY10 9DT
Date of appeal	02.01.2019
Appeal method	Written reps
Date site visit	04.03.2019
Date of appeal decision	02.05.2019
Costs awarded	
Appeal decision	Dismissed



Appeal Decision

Site visit made on 4 March 2019

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2019

Appeal Ref: APP/L3245/W/18/3218574
Summerhill, Trefonen, Oswestry, SY10 9DT

- 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 S Gaddoura against the decision of Shropshire Council.
 - The application ref 18/03422/OUT, dated 24 July 2018, was refused by notice dated 2 October 2018.
 - The development proposed is the provision of three holiday chalets.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address in the heading to this letter is as used by the Council and as set out on the appeal form. I have adopted the address from the appeal form and consider it to be accurate.
3. The application is made in outline form with all matters reserved.

Main Issue

4. The main issue is whether the benefits of the proposed chalet development to tourism and economic development in the countryside are sufficient to outweigh the policy requirement that such development should be within or close to existing settlements.

Reasons

5. The site is located in the countryside some 5 minutes' drive from the village of Trefonen. The chalets are proposed to be built within the extensive grounds of a recently renovated cottage. The site of the chalets is lower than the road and is part-way down steeply sloping paddock land, with views over countryside towards the village. The appellants intention is to cut the chalets into the slope, thereby reducing their impact on the immediate area.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications and appeals are to be determined in accordance with the development plan policies for the area unless material considerations indicate otherwise.

7. Policy CS1¹ sets out the strategic approach for Shropshire and confirms that development will be located primarily in community hubs and clusters. Outside these settlements, development will primarily be for economic diversification and to meet local needs for affordable housing. SAMDev² contains a table at MD1.1 which identifies community hubs and clusters. Trefonen does not appear in the table.
8. Policy CS5 provides that development in the countryside will be strictly controlled in accordance with national planning policies. The policy states that development on appropriate sites which maintain and enhance the countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. These may include small scale new economic development diversifying the rural economy, including farm diversification schemes.
9. Policy CS5 requires applicants for development in the countryside to demonstrate the need and benefit for the development proposed. Development is expected to be in primarily recognisable named settlements or linked to other existing development and business activity.
10. Policy CS16 deals with tourism culture and leisure. This policy acknowledges the role tourism plays in the local economy and lists matters which will be relied upon in making decisions on planning applications. These include supporting new tourism development which is appropriate to its location, and which enhances and protects the existing tourism offer in Shropshire.
11. SAMDev policy MD11 deals with tourism facilities and visitor accommodation. Where holiday accommodation is not a caravan and is not related to the conversion of existing rural buildings, development will be resisted.
12. Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development which in this case means granting permission for development which accords with the up-to-date local development framework.
13. The roads leading to the development site are narrow and with bends which could place pedestrians at risk. It is unlikely that the occupiers of the chalets would walk to Trefonen around the roads, not least because there is a steep hill to climb on the way back. The public footpath which runs through the site, descends steeply to access the village. The appellant has indicated that cycles will be available for use by the visitors free of charge, but there is no guarantee that they would be used. The steep hill up to the site presents the same difficulty for cyclists as for walkers.
14. The appellant points out that most supermarkets make deliveries which means that the occupiers would not need to use a car to shop. However, no guarantee can be offered that supermarket deliveries would always be used by the occupants. In any event, the delivery of goods by van would also create vehicular trips.
15. The policies require that new tourism development should be appropriate to its location. Whilst the setting for the chalets is peaceful and attractive, there is a lack of connection with existing facilities which would attract tourists, necessitating car journeys to attractions at some distance from the site.

¹ Shropshire Local Development Framework

² Shropshire Council Site Allocations and Management of Development Plan

16. The appellant has described the potential for “visitor spend” as a benefit of the development. I have some doubts that this spend would be in the locality because of the need to travel by car to reach popular visitor attractions and other local services. As a result, there is likely to be little by way of contribution to community benefits or the local economy. Furthermore, the proposals do not arise from an existing business and are not linked to an existing settlement.
17. For these reasons, the proposal is not development which is appropriate to its location under Policy CS16 and does not fall into the categories of development which would be permitted in the countryside under Policy CS5. The proposal for holiday-let accommodation is not a conversion of an existing building and does not therefore comply with Policy MD11. I have looked at the development proposals in the context of Policies MD2 and CS17 (design and protection of the environment). Whilst I accept that the proposed development would have no adverse effect, the absence of harm does not satisfy the requirements of the policies which require protection and enhancement of the natural environment.
18. I conclude that the proposal is not sustainable development and the presumption in favour of sustainable development (NPPF para 11) does not apply.

Other matters

19. The Council acknowledge that the appearance of the development would not give rise to visual harm and as all details are reserved, the Council would have control over the detailed design and exact location of the chalets, if the appeal were to be allowed. This matter does not add to or alleviate my concerns.
20. The appellant states that his proposals will demonstrate that the buildings will be sustainable because they would be wholly recyclable. As the application was made in outline form with all matters reserved, I am only considering the principle of development in this decision letter, rather than the design and construction of the buildings.

Conclusion

23. I note the support of the Parish Council for the scheme, nevertheless, for the reasons given above and having regard to all other matters raised, I conclude that the appeal be refused

Jan Hebblethwaite

INSPECTOR

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