

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

Date: Monday, 28 November 2022

**Committee: Northern Planning Committee**

**Date: Tuesday, 6 December 2022**

**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  
There will be some access to the meeting room for members of the press and public, but this will be limited. If you wish to attend the meeting please email [democracy@shropshire.gov.uk](mailto:democracy@shropshire.gov.uk) to check that a seat will be available for you.

Please click [here](#) to view the livestream of the meeting on the date and time stated on the agenda

The recording of the event will also be made available shortly after the meeting on the Shropshire Council Youtube Channel [Here](#)

The Council's procedure for holding Socially Distanced Planning Committees including the arrangements for public speaking can be found by clicking on this link:

<https://shropshire.gov.uk/planning/applications/planning-committees>

Tim Collard

Assistant Director – Legal and Governance

**Members of the Committee**

Joyce Barrow

Garry Burchett

Geoff Elnor

Ted Clarke

Green

Vince Hunt

Mark Jones (Vice Chairman)

Mike Isherwood

Edward Towers

David Vasmer

Paul Wynn (Chairman)

**Substitute Members of the Committee**

Gerald Dakin

Steve Davenport

Julian Dean

Nat Green

Nigel Hartin

Pamela Moseley

Alex Wagner

Your Committee Officer is:

**Emily Marshall / Shelley Davies** Committee Officer

Tel: 01743 257717 / 01743 257718

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# AGENDA

## 1 Apologies for Absence

To receive apologies for absence.

## 2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 8<sup>th</sup> November 2022, attached, marked 2. Minutes to Follow

Contact: Shelley Davies on 01743 257718.

## 3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is 5.00p.m. on Wednesday, 30<sup>th</sup> November 2022.

## 4 Disclosable Pecuniary Interests

Members are reminded that they must declare their disclosable pecuniary interests and other registrable or non-registrable interests in any matter being considered at the meeting as set out in Appendix B of the Members' Code of Conduct and consider if they should leave the room prior to the item being considered. Further advice can be sought from the Monitoring Officer in advance of the meeting.

## 5 Rowleys House, Barker Street, Shrewsbury, Shropshire, SY1 1QH (22/04244/LBC) (Pages 1 - 8)

Fitting of temporary timber frame over damaged infill panels to stabilise this section of the wall, to enable more detailed investigation of timber frame and development of permanent repair plan affecting a Grade II\* Listed Building

## 6 1A Castle Gates, Shrewsbury, Shropshire, SY1 2AQ (22/04536/LBC) (Pages 9 - 14)

Internal alterations affecting a Grade II Listed Building for the construction of a new accessible W.C. on the ground floor

## 7 Oswald House, 13 Oswald Road, Oswestry, Shropshire, SY11 1RB (22/03805/FUL) (Pages 15 - 28)

Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors

## 8 Site Of Oakland County Primary School, Glebe Road, Bayston Hill, Shrewsbury (22/02517/FUL) (Pages 29 - 62)

Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space

## 9 5 Porthill Gardens, Shrewsbury, Shropshire, SY3 8SH (22/03912/FUL) (Pages 63 - 72)

Replacement kitchen and gym

**10 Pavement Outside 17 Willow Street, Oswestry, Shropshire, SY11 1AB (22/03899/FUL) (Pages 73 - 84)**

Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks

**11 Pavement Outside 17 Willow Street, Oswestry, Shropshire, SY11 1AB (22/03900/ADV) (Pages 85 - 96)**

Erect and display one 75" LCD advert

**12 12 Oak Street, Shrewsbury, Shropshire, SY3 7RH (22/04420/FUL) (Pages 97 - 106)**

Erection of two storey extension and 1000 mm high brick wall to form new boundary (amended description)

**13 Station Yard, Pipe Gate, Market Drayton, Shropshire (22/01789/OUT) (Pages 107 - 132)**

Phase 2 residential scheme for development of up to ten housing plots for self-build/custom housing (resubmission of application reference 21/05785/OUT)

**14 Appeals and Appeal Decisions (Pages 133 - 150)**

**15 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 10<sup>th</sup> January 2023 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Committee and date  
**Northern Planning Committee**  
 6 December 2022

## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/04244/LBC	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Fitting of temporary timber frame over damaged infill panels to stabilise this section of the wall, to enable more detailed investigation of timber frame and development of permanent repair plan affecting a Grade II* Listed Building		
<b>Site Address:</b> Rowleys House Barker Street Shrewsbury Shropshire SY1 1QH		
<b>Applicant:</b> Shropshire Council		
<b>Case Officer:</b> Karen Rolfe	<b>email:</b> <a href="mailto:historic.environment@shropshire.gov.uk">historic.environment@shropshire.gov.uk</a>	

**Grid Ref:** 348940 - 312581



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

**Recommended Reason for Approval:**

The approved works are acceptable on heritage grounds and will not have an adverse impact on the special architectural and historic character or the setting of the listed building and are considered to be in accordance with local and national policies with respect to the historic environment including Core Strategy Policies CS6 and CS17, MD2 and MD13: The Historic Environment (SAMDev Adopted Plan), Historic England Guidance and the National Planning Policy Framework (NPPF), as well as in accordance with the requirements of Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

**REPORT**

**1.0 THE PROPOSAL**

- 1.1 This listed building consent application proposes stabilization works to a limited area of the timber frame and loose infill panels at the second floor level on the south-east gabled elevation of Rowley's House, which along with Rowley's Mansion are prominent interconnected former houses of late 1500 and early 1600 construction situated prominently in the Shrewsbury town centre off Barker Street and within the core of the Shrewsbury Conservation Area. The buildings are listed at Grade II\* level due to their considerable historic and architectural significance.
- 1.2 The proposed works would add a small area of new supporting oak timber frame to be temporarily fixed over the existing panels to stabilize the area while a permanent repair solution is developed. The area to be covered by these works is identified on the drawings and plans submitted with this application and prepared by a specialist structural historic environment Engineer. Drawing A100-B sets out the proposed works which consist of oak braces screwed into the timber frame. This localised repair option is supported by an options report which illustrates the panels affected with annotated photographs of the interior side of this wall, where areas of localised timber decay, deformation and loose infill brickwork is evident, as also shown in the engineer's submitted drawing A200. Netting will be fixed to the new oak timbers to prevent render externally from falling and the timbers will be stained to match the existing frame.
- 1.3 As noted in the PSG Statement also accompanying this application, these temporary stabilization works to this small section of the south-east elevation will only be in place for a period of time to allow development of a wider ranging and more extensive permanent repair plan, and those works to be implemented.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Rowley's House and Rowley's Mansion are prominent adjacent and interconnected late 16th Century and early 17th Century historic and architecturally significant buildings within the Shrewsbury town centre closely fronting both Barker Street and Hill's Lane and located within the Town Centre Special Character Area

of the larger Shrewsbury Conservation Area. The buildings are listed at Grade II\* under list entry number 1254524. Significant works to the buildings were undertaken in 1932 where archival photographs available indicate the extent of works at that time.

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

3.1 The application is presented to Committee as it does not comply with the Council's scheme of delegation as the site is owned by Shropshire Council and the development proposed is not in consideration of a statutory function.

### **4.0 Community Representations**

#### **4.1 Consultee Comment**

4.1.1 **Historic England** - No objection to this application is raised however Historic England does emphasize in their comments the importance of implementing a more permanent repair as a matter of priority. Full HE comments are as follows:

#### ***Historic England Advice***

*Built in the late 1500s by Roger Rowley a successful wool merchant, the imposing timber framed Rowley's House, and elegant brick Mansion built by his son in 1618 are located within the core of the Shrewsbury Conservation Area. These interconnected former houses are listed Grade II\* in recognition of their considerable historic, and architectural significance. The Mansion is also believed to be the earliest brick building in Shrewsbury.*

*Given their importance we would draw your attention to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 regarding the preservation of listed buildings and their settings, and the preservation or enhancement of the character or appearance of conservation areas. We would also highlight Section 16 of the National Planning Policy Framework, which states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.*

*As you are aware, we provided a response earlier this year (our letter dated 28 March 2022) in connection with listed building application reference: 22/00817/LBC for localized works to the timber frame and infill panels of this important Grade II\* heritage asset. We understand that following further exposure of the fabric it has become apparent that the deterioration is regrettably more extensive than initially anticipated. The current applicant therefore proposes a scheme of temporary stabilization to afford time to develop a more extensive programme of repair.*

*It is clearly disappointing that the proposed repairs are regrettably unable to be progressed as initially proposed. However, we understand that the Local Authority is actively seeking a longer-term solution, and the current proposals are a temporary measure to prevent further deterioration. We are also aware that you are working closely with your Property Services Department to provide specialist*

*conservation advice.*

*In the circumstances we have no objection to the current application. However, we would emphasise the importance of implementing a more permanent repair as a matter of priority.*

### **Recommendation**

*Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.*

## **4.2 Public Comments**

- 4.2.1 **Shrewsbury Town Council** - The Town Council raises no objection to this application but enquired if there was a more comprehensive scheme planned for the whole building.

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of works proposed  
Visual impact

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 This short term temporary oak bracing installation is for the purpose of short term stabilization of a section of the upper south-east timber frame with brick infill and external render finish panels while a longer-term more permanent solution to repairs to Rowley's House are developed. This short term solution has been developed by a specialist historic environment engineer in consultation with Historic England, our Historic Environment Team and PSG. Given this temporary installation would be applied to historic fabric and potentially visible in views to the building it was considered that a formal listed building consent application to agree these works was necessary, hence this application has been applied for by PSG.

### **6.2 Siting, scale and design of works proposed**

- 6.2.1 As set out in drawings A100-B and A200 the proposed limited works are considered to be acceptable.

### **6.3 Visual impact**

- 6.3.1 As set out in the PSG Statement the oak braces will be stained to match existing timber framing adjacent and the necessary netting will be fixed to not be overtly visible within views to the building.

## **7.0 CONCLUSION**

With these temporary stabilisation works based fully on the drawings prepared by the specialist engineer and no objections raised by Historic England (while



acknowledging HE's emphasis on developing an appropriate, well-considered more permanent repair solution), it is considered that the application for these localized stabilization works to a section of Rowley's House's upper south-east elevation meet the requirements of the National Planning Policy Framework (NPPF) as well as the legislative requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Policies CS6 and CS17 of the Core Strategy as well as Policies MD2 and MD13 of the SAMDev and there is no objection on heritage grounds to these works proposed.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDev Policies:CS6, CS17, MD2 and MD1.

### RELEVANT PLANNING HISTORY:

22/00817/LBC Internal and external alterations in association with replacement and repair of infill panels and repair of associated timber frame, affecting a Grade II \* Listed Building GRANT  
24th May 2022

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R19EA2TD07V00>

List of Background Papers: File 22/04244/LBC
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member - Councillor Nat Green
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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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**

3. All works shall be carried out in complete accordance with the terms of the application and approved plans, drawings and documents as listed in Schedule 1 below.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

4. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure architectural features are recorded during development.

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Northern Planning Committee

6th December 2022



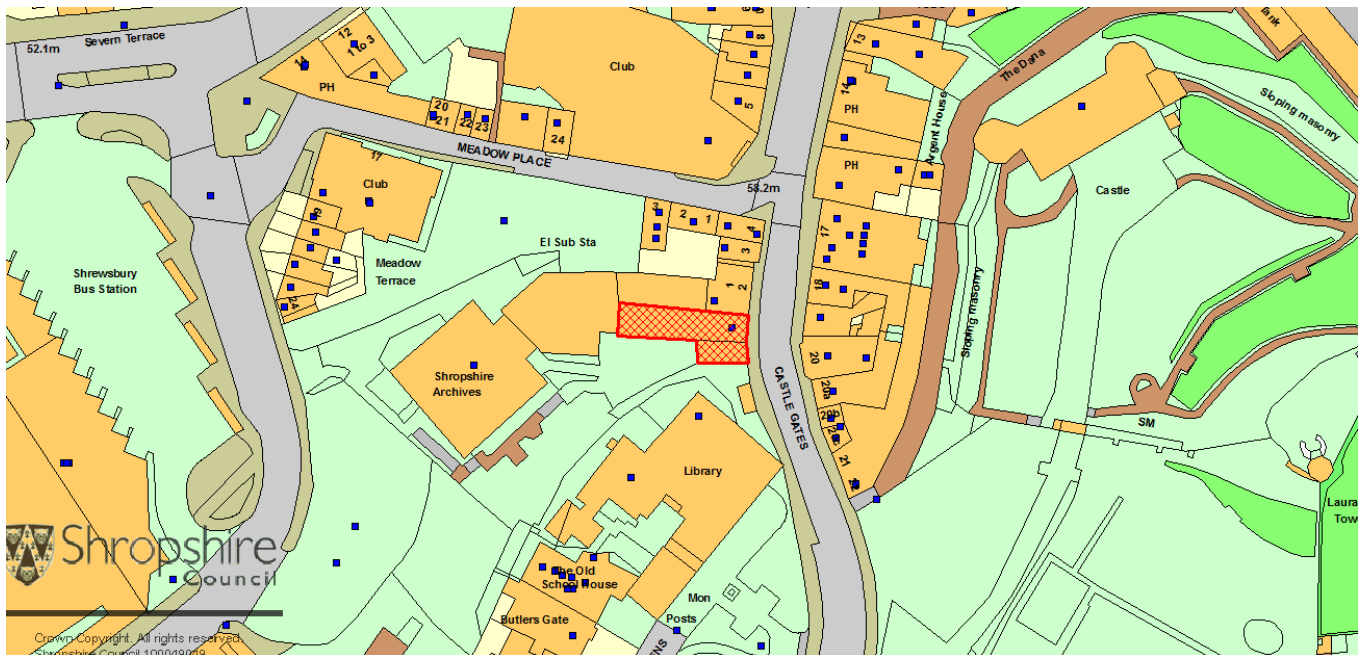
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/04536/LBC	<b>Parish:</b> Shrewsbury Town Council
<b>Proposal:</b> Internal alterations affecting a Grade II Listed Building for the construction of a new accessible W.C. on the ground floor	
<b>Site Address:</b> 1A Castle Gates Shrewsbury Shropshire SY1 2AQ	
<b>Applicant:</b> Shropshire Council Property And Development	
<b>Case Officer:</b> Karen Rolfe	<b>email:</b> <a href="mailto:historic.environment@shropshire.gov.uk">historic.environment@shropshire.gov.uk</a>

**Grid Ref:** 349373 - 312842



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

**Recommended Reason for Approval:** The approved works are acceptable on heritage grounds and will not have an adverse impact on the special architectural and historic character or the setting of the listed building and are considered to be in accordance with local and national policies with respect to the historic environment including Core Strategy Policies CS6 and CS17, MD2 and MD13: The Historic Environment (SAMDev Adopted Plan), Planning Practice and Historic England Guidance and the National Planning Policy Framework (NPPF), as well as in accordance with the requirements of Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

- 1.1 This listed building consent application is very limited and modest in scope, and proposes the insertion of an accessible WC room within the ground floor of the Grade II listed building known as 1A Castle Gates, located in the Shrewsbury town centre just north of the main Grade I listed Library, and to the front and attached to the Shrewsbury Archives. The building was constructed in 1902 of brick construction with an attractive mock timber facade and it is immediately adjacent to a full height side porch of stone with arched open entrance accessing the side of the building, with the name Blowers Repository inscribed over this archway. The main building was used for many years as the library reference and offices but more recently has been used as offices and now is mainly vacant. The property is owned by Shropshire Council.
- 1.2 As outlined in the Statement submitted by the Property Services Group, there is a need for toilet facilities on the ground floor for potential office type uses of this space. The interior of the ground floor of this building has few historic features remaining or at least visible, comprising a mainly open area with modern partition walling and suspended ceilings as well as modern fixtures and fittings. The proposed WC would be set back part way into the open space, be comprised of timber stud work and plasterboard partitions with added ventilation in the ceiling void. Existing drainage points dictate the location of this WC and the location is not considered to impact directly on historic fabric or interior layout of the ground floor, while also being easily reversible if so desired in the future.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 Number 1A Castle Gates is a visually prominent historic building within the Castle Gates street scene, in the Shrewsbury town centre. The building was constructed in 1902 with a mock timber exterior and its stone porch with arched opening and inscribed text of Blowers Repository makes for a visually attractive group along with the Library immediately up the hill and other listed and historic buildings to the north and opposite. The building is listed under list entry number 1246557. These properties are all within the Town Centre Special Character Area which forms part

of the wider Shrewsbury Conservation Area. The works under this listed building consent application are very limited in scope, and simply propose the insertion of a stud wall WC facility within the ground floor of the building so that it can provide accessible toilet facilities as a stand alone space for future occupiers.

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

3.1 The application is presented to Committee as it does not comply with the Council's scheme of delegation as the development as proposed is not in consideration of a statutory function.

### **4.0 Community Representations**

#### **4.1 Consultee Comment**

4.1.1 SC Archaeology - No comments relevant to archaeological matters.

#### **4.2 Public Comments**

4.2.1 Shrewsbury Town Council - No objections raised on this application.

### **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of structure  
Visual impact

### **6.0 OFFICER APPRAISAL**

6.1 Principle of development

6.1.1 The insertion of a ground floor toilet facility within this modernised interior ground floor space is supported in principle on heritage grounds. There is minimal impact related to this insertion of lightweight stud walling with the WC sited so it can connect to existing drainage and pipework. There is also no identified harm to historic fabric or to the significance of the building or its interior space with this proposal, where the WC room would be easily reversible if so desired in the future.

6.2 Siting, scale and design of structure

6.2.1 The details of the WC room are set out in the drawing supplied by PSG where this is a simple insertion of a small partitioned space along the south inside wall of the building, where it can connect to existing plumbing and drainage.

6.3 Visual impact

6.3.1 Externally there will be no visual change to the building. Inside the currently open space will be marginally disrupted by the partition walls to the WC but this should not appear as an unexpected feature in the ground floor which has modern fittings already.

### **7.0 CONCLUSION**

**7.1** A satisfactory case has been presented for the insertion of an accessible WC within the ground floor space of this listed building. The works will improve its future usage in terms of facilities required for practical use and accessibility purposes, with no harm to historic fabric or the significance of this listed building identified. It is considered that the application meets the requirements of the National Planning Policy Framework (NPPF) as well as the legislative requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Policies CS6 and CS17 of the Core Strategy as well as Policies MD2 and MD13 of the SAMDev, and there is no objection on heritage grounds to these works as proposed.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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



### 8.3 Equalities

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

### 9.0 Financial Implications

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

### 10. Background

#### Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and SAMDePolicies: CS6, CS17, MD2 and MD13

### 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RJA9NBTD0BN00>

List of Background Papers: File reference 22/04536/LBC
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member - Cllr Nat Green
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 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended)

2. The development shall be carried out strictly in accordance with the approved plans, drawings and documents as listed in Schedule 1 below.

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**

3. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected during the approved works.

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

4. All new partitions and other elements of construction shall be scribed around historic and architectural features including cornices, picture rails, chair rails, skirting's, panelling, door and window linings and shall not cut through such features.

Reason: To ensure the satisfactory preservation of the Heritage Asset.

5. All new external and internal work and finishes, and work of making good shall match existing original work adjacent, in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved.

Reason: To ensure satisfactory preservation of this Heritage Asset.

6. If hitherto unknown architectural evidence of historic character that would be affected by the works hereby permitted is discovered, an appropriate record, together with recommendations for dealing with it in the context of the scheme, shall be submitted for written approval by the Local Planning Authority.

Reason: To ensure architectural features are recorded during development.



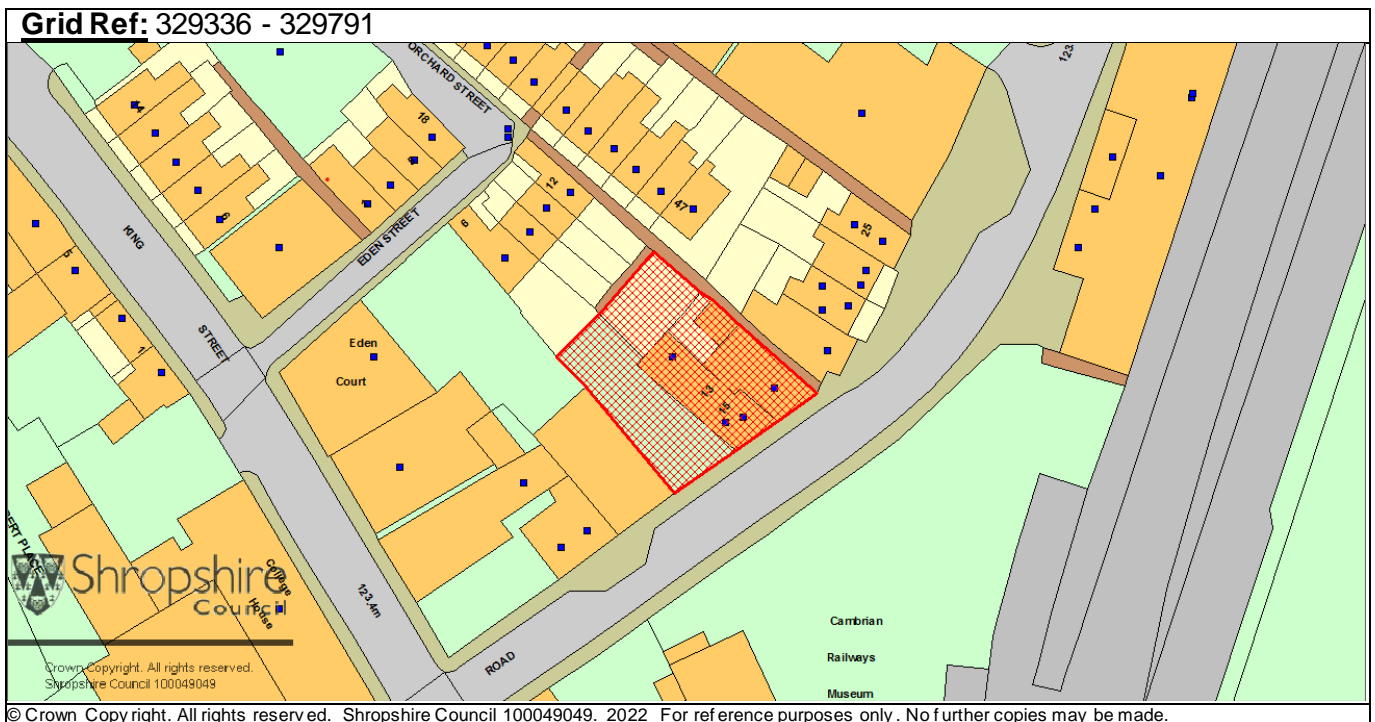
Committee and date  
Northern Planning Committee  
  
6<sup>th</sup> December 2022

## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/03805/FUL	<b>Parish:</b>	Oswestry Town
<b>Proposal:</b> Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors		
<b>Site Address:</b> Oswald House 13 Oswald Road Oswestry Shropshire SY11 1RB		
<b>Applicant:</b> Mr D Wainwright		
<b>Case Officer:</b> Melanie Williams	<b>email:</b> melanie.williams@shropshire.gov.uk	



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

## REPORT

### 1.0 THE PROPOSAL

1.1 Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal relates to a five-storey property (including basement) located within the centre of Oswestry. The property is situated within an area of mixed use with a vacant former commercial building to the west, a tattoo parlour to the east, the Cambrian Railway Museum to the south and residential uses to the north.

2.2 The property lies within the Oswestry Conservation Area in a fairly prominent location opposite both the Grade II listed Old Railway Station and Goods Shed and is in itself considered to be of architectural interest to warrant consideration as a non-designated heritage asset.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Town Council objects to the proposals as does the ward member. The officer recommendation is contrary to the views of the Town Council and Ward Member. The matter was referred to the Chair/Vice Chair who determined in conjunction with the Development Manager and Principal Officer that the application should be determined by the Northern Planning Committee as the Town Council have raised material reasons

### 4.0 Community Representations

#### 4.1 Consultee Comment-

4.1.1 **Cllr Duncan Kerr (Ward Councillor)** - Following the decision of Oswestry Town Council to recommend refusal of this application I am formally requesting that if officers are minded to grant approval the case is referred to the Northern Planning Committee.

4.1.2 Shropshire Council Highways:  
**No objection** subject to the development being constructed in accordance with the approved details and the following conditions and informative notes.

4.1.3 Shropshire Council Public Protection:  
**No objection** subject to an informative pertaining to a HMO licence

4.1.4 Shropshire Council Drainage:  
**No objection** subject to informatives

4.1.5 Shropshire Council Conservation:  
Initially objected as the scheme proposed the removal of the existing shop front and

replacement with uPVC windows. However following these comments the applicant has submitted amended drawings which would retain the existing timber shop front and entrance doors with some smaller amendments to the frontage which is acceptable.

## 4.2 Public Comment-

### 4.2.1 Oswestry Town Council:

#### **Object**

Resolved to recommend that Shropshire Council refuse planning permission for the change of use to provide a 14 bedroom house of multiple occupation at Oswald House, 13 Oswald Road. Members cited the following material considerations:

- The development is not suitable for the location contrary to the National Planning Policy Framework s 127 which sets out a requirement for "development which will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development". The scale and density of the proposal will amount to a significant overdevelopment of the area and will have a considerable (negative) impact on the functioning of the street;
- The area is already suffering from significant problems caused by drug use and crime, this would be exasperated by this development and have a negative impact on the quality of life of other residents in the area;
- The development would result in the overcrowding of the dwelling with the lack of kitchen amenity space or recreation space for the number of residents. It was felt that this overcrowding, the lack of kitchen space and the lack of any amenity space will have a significant and detrimental impact on the quality of life of the residents of the property;
- Concerns also exist regarding the noise and nuisance that will be created at the location that will impact on the health and well-being of immediate residents;
- Oswald Road is a busy one with limited space for residents car parking, the additional cars would exacerbate the existing on-street parking difficulties;
- Concerns exist over the amount of refuse that will be generated and stored.

In addition to the points above members highlighted the fact that the building is within the town centre conservation area and the development is unsuitable for HMO licenced accommodation.

Oswestry Town Council request that if the Shropshire Council Planning Officers are mindful to approve the application then the Town Council formally ask the Northern Area Planning Committee to call the application in for elected Member consideration.

### 4.2.2 Six letters of objection have been received from neighbouring properties and other members of the public. These highlight a number of issues including the following:

- Lack of Amenity
- Drainage issues
- Concerns regarding potential occupants
- Health & Safety
- Impact on surrounding residents and businesses
- Internal facilities to be provided

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Visual impact and landscaping
- Residential amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

- 6.1.1 The National Planning Policy Framework (2018) at Para 127 (f) advocates that development should seek to ‘create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.’
- 6.1.2 Shropshire Core Strategy Policy CS6 requires development to ‘Protect, restore, conserve and enhance the natural, built and historic environment’ and to be ‘appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character’. Furthermore development is required to be ‘designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision.....’
- 6.1.3 It is further stated that development should be ‘designed to be adaptable, safe and accessible to all...and, in relation to housing, adapt to changing lifestyle needs over the lifetime of the development in accordance with the objectives of Policy CS11’ and should contribute to the health and wellbeing of communities, including safeguarding residential and local amenity.’
- 6.1.4 CS11 requires that all developments are designed capable of adaption to accommodate lifestyle changes, ‘including the needs of the elderly and people with disabilities’. The policy supports the provision of housing for vulnerable people and specialist housing provision, including nursing homes, residential and extra care facilities, in appropriate locations and where there is an identified need...’
- 6.1.5 The Council’s Supplementary Planning Document (SPD) ‘Shropshire Type and Affordability of Housing SPD 2012’ supplements the Shropshire Core Strategy and seeks to help deliver the following strategic objective 5:
- ‘Provide for a mix of good quality, sustainable housing development of the right size, type, tenure and affordability to meet the housing needs and aspirations of all sections of the community, including provision for specialist needs and the elderly.’
- 6.1.6 Section 2.13 relating to ‘Design of Residential Homes and Care Homes’ states that where such schemes are conversions / extensions of existing buildings the development should be capable of taking place so as to be sympathetic to the character and appearance of the existing building. Such developments are discouraged in cases where ‘they do not leave a satisfactory level of parking, service areas and external amenity space for the occupants of

the home’.

- 6.1.7 Section 2.15 additionally states that the design, layout, parking, servicing and access should avoid detrimental impacts on neighbours, such as noise and disturbance, excessive traffic and overshadowing.
- 6.1.8 The importance of maintaining acceptable living standards for the occupants of dwellings, in terms of the internal size of living accommodation and the provision of external private amenity space is also dealt with in section 2.16. It is stated that developments must not provide cramped accommodation and minimal outside amenity space.
- 6.1.9 In assessing planning applications for residential developments, including multiple and single plots, extensions, subdivisions and conversions, the Council is required to ‘take account of the internal and external space provided, with a view to ensuring reasonable living space requirements for the occupants, as well as protecting the living conditions of neighbours who might be affected. Developments providing unacceptably cramped accommodation will be resisted’.
- 6.1.10 ‘With regard to private open space / storage facilities, developments will normally at least provide for a satisfactory level of external drying of washing, storage of tools and garden equipment, secure bicycle storage, water butts, waste, compost and recycling bins.’
- 6.1.11 ‘All developments should provide acceptable facilities / conditions for the storage and collection of waste and recycling....’
- 6.1.12 In addition to planning permission, the proposed HMO would be subject to a separate HMO license which sets out the legislative requirements for satisfactory management and maintenance of appropriate physical standards. A HMO application would specifically deal with issues of maximum occupancy numbers, mandatory conditions in relation to gas, electrical and fire safety and preventative conditions in the event of anti-social behaviour. Any breach of licence conditions can ultimately result in landlords being prosecuted and their licence being revoked and it should be noted that it is not the role of the planning system to duplicate control of other regulations in making land use planning decisions.
- 6.1.13 In view of the site’s location within Oswestry Conservation Area policies relating to the protection of the historic environment, including Core Strategy Policy CS17 (Environmental Networks) and SAMDev Policies MD2 (Sustainable Design) and MD13, are also deemed to be relevant in the consideration of this application.
- 6.1.14 Therefore in terms of the sites location within Oswestry Town Centre, in consideration of the nearby services, facilities, recreational and employment opportunities the principle of development is considered acceptable subject to further checks discussed below.

## **6.2 Details of the proposal**

- 6.2.1 The proposal is to convert the building to a **14 bedroom house in Multiple Occupation (HMO) with 2 self contained residential units.**
- 6.2.2 The existing building is described within the submitted details as a former mixed use

property which comprised commercial uses on the ground floor and basement with the upper floors used for residential (as a single 5/6 bedroom dwelling). It is assumed this residential unit is currently vacant. Part of the ground floor is occupied by a Health care practise with the remaining commercial space vacant.

- 6.2.3 The 2 residential apartments are to be located on the ground floor (1 x 1 bed **flat 2** and 1 x 2 bed **flat 1**) each containing a separate kitchen and living space with a garden/service yard area which will be allocated to flat 1.
- 6.2.4 The first second and third floor will be converted to a 14 bedroom HMO (which are all to be en-suite) with communal kitchen/dining/living space and laundry area on the 2nd floor.
- 6.2.5 The proposal will involve a number of internal alterations including the removal of some partition walls. Plus there will be a small extension to the rear at second floor level building up over the existing staircase to provide an escape from the communal kitchen area.
- 6.2.6 To the rear of the building a communal yard, waste storage is to provided with parking area to the side.

### 6.3 HMO description & detailing

- 6.3.1 The Housing Act 2004 clarifies the definition of a house in multiple occupation (HMO), replacing the definition under the Housing Act 1985. The definition of an HMO is found in Part 7 of the 2004 Act.

**England.Shelter** states that: To be defined as an HMO, a building, or part thereof, must fall within one of the following categories:

- a building or flat in which two or more households share a basic amenity, such as bathroom, toilet or cooking facilities: this is known as the 'standard test' or the 'self-contained flat test'
- a building that has been converted and does not entirely comprise of self-contained flats: this is known as the 'converted building test'
- a building that is declared an HMO by the local authority
- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied: this is known as a section 257 HMO

These tests are explained in detail below.

#### Standard test for HMOs

A building is an HMO under the standard test if the:

- occupants share one or more of the basic amenities (defined as a toilet, personal washing facilities and cooking facilities) or the accommodation lacks one or more of these amenities
- building does not entirely consist of self-contained flats (it may, however, comprise some self-contained units)
- building is occupied by at least three people who constitute more than one



household

- building is the occupants' main residence (or should be treated as such)
- occupation constitutes the only use of the accommodation, and
- rents are payable, or some other form of consideration, for at least one person's occupation

This test applies to the most common type of HMO. It applies to shared houses (shared by more than one household such as students) and purpose-built bedsit accommodation. It may also apply to a hostel if the accommodation does not entirely comprise of self-contained units.

- 6.3.2 As stated at section 6.1.12 above if a property is running as a house in multiple occupation in England or Wales the owner will need to apply for a separate HMO licence from the Local Authority. This license will be subject to conditions to ensure the following is acceptable:
- the house is suitable for the number of occupants (this depends on its size and facilities)
  - the manager of the house is considered to be 'fit and proper', for example they have no criminal record or breach of landlord laws or code of practice

#### 6.4 Internal area provision & space standards

- 6.4.1 The ground floor flats will have a gross internal floor area of 65m<sup>2</sup> for the 1 bed roomed flat and 85m<sup>2</sup> for the 2 bed flat. An extract is shown below from **Table 1 of *The technical housing standard in relation to nationally described space standards***.

**Table 1 - Minimum gross internal floor areas and storage (m<sup>2</sup>)**

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		

- 6.4.2 It is the requirement that a single storey 1 bed property should have a minimum internal floor area of 39m<sup>2</sup> and a 2 bed property at least 50m<sup>2</sup>.
- 6.4.3 The bedroom units to be provided will all have an en-suite bathroom and range in size with bedrooms 1 & 7 measuring at the lower end at 14.5m<sup>2</sup> to the larger rooms contained on the 3rd floor (11-14) measuring 18.5m<sup>2</sup> up to 22.6m<sup>2</sup>.
- 6.4.4 The guidance states that in relation to a double bedroom the standard requires an internal floor area to be at least 11.5m<sup>2</sup>.
- 6.4.5 In consideration of the above it is concluded that all the units including the flats would meet the national requirement in terms of space standards and the level of internal accommodation is therefore considered acceptable.

## 6.5 Amenity & Parking provision

6.5.1 The parking area for the site is to be provided to the side and rear of the main building off the main access. 5 car parking spaces will be provided including a turning area, a cycle stand and cycle storage unit will also be included providing for 16 bicycles in total. Given that the proposal is for 14 singles units and 2 enclosed flats this provision would seem inadequate. However Highways have no objection to the proposal and provide the following comments:

6.5.2 *The site is located in the centre of Oswestry close to local amenities and employment opportunities. It is also located close to the bus station providing opportunities for sustainable travel. The redevelopment of the site is retaining 5 parking spaces. Whilst this is not a desirable provision, the development is nonetheless providing some onsite facility together with cycle parking facilities to further promote/encourage alternative means of transport.*

*The nature of the occupancy of the proposed rooms is unlikely to be occupied by family groups and more likely to be occupied by tenants not owning their own vehicle resulting in a lower parking demand than would normally be reasonable anticipated with an apartment/flat.*

*On balance therefore whilst a greater parking provision would be desirable it is considered that a highway objection to the proposal in this location would be difficult to sustain purely on highway safety grounds generated from a potential degree of on street parking demand.*

6.5.3 In addition there are parking facilities in close proximity to the site including on the street frontage; there is public carparking immediately opposite over the adjoining highway with further parking facilities located adjacent to the Cambrian Railway Museum Building, the Cambrian surgery and nearby vacant superstore. As the Highways Department refer to consideration needs to be given to the town centre location in terms of the sustainable transport methods afforded to the area. A scenario to consider is the likelihood that the units will be occupied as starter accommodation for single persons either students or individuals professionally employed within the nearby vicinity. It should additionally be considered that the upper floors of the building are already in residential use with the ground floor currently being used as commercial; therefore there is already an existing level of traffic movement and parking that has not generated any issues or complaints. The proposal may increase this to a certain extent but in consideration of the parking facilities nearby, the location of the proposal, the sustainable transport available it is felt that this increase would not be unacceptable nor detrimentally impact on the amenity of the area or cause a parking issue. Plus in this case, given the sustainable location it is officer opinion that the development would not likely have a significant effect on traffic generation or road safety within the area.

6.5.4 External amenity is provided to the rear of the building including an enclosed garden area for Flat 1. The landscaping shows a communal yard space, area for cycle storage, bin storage and a decorative seating area at the northwest edge. The space provided equals 91m<sup>2</sup> in total area with approx 74m<sup>2</sup> considered useable amenity space.

6.5.5 Again this would seem inadequate given the level of residential accommodation to be provided. However this must be weighed against the nearby amenity areas available within short walking distance of the site; Cambrian Park is located across the road approx 70m distance, a green space approx 5Ha in size with scenic walks, play areas and other attractions including a 40m grass maze. The development site is also adjacent to Oswestry Town Centre and Primary Shopping Area with the facilities available within the town centre itself only a short walk away.

6.5.6 In addition the applicant has indicated that they are willing to enter into an agreement to provide an off-site contribution for public amenity. This would be calculated against the current prevailing rate and the procurement would form part of a future section 106 agreement to secure this fund.

## **6.6 Summary**

6.6.1 It is officer opinion that this is a very finely balanced application with a number of points in favour and against the proposal. The points in favour include the re-use of the building, the benefits to the local economy and the provision of housing; the negatives would include the level of accommodation to be provided especially when considering the amount of car parking and amenity space provision.

6.6.2 In consideration of this it is noted that these sort of developments are typically located within urban areas often with limited onsite parking facilities and amenity provision.

6.6.3 The factors have to be weighed up in the planning balance and it is officer opinion that the benefits of the scheme would outweigh the negatives and therefore the proposal is recommended for approval subject to conditions and a section 106 securing a monetary contribution for off-site amenity provision.

## **6.7 Other matters**

6.7.1 It is noted a member of the public has raised concerns about drainage from the site. The Council's Drainage Manager raises no objections to the application on drainage matters.

6.7.2 The development is considered acceptable in relation to the historic environment.

## **7.0 Conclusions**

7.1 It is considered that the proposed development is acceptable in principle and will provide much needed lower cost residential accommodation in a sustainable location within the Oswestry urban area and at the same time ensuring that the property and grounds will be maintained. It is further considered that the proposal would have no significant adverse impact on the locality or residential amenity, as such health and safety issues along with occupants amenity is considered acceptable in planning terms. (A license for a dwelling in multiple occupation will be required). The proposal is therefore considered on balance to accord with CS3, CS6 & CS11 of the adopted Core Strategy plus MD2 & MD13 of the SAMDev and it is recommended that the application is approved.

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

## 8.1 Risk Management

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

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

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

MD2 - Sustainable Design

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

22/03805/FUL Change of use from commercial use (Class E) at ground floor with self-contained residential units on the first, second and third floors to two self-contained residential units at ground floor and a 14 bedroom House in Multiple Occupation across the first, second and third floors PCO

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGTOQ4TDICB00>

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) - Councillor Richard Marshall
Local Member  Cllr Duncan Kerr
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 drawings including the amended drawing received on the 4th October 2022 (ref: 13-17OR-304-BR Rev A)

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

3. The external materials shall match in colour, form and texture those of the existing building.

Reason: To ensure that the works harmonise with the existing development.

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

4. The access, parking and turning areas shall be satisfactorily completed and laid out in accordance with the Proposed Site Plan Drawing No. 13-170R/200/BR prior to the rooms and residential units being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

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

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

5. All existing features of architectural and historic interest (e.g. windows, doors, ornamental plaster, joinery, staircases, fireplaces) shall be retained in-situ and fully protected

during the approved works.

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

### **Informatives**

1. Works on, within or abutting the public highway

This planning permission does not authorise the applicant to:

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

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

<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/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.

#### 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, to ensure that all visibility splays, accesses, junctions, pedestrian crossings, and all trafficked areas of highway (i.e., footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

2. This property shall be subject to the Mandatory House in Multiple Occupation (HMO) Licensing Scheme. The owners/managers responsible for operating the property, will be required to apply for a HMO Licence. For more information on this, please contact the Housing Enforcement Team.

3. 1. A sustainable scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SuDS Handbook which is available in the Related Documents Section on the Councils Website:

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook. Shropshire Council will not permit new connections to the Highway Drainage network. Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

2. In the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 300mm above the ground level.

-





Committee and date

**Northern Planning Committee**

**8th November 2022**

### Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

#### Summary of Application

<b>Application Number:</b> 22/02517/FUL	<b>Parish:</b>	Bayston Hill
<b>Proposal:</b> Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space		
<b>Site Address:</b> Site Of Oakland County Primary School Glebe Road Bayston Hill Shrewsbury Shropshire		
<b>Applicant:</b> Cornovii Developments Ltd		
<b>Case Officer:</b> John Shaw	<b>email:</b> john.shaw@shropshire.gov.uk	

**Grid Ref:** 348214 - 308629

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**Recommendation:- Grant Permission subject to the signing of a memorandum of understanding/Section 106 agreement and the conditions as set out in Appendix 1 and any amendments to these conditions as considered necessary by the Assistant Director.**

## Update Report

### 1.0 THE PROPOSAL

- 1.1 This application was deferred by committee on 8<sup>th</sup> November 2022 to allow for further negotiations with Sport England and the council's Leisure Team regarding payment for local pitch improvement and for a bat survey to be undertaken on tree T28 which was deemed a tree with high bat roost potential.
- 1.2 This application is seeking planning permission for the demolition of an existing school building and the erection of 23 residential dwellings along with formation of a vehicular access from Glebe Road as well as footpaths/cycleways and public open space. The housing mix would be as follows:
- 2 single bedroom bungalows
  - 7 semi-detached two-bedroom dwellings including 2 two-bedroom bungalows
  - 12 semi-detached three-bedroom dwellings
  - 2 four-bedroom dwellings with one being detached
- 1.3 Two areas of Public Open Space would be created with one at the centre of the development and the other to the northern side of the access road creating a total of approximately 1800sqm. Additional landscaped areas would also be provided including to either side of the entrance to the site from Glebe Road.
- 1.4 A copy of the original committee report from the 8<sup>th</sup> November 2022 is attached to this report in Appendix 1.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is approximately 1.2 hectares and comprises the former Oakland County Primary School building and associated playing fields accessed from Glebe Road; the school closed approximately 10 years ago. The site is adjacent to Christ Church and York House, a small residential care home, to the west while to the south is the Glebefield an open field typically used by local residents for recreational purposes though owned by the Diocese of Lichfield and therefore not designated as formal public open space.
- 2.2 To the rear of the school building, which is now in a poor state of repair, is the former playing field which is now overgrown. The site has a total of 35 trees including 5 covered by Tree Preservation Orders. The site boundaries comprise of brick wall, fencing including 2m high heras fencing and overgrown shrubs/hedging and trees
- 2.3 The site is located within the development boundary of Bayston Hill, a large village located within relative proximity to the County town of Shrewsbury to the north. A footpath currently runs along the southern boundary of the site linking Glebe Road to Lyth Hill Road to the east via the Glebefield.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given that the land is owned by Shropshire Council. The application is therefore presented to Planning Committee for determination.

## 4.0 OFFICER APPRAISAL

### Local Pitch provision

4.1 Following the deferred committee decision, the developer has now agreed to pay the £75,000 as requested by Sport England and the council's Leisure Team; the responses of both consultees are as follows:

### 4.2 Sport England final response 24/11/22:

*'Further to the recent email correspondence below, I can confirm that on the basis of the agreed s106 contribution of £75k being secured we are able to remove our objection to this application. As advised previously we would recommend:*

- *The sum is secured to be paid to the Council upon commencement of development since this is when the loss of playing field takes place*
- *That the sum be appropriately index linked*
- *As Sean suggests [SC Leisure Officer] it would help to engage with the Parish on a proposed scheme of works. I'd suggest the wording is suitably flexible enough to allow this to be spent on playing pitch improvements, and/or changing room improvements at a locally agreed site in line with the Council's Playing Pitch Strategy. I have previously commented that Lythwood (Stanley Parker site) could be considered'.*

### 4.3 SC Leisure final response 23/11/22:

*'I support the application on the basis the applicant has committed to making a £75,000 contribution to mitigate for the loss of the playing field.*

*The money will be spent locally in Bayston Hill to improve sports facilities. The work will be informed by the Shropshire Playing Pitch and Outdoor Sports Strategy and in consultation with the Bayston Hill Parish Council Clerk'.*

As part of negotiating the S106 agreement, further discussions will be undertaken with Bayston Parish Council to ensure the money will be spent locally in Bayston Hill to improve sports facilities. Subject to this agreement, the money that would be paid by the developer to the local pitch improvement would be considered a further social benefit which would weigh in favour of the proposal.

### Ecology

4.4 A Preliminary Ecological Appraisal carried out by Dr Stefan Bodnar (July 2021) identified four trees with high potential for roosting bats and one of these trees is to be removed (T28). To ensure the bat roosts are not harmed by the removal of this tree, a bat survey has been undertaken since the 8th November committee and no evidence of bats roosts within the tree were found. The council's Ecologist is satisfied with the findings of the report and does not consider any additional conditions to those previously recommended are required.

## Affordable Homes

- 4.5 The developer had stated that there would be a further 2 affordable two bed homes in addition to those 2 which would be secured by a S106 agreement on plots 4 and 9 and would be funded by Homes England. The additional 2 homes would have pushed the overall provision further above the policy compliant figure of 1.8 and therefore would comply with the Homes England approach of additionality. As clarified by the Planning Officer at the beginning of his presentation on the 8<sup>th</sup> of November committee, these additional homes could not be secured by a S106 and therefore there was no guarantee of their delivery.
- 4.6 The developer has since the previous committee submitted a planning addendum which states that they are still committed to providing additional affordable housing subject to the tender price, level of Homes England grant funding that can be achieved and the ability of a Registered Provider to purchase any additional units. The potential additional provision of affordable homes would represent a material benefit of the development if delivered, however as they are not yet confirmed and could not be secured via a S106 agreement, then no weight can be given at this stage.
- 4.7 As stated in the original committee report, the provision of 2 affordable homes within the locality above the policy compliant figure of 1.8 to be secured by a S106 agreement is considered to weigh in favour of the scheme with respect to constituting a benefit arising from the development in accordance with SAMDev Policy MD3.

## Drainage

- 4.8 Since the 8th of November committee, the developer has provided further information demonstrating that Severn Trent will in principle accept the connections from the development to their existing assets and that the new development is to be offered for adoption. The council's Drainage Engineer has confirmed he is satisfied that it is now established who will maintain the various aspects of the drainage system and as such condition 14 will be replaced with the following condition:

*No development shall take place until a scheme demonstrating that exceedance flows up to the 1 in 100 years plus 40% storm, do not result in surface water contributing to surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site has been submitted to, and approved by the Local Planning Authority.*

*Reason: The condition is a pre-commencement condition to ensure that any such flows are managed on site*

- 4.9 The developer has agreed to the use of this condition.

## Section 106

- 4.10 Prior to the granting of any permission and following on from the above, a S106 legal agreement would be signed between the developer and Shropshire Council to secure public open space in perpetuity at the site, 2 affordable homes and a payment of £75,000 to facilitate playing pitch improvements, and/or changing room improvements at a locally agreed site in line with the Council's Playing Pitch Strategy.

## 5.0 CONCLUSION

5.1 The proposed development would be considered acceptable in principle and would constitute a sustainable form of development and enable the reuse of a brownfield site. The development would bolster the local housing stock, generate an overprovision of much needed affordable housing for the village and create accessible public open space for residents. The layout is well-designed with open frontages and parking that would be well integrated and not predominant while the design of the dwellings provides visual interest. Most existing trees would be retained and submitted landscaping plans indicate significant additional planting throughout, however such landscaping would be conditioned to ensure a high-quality scheme is secured and retained.

5.2 The development would be acceptable in terms of impacts on residential amenity, highway safety, local ecology, drainage, and sustainability; open space provision would be policy compliant.

5.3 The application is therefore recommended for delegated approval subject to the agreement of a memorandum of understanding/S106 between the developer and Shropshire Council to secure public open space, 2 affordable homes and a payment to local pitch improvement and/or changing room improvements at a locally agreed site, and the conditions as set out in appendix one attached to the original committee report and any amendments to these conditions as considered necessary by the Assistant Director.

## 6.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

### 6.1 Risk Management

There are two principal risks associated with this recommendation as follows:  
As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However, their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore, they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than 6 weeks after the grounds to make the claim first arose.

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

### 6.2 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.

### 6.3 **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.

### 7.0 **FINANCIAL IMPLICATIONS**

7.1 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.

## APPENDIX 1

### REPORT FROM COMMITTEE 8TH NOVEMBER 2022

#### 1.0 THE PROPOSAL

1.1 This application is seeking planning permission for the demolition of an existing school building and the erection of 23 residential dwellings along with formation of a vehicular access from Glebe Road as well as footpaths/cycleways and public open space. The housing mix would be as follows:

- 2 single bedroom bungalows
- 7 semi-detached two-bedroom dwellings including 2 two-bedroom bungalows
- 12 semi-detached three-bedroom dwellings
- 2 four-bedroom dwellings with one being detached

1.2 Two larger areas of Public Open Space would be created with one at the centre of the development and the other to the northern side of the access road; two smaller areas are stated to be additional open space creating a total of 2197sqm.

1.3 A previous application was submitted in May 2019 (19/01873/OUT) which sought Hybrid (full and outline) planning permission for residential development of up to 47 dwellings (outline) and the erection of community building which would have had a multi-functional use including a library to replace the existing Bayston Hill library. This application incorporated the school site subject of the current application together with the southern and western portions of the Glebefield. The application was assessed simultaneously with 3 other smaller proposals that consisted of the replacement of the existing library with 3 homes; the erection of a vicarage, and the redevelopment of an existing community hall on Lythwood Road to provide a new scout hut which would have been lost if the Glebefield site had been developed. All four proposals were heard together at planning committee which resolved to grant permission in August 2019. Application 19/01873/OUT was subject to a S106, however, this legal agreement was not signed and the application was withdrawn earlier this year.

#### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is approximately 1.2 hectares and comprises the former Oakland County Primary School building and associated playing fields accessed from Glebe Road; the school closed approximately 10 years ago. The site is adjacent to Christ Church and York House, a small residential care home, to the west while to the south is the Glebefield an open field typically used by local residents for recreational purposes though owned by the Diocese of Lichfield and therefore not designated as formal public open space.

2.2 To the rear of the school building, which is now in a poor state of repair, is the former playing field which is now overgrown. The site has a total of 35 trees including 5 covered by Tree Preservation Orders. The site boundaries comprises of brick wall, fencing including 2m high heras fencing and overgrown shrubs/hedging and trees

2.3 The site is located within the development boundary of Bayston Hill, a large village

located within relative proximity to the County town of Shrewsbury to the north. A footpath currently runs along the southern boundary of the site linking Glebe Road to Lyth Hill Road to the east via the Glebefield.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 This application does not meet the criteria for delegated decisions as set out in the Council's adopted 'Scheme of Delegation' given the application has been submitted by Shropshire Council to itself which also acts as the Local Planning Authority. The application is therefore presented to Planning Committee for determination.

### 4.0 COMMUNITY REPRESENTATIONS (full details of the responses can be viewed online using the application reference)

#### 4.1 - Consultee Comments

##### 4.1.1 Bayston Hill Parish Council: Neutral

*Bayston Hill Parish Council continue to be disappointed that the Community Hub from the original site plans (that included an adjoining plot) are not now included in this smaller development.*

*Many years of consultation and work towards having this facility have been swept away.*

*Despite this disappointment, we are pleased to see movement on this long derelict school. To this end we wish to log the following as a representation from BHPC.*

*Request a condition that:*

*The Tree Protective Fencing should be installed before any construction work takes place. This includes demolition, site clearance and drainage work.*

*Where the paving around the roads and houses does encroach slightly into the RPAs of the trees, a 3D cellular confinement and load spreading system, such as "Cellweb", should be used to minimise the impact on these trees.*

*All retained trees will require protection during the construction work to make sure that they are not damaged. Can TP orders be made on the retained trees to avoid future applications to remove them.*

*Facilitate the movement of hedgehogs between the gardens of the properties by the inclusion of a gravel board with a hedgehog hole facilitated.*

*A developer enquiry must be submitted to Severn Trent to ensure there is capacity within the sewers to take the flows from the development before any work on the development site is undertaken.*

*At least four of the trees on this site have high bat roost potential, these are target noted on the phase 1 diagram in Appendix 1 of the Ecological Report - 4635887. If the development proposals affect these trees, at least three bat emergence surveys will be required.*



*Could a condition be considered for all properties within the development to be provided with Electric Vehicle charging points or at least to have a facility provided that an EV charging point can be connected to.*

*Green space maintenance - we would expect Shropshire Council to upkeep the green space or agree at least a 20-year arrangement with BHPC.*

*Are the green spaces usable? It is not clear on the plans that the spaces are accessible for use.*

*Observation:*

*1. It is noted that the drainage system should be regularly maintained and that there is a detailed schedule of what this requires, can we have confirmation that the Local Authority are prepared to take on this responsibility.*

*2. In the Drainage Strategy Report - 4635880 the proposed site description is shown as the area for the previous application 19/01873/OUT which was withdrawn, is this correct or should the report be resubmitted?*

*3. In the same report it mentions that "To ensure that sewer flooding and overland flow does not pose an undue risk to the proposed development, finished floor levels will be set above external ground levels. The general topography in the area slopes to the northeast. Any overland flow would therefore be expected to follow this trend, flowing away from the development." What mitigation is being considered for existing properties that boarder this development to ensure that they are not adversely harmed by any surface water run off?*

*4. Sustainability Checklist*

*- Water conservation - given the drive towards carbon neutral why would the developer not be asked to select Best 80 l/h/d*

*- Energy Efficiency Generation - as above why not Best*

*- Energy Demand and Energy Efficiency Statement - using orientation and solar gain to minimise energy demand - this has not been responded to with either a Yes or No*

*- Energy Demand and Energy Efficiency Statement - No detail for a yes or justification for a No has been provided.*

*- Electricity Statement - No Justification has been provided for a No response.*

*- Heat Statement - No Justification has been provided for a No response*

*- Waste management and Resource Efficiency - Material Resource efficiency section has not been completed, no indication of which requirement has been met'.*

**Planning Officer comment:** Matters relating to trees, ecology, open space, drainage, and sustainability are discussed in the main body of the report below.

4.1.2 West Mercia Constabulary: No objection; informative recommended

4.1.3 SC Conservation: No comment to make

4.1.4 SC Affordable Housing: No Objection

*The application site is situated in an area where the prevailing target rate for affordable*

*housing is 15%, therefore for a development comprising 23 dwellings, there would be a requirement for 3.45 affordable dwellings for the development to be planning policy compliant. The planning statement submitted with the application notes the provision of 4 affordable dwellings, which is an over provision. An overprovision of affordable housing is welcomed given the high demand for such housing in Bayston Hill. The affordable provision is noted as being two x 1 bed bungalows and two x bed houses. The proposed affordable dwellings all exceed Nationally Described Space Standards which whilst not currently a policy requirement are standards that are strongly encouraged.*

*Paragraph 64 of the National Planning Policy Framework notes that to "support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". Vacant Building Credit (VBC) has been applied for and supported in this instance. As a result of VBC the affordable housing contribution has been recalculated to reflect the removal of existing buildings (VBC) resulting in a revised contribution of 1.8 (one affordable dwelling and a financial contribution for the remaining fraction). Clarity is sought regarding the designated affordable dwelling/s.*

#### 4.1.5 SC Trees: No Objection subject to conditions

3<sup>rd</sup> Response 20/10/22:

*'The loss of trees is never desirable but can sometimes be necessary to allow for the provision of a quality site layout. Planning policy allow for losses of such trees where it can be demonstrated that there is a need and the planning gains of the development outweigh the impact of the losses and that the losses are properly compensated for. In this case I would recommend that a high-quality landscaping scheme is prepared that provides for new tree planting. This should consider site and wider canopy cover levels, layout of structural landscape, and take account of factors such as the potential impact of ash dieback on the existing tree stock. The scheme should seek to introduce age and species diversity to the site and wider area.*

*The proposal must be supported by an assessment of the arboricultural impact and show justification and demonstrate the value of the compensatory planting, along with a planning justification. If it can be shown that the tree loss will not have a substantial impact on wider amenity and can be reasonably compensated for, no objections would be raised to the proposal by the tree team'.*

2<sup>nd</sup> Response 07/09/22:

*'Amendments to site layout required to prevent the loss of important trees and additional information on proposed 'no dig' systems'*

*'In conclusion, the loss of the 3 trees identified for removal would not significantly impact public amenity, however, the potential to lose 3 additional trees would have a much more significant impact. It is therefore recommended that the site layout be revised to ensure that the retained trees can be accommodated into the site layout and will not exert a negative influence over the proposed dwellings and their private amenity spaces. In addition, full details of the 'no dig' systems prosed for use where footpaths and drives encroach into RPAs must be provided and their suitability for use in these situations verified'.*

1<sup>st</sup> response 06/07/22:

*'The arboricultural impact assessment provide on the file states that it is superseded but no other assessment is provided. Can it be clarified if another assessment is pending submission?'*

4.1.6 SUDS: No Objection subject to a pre-commencement condition which requires a scheme of surface and foul water drainage to be submitted to the LPA.

4.1.7 Regulatory Services: No Objection subject to condition relating to condition that requires the developer to report to the LPA if any contamination is found not previously identified.

4.1.8 SC Ecology: No Objection subject to conditions;  
*'I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out.'*

*The Preliminary Ecological Appraisal carried out by Dr Stefan Bodnar (July 2021) identified four trees with high potential for roosting bats. All trees are to be retained as part of the development and therefore no further survey work is required. Should the trees need to be removed then further activity surveys for bats will need to be conducted. No other protected or notable species was recorded or priority habitat. Suitable habitats for small mammals and invertebrates were recorded on site. Mitigation measures have been recommended to negate any negative impact'*

4.1.9 SC Highways: No Objection subject to conditions

4.1.10 Sport England: Objection

2<sup>nd</sup> response 02/09/22:

*'We accept that there is not an expectation to provide a replacement pitch, rather to use the sum being requested to fund pitch improvement works to build capacity locally. We have suggested that this sum could be spent at Lythwood or at an alternative site as may be agreed, in line with local priorities. In the absence of a costed scheme of works at a particular site, it is not possible to comment further, however we would stand by this sum as being reasonable to mitigate the loss of a 7v7 pitch. That said, Sport England would be open to discussion regarding an alternative sum to establish if agreement could be reached to withdraw our objection.'*

*The applicant's case is summarised that there is not a need for the contribution, on the basis that the PPOSS does not point to the need to replace the pitch elsewhere. However, they miss the point that the contribution being requested would be invested in improving pitch quality of existing pitches in line with the recommendations of the PPOSS which is needed. We maintain the view that the contribution being sought meets the relevant tests. If the substantive point between us is therefore the scale of the contribution, there may be scope to agree a compromise figure, however, in order to remove our objection a substantial sum will need to be agreed.'*

*'The applicant contends the site does not constitute playing field. We disagree, in our view it is disused playing field.'*

*The applicant contends that the contribution being sought does not meet the relevant NPPF tests, we disagree for the reasons explained. Notwithstanding that we stand by the sum requested as being fair and reasonable in scale and kind in this case, there may*

*be scope to negotiate an alternative sum with the Council, in discussion with Sport England?’*

1<sup>st</sup> response 24/06/22:

*Sport England **objects** to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF. Our objection could be removed if a section 106 contribution of £75k were to be agreed to secure investment in playing field provision locally, as mitigation for the loss.*

SC Leisure: Financial contribution should be provided.

4.1.11 *‘The applicant summarises some of the findings of the PPOSS in respect of football provision. They conclude that the PPOSS does not recommend provision of additional 5v5 or 7v7 pitches within the Central area, instead referring to opportunities to unlock existing pitches for additional use to accommodate future demand. I agree that the PPOSS recommends improving pitch quality and securing community access to school’s pitches as a means of addressing identified shortfalls of capacity. However, it is important to note that the PPOSS does recommend that sites are protected from loss. So, whilst I agree that there is not a need to provide a replacement area of playing field to provide a replacement mini pitch in this case, we do consider there is a need to secure a suitable s106 agreement sum to be invested locally to address the identified issues regarding capacity through pitch quality improvements.*

*In my view the site constitutes disused playing field. As far as I’m aware, there has been no other lawful use that has taken place that has constituted a material change of use of the land. Notwithstanding the overgrown condition of the site, I do not consider that the permitted use as a playing field has changed.*

*As pointed out in the PPOSS there isn’t the new to provide new facilities, but a contribution should be forthcoming coming to support pitch quality improvements in the local area. I would support Sport England’s view that a financial contribution of £75k is provided to mitigate for the loss of the playing field. This is in line with Sport England’s cost guidance’.*

SC Learning & Skills: No Objection

4.1.12 *‘The development would only create 2 secondary pupils for which there is a need but this can be covered from existing applications and CIL funding’*

### **- Public Comments**

4.2 One letters of representation was received and which raised an objection to the development for the following reasons:

- 1) The absence of a new community hub as part of the proposed development which is contrary to
  - The Landowners Development Brief dated June 2017
  - The Draft Shropshire Local Plan (2016-2038) which states that “A community hub will be provided’ as part of the development of the site.
  - Shrewsbury and Surrounding Area Place Plan published 2019/20 states that a "One Stop Shop' plan for the library and Parish Office to be accommodated by a new Community Hub building on the site of the Oakland Primary School’

- Previous permissions 19/01873/OUT and 19/01859/OUT. The retention of the existing library would furthermore mean that the 3 dwellings approved under 19/01859/OUT can no longer be brought forward
- 2) Uncertainty on whether CIL monies from the proposed development will be specifically allocated to improving the existing Bayston Hill Library.

## 5.0 THE MAIN ISSUES

- 5.1 Principle of Development  
Character and Appearance  
Neighbouring Amenity  
Trees, Landscaping and Public Open Space  
Highways and Access  
Ecology  
Drainage  
Other Matters  
S106

## 6.0 OFFICER APPRAISAL

### Principle of Development

- 6.1 Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages. Policy CS4 also allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen; these hubs and clusters were designated as part of the adoption of the Council's Site Allocations and Management of Development (SAMDev) plan.
- 6.2 Policy CS6 of the Core Strategy seeks to ensure development protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character.
- 6.3 The provision of housing within the urban area of Bayston Hill accords with the adopted SAMDev Plan Policy S16.2(ii), with Core Strategy Policy CS4 and MD1 of the SAMDev identifying Bayston Hill as a Community Hub. S16.2(ii) states that Bayston Hill a housing guideline of around 50-60 dwellings for the period 2006-2026, where development by infilling, groups of houses and conversion of buildings may be acceptable on suitable sites within the development boundary identified on the Policies Map. The latest housing supply figures for the hub states that there were 64 housing completions up to 2020/21 with an additional 8 sites benefiting from approval by 31<sup>st</sup> March 2021.
- 6.4 The proposed redevelopment of the site for 23 dwellings together with the current level of housing delivered in Bayston Hill, would result in the housing guideline figure for Bayston Hill being exceeded. SAMDev Policy MD3 states that the housing guideline is significant policy consideration, and where development would result in this figure being exceeded, decision must have regard to the following:
  - The increase in number of dwellings relative to the guideline; and

- The likelihood of delivery of the outstanding permissions; and
- The benefits arising from the development; and
- The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
- The presumption in favour of sustainable development.

- 6.5 With respect to the above, the proposed development would result in the redevelopment of what partially comprises a brownfield site. Core Strategy policy CS10 prioritises the re-use and development of brownfield sites on suitable sites in sustainable locations, such as Bayston Hill for housing development. Similarly, Section 11 of the NPPF places great importance on planning policies and decisions giving substantial weight to the value of using suitable brownfield land within settlements for homes. Paragraph 38 of the NPPF also states that decision-makers at every level should seek to approve applications for sustainable development where possible, and it is considered that the proposed development would constitute a sustainable and effective re-use of an existing brownfield site within a settlement boundary where the principle of additional residential development is acceptable.
- 6.6 Bayston Hill has been indicated as comprising a highly sustainable settlement in the current local plan which includes a range of local services and facilities with good public transport links connecting the village to Shrewsbury and Church Stretton. Bus stops are either side of the development site within a 1–3 minute walk. Bayston Hill Library is approximately 2 minutes from the site while a local delicatessen and public houses are all within a short walking distance. The Glebefield would be directly adjacent to the south and easily accessible. The site is also located within relative proximity to Meole Brace Retail Park, with a sizeable range of shops (Sainsbury's, Marks and Spencer, Next, TK Maxx, Sports Direct, Home Bargains etc.) that also serves a large catchment area.
- 6.7 It is therefore considered that the proposals would constitute a highly sustainable form of development, which the NPPF and local planning policy applies significant weight to with respect to planning decisions.
- 6.8 Such development would also allow for a significant proportion of affordable housing within the site, which SAMDev Policy 16.2(ii) states the Parish Council have identified as a high priority within the village. MD3 following on from the NPPF, emphasises that a suitable mix of housing must be provided which meets the needs of different groups in the community and this in turn builds on Core Strategy Policy CS11. CS11 supports development which help to balance the size, type and tenure of the local housing stock and sets targets for affordable housing provision. The application site is situated in an area where the prevailing target rate for affordable housing is 15%, therefore for a development comprising 23 dwellings, there would be a requirement for 3.45 affordable dwellings for the development to be planning policy compliant. However, paragraph 64 of the National Planning Policy Framework notes that to "*support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount*". Vacant Building Credit (VBC) has been applied for and supported in this instance. As a result of VBC, the affordable housing contribution has been recalculated to reflect the removal of existing buildings (VBC) resulting in a revised contribution of 1.8 (one affordable dwelling and a financial contribution for the remaining fraction). The proposal surpasses this

requirement with a provision of 2 affordable bungalow dwellings built on site to be secured by a S106 agreement. In addition, there would be a further 2 affordable two bed homes on plots 4 and 9 that would be funded by Homes England. The additional 2 homes would push the overall provision further above the policy compliant figure of 1.8 and therefore complies with the Homes England approach of additionality. The total number of affordable homes on the site would therefore be 4, some 122% above the 1.8 policy compliant figure.

- 6.9 The provision of affordable housing within the locality is considered to weigh heavily in favour of the scheme with respect to constituting a benefit arising from the development in accordance with SAMDev Policy MD3.
- 6.10 The proposal would have a mix of 2x single bedroom bungalows, 2x two-bedroom bungalows, 5x semi-detached two-bedroom dwellings, 12x semi-detached three-bedroom dwellings and 2x four-bedroom dwellings. Such a housing mix as proposed would be considered acceptable, comprising a good range of house types with an emphasis placed on smaller and medium sized dwellings where there is a high demand in the local area and across the county. A total of 4 bungalows is welcomed; this type of dwelling is acknowledged in the council's Housing Market Assessment as likely to increase in demand with the scale of Shropshire's ageing population and with the focus on profitability and higher density housing, construction of new-build bungalows are less frequent.
- 6.11 It was accepted by the LPA following planning committee as part of 19/01873/OUT that this site and Glebefield to the south could deliver 47 homes which would have been a greater overprovision of homes in Bayston Hill than the 23 now proposed. It is acknowledged that part of the justification of that development was the provision of a new community hub on site, however it should be reiterated that the application site subject of this report does not include the Glebefield which is not a public playing field and could still be developed to incorporate a community hub. The provision of a community hub at the wider site is stated as part of policy S16.2(i) as allocated site BAY050 in the draft Local Plan and it is not considered that the current proposal would prevent the aims of that policy from being implemented. In determining this application, it should be noted that limited weight is to be given to the draft Local Plan which is at examination stage as there are outstanding objections to draft policy S16.2 received during the Regulation 19: Pre-submission Consultation. Nonetheless, it is not considered that the proposed residential development for 23 dwellings would not conflict with the draft Local Plan.
- 6.12 The wider redevelopment of the site would include the creation of a defined area of public open space for local residents that makes efficient use of the playing fields associated with the former primary school that are not currently accessible to the public. This further weighs in favour of the proposed development by way of comprising a public benefit to local residents.
- 6.13 To summarise, it is considered that the limited harm attributed to exceeding the guideline figure for dwellings within Bayston Hill would be outweighed by the redevelopment of the brownfield site for residential purposes. The development would be a sustainable form of development which in economic terms would bring benefits during the construction and

in social terms would bolster the local housing stock, generate an overprovision of much needed affordable housing for the village and create public open space for local residents on a site that is not currently accessible. The environmental strand of sustainable development will be considered in the remainder of the report via a review of the siting, scale, design and landscape impacts and matters relating to impacts on residential amenity, highway safety, local ecology, and local flood risk.

### **Layout, scale, design and landscaping of development**

- 6.14 Core Strategy policy CS6 seeks to ensure that development respects and enhances local distinctiveness and amongst other factors, is appropriate in scale, density, pattern and design, taking into account local context and character and those features which contribute to local character. This policy also seeks to maintain and improve the health and wellbeing of communities including safeguarding residential and local amenity.
- 6.15 Policy MD2 'Sustainable Design' of the SAMDev additionally seeks to achieve local aspirations for design where possible. Policy CS17 recognises Shropshire's environmental assets, and that new development should contribute towards local distinctiveness including landscape and biodiversity. Both policies require high-quality landscaping to form an important part of development schemes with the new planting of trees, woodland and hedges required to be incorporated to reinforce existing landscape features.
- 6.16 Policy MD12 'The Natural Environment' also discourages proposals which are likely to have a significant adverse effect, directly, indirectly or cumulatively on the environment including upon visual amenity and landscape character and local distinctiveness unless:  
a) there is no satisfactory alternative means of avoiding such impacts through re-design or by re-locating on an alternative site and;  
b) the social or economic benefits of the proposal outweigh the harm to the asset.
- 6.17 Section 12 of the National Planning Policy Framework reinforces these goals at a national level, by requiring development to add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.18 The proposed development would have a strong building line that would avoid a disjointed visual appearance. The layout and design make strong use of retained trees and new tree planting throughout the development both to front gardens, and throughout the public open spaces. The proposed elevations deliver a degree of variety and visual interest. The dwellings would appear balanced including the arrangement of their fenestration and would be well-proportioned within their respective plots. The use of gables, porches, bay windows and varying roof lines would break up the bulk of the development. Subject to conditions including the submission of material details prior to works above damp-proof course level, the dwellings would be of an acceptable design in accordance with relevant policies referenced above.
- 6.19 Most of the parking would be to the side of the homes and where this has not been achieved then soft landscaping would be used to soften the risk of frontages being dominated by parked cars. Furthermore, lawned front gardens would be arranged to be



set between those plots where parking to the front would feature ensuring that there would be no continuous bank of parked cars within the streetscene; a number of properties would have car ports which would provide further screening of vehicles. Open frontages would be a chief characteristic of the streetscene; hard boundary treatments would be limited to the side and rear of dwellings. Where proposed fencing would have a degree of visibility within the streetscene, for example to the side of plot 10, here the fence would be set back from the highway with hedging and tree planting set ahead to provide screening. To retain the overall open character, permitted development rights would be removed relating to the formation of hardstanding and the erection of fences, wall and other enclosures.

- 6.20 No objection has been raised on arboricultural grounds. The proposal would require the removal of a total of 5 trees, with one being category B, 3 category C and 1 category U. One of the category C trees is a TPO protected tree (T28); this tree has been downgraded due to the existence of a structural defect compromising the life expectancy of the tree and the council's Tree Officer agrees that it is not a high value tree. Though the loss of the category B tree (T27) and T28 is regrettable, the removal of these two trees would significantly improve residential amenity for plots 13 – 15 which would be much better lit and would meet the minimum standards set out in BRE 209 Site Planning for Sunlight and Daylight. It is considered that the retention of these two trees would result in an unacceptable living environment for future occupiers of plots 13-15 that would not comply with CS6. An alternative approach of removing the dwellings worst affected by the shading would result in a reduction in the number of affordable homes at the site including high demand bungalows.
- 6.21 In reviewing alternatives, the planning officer agrees with the Tree Officer that a robust pre-commencement condition which allows for the removal of T27 and T28 but brings forward a high-quality, compensatory landscaping scheme would be the optimal approach. The trees at centre of the site where one of the two public open spaces would be situated, primarily consist of Ash trees which are susceptible to Ash dieback; the loss of these trees over the lifetime of the development would cause visual harm. Therefore, a landscaping scheme which considers site and wider canopy cover levels, layout of structural landscape, and seek to introduce age and species diversity to the site and wider area would on balance represent a long-term gain in arboricultural and visual amenity terms notwithstanding the loss of T27 and T28.
- 6.22 The general density proposed of 19 dph is consistent with modern residential development within the locality. It is also noted that different house types have been evenly spread throughout the site and that affordable housing would be effectively integrated within the development. The development would have no undue wider landscape impact due to the modest heights of the dwellings and the site's strong boundary edges. The retention of most of these features combined with a condition to secure soft landscaping would mean the new homes would not appear prominent within the wider landscape.
- Residential Amenity**
- 6.23 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'*. Policy MD3 states that new development should be a good neighbour that does not unacceptably impact on existing residential amenity.

- 6.24 The bulk of the properties would be sited to the southern side of the access road and would back onto Glebe Road and onto the grounds of Christ Church and therefore enjoy significant separation distance from the nearest neighbouring dwellings.
- 6.25 To the opposite side of the access road, the side of Plot 11 would be 18.7m from no.64 Lyth Hill to the north-east, however the windows at 1<sup>st</sup> floor to the side elevation of this plot 11 would only serve bathrooms and would be conditioned to be obscured glazed. All other properties to the north-east and east of the site that would back onto existing properties would benefit from sufficient separation distances of approximately 28.95 to 33.39sqm which would ensure no undue overlooking, overbearing or overshadowing impacts.
- 6.26 Within the site itself, there would be sufficient separation distance between the new dwellings to prevent undue harm to the amenity of future occupiers. The dwellings would all meet national space standards, have acceptable rear garden areas suitable for their respective plot and dwellings sizes and have easy access to the public open spaces area referenced above. As noted above, the proposed removal of trees T27 and T28 would ensure the rear of plots 13-15 and their gardens would receive acceptable levels of sunlight throughout the year.

### **Public Open Space**

- 6.27 MD2 requires 30sqm of open space per person based on a standard of one person per bedroom. The proposed development would have a total of 60 bedrooms and this would necessitate a total open space requirement of 1800sqm.
- 6.28 The proposed public open space, which would meet the required scale for the size of the development in accordance with MD2, would be consist of two large useable spaces at the heart of the development which would be accessible and benefit from overlooking from habitable rooms of nearby dwellings. The site would also be accessible for existing residents in the area both via the proposed Glebe Road access and via the existing footpath to the east which passes between nos. 70 and 72 Lyth Hill Road and would connect the site to Lyth Hill Road. The open space would be managed in perpetuity accordance with the provisions of a S106 agreement.

### **Highways and Access**

- 6.29 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.
- 6.30 No objections have been raised from the Highways Authority with respect to the proposed access onto Glebe Road. The additional traffic generation onto Glebe Road

and local highway network would not be considered to have a severe impact on its continued safe operation. Within the site, there would be acceptable levels of turning and parking areas. The development would be in acceptable in highways terms subject to the following conditions to secure:

- the implementation of the proposed visibility splays before occupation,
- the implementation of the parking and turning areas as shown on submitted plans,
- the submission of full construction details and
- the submission a Construction Traffic Management Plan prior to commencement of work.

## **Ecology**

- 6.31 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environment and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.32 A Preliminary Ecological Appraisal carried out by Dr Stefan Bodnar (July 2021) identified four trees with high potential for roosting bats. It has now been confirmed that 3 of these trees will be retained while T28 would be removed. To ensure the bat roosts are not harmed by the removal of this tree, an endoscopic survey has been commissioned by the developer. If no evidence of bats using this tree is found, then the removal of the tree could be suitably conditioned, and the LPA would recommend that any trees are soft felled over winter to negate any potential negative impact to roosting bats. If evidence is found of roosting bats then further activity surveys during the bat surveying season would have to be carried out to determine if a licence is required from Natural England prior to determination.
- 6.33 No other protected or notable species was recorded or priority habitat. Suitable habitats for small mammals and invertebrates were recorded on site and suitable mitigation measures have been recommended to negate any negative impact. The contents of the Preliminary Ecological Appraisal have been confirmed by the Council's Ecologist, with several conditions recommended. Ultimately, subject to no bats being found as part of the endoscopic survey, the proposal would not result in harm or loss of habitat to any protected species and with adequate landscaping and mitigation measures to be secured by conditions, the proposal would deliver biodiversity net gains in accordance with the NPPF and CS17.

## **Drainage**

- 6.34 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.

- 6.35 Surface water attenuation will be provided on site in the form of Sustainable Drainage Systems (SuDS). Flows above the existing discharge rates will be attenuated on site for all return periods up to the 1 in 100 year plus climate change event. The feasibility and suitability of each SuDS solution will need to be fully appraised at the detailed design stage of the development and this can be controlled by condition. The foul drainage strategy for the new development will be in the form of a gravity system with an off-site connection into the existing Severn Trent network and connecting into the foul sewer that is to be diverted on the site. The proposal has been assessed by the Council's Drainage Engineer who has not raised any objection and deems that a workable drainage strategy
- 6.36 has been identified and therefore additional details can be secured by a pre-commencement condition. 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 Core Strategy.

### **Other Matters**

- 6.37 Sport England have commented on the proposed development and state that, based on their assessment, a previously used youth football/sports pitch was present within the site of the former Oaklands County Primary School, and this would subsequently be lost with no replacement facilities to be provided as part of the scheme. In the absence of replacement facilities, and as the Council's latest Playing Pitch and Outdoor Sports Assessment & Strategy (PPOSS) recommends that sites are protected from loss and aims to improve pitch quality and secure community access to schools pitches as a means of addressing identified shortfalls of capacity, both Sport England and the council's Leisure Officer agree there is a need to secure a suitable s106 agreement sum to be invested locally to address the identified issues regarding capacity through pitch quality improvements. The figure both parties have requested is £75,000 though they have indicated they would be willing to agree to a lower amount. The developer has during the application accepted the need to make a financial contribution though would wish to pay a figure lower than £75,000. As part of negotiating the S106 agreement, further discussions will be undertaken to arrive a final figure. Subject to this agreement, the money that would be paid by the developer to the local pitch improvement would be considered a further social benefit which would weigh in favour of the proposal.
- 6.38 The developer has written a supplementary report in support of the Sustainability Checklist that was initially submitted as part of the application. To comply with policy CS6, the Sustainability Checklist requires development to at least meet the minimum standards. It is considered that this development meets this requirement and is therefore compliant with CS6 regarding the need to ensure that sustainable design and construction principles are incorporated within new development, and that resource and energy efficiency and renewable energy generation are adequately addressed and improved where possible. The development furthermore surpasses minimum standards in certain areas, with a proposed sanitaryware specification of less than 105 Litres/per person/per proposed which is an improvement over the Building Regulations requirement of 110 Litres/per person/per day whilst the scheme proposes to adopt 1.7 kWp of solar photovoltaics to each plot. The proposed fabric specifications of the dwelling closely mimics the forthcoming Future Homes Standard (FHS) and that is demonstrated in the reduction in CO2 emissions. The supplementary report confirms that the homes are expected to achieve between a 45% and 50% reduction in CO2

emissions measured against the governments Standard Assessment Procedure (SAP) 2009. Finally, each property would have an electric vehicle charging point.

## Section 106

6.39 Prior to the granting of any permission and following on from the above, a S106 legal agreement would be signed between the developer and Shropshire Council to secure public open space, affordable housing and a payment to facilitate improvement for a local sport pitch.

## 7.0 CONCLUSION

7.1 The proposed development would be considered acceptable in principle and would constitute a sustainable form of development and enable the reuse of a brownfield site. The development would bolster the local housing stock, generate an overprovision of much needed affordable housing for the village and create accessible public open space for residents. The layout is well-designed with open frontages and parking that would be well integrated and not predominant while the design of the dwellings provides visual interest. Most existing trees would be retained and submitted landscaping plans indicate significant additional planting throughout, however such landscaping would be conditioned to ensure a high-quality scheme is secured and retained.

7.2 The development would be acceptable in terms of impacts on residential amenity, highway safety, drainage, and sustainability; open space provision would be policy compliant. Subject to no bats being found as part of the endscoping survey, the proposal would not result in harm or loss of habitat to any protected species and with adequate landscaping and mitigation measures to be secured by conditions, the proposal would deliver biodiversity net gains in accordance with the NPPF and CS17.

7.3 The application is therefore recommended for delegated approval subject to the agreement of a S106 between the developer and Shropshire Council to secure public open space, affordable housing and a payment to local pitch improvement and the conditions as set out in appendix one attached to this report and any amendments to these conditions as considered necessary by the Assistant Director.

## 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:

RELEVANT PLANNING HISTORY:

PREAPP/10/00160 Temporary staff car park for the provision of 4/5 spaces. PREUDV 2nd February 2010

PREAPP/10/00593 Extension to School REC

19/01873/OUT Hybrid (full and outline) application for residential development (outline) and the erection of community building with car parking (full) WDN 15th February 2022

20/02300/TPO To carry out a Light crown lift to 1no London Plane (T1) works required to ensure height clearance for pedestrians and

to crown reduce and cut back boughs overhanging adjacent property 66a Lyth Hill Road, Bayston Hill and to balance tree canopy 1no Sycamore (T4) protected by Shropshire Council (Land at former Oak Meadow Primary School, Glebe Road, Bayston Hill) TPO 2013 GRANT 31st July 2020

PREAPP/21/00536 Demolition of existing buildings and erection of 23 residential dwellings, formation of vehicular access from Glebe Road, footpaths/cycleways and public open space PREAMD 17th November 2021

22/02517/FUL Demolition of existing school building and the erection of 23 residential dwellings, formation of access from Glebe Road, footpaths/cycleways and public open space PDE

SC/CC2006/0025 Erection of 2.3, 2.4 and 3 metre high dark green steel mesh security fencing PERMIT 13th November 2006

SC/CC2003/0019 Construction of a single-storey front extension to provide a reception office, entrance lobby and access ramp. PERMIT 12th June 2003

SC/CC2003/0010 Erection of 2.4 metre high dark green steel palisade security fence PERMIT 29th April 2003

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RCJP68TD07U00>

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

# AGENDA ITEM

Northern Planning Committee - 8th November 2022

Site Of Oakland County  
Primary School

Cabinet Member (Portfolio Holder) - Councillor Richard Marshall

Local Member

Cllr Ted Clarke

Cllr Tony Parsons

Cllr Rosemary Dartnall

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, drawings and documents as listed in Schedule 1 below.

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

3. Notwithstanding the details shown on the approved drawings, a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces (all facing materials for the buildings also including roofs and window and doors) including a sample panel showing the mortar mix to be used for the external walls, have been submitted to and approved in writing by the Local Planning Authority prior to development above damp proof course level. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area

4. No dwellings shall be occupied before all fencing has been erected in accordance with the approved plan 21016/4F. Fences shall thereafter be retained in accordance with the approved details at all times.

Reason: To ensure a visually satisfactory form of development and to protect the amenities of occupiers of neighbouring properties

5. Notwithstanding the submitted landscaping plan ADL364 REV B and Planting Schedule received by the LPA on 27/09/22, 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 and hedge 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. The tree and hedge planting scheme must make provision to sustainably plant landscape trees that will compensate for the loss of trees arising from the development

permitted and must include details about:

Policy and Strategy - setting out planting objectives and desired outcomes for the scheme

Site Evaluation and Constraints Assessment

Any retained planting

Species Selection - taking into account the above

Nursery Production and Procurement - type of planting stock to be used given the objectives and site constraints

Handling and Storage

Planting - including site preparation

Post Planting Management and maintenance

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

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.

6. 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 all tree protection measures specified in the submitted Tree Protection Plan and Arboricultural Method Statement have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. 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, without the prior written consent of the Local Planning Authority. A responsible person will be 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.

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.

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.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (Or any order revoking and reenacting that order with or without modification) the 1st floor windows to be formed in the side elevation (north east elevation) of plot 11, shall only be glazed or re-glazed with obscure glass and any opening part of any window shall be at least 1.7 m above the floor of any room in which the window is installed, unless otherwise agreed in writing by the local planning authority. No new window openings to the first floor of this elevation shall be created.

Reason: In the interests of the amenities of occupiers of adjacent properties.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken (except as authorised by this permission or allowed by any condition attached thereto) without express planning permission first being obtained from the Local Planning Authority:-

- the formation of hard surfaces within the curtilage of any dwellinghouses hereby permitted
- the erection of fences, gates or walls or other means of enclosure

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and appearance of the existing building and the visual amenities of the area

9. In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other off-site receptors.

10. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding amphibians, bats, birds, badgers, and invertebrates as provided in Sections 4.3 and 4.4 of the Preliminary Ecological Appraisal (Dr Stefan Bodnar, July 2021).

Reason: To ensure the protection of and enhancements for bats, which are European Protected Species and birds which are protected under Section 1 of the 1981 Wildlife and Countryside Act (as amended).

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, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. 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.

12. 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 12 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 12 artificial nests of either integrated brick design or external box design, suitable for Starlings (42mm hole, starling specific), Sparrows (32mm hole, terrace design), House Martins (House Martin nesting cups) and small birds (32mm hole, standard design) shall be erected on the site prior to first use of the development.
- A minimum of 4 insect houses per the specifications of Appendix 6 of the Preliminary Ecological Appraisal (Dr Stefan Bodnar, July 2021).
- A minimum of 1 artificial Hedgehog box is to be provided, suitable for breeding and/or hibernating hedgehogs (Schwegler Hedgehog Dome, Hogitat Hedgehog Home).

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

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

13. One electric vehicle recharging point per dwelling as shown on approved plan 21016/4F shall be provided prior to occupation and shall not be removed or altered in any way and shall be kept available for such use by residents at all times.

Reason: To improve air quality and to help mitigate the impacts of climate change by ensuring

a greater level of sustainability for the development.

14. No development shall take place until a scheme demonstrating that exceedance flows up to the 1 in 100 years plus 40% storm, do not result in surface water contributing to surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site has been submitted to, and approved by the Local Planning Authority.

Reason: The condition is a pre-commencement condition to ensure that any such flows are managed on site

15. Before the development is brought into use, visibility splays of a depth of 2.4 metres and a length of 43 metres from the centre point of the junction of the access road with the public highway, as shown on 'General Arrangement and Visibility Splays, Drawing No. VN22S201-D100', shall be provided and thereafter be kept clear of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

16. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking, loading, unloading and turning of vehicles has been properly laid out, hard surfaced and drained. These spaces shall be maintained thereafter free of any impediment to its designated use.

Reason: To ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

17. Notwithstanding any of the submitted details, the development shall not take place until full construction detail of any new roads, footways, retaining features, accesses, street lighting, transition features, full block paved surfacing of shared space areas together with details of disposal of surface water to a suitable outfall have been submitted to, and approved in writing by the Local Planning Authority. The submitted details shall also include the colour, form and texture of all hard ground-surfacing materials. The agreed details shall be fully implemented before the use hereby approved is commenced or the buildings occupied.

Reason: To ensure the development is completed to the required standards for future adoption and to ensure a satisfactory form of development in the interest of the visual amenity of the area.

18. Works shall not take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for:

# AGENDA ITEM

Northern Planning Committee - 8th November 2022

Site Of Oakland County  
Primary School

Parking of vehicles of site personnel, operatives and visitors

Loading and unloading of plant and materials

Storage of plant and materials used in constructing the development

Each of the facilities shall be maintained throughout the course of construction free from any impediment to its designated use.

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

19. Prior to occupation of the 23rd dwelling, the pedestrian/cycle link to the existing footpath that would connect the development to Lyth Hill Road shall be implemented and retained thereafter. This pedestrian/cycle link shall be kept free of obstruction at all times.

Reason: To ensure residents of the development have easy access to the existing footpath in the interests of sustainable development.

20. Notwithstanding the approved elevational plans, details of the locations of any external utility meter boxes to be installed shall be submitted and approved in writing by the Local Planning Authority before their installation on any of the dwellings hereby approved.

Reason: To prevent visual clutter, in the interests of the appearance of the development and the surrounding area.

21. No construction works shall take place before 7am on weekdays and 8am on Saturdays nor after 7pm on weekdays and 6pm on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

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

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

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

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

## Informatives

1. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

2. 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.

3. The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

The developer should aim to achieve the Police Crime Prevention initiative award of Secured By Design. Secured By Design is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The opportunity for burglary offences to occur can be reduced by up to 87% if Secured By Design is achieved. There is a clear opportunity within this development to achieve the Secured by Design award. By doing so it can also address the requirements of the new Approved Document Q.

Approved Document Q applies to all new dwellings, including those resulting from a change in use of an existing building, such as commercial premises, warehouse and barns undergoing conversions into dwellings. It also applies to builds within Conservation Areas. Approved Document Q creates security requirements in relation to doors at the entrance to a building, including garage doors where there is a connecting inner door leading directly into the dwelling. Also included are ground floor, basement and other easily accessible windows; and any easily accessible roof-lights. The requirement is that the product must be shown to have been manufactured to a design that has been tested to an acceptable security standard.

In recent times there has been a tendency to install thumb turn locks on front doors. This type of locking device should only be considered when the lock cannot be easily seen from the outside, any glazed panels are fitted with laminate glass to standard PAS24:2016/ STS 201

and a deflector is fitted to the inside of any letter box opening. Thumb turn locks should never be considered for rear doors if they are half glazed and the internal thumb turn can be easily seen from the outside. This will increase the potential for burglary and other offences to occur.

The principles and standards of the Secured By Design initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com).

During the build the developer has a responsibility for site security. They should aim to keep any compound, machinery and tools as secure as possible whilst on site. Offenders will visit such sites to test security measures that are or are not in place and if they are not up to standard then they will be attacked causing an increase in crime in the locality. Every effort should be made to keep property safe and secure. The Design Out Crime Officer can offer professional advice if requested to do so.

#### 4. Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

#### No drainage to discharge to highway

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

#### 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, to ensure that all visibility splays, accesses, junctions, pedestrian crossings, and all trafficked areas of highway (i.e., footways, cycle ways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.

<https://shropshire.gov.uk/media/2241/supplementary-planning-guidance-domestic-waste-storage-and-collection.pdf>

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

This planning permission does not authorise the applicant to:

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

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



<https://www.shropshire.gov.uk/roads-and-highways/road-network-management/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.

## Extraordinary maintenance

The attention of the applicant is drawn to Section 59 of the Highways Act 1980 which allows the Highway Authority to recover additional costs of road maintenance due to damage by extraordinary traffic (i.e. construction vehicles).

## Landscaping

Should any proposed trees or shrubs be located in close proximity of any proposed or existing public highway infrastructure (>3 m), appropriate root protection systems will need to be submitted and approved prior to construction. In order to mitigate against any future root damage to roads, footways and the utility services beneath. Also, any other landscaping/planting adjacent to the future highway will require appropriate maintenance and service arrangements, in perpetuity. In order to maintain any required visibility splays and to keep leaf litter clear of footways and drains, etc., in the interests of highway safety.

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

## 6. Bats and trees informative

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

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

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

## Nesting birds informative

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

chicks are still dependent.

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

All vegetation clearance, tree removal, scrub removal and 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 if there are no active nests present should work be allowed to commence.

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

-



Committee and Date  
 Northern Planning Committee  
 6<sup>th</sup> December 2022

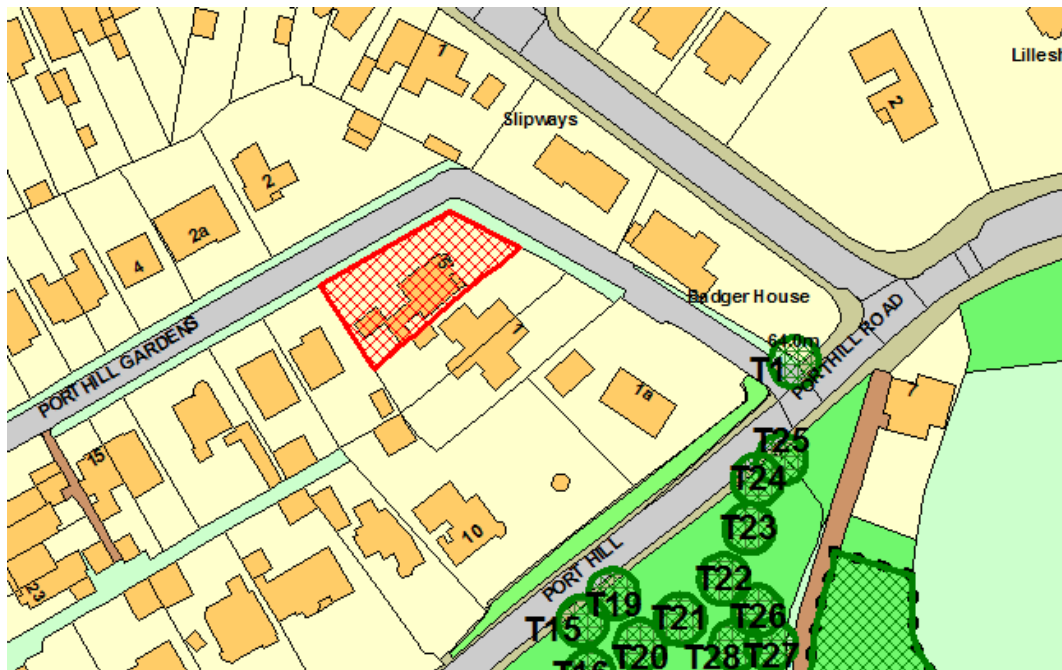
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/03912/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Replacement kitchen and gym		
<b>Site Address:</b> 5 Porthill Gardens Shrewsbury Shropshire SY3 8SH		
<b>Applicant:</b> Dr & Mrs A & E Booth		
<b>Case Officer:</b> Nia Williams	<b>email:</b> nia.williams@shropshire.gov.uk	

**Grid Ref:** 348288 - 312594



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

Recommended Reason for Approval

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

- 1.1 This proposed development seeks full planning permission for a replacement kitchen and gym to the property known as 5 Porthill Gardens.
- 1.2 Planning history – (19/04483/FUL) Erection of garage building; single storey extension, formation of retaining wall - GRANTED
- 1.3 The extension will be sited at the rear of the property on the south – west and will measure approximately 12.27m in length, 7.58m in width, 5.52m to the ridge and 4.72m to the eaves.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The existing large dwelling occupies an elevated position in a corner site on Porthill Gardens, which is an attractive private road with a mixture of detached and semi-detached properties of similar age accessed from Porthill Road in Shrewsbury.
- 2.2 The property has an existing single storey garage, and the rear outbuilding has been demolished to allow for the previous granted extension (19/04483/FUL)

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The scheme complies with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution.

**4.0 COMMUNITY REPRESENTATIONS****4.1 Consultee Comments**

- 4.2 **SC Archeology (Historic Environment)** - We have no comments to make on this application with respect to archaeological matters.

- 4.3 **SC Highways** - No Objection Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Shropshire Council as Highway Authority has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application

- 4.4 **Drainage & SUDS** - All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Informative Notes:

A sustainable scheme for the disposal of surface water from the development

should be designed and constructed in accordance with the Councils SuDS Handbook which is available in the Related Documents Section on the Councils Website: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/> Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook. Shropshire Council will not permit new connections to the Highway Drainage network. Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

**4.5 SC Conservation (Historic Environment) - Porthill Gardens** is characterised by attractive high quality traditional dwellings along a narrow road in a verdant setting, where many of these houses were constructed from circa 1907 and within several years following. Referring to the 1925 revised OS map, much of the building forms along Porthill Gardens had been established, including Number 5 Porthill Gardens positioned at the south corner of the easterly bend in the street as well as its neighbours to the south, west and north. Porthill Gardens is positioned north of and outside of the northerly boundary of the Shrewsbury Conservation Area and we are aware there is local interest in including Porthill Gardens within a conservation area designation.

This application follows on from application 19/04483/FUL which approved a flat roof garage building to the front elevation of the dwelling along with single storey extension to the rear, replacing existing a more modest rear range. This new application proposes a larger rear extension than approved under the 2019 application, to house a kitchen and a gym. In considering this proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, and the National Planning Policy Framework (NPPF).

While it is understood that the earlier approved more modest rear extension scheme was considered to satisfactorily address local policy considerations with respect to protecting and conserving the built environment, and matters of appropriateness relevant to scale, density, pattern and design, when taking into consideration local context and character and distinctiveness, the current proposal by virtue of its large extent and footprint within this corner property is not considered to respond particularly well to these important policy considerations. While of single storey and to some extent subservient to the main traditional dwelling in terms of height, the size and form of this extension is not particularly appropriate in character or design to the main dwelling or with others within the immediate context of this site, where it may be more visible in views from Porthill Gardens looking into the site given the position of this dwelling within the street

scene. The proposed scheme fills in the south-west corner of the property back from the rear elevation almost to the property line and again this is not considered to respect the scale or pattern of development which characterises this area, and when combined with the new garage built to the front of the property, the likely overall result would represent over-development of the site which is not sympathetic with the character and context of this mainly traditional neighbourhood. We would offer these comments in consideration of this proposal.

#### **4.6 Public Comments**

**4.7 Shrewsbury Town Council** - The Town Council objected to this application on the grounds of over development and the strong concerns already raised by residents. The size of the proposed extension was very large and appeared to be doubling the original footprint of the house.

**4.8 Members of public** – Multiple objections have been received regarding the application. The main reasons are,

- Size and proportion of the proposed
- Potential impact on trees, hedges and planting
- The plans not respecting the original Edwardian design of the house
- Land stability
- Heritage of the local area
- Safety of boundary between neighbouring properties

#### **5.0 THE MAIN ISSUES**

- **Principle of development**
- **Design and Scale**
- **Residential Amenity**

#### **6.0 OFFICER APPRAISAL**

##### **6.1 Principle of development**

6.1.1 Alterations and development to properties are acceptable in principle providing they meet the relevant criteria of Shropshire Core Strategy Policy CS6: Sustainable Design and Development Principles; this policy seeks to ensure any extensions and alterations are sympathetic to the size, mass, character and appearance of the original property and surrounding area.

6.1.2 Policy MD2: Sustainable Design of the Site Allocations and Management of Development (SAMDev) Plan additionally seeks to achieve local aspirations for design where possible.

6.1.3 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.

6.1.4 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.

- 6.1.5 MD13 of the SAMDev component of the Local Plan seeks to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored through appropriate and well considered design.

## **6.2 Design, Scale and Character**

- 6.2.1 The proposed works are for a replacement kitchen and gym to the rear elevation which will measure approximately 12.27m in length, 7.58m in width, 5.52m to the ridge and 4.72m to the eaves.
- 6.2.2 The new single storey rear extension will replace an existing smaller extension and existing storage buildings, a garage which has been converted into a climbing room and a courtyard area. In this corner location, the new extension will be visible from side views, but replaces an existing older extension, older garage and outbuildings, and may be considered as an improvement to the existing dwelling's facilities.
- 6.2.3 The proposed works will not result in a significant loss of garden area and an appropriate level of amenity space for the enlarged dwelling will remain, however it will be appropriate to ensure the site does not become overdeveloped such that it will be appropriate to add a condition restricting permitted development with regard to further outbuildings.

## **6.3 Impact on Residential Amenity**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 The proposed single storey rear extension will lie close to the boundary with no.3 to the south which has an existing outbuilding adjacent. The eaves to the extension are approximately 4.72m, which will be above the existing fence, and the roof extends away from the boundary. There is no glazing to this elevation, so no impact upon privacy, and the orientation of the extension ensures that there will be no loss of light, that any additional shadowing to no. 3 will be very minimal, and there will be no significant impact on outlook from the rear of no.3 over the existing situation. It will be appropriate to include Party Wall Advice.

## **7.0 CONCLUSION**

- 7.1 This is a finely balanced application in that the proposed scale, design and appearance of the proposed works will respect the existing character of the dwelling all be it on a significant footprint compared to that of the existing dwelling itself. Overall owing to the location and land topography it will not result in a substantial visual impact or cause any significant detrimental impact on neighbouring properties. It must also be recognised that permitted development rights do allow a significant increase onto dwelling's rear elevations provided certain planning criteria is met. The proposed development on balance is

considered to accord with the requirements of the adopted Core Strategy Policy CS6 and CS17 and SAMDev Policies MD02 and 12. The Recommendation is that permission is granted, subject to conditions as attached to appendix one of this report.

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

### **8.1 Risk Management**

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

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

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

CS6 - Sustainable Design and Development Principles

MD2 - Sustainable Design

National Planning Policy Framework

CS17 - Environmental Networks

MD13 - Historic Environment

### RELEVANT PLANNING HISTORY:

14/03309/FUL Construction of flat roof to pitched roofed garage GRANT 22nd September 2014

19/04483/FUL Erection of garage building; single storey extension, formation of retaining wall GRANT 17th March 2020

20/01725/DIS Discharge of Conditions 3 (AMS Tree Protection), 5 (Landscaping) and 8 (Implementation of AMS) on Planning Permission 19/04483/FUL for the erection of garage building; single storey extension, formation of retaining wall DISAPP 1st June 2020

21/00907/DIS Discharge of Conditions 6 (Garage Doors) and 7 (External Materials) on Planning Permission 19/04483/FUL for the erection of garage building; single storey extension, formation of retaining wall DISAPP 15th March 2021

22/03912/FUL Replacement kitchen and gym PDE

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SU3TDII300>

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) - Councillor Richard Marshall

Local Member

Cllr Julian Dean

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, drawings and documents as listed in Schedule 1 below.

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 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 an 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. The AMS should include and provide detail as to any increase over current soil levels required across the site.

Reason: To ensure that due consideration is given to protecting the natural features which contribute to the amenity of the local area and which are important to the appearance of the development.

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

4. 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), the following development shall not be undertaken without express planning

permission first being obtained from the Local Planning Authority:-

- o Free standing buildings within the curtilage;
- o New fences, gates or walls

Reason: To maintain the scale, appearance and character of the development.

### **Informatives**

1. All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

Informative Notes:

A sustainable scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils SuDS Handbook which is available in the Related Documents Section on the Councils Website: <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Any proposed drainage system should follow the drainage hierarchy, with preference given to the use of soakaways. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

Where a positive drainage connection is proposed, the rate of discharge from the site should be restricted to an appropriate rate as set out in the SuDS Handbook.

Shropshire Council will not permit new connections to the Highway Drainage network. Where a proposed surface water attenuation feature serves multiple properties, this feature should not be constructed within a private property boundary and be located in areas of public open space or shared access to allow future maintenance.

2. The proposed works seem likely to fall within the scope of the Party Wall Act 1996.

Further information is available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/523010/Party\\_Wall\\_Act\\_1996\\_-\\_Explanatory\\_Booklet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523010/Party_Wall_Act_1996_-_Explanatory_Booklet.pdf)



Committee and date  
 Northern Planning Committee  
 6<sup>th</sup> December 2022

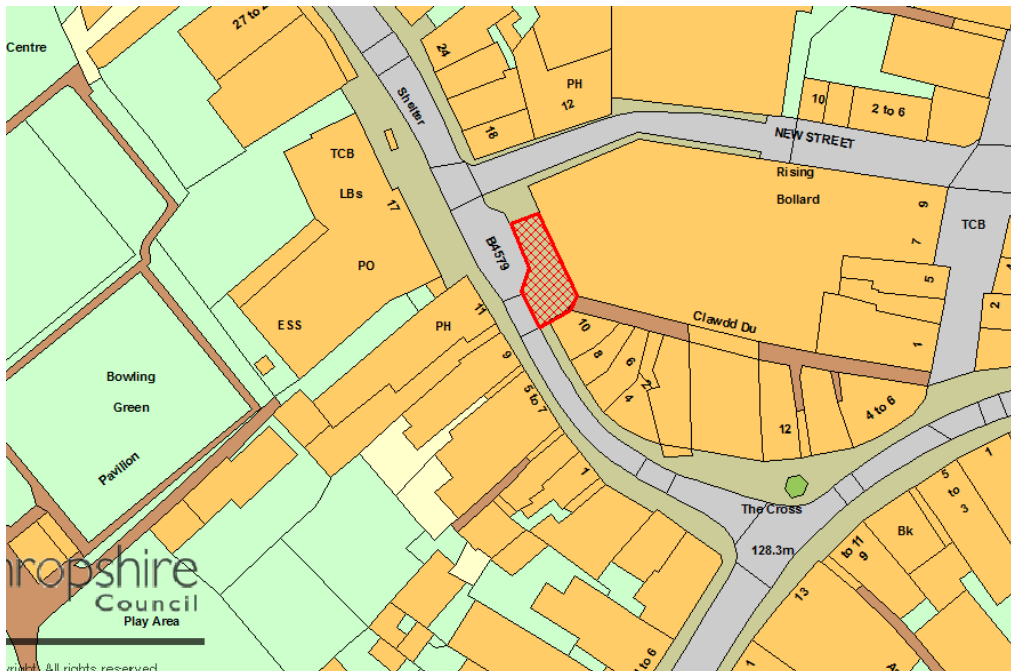
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/03899/FUL	<b>Parish:</b>	Oswestry Town
<b>Proposal:</b> Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks		
<b>Site Address:</b> Pavement Outside 17 Willow Street Oswestry Shropshire SY11 1AB		
<b>Applicant:</b> Mr James Browne		
<b>Case Officer:</b> Sara Robinson	<b>email:</b> sara.robinson@shropshire.gov.uk	

**Grid Ref:** 328983 - 329631



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**Recommendation:- Refusal.**

## Recommended Reason for Refusal

It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

- 1.1 This application for planning permission is for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'. The application has been submitted concurrently with an application for advertisement consent (22/03900/ADV).
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide.
- 1.3 The proposed BT hubs in addition to displaying an LCD advert on each side (that businesses will pay BT to display advertising material and fund the hubs) will provide the following services:
  - Ultrafast public and encrypted Wi-Fi
  - Secure power-only USB ports for rapid device charging
  - Free phone calls
  - Direct 999 call button
  - Display community and emergency (i.e. police) awareness messaging - Interactive tablet that provides a series of icons with access to local council services, four national charities for support, BT's phone book, local weather information, maps and wayfinding and FAQs and instructions (it does not allow open web browsing)
  - A platform for future technologies such as environmental sensors to measure air quality, noise and traffic currently being trialled
  - Boost 4G and 5G with installed small cells, improving coverage and capacity

- 1.4 The supporting information also indicates that each hub will also provide the following community benefits:
- 5% screen time (876 hours per unit or 438 hours per screen) of free council advertising per year
  - Direct access to charities through the use of the dedicated charity icon on the fully accessible interactive tablet
  - Community notice board with over 1,000 hours of content per year (the Street Hub team can work with local groups to promote events and activities)
  - Discount advertising for local business groups (such as BIDs and Chambers of Commerce) and their members through BT Street Hub Partners Programme
  - Business rates for each location paid when requested by the council, ensuring Street Hubs make an ongoing financial contribution to the local area.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site although addressed as outside 17 Willow Street, Oswestry where the existing BT kiosk is located, the proposed hub is to be located on the pavement adjacent to 10A Willow Street and to the rear of 7 Bailey Street (Home Bargains).
- 2.2 The proposed Hub will be located to the rear of Home Bargains which is a relatively modern building and will be in close proximity to 10A Willow Street which forms commercial shop fronts on the ground floor. The site is within the Conservation Area and will be directly opposite The Boars Head which is a Grade II listed building and will also be located adjacent to 18 and 20 Willow Street which are also Grade II listed.

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

- 3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

## **4.0 Community Representations**

### **4.1 Consultee Comment**

- 4.2 Drainage & SUDS - 06/09/2022  
Drainage Comment:

All correspondence/feedback must be directed through to Shropshire Councils Development Management Team.

The proposal is acceptable as the footprint of the BT Street Hub is only 0.42m<sup>2</sup>

4.3 SC Archaeology - 22/09/2022

It is understood that the Conservation Officer will comment on this application in due course. We have no further comments to make on this application with respect to archaeological matters

4.4 SC Conservation - 22/09/2022

The submission, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in Oswestry and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to the location.

The proposed hub is in Oswestry Conservation Area, and is within the setting of several listed buildings and historic built forms where co-visible and inter-visible views within the historic street scene exist.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

These relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the



public realm is noted. In this case we note that whilst it is suggested within the supporting statement provided that the hub will replace a BT phone box. This is not the case as the phone box is across the road by an existing bus stop shelter and the Post Office/Wetherspoons building.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.5 Environmental Protection - 04/10/2022  
no comment.

4.6 Developing Highways - 18/10/2022  
Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. if permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway.

#### **4.7 Public Comments**

4.8 Town council - 28/09/2022  
Stance: Customer made comments in support of the Planning Application  
Comment: Resolved no observations be expressed

4.9 Following the display of a site notice for the period of 21 days, no public representations were received at the time of writing this report.

#### **5.0 THE MAIN ISSUES**

- Principle of development
- Character and appearance and impact on heritage assets

#### **6.0 OFFICER APPRAISAL**

6.1 Principle of development

6.1.1 The National Planning Policy Framework (NPPF) advises that communications infrastructure is essential for sustainable economic growth and that LPAs should support the expansion of telecommunications but aim to keep the number of sites to a minimum and that where possible existing structures and buildings should be utilised.

- 6.1.2 Part 10 of the NPPF (as amended) seeks to support advanced, high quality and reliable communications infrastructure and sees it as being essential for economic growth and social well-being. It advocates planning policies and decisions that support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections and makes the case for the use of existing masts, buildings and structures for new electronic capability in preference to the installation of new sites.
- 6.1.3 This is supported by local plan policy through Core Strategy Policies CS7 (Communications and Transport) and CS8 (Facilities, Services and Infrastructure Provision) and SAMDev Policy MD8 (Infrastructure Provision), which seek to improve, maintain and promote communications infrastructure.
- 6.1.4 The proposed BT hub and the services it will provide is acceptable in principle provided that the siting, scale and design is appropriate and the character and appearance of the street scene, the conservation area and the setting of nearby listed buildings are not significantly adversely affected where the impact of the proposal needs to be balanced with the need to meet infrastructure requirements and the public benefits of the proposal.
- 6.2 **Character and appearance and impact on heritage assets**
- 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 local amenity.
- 6.2.2 The proposed hub is to be sited within a Conservation area and with listed buildings in the vicinity. The proposal has the potential to impact on these heritage assets. The proposal therefore also has to be considered against section 16 of the National Planning Policy Framework (NPPF) and Shropshire Council policies MD13 and CS17 which seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.2.3 Special regard has to be given to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.4 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:  
*'The application site is located along a well-lit stretch of pavement of the Willow Street which is a busy public highway for both vehicular and pedestrian traffic. There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards. Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT*

*Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Oswestry Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside Home Bargains, partnered with the Street Hubs unique features will benefit the surrounding community.*

- 6.2.5 *It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.*
- 6.2.6 *Furthermore, it is considered that any minor to negligible harm that could be caused would be significantly outweighed by the removal of the existing BT kiosk and the myriad of public benefits the Street Hub will bring to residents, businesses and tourists in this part of Shrewsbury. It is also believed that the decluttering of the pavement outside of Willow Street and upgrade of old street furniture will be to the betterment of the Oswestry Town Centre Conservation Area and help to enhance the character of nearby heritage assets including the Grade II listed buildings.'*
- 6.2.7 It is accepted that the proposed hub will replace an existing BT call box, however the proposed Hub will be almost a metre higher than the phone box it will replace and will not be within the same location as the call box it is proposed to replace. The advertising material on the existing phone box to be removed is not illuminated and the majority of shop fronts in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area.
- 6.2.8 It is agreed with the SC Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.
- 6.2.9 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Oswestry town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.10 It is also agreed with the Conservation officer that the proposed tall modern

structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area. It would be the first structure of this type within Oswestry town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.

- 6.2.11 Paragraph 199 of the NPPF requires that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'*.
- 6.2.12 Paragraph 202 states that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
- 6.2.13 Although the proposal will provide public benefits outlined in paragraphs 1.3 and 1.4 of this report it is not considered that these benefits outweigh the harm identified. It has also not been demonstrated why the benefits offered could not be delivered by a hub of smaller proportions more appropriate to a historic town setting such as Oswestry.
- 6.2.14 Whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Shrewsbury. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Shrewsbury. Unfortunately BT do not at this time have a smaller version available than the hub proposed.

## **7.0 CONCLUSION**

- 7.1 It is considered that the proposed hub due to its scale, design and appearance and having regard to the character of the area in which it will be located, including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The harm to the significance of these heritage assets is considered to be less than substantial and the public benefits do not outweigh the harm. The proposal is therefore considered to be contrary to local plan policies

MD2, MD13, CS6 and CS17 and paragraph 199 and 202 of the NPPF and also fails to preserve or enhance the setting of nearby listed buildings or the character or appearance of the Conservation area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The recommendation is therefore one of refusal for the reason as outlined at the start of this report.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### **8.3 Equalities**

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

OS/01/11657/FUL Conversion of ex mail sorting office to Class A3 Food and Drink use GRANT 9th May 2002

OS/97/10064/ADV Illuminated internal hanging sign GRANT 22nd January 1998

OS/05/13656/FUL Provision of one external condenser to flat roof GRANT 16th March 2005

PREAPP/22/00254 The installation of 1no. Street Hub and the removal of 2no. BT kiosks - BT Street Hub Project - The project will see the removal of many existing BT payphone kiosks and the installation of Street Hubs that will bring about an array of public benefit, improve street scene amenity and allow greater digital connectivity to local communities. PREAIP 11th July 2022

22/03899/FUL Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks PCO

22/03899/FUL Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks PCO

21/05988/FUL Various improvements to the pedestrian route including: resurfacing of the alleyway, improved planting/seating/lighting; installation of gates and the introduction of steel

arches GRANT 2nd March 2022

22/03899/FUL Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks PCO

22/03900/ADV Erect and display one 75" LCD advert screens PCO

#### 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SRKTDIHA00>

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) - Councillor Richard Marshall
Local Member  Cllr Duncan Kerr
Appendices APPENDIX 1 – Conditions – none.







Committee and date  
 Northern Planning Committee  
 6<sup>th</sup> December 2022

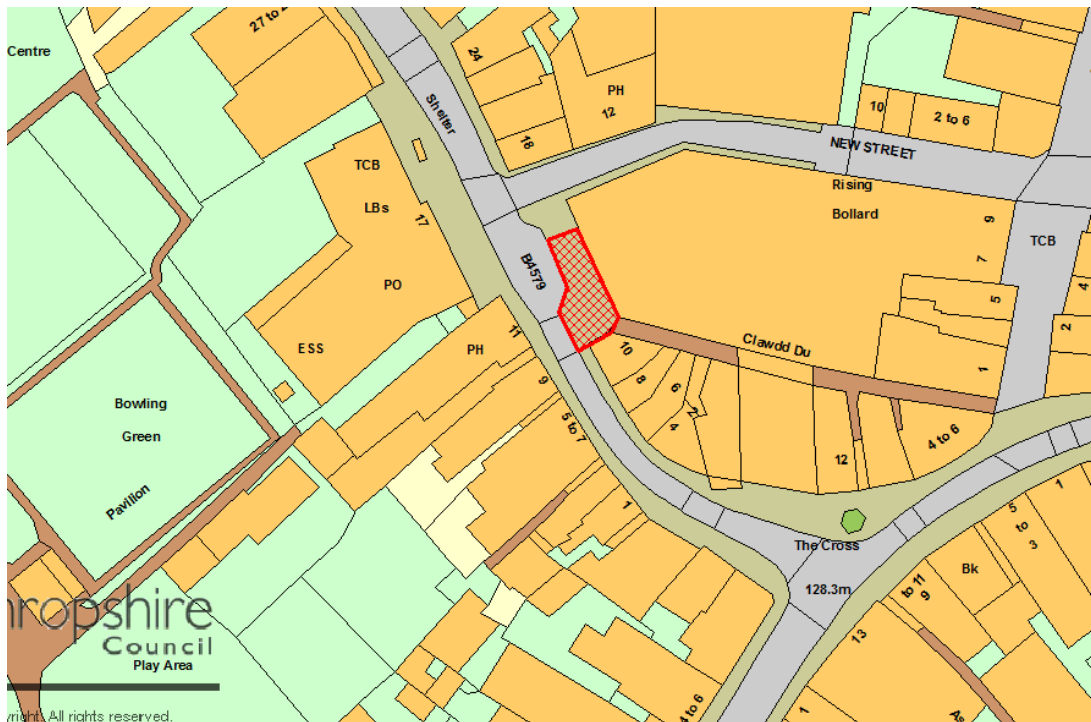
## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/03900/ADV	<b>Parish:</b>	Oswestry Town
<b>Proposal:</b> Erect and display one 75" LCD advert screens		
<b>Site Address:</b> Pavement Outside 17 Willow Street Oswestry Shropshire SY11 1AB		
<b>Applicant:</b> Mr James Browne		
<b>Case Officer:</b> Sara Robinson	<b>email:</b> sara.robinson@shropshire.gov.uk	

**Grid Ref:** 328983 - 329631



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**Recommendation:- Refusal.****Recommended Reason for Refusal**

It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

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

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screens'. The application has been submitted concurrently with an application for full planning permission (22/03899/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site although addressed as outside 17 Willow Street, Oswestry where the existing BT kiosk is located, the proposed hub is to be located on the pavement adjacent to 10A Willow Street and to the rear of 7 Bailey Street (Home Bargains).
- 2.2 The proposed Hub will be located to the rear of Home Bargains which is a relatively modern building and will be in close proximity to 10A Willow Street which forms commercial shop fronts on the ground floor. The site is within the Conservation

Area and will be directly opposite The Boars Head which is a Grade II listed building and will also be located adjacent to 18 and 20 Willow Street which are also Grade II listed.

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

3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

### **4.0 Community Representations**

#### **4.1 Consultee Comment**

4.2 SC Archaeology - 22/09/2022

We have no comments to make on this application with respect to archaeological matters.

4.3 SC Conservation - 22/09/2022

22/03900/ADV and 22/03899/FUL BT Street Hub Pavement on Clawdd Du, Oswestry

The submission, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in Oswestry and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to the location.

The proposed hub is in Oswestry Conservation Area, and is within the setting of several listed buildings and historic built forms where co-visible and inter-visible views within the historic street scene exist.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

These relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these

structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. In this case we note that whilst it is suggested within the supporting statement provided that the hub will replace a BT phone box. This is not the case as the phone box is across the road by an existing bus stop shelter and the Post Office/Wetherspoons building.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

#### 4.4 SC Highways - 18/10/2022

Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. If permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway.

#### 4.5 **Public Comments**

4.6 None received.

#### 4.7 Oswestry Town council - 28/09/2022

Stance: Customer made comments in support of the Planning Application  
Comment: Resolved no observations be expressed

Following the display of a site notice for the period of 21 days, no public representations were received at the time of writing this report.

## 5.0 **THE MAIN ISSUES**

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

## **6.0 OFFICER APPRAISAL**

### **6.1 Impact upon public safety**

6.1.1 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include 'the safety of persons using any highway'.

6.1.2 The proposed hub will replace an existing BT phone box, however the hub will not occupy the same location as the phone box and will be located on the opposite side of the road. The proposed Hub will be located adjacent to a wooden flower planters and Home Bargains. The hub will still allow 4m width of pavement between the proposed Hub and the highway. The location is a busy public highway for both vehicular and pedestrian traffic. The Highways have not objected to the proposed advert/BT Hub.

6.1.3 It is not considered that the proposal would adversely impact on public safety or the safety of persons using the highway.

### **6.2 Impact on the amenity of the area**

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 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 safeguard local and residential amenity.

6.2.3 The proposed site is situated within Oswestry Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that

*'The quality and character of places can suffer when advertisements are poorly sited and designed'.*

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

The PPG advises that:

*'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.*

*This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.*

6.2.6 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

*'The application site is located along a well-lit stretch of pavement of the Willow Street which is a busy public highway for both vehicular and pedestrian traffic. There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards. Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Oswestry Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside Home Bargains, partnered with the Street Hubs unique features will benefit the surrounding community.*

6.2.7 *It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their*

*incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.*

- 6.2.8 *Furthermore, it is considered that any minor to negligible harm that could be caused would be significantly outweighed by the removal of the existing BT kiosk and the myriad of public benefits the Street Hub will bring to residents, businesses and tourists in this part of Shrewsbury. It is also believed that the decluttering of the pavement outside of Willow Street and upgrade of old street furniture will be to the betterment of the Oswestry Town Centre Conservation Area and help to enhance the character of nearby heritage assets including the Grade II listed buildings.'*
- 6.2.9 It is accepted that the proposed hub will replace an existing BT call box, however the proposed Hub will be almost a metre higher than the phone box it will replace and will not be within the same location as the call box it is proposed to replace. The advertising material on the existing phone box to be removed is not illuminated and the majority of shop fronts in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area.
- 6.2.10 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.
- 6.2.11 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Oswestry town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.12 It is also agreed with the Conservation officer that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Oswestry. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Oswestry.

## **7.0 CONCLUSION**

7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is therefore recommended for refusal in accordance with the reason as set out at the start of this report.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be



balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### **8.3 Equalities**

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

### **9.0 Financial Implications**

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

## **10. Background**

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
MD2 - Sustainable Design  
MD13 - Historic Environment  
National Planning Policy Framework

RELEVANT PLANNING HISTORY: \_

21/05988/FUL Various improvements to the pedestrian route including: resurfacing of the alleyway, improved planting/seating/lighting; installation of gates and the introduction of steel arches GRANT 2nd March 2022  
 22/03899/FUL Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks PCO  
 22/03900/ADV Erect and display one 75" LCD advert screens PCO

#### 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SRLTDIHB00>

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) - Councillor Richard Marshall
Local Member Cllr Duncan Kerr
Appendices APPENDIX 1 – Conditions - None

**APPENDIX 1**

**Conditions**

**STANDARD CONDITION(S)**

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

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

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

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Committee and date
Northern Planning Committee
6 <sup>th</sup> December 2022

## Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

### Summary of Application

<b>Application Number:</b> 22/04420/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erection of two storey extension and 1000 mm high brick wall to form new boundary (amended description)		
<b>Site Address:</b> 12 Oak Street Shrewsbury Shropshire SY3 7RH		
<b>Applicant:</b> Mr Chris Edwards		
<b>Case Officer:</b> Didi Kizito	<b>email:</b> didi.kizito@shropshire.gov.uk	

**Grid Ref:** 349235 - 311401



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

## **REPORT**

### **1.0 THE PROPOSAL**

1.1 This application seeks planning permission for the erection of two storey extension and 1000 mm high brick piers with low level brick infill and timber fence between to form new boundary.

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

2.1 12 Oak Street is a detached dwelling located within a corner plot alongside Oak Street and Longden Avenue, residential streets within a Conservation Area of Shrewsbury.

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

3.1 The Town Council, and local member requested Committee consideration within 21 days, based on material reasons to which the Chair and Vice in discussion with the Area Manager agree material reasons have been raised.

### **4.0 Community Representations**

#### **4.1 Consultee Comment**

4.2 Shrewsbury Town Council:

Shrewsbury Town Council objects to this planning application on the following grounds:

- Members feel that the proposals constitute an overdevelopment of the site in relation to other, more modest, dwellings in the vicinity.
- These proposals will also have an impact on the right to privacy of neighbouring properties.
- Members expressed concerns that these proposals include the removal of an established tree to facilitate the proposed extension.
- Members feel that this planning application does not protect or enhance the character of the Belle Vue Conservation Area.
- Members respectfully request that amended and reduced plans are submitted which reflect the existing street scene.

#### **4.3 Public Comments**

4.4 Representations have been received objecting to the scheme. Full details of comments raised can be viewed online. Concerns raised include the following:

- scale of the extension
- over development of the site
- loss of light
- scale of boundary wall
- impact on highway
- overlooking

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design of structure
- Residential amenity

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 The application site lies within Shrewsbury Settlement Limit. The principle of development for the construction of extensions to dwellings is acceptable, provided all other material considerations are also acceptable. The site is within the Belle Vue Conservation Area and therefore the following policies apply Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD13.

### 6.2 Siting, scale and design of structure

6.2.1 Concerns were originally raised by the Conservation Officer on the basis that the proposal was considered to be of a substantial scale. It had not been demonstrated that the proposal would not adversely impact on the original dwelling and its setting within the Conservation Area.

6.2.2 Following receipt of these comments, the proposal was re-designed to better address initial concerns raised. The scheme has been reduced in scale whereby the ridge height has been set down and the extension to the north has been set back from the elevation fronting Oak Street. Additionally, the boundary wall has been amended to a more acceptable height of 1m high and to maintain a degree of soft landscaping, the existing hedge will be retained and or replanted.

6.2.3 The revised design and layout is considered to be acceptable and would not result in adverse impacts on the Conservation Area or visual amenities of the area, complying with Core Strategy Policies CS6 and CS17 and SAMDev Policies MD2 and MD13.

### 6.3 Residential amenity

6.3.1 Core Strategy Policy CS6 seeks (amongst other criteria) to ensure that residential amenity is safeguarded for present and future occupiers. Representations have been received objecting to the proposal. Whilst the comments have been acknowledged,

it is not considered that the scheme will give rise to a substantial neighbour amenity harm sufficient to warrant refusal.

- 6.3.2 At its narrowest point, there is a gap of approximately 5.2m between the proposed extension to the north and the bay window of no 10. In addition, it is noted the boundary treatment between the dwellings consists of hedging and trees that part of are outside the control of the applicant, thereby providing screening and separation of the two properties.
- 6.3.3 The neighbour has objected raising concerns of loss of light to their bay window. They have also disagreed to the conclusions of the right of light assessment submitted by the applicant. It is fair to acknowledge the applicant's assessment line is above the mid point of the bay window and the counter argument presented by the neighbour is noted. Nevertheless, it is also noted the midpoint to which the neighbour asserts the line should be angled at is already shaded to some extent by the existing hedge. Also, the side of the extension's roof would only breach this line very slightly. Basing on the assessment provided, the neighbours bay window is already impeded on by the existing dwelling as well as the trees and hedging thus with the proposed northerly extension being stepped back and set down together with the 5.2m gap and natural sun path, on balance it is not considered the proposal would significantly exacerbate the existing situation to warrant a refusal of the scheme over loss of light. Furthermore, while it is recognised that the scheme would be closer to the two storey extension on the property known as Regis, the scale and design of the proposed extension on the south west elevation would have a detrimental impact on the neighbouring dwelling. There would be a gap of approximately 5m retained between the dwelling and the extension.
- 6.3.4 Distances between the dwelling and its proposed extensions and the nearest neighbouring dwellings are considered to be acceptable and would not result in overbearing impacts overly significant to warrant a refusal of the scheme.
- 6.3.4 The proposal would not result in direct overlooking impacts into the neighbouring dwelling no's 10 Oak Street and Regis that is along Longden Avenue. The first floor plans indicate the proposed windows on the north elevation would be serving a landing, and bathrooms. The window serving the landing would be a source of light and the bathroom windows would be of obscure glazing. There are no overlooking concerns raised as a result of the proposed first floor window on the south west elevation.
- 6.3 Highways  
The scheme has been amended where previously a 1.8m high boundary wall with timber fence was proposed, this has now been amended to 1 metre high boundary wall. Considering that permitted development rights give provision for up to 1m fence fronting the highway, there are no concerns raised on this element of the scheme.

## 7.0 CONCLUSION



On balance, it is considered the proposal complies with Core Strategy Policies CS6 and CS17 as well as SAMDev Policies MD2 and MD13. Impacts in relation to the Conservation Area are considered acceptable. Residential amenity and privacy matters also considered acceptable along with scale and design. The recommendation is therefore one of approval subject to the conditions as set out in appendix 1 attached to this report.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### 8.3 Equalities

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

### 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

### RELEVANT PLANNING HISTORY:

22/04420/FUL Erection of two storey extension and 1000 mm high brick wall to form new boundary (amended description) PCO

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RIXM53TDJAV00>

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) - Councillor Richard Marshall

Local Member

Cllr Kate Halliday

Appendices  
APPENDIX

1

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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, drawings and documents as listed in Schedule 1 below.

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**

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 works harmonise with the existing development and to preserve the character and appearance of the dwelling within the Conservation Area.

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

Reason: To ensure that the works harmonise with the existing development and to preserve the character and appearance of the dwelling within the Conservation Area.

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Committee and date  
 North Planning Committee  
 6<sup>th</sup> December 2022

Item  
  
 Public

## Development Management Report

Responsible Officer: Tracy Darke  
 Email: [tracy.darke@shropshire.gov.uk](mailto:tracy.darke@shropshire.gov.uk) Tel: (01743) 254915 Fax: (01743) 252619

### Summary of Application

<b>Application Number:</b> 22/01789/OUT	<b>Parish:</b>	Woore
<b>Proposal:</b> Phase 2 residential scheme for development of up to ten housing plots for self-build/custom housing (resubmission of application reference 21/05785/OUT)		
<b>Site Address:</b> Station Yard, Pipe Gate, Market Drayton, Shropshire		
<b>Applicant:</b> Woodcock Developments Limited		
<b>Case Officer:</b> Richard Denison	<b>Email:</b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	

**Grid Ref:** 373638 - 340851

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

**UPDATE REPORT**

**1.0 THE PROPOSAL**

- 1.1 This application was resolved to be approved by committee on the 21<sup>st</sup> June 2022 subject to a Section 106 obligation to secure the affordable housing provision and long term, ownership, maintenance and perpetuity of the open space. The Council solicitor has been working with the applicant's solicitor to finalise this agreement as soon as possible. However, it has taken slightly longer than anticipated due to issues surrounding the estate of the applicant's father, although it is expected that this will be resolved shortly.
- 1.2 During this time the Council has received a pre-action protocol letter on behalf of Woore Parish Council indicating a potential judicial review claim. This alleges that the committee were misled with regards to the Woore Neighbourhood Plan and in particular policy HOU1 'Scale and Location of New Housing'. This report is to reiterate the consideration of the development against policy HOU1 of the Woore Neighbourhood Plan
- 1.3 A copy of the original committee report from the 21<sup>st</sup> June 2022 is attached to this report in Appendix 1.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The Station Yard site is a long and narrow parcel of land adjacent to the modern housing development on the former Phoenix Rubber factory site. The land currently contains a mix of small businesses in various buildings; a two storey shop unit to the front of the site and an existing vehicle repair garage use. The adjacent estate is predominately large detached orange brick and concrete tiled dwellings and incorporates an area of open space and children play equipment. On the opposite side of the main road are a row of older semi-detached houses. Open countryside is located directly to the north and west.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The application was considered at committee on the 22<sup>nd</sup> June 2022 as the Parish Council submitted a view contrary to officers based on material planning reasons which could not reasonably be overcome by negotiation or the imposition of planning conditions. The Principal Planning Officer in consultation with the committee chairman agreed that the Parish Council had raised significant material planning issues and that the application should be determined by committee.
- 3.2 The Parish Council has not altered its view on the application and officers consider for the avoidance of doubt that members consider the development in view of policy HOU1 of the Woore Neighbourhood Plan.

**4.0 OFFICER APPRAISAL**

- 4.1 This outline application is for a residential development for up to ten self-build dwellings on an area of vacant commercial land in Pipe Gate known as Station Yard. The application is only to consider the principle for development with all matters



reserved for later approval. The application was submitted following approval in November 2021) for full planning permission for four dwellings on part of the former Station Yard (application ref. 21/02241/FUL). This site was to the west of the current application site and was considered as Phase 1 for plots 1 to 4. The current application is considered as Phase 2 and would provide plots 5 to 14.

- 4.2 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011; the adopted Site Allocations and Management of Development Plan 2015; Supplementary Planning Documents; and the Woore Neighbourhood Plan (adopted May 2019).
- 4.3 Woore Parish Council considers that there is a breach of policy HOU1 of the Woore Neighbourhood Plan as this current application site provides ten dwellings, whilst the previously approved scheme provided four dwellings. Therefore, it is considered that both applications form part of the overall development of Station Yard which would provide a combined scheme of fourteen dwellings.
- 4.4 Policy HOU1 'Scale and Location of New Housing' in the Woore Neighbourhood Plan identity's development boundaries around the individual parts of the Community Hub of Woore, Irelands Cross and Pipe Gate in order to meet local housing needs, and to remain on a scale appropriate to the existing character of Woore Parish, it is envisaged that around 30 additional dwelling from 2016 - 2036 will be delivered, incorporating small scale residential developments of up to 10 dwellings per development.
- 4.5 Officers acknowledge that the previous application 21/02241/FUL is located on the former Station Yard and that this current application also forms part of the former Station Yard. The access and driveway approved on the 2021 application will serve both developments. As such officers agree that the overall development site will provide a total of fourteen dwellings. Therefore, the current application combined with the previous planning permission for four dwellings will exceed ten dwellings as stipulated in policy HOU1.
- 4.6 Although the Woore Neighbourhood Plan is the most recent adopted set of policies the development plan should be read as a whole and in context with the whole suite of policies. Section 38 of the Planning and Compulsory Purchase Act 2004 refers to the Development Plan and in point (6) it indicates that "*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*". Officers consider that there are material considerations which would allow support of this application.
- 4.7 Policy MD3 'Delivery of Housing Development' of the SAMDev Plan does allow for an increase in housing supply if there are benefits arising from the development and that the development is sustainable. This development will allow the restoration and enhancement of this contaminated and derelict site in which the developer will need to undertake costly remediation works. Paragraph 119 of the NPPF indicates that decisions should promote the effective use of land and substantial weight should be given for using brownfield land within settlements for residential development and support appropriate opportunities to remediate derelict and contaminated land.

4.8 Officers considered that the development will be of a density and scale reflective of the adjoining residential development and settlement and is within a Community Hub. It will not encroach residential development into the countryside and will be located in a sustainable settlement. The development will also assist in boosting housing supply and provide much needed affordable housing provision for the local area.

## **5.0 Conclusion**

5.1 The proposed site falls within the development boundary for Woore Neighbourhood Plan and forms part of the Woore, Irelands Cross and Pipe Gate Community Cluster and therefore the principle for residential development is acceptable. It is accepted that the development will in part be in conflict with policy HOU1, although officers consider that the benefits as indicated above and use of a brownfield site (which the neighbourhood plan promotes), will outweigh any harm caused by the small increase in dwellings proposed. Therefore, this application is recommended for approval subject to the completion of the Section 106 obligation.

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

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced

against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

### 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10.0 **BACKGROUND**

### 10.1 **Relevant Planning Policies**

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

#### **National Planning Policy Framework:**

#### **Shropshire Council Core Strategy (February 2011):**

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

#### **Site Allocations and Management Development Plan (December 2016):**

MD2 : Sustainable Design

MD3 : Delivery of Housing Development

MD12 : Natural Environment

MD13 : Historic Environment

S11 : Market Drayton

#### **Woore Neighbourhood Plan (May 2019):**

### 10.2 **Relevant Planning History**

21/05785/OUT - Outline application Phase 2 residential scheme: Development of up to 10 housing plots for self-build/custom dwellings. Refused 11<sup>th</sup> March 2022.

21/02241/FUL - Erection of four detached dwellings with detached garages; formation of estate roads; Application under Section 73A of the Town and Country Planning Act 1990 for the formation of access road and infrastructure (sewer). Granted 8<sup>th</sup> November 2021.

21/00348/AMP - Non material amendment to the layout and elevations of the four plots at the rear of the site relating to Planning Permission 15/03221/REM. Refused 11<sup>th</sup> February 2021.

16/00820/REM - Reserved matters (landscaping) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 31<sup>st</sup> March 2016.

15/03221/REM - Reserved matters (layout, landscaping, appearance, scale) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 4<sup>th</sup> March 2016.

12/04469/OUT - Re-development of site including demolition of buildings; erection of 10 detached dwellings; 1 live-work dwelling; detached motor repair garage; detached shop with office over; formation of car parking area; extension of existing private driveway; location of cycle racks and shop refuse storage area all served off existing access. Granted 21<sup>st</sup> March 2015.

## **11.0 ADDITIONAL INFORMATION**

List of Background Papers - Planning Application reference 22/01789/OUT

Cabinet Member (Portfolio Holder) - Cllr Richard Marshall

Local Member - Cllr Roy Aldcroft

Appendices

APPENDIX 1 - Committee Report 22<sup>nd</sup> June 2022

## **APPENDIX 1**

### **REPORT FROM COMMITTEE 22<sup>nd</sup> JUNE 2022**

#### **1.0 THE PROPOSAL**

- 1.1 This is a resubmission of a recently refused outline application for a residential development for up to ten self-build dwellings on an area of vacant commercial land in Pipe Gate. The application is only to consider the principle for development with all matters reserved for later approval. The proposed site covers an area of 0.37 hectares. The previous application was refused on the ground of inadequate open space for future residents and that the adjoining commercial unit may result in noise disturbance. This application has been accompanied by a detailed Noise Impact Assessment, whilst a phasing plan has indicated the indicative layout of ten dwellings and an appropriate level of open space.

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

- 2.1 The Station Yard site is a long and narrow parcel of land adjacent to the modern housing development on the former Phoenix Rubber factory site. The land currently contains a mix of small businesses in various buildings; a two storey shop unit to the front of the site and an existing vehicle repair garage use. The adjacent estate is predominately large detached orange brick and concrete tiled dwellings and incorporates an area of open space and children play equipment. On the opposite side of the main road are a row of older semi-detached houses. Open countryside is located directly to the north and west.

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

- 3.1 The scheme complies with the delegation to Officers as set out in Part 8 of the Shropshire Council Constitution.

#### **4.0 COMMUNITY REPRESENTATIONS**

##### **4.1 Consultee Comments**

- 4.1.1 **Shropshire Council, Highways** - The application is a resubmission of the relatively recent proposal under reference 21/05785/OUT, which is noted was refused on policy grounds in relation to provision of public open space and amenity value. The resubmission continues to raise no highway objection in principle. It is noted that the plots are intended to be marketed as self-build homes with each plot potentially being progressively sold to individual purchasers/developers. From the highway perspective it is fundamental that the approved access junction and drive under Phase 1 (21/02241/FUL) be completed to an appropriate level prior to the development of any of the individual plots. It is also noted that an option to increase the number of houses from 10 to 12 is also stated by the provision of semi-detached properties on plots 9 and 10, which is yet to be determined in the submission of a reserved matters application. In the event that this is forwarded the parking allocation will need to be increased from the parking layout provision indicatively shown. Subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

- 4.1.3 **Shropshire Council, Housing** - The application shows the correct amount of affordable housing contribution, although an Affordable Housing Proforma needs to be submitted so the affordable housing contribution can be calculated and agreed.
- 4.1.4 **Shropshire Council, Ecology** - No objection is raised subject to conditions and informatives to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.
- 4.1.5 **Shropshire Council, Drainage** - No objection is raised subject to a safeguarding condition regarding surface and foul water drainage. Surface water and foul drainage schemes for the development should be designed and constructed in accordance with the Council's SUDS Handbook which is available in the Related Documents Section on the Council's Website at:

<https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

Appendix A1 - Surface Water Drainage Proforma for Major Developments must be completed and together with associated drainage details, must submitted for approval.

- 4.1.6 **Shropshire Council, Environment Protection** - Environmental Protection have reviewed the application and have the following comments relating to noise and contaminated land:

#### Noise

The noise assessment has concluded that with the roller shutter doors open in the garage there is likely to be a significant adverse impact on the residential amenity of the proposed dwellings, with the doors shut and a 3m barrier along the boundary of the garage the impact is low. Generally Environmental Protection would require garages to be assessed with the doors open as garages often operate with the roller doors open for significant amount of the time. However, the planning consent (18/05865/FUL) relating to the new garage building requires that all doors shall be kept shut when the garage is in use, see condition 8 below:

*No operations shall take place in the commercial garage unless all openings to the external area are closed.*

*Reason: to protect the amenity of neighbouring residents.*

Therefore, if the garage is operated in accordance with the conditions of the planning consent and a 3m noise barrier is constructed along the boundary of the garage site the noise impact from the garage is expected to be low. Should it be considered appropriate to grant consent I recommend that the following condition is applied:

*A 3m high acoustic barrier, of at least 10kg/m<sup>2</sup> in density, shall be constructed along the boundary between the garage and the residential development. The barrier shall be completed prior to the first occupation of the development and shall thereafter be retained.*

*Reason: to protect residents from any detrimental noise impact from the neighbouring commercial use.*

## Contaminated Land

This application is a resubmission of an application that was previously refused, and no new information has been supplied. Therefore, Environmental Protections comments previously made, remain exactly the same.

Environmental Protection commented on a planning application (21/02241/FUL) for Phase 1 of this development site, and the same ground investigation report (Sladen Associates, 'Report on Phase 2 Ground Investigation, Proposed Residential & Commercial Development, Old Station Yard, Pipe Gate, Shropshire; Job No. 15 1551, December 2015) has been submitted in support of this application, for Phase 2.

The report cannot be accepted as it is now over 6 years old and therefore our comments remain largely the same.

The report references the following report by Arc Environmental, 'Phase 1 Desk Top Study; Proposed Residential Development at Old Station Yard, Pipe Gate, Market Drayton, Shropshire, TF9 4HU; Report No. 14-236, March 2015'. This report has not been included with this submission and Regulatory Services request a copy of this document, although it is likely to be superseded (see comments below).

Environmental Protection has identified the proposed development site as 'potentially' contaminated land due to historic land uses and the report by Sladen Associates has identified unacceptable risks. However, the site investigation by Sladen Associates was carried out in excess of 6 years ago and therefore the potential risks will need to be re-evaluated and a more up to date site investigation undertaken.

### 4.1.7 **Severn Trent Water** - With Reference to the above planning application the company's observations regarding sewerage are as follows:

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

### 4.1.8 **Woore Parish Council** OBJECTS to the above Planning Application and request this is refused on the following grounds:

- The proposal is for a Development of up to ten dwellings. Woore Neighbourhood Plan 2016-2036 (WNP) clearly states in Policy HOU1, "small scale developments of up to ten dwellings per development". On the 8th of

November permission was Granted for 21/02241/FUL for 4 Detached Dwellings for the same site. Therefore, should be refused with the maximum of a further 6no only considered in any application for this site.

- The Planning Statement that accompanied this Application at 3.10 states Policy S11.2 (7) of the SAMDev Plan 2015 quotes "... with housing development on two significant sites providing 75 homes. There is therefore limited potential for development of approximately 15 dwellings over the period 2026....." When these two sites were completed, they totalled actually 88 homes. With the limited potential of approximately 15 dwellings over the period to 2026 been far exceeded with 52no dwellings either built, or in the process or received planning permission, since SAMDev was adopted in 2015.
- The Woore Neighbourhood Plan 2016-2036 "envisages that around 30 additional dwellings from 2016-2036 will be delivered". Since the Plan was adopted in May 2019 there have been 21 dwellings either built, or in the process or received planning permission. This does include the 4 already Granted for this site. In total since 2016 there have been a total of 51 which is well more than the proposed in the WNP.
- The Planning Statement at 6.2.6 states "the site has pedestrian access along the existing footpath into Woore which is less than 1km away along a flat footpath which provides a number of essential day to day services." The distance is 2km with residents having to cross the A51 up to three times to reach the centre of Woore, it is not continuous. The Parish Council are currently in negotiations with Shropshire Council, West Mercia Police and HS2 Ltd having raised issues regarding Health, Safety and Wellbeing of the residents in using the existing footpath. HS2 Ltd have approval to use the A51 for circa 7 years allowing for 180,000 - 200,000 HGVs, plus other Construction Traffic during this period.
- The Parish Council are also aware that currently Woore Nursery & Primary School are awaiting confirmation from Shropshire Council on approval for funding for an extension to the school to accommodate the increased numbers of pupils due to the housing growth in the Parish as detailed above.
- Further to the Granting of permission for 21/02241/FUL the Parish Council still feels that the following comments have not been answered by the Applicant which were raised and are still applicable for this particular application also:

The Parish Council are in total disagreement, until proven otherwise, with the following Consultee Comments submitted by Severn Trent of the 28<sup>th</sup> September 2021, "As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied."

- The works were started without consent and the pre-commencement planning conditions not complied with.
- There is no detail of the s106 provision originally covered. This should be covered off before consent.



- There is no planning for works done to date.
- There is no building control consent for works done to date.
- The planning conditions from previous applications were not adhered to.
- What is the remediation strategy for the site?
- What will the applicant do about services laid to date? The Parish Council understand these were installed without a remediation strategy or input from statutory undertakers or the building control?
- If this is the case, how can the developer demonstrate the safety of, for example, the water supply?

Woore Parish Council reiterate the following matters that were raised in the previous applications:

Woore Parish Council during the Consultation for Planning Application 21/02241/FUL again referred to the following: "The Parish Council are also still concerned about the sewerage network capacity as well as surface water drainage in Woore Parish, this was reported as critical in 2012/13 Place Plan with no work carried out to upgrade the systems and they wish Shropshire Council Planning Officers to take this into consideration." This was also re-enforced with a communication to Shropshire Council in August 2021 requesting that no further Planning Applications be Granted until further full investigations are carried out. The Parish Council are still awaiting a response from Shropshire Council on this issue.

The above Objection is subject to Consultee Comments.

## 4.2 **Public Comments**

4.2.1 No public representations have been received.

## 5.0 **THE MAIN ISSUES**

- Background
- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Ecology
- Drainage
- Affordable Housing
- Other Matters

## 6.0 **OFFICER APPRAISAL**

### 6.1 **Background**

6.1.1 Outline planning permission was granted on the 20<sup>th</sup> April 2015 for the re-development of storage land at Station Yard, Pipe Gate which included the demolition of buildings; erection of 10 detached dwellings; 1 live-work dwelling; detached motor repair garage; detached shop with office over; formation of car parking area; extension of existing private driveway; location of cycle racks and shop

refuse storage area all served off existing access (application reference 12/04469/OUT).

- 6.1.2 Condition 2 indicated that reserved matters was required to be submitted within three years from the date of the outline application, whilst condition 3 required development to begin before the expiration of two years from the date of approval of the last reserved matters. The outline application also included three pre-commencement conditions that required to be complied with prior to any work commenced on site. These were condition 8 which required the submission of a site investigation report regarding the extent of contamination on site and proposed mitigation measures; condition 9 which required details of the means of access including the layout, construction and sight lines; and condition 10 which required a survey of the width and features of the existing public footpath which indicated recommendations of access and improvements to the footpath.
- 6.1.3 A reserved matters application was received on the 4<sup>th</sup> August 2015 for the layout, landscaping, appearance and scale and was approved on the 4<sup>th</sup> March 2016 (application reference 15/03221/REM). A subsequent reserved matters application was received on the 26<sup>th</sup> February 2016 for a revised landscaping scheme and was approved on the 31<sup>st</sup> March 2016 (application reference 16/00820/REM).
- 6.1.4 A Building Regulations application was received on the 8<sup>th</sup> May 2018 for the erection of 11 dwellings (application reference 18/02337/DOMFP), although no works in connection with this application have commenced on any of the plots. A further Building Regulations application was received on the 3<sup>rd</sup> February 2020 for the erection of a detached garage building (application reference 20/00433/COMFPA), although this application is invalid as no payment had been submitted.
- 6.1.5 Prior to any work commencing on site a discharge of conditions application would have needed to be approved in relation to conditions 8, 9 and 10 and work would have had to commence by the 31<sup>st</sup> March 2018. Although part of the access road has been laid out and services installed no discharge of conditions application has been submitted in accordance with the pre-commencement conditions and therefore the outline planning permission has now lapsed and cannot be implemented.
- 6.1.6 A recent full application for four detached dwellings was approved in November 2021 and included the formation of an estate road and alterations to the vehicular access (ref. 21/02241/FUL). This application was considered as Phase 1 for plots 1 to 4.
- 6.1.7 A recent outline application for ten self-build dwellings (plots 5 to 14) was refused in March 2022 (ref. 21/05785/OUT). Concerns were raised that the development did not demonstrate adequate open space for future residents and that inadequate information had been submitted in relation to the adjoining commercial use which has the potential to result in noise impact on future residents.

## 6.2 **Policy & Principle of Development**

- 6.2.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). 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 National Planning Policy Framework constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.2.2 The NPPF in itself constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF sets out the presumption in favour of sustainable development through plan-making and decision-taking. The NPPF reiterates that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. These considerations have to be weighed alongside the provisions of the development plan. Development plan policies of particular relevance to assessing the acceptability of this housing application in principle are discussed below.
- 6.2.3 For the purposes of the assessment of this application the development plan presently comprises of the adopted Shropshire Core Strategy 2011; the adopted Site Allocations and Management of Development Plan 2015; Supplementary Planning Documents; and the Woore Neighbourhood Plan (adopted May 2019).
- 6.2.4 Policies CS1 and CS4 of the Core Strategy set out the strategic approach to housing provision. It is envisaged that Community Hubs and Clusters will enable the rural rebalance to make rural areas more sustainable and accommodate around 35% of Shropshire's residential development. The identification of hubs and clusters is done through the SAMDev Plan and therefore policy CS4 is reliant on the SAMDev for the detail of settlement allocation. Policies CS1 and CS4 are consistent with the objectives of the NPPF to focus new development in sustainable locations.
- 6.2.5 Policy S11.2(vii) of the SAMDev Plan indicates Woore, Irelands Cross and Pipe Gate as an allocated Community Hub reflecting the links between the three areas within the Parish. Woore has provided for significant housing growth through the former North Shropshire Local Plan, with housing development on two significant sites providing 75 homes. There is therefore limited potential for development of approximately 15 dwellings over the period to 2026 which will be delivered through limited infilling, conversions and small groups of houses which may be acceptable on suitable sites within the villages, avoiding ribbon development along the A51. Any development must respect the sensitive gap between Woore, Irelands Cross and Pipe Gate to prevent coalescence of the settlements.
- 6.2.6 The proposed residential development is considered to be located within Pipe Gate settlement with existing dwellings being located along the southern boundary and to the north. The site has pedestrian access along the existing footpath into Woore which is less than 1km away along a flat footpath which provides a number of essential day to day services.
- 6.2.7 Woore Parish Council have raised concerns that the proposed development is up to ten housing plots, It is also noted that the previous application 21/02241/FUL approved four detached dwellings on the same site. The Parish Council have made reference to the Woore Neighbourhood Plan (2016 - 2036) which indicates in policy HOU1 that housing would be delivered incorporating small scale residential development of up to ten dwellings per development. The Parish Council therefore suggest that this current application should only provide six dwellings.

6.2.7 Policy HOU1 'Scale and Location of New Housing' in the Woore Neighbourhood Plan identity's development boundaries around the individual parts of the Community Hub of Woore, Irelands Cross and Pipe Gate in order to meet local housing needs, and to remain on a scale appropriate to the existing character of Woore Parish, it is envisaged that around 30 additional dwelling from 2016 - 2036 will be delivered, incorporating small scale residential developments of up to 10 dwellings per development. The proposed development site falls wholly within the development boundary as indicated in the Woore Neighbourhood Plan and will utilise previously developed land adjacent to existing residential development and would not adversely affect the local landscape character and visual amenity.

6.2.8 Officers note the concerns raised by the Parish Council regarding the number of dwellings, although this application is only for up to ten dwellings. Therefore, the principle for residential development is acceptable through the Woore Neighbourhood Plan.

### 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. This is reiterated in policy MD2 of the SAMDev Plan which indicates the development should contribute and respect the locally distinctive or valued character and existing amenity value. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.3.2 This is an outline application with all matters reserved including the proposed layout, scale and appearance. An indicative layout plan has been submitted indicating the provision of six detached and four semi-detached dwellings with driveways, parking areas and private rear gardens. The proposed site covers 0.37 hectares and is considered that there is adequate land available to provide a residential scheme in the region of up to ten dwellings with appropriate access, driveways and garden areas. There is sufficient depth to the site to enable the dwellings to be set back from the previously approved estate road to allow the provision of a new footpath and front gardens.

6.3.3 Policy MD2 of the SAMDev Plan indicates that adequate open space set at a minimum standard of 30sqm per person is provided for residential developments and that for developments of 20 dwellings and more the open space needs to comprise of a functional area for play and recreation. The previous application was refused as the indicative layout plan did not demonstrated the provision of any open space and there was no mechanism to provide any improvements to the adjoining public open space and toddler play area on the Phoenix Rise Play Area. As such the development did not comply with policy MD2 in relation to providing adequate open space provision for the future residents and was refused.

6.3.4 This current application has indicated an open space requirement of 1,350sqm would be required based on the indicative dwelling sizes. The indicative layout plan has indicated the provision of 1,097sqm public open space, whilst the structural landscaping along the estate road will provide approximately 300sqm of additional open space. The majority of the open space will be located directly adjacent to the

north eastern boundary and will include natural surveillance from plots 8, 9 and 10. It is envisaged that this area will be landscaped and provide an appropriate separation from the housing and the commercial development. It is intended that the proposed open space would be maintained by a management company which the residents of the dwellings would sign up to. Although the long term ownership and maintenance of the open space will be included as part of a Section 106 legal agreement to allow the retention of the open space in perpetuity. A children's play area is located on the Phoenix Rise estate to the south of the development site and includes a large area of additional public open space and a toddler play area which residents could utilise. There is also a good network of local public footpaths in the area providing residents opportunities for recreation and exercise. This revised indicative layout would provide adequate open space in accordance with policy MD2.

#### **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. The nearest neighbouring residential properties are those on the former Phoenix Rubber factory site to the south developed by Taylor Wimpey. There are no immediate adjacent dwellings with the nearest dwellings being over 21 metres away from the site boundary. Having regard to the distance any dwellings will not result in any overlooking or loss of privacy, cause any overbearing impact or loss of light. The movements of up to ten households along the proposed estate road will be minimal and will not result in any significant detrimental noise or disturbance.
- 6.4.2 Environmental Protection raised concerns on the previous application regarding the commercial use to the north east which could cause noise and would impact on the amenity of the proposed dwellings. The existing commercial premises includes a vehicle service garage, office and a graphics design store. A detailed Noise Impact Assessment has been undertaken which concluded that with the roller shutter doors open in the garage there is likely to be a significant adverse impact on the residential amenity of dwellings. However, with the doors shut and a 3 metre barrier along the boundary of the garage the impact would be low. Generally Environmental Protection would require garages to be assessed with the doors open as garages often operate with the roller doors open for significant amount of the time. However, the planning permission 18/05865/FUL relating to the new garage building requires in condition 8 that all doors shall be kept shut when the garage is in use. The Council has not received any noise complaints from existing local residents living on Phoenix Rise and as such it is understood that this condition is being complied with. As such Environmental Protection have raised no objection subject to the installation of an acoustic noise barrier. Amended plans have been received to the indicative layout plan since the Noise Impact Assessment was undertaken which has repositioned dwellings a further 12 metres away from the commercial building due to an increase in width in the open space which would further assist in minimising noise impact.
- 6.4.3 Regulatory Services has also identified the proposed development site as potentially contaminated land due to historic land uses and the report by Sladen Associates has identified unacceptable risks. However, the site investigation by Sladen Associates was carried out in excess of 5 years ago and therefore the potential risks will need to be re-evaluated and a more up to date site investigation undertaken. A contaminated land safeguarding condition is proposed which would

prevent any works commencing until a detailed site investigation is undertaken and appropriate remediation strategy.

- 6.4.3 Overall it is considered that the amenities of the existing residents will be protected and not affected to any greater extent from the proposed development. However, the proximity of a potential commercial noise source adjoining the site has the potential to impact on the amenity of future occupiers of the development.

## 6.5 Highways

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that proposals likely to generate significant levels of traffic should be located in accessible locations where there are opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. This policy also indicates that development should be designed to be safe and accessible to all.
- 6.5.2 The proposed vehicular access and estate road has been approved under application 21/02241/FUL which provides significant improvements to the road junction onto the A51. The access indicated that it would have a 6 metre wide estate road and splayed entrance with visibility splays of 2.4 metres by 79 metres in both directions. The speed limited through Pipe Gate is restricted to 40mph and the Council highways consultants have raised no objection to the access subject to safeguarding conditions regarding the design details for the access, visibility, parking, turning and access apron details being agreed.

## 6.6 Ecology

- 6.6.1 Policy CS17 'Environmental Networks' of the Shropshire Core Strategy indicates that development will identify, protect, expand and connect Shropshire's environmental assets to create a multifunctional network and natural and historic resources. This will be achieved by ensuring that all development protects and enhances the diversity, high quality and local character of the natural environmental and does not adversely affect the ecological value of the assets, their immediate surroundings or their connecting corridors. This is reiterated in national planning guidance in policy 11 'Conserving and Enhancing the Natural Environment' of the National Planning Policy Framework. This indicates that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity and providing net gains where possible.
- 6.6.2 A detailed Ecological Appraisal has been carried out by Greenscape Environmental to provide an assessment of the ecological value of the site in local context and to identify potential ecological constraints relating to the development and recommend measures to avoid, reduce or manage negative effects and provide a net ecology gain.
- 6.6.3 The application site is set in a rural environment and comprises of part on an active builder's yard and former station yard. There are built structures, hardstanding, bare earth, amenity grassland, ornamental planting, scattered scrub, tall ruderal herb, scattered trees and hedgerows. All buildings and trees on site are considered to offer 'negligible' bat roosting potential, although the site as a whole offers moderately

good commuting and foraging habitat for bats and is in an area known to support several species of bats. Bat provision and a sensitive lighting scheme are recommended as enhancements.

- 6.6.4 The scrub, long-term stored building materials, trees and hedgerows present on the site and boundaries provide 'high' bird nesting potential and therefore a sensitive tree works scheme is required, along with bird box provision, native species planting as an enhancement.
- 6.6.5 There are no significant standing water bodies were identified within a 250 metres zone of influence and therefore Great Crested Newts are not considered a constraint to the proposed development.
- 6.6.6 The site provides overall good-quality reptile/amphibian habitat, but a previous reptile Presence/Likely Absence Survey indicated the absence of reptile species and no amphibian species were detected either. Being a commercial site and active in places, it is classed as disturbed ground, there is also limited connectivity to potential areas of favourable reptile habitat off site, residential housing and arable land surround. Reptiles or amphibians are not considered a constraint to the proposed development.
- 6.6.7 Field signs indicating use of the site by badgers was found and a badger path was detected from the west. Badgers are not considered a constraint to the proposed development, providing mitigation/recommendations are followed and reasonable avoidance measures adopted. A pre-commencement badger survey must be undertaken of the site by an ecologist prior to any works commencing including when site is cleared.
- 6.6.8 The Ecology Team have raised no objection to the application subject to safeguarding conditions and informatives.

## 6.7 **Drainage**

- 6.7.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity and provide opportunities to enhance biodiversity.
- 6.7.2 The Parish Council have raised concerns about the sewerage network capacity as well as surface water drainage in Woore Parish. The Market Drayton Place Plan has indicated sewerage network capacity as a 'Priority A Project' in Woore and it is indicated that no upgrade has been undertaken to the system.
- 6.7.3 The application indicates that foul water drainage will be directed to the existing foul mains which is the preferred option and allows the foul water to be dealt with in an effective and sustainable manner. The developer would need to apply to Severn Trent Water to make changes to an existing sewer connection, changing sewer flows or using an existing connection as you can't connect to a public sewer without approval. Severn Trent Water has to assess the connection requirements and check that their existing network has capacity for the proposed connections and would not allow any new connections if there was not capacity.

6.7.4 Severn Trent Water have indicated that the provision of ten dwellings has minimal impact on the public sewerage system and have no objections to the development subject to a safeguarding condition.

6.7.5 The application indicates that surface water will be disposed of via soakaways and the Drainage Engineer has indicated that percolation test and soakaways should be designed in accordance with BRE Digest 365. No concerns have been raised regarding the suitability of the local ground conditions and therefore it is recommend that both the foul and surface water drainage are conditioned accordingly for details to be submitted and approved prior to the commencement of works on site.

## 6.8 **Affordable Housing**

6.8.1 Policy CS11 'Type and Affordability of Housing' of the Core Strategy indicates that all new open market housing development should make an appropriate contribution to the provision of local needs affordable housing having regard to the current prevailing target rate as set out in the Shropshire Viability Index.

6.8.2 The previous application 21/02241/FUL approved four new dwellings (plots 1 to 4) and was considered as Phase 1 of a larger site to develop the former Station Yard. This application on its own did not meet the trigger point for providing an affordable housing contribution. However, this site clearly forms part of a larger redevelopment site and the highway access and estate road being considered under the previous application will provide access for the rest of the site. Therefore, the proposed dwellings under this Phase 1 application should be taken into account when the affordable housing provision is calculated under the current Phase 2 application.

6.8.3 The existing target rate for Pipe Gate is currently 15% and should ten additional dwellings be proposed for Phase 2 this would equate to 2.1 affordable dwellings be provided across both phases (4 dwellings + 10 dwellings x 15% = 2.1). Therefore, Phase 2 would have to provide two on site affordable dwellings and a financial contribution for the remaining 0.1. The affordable housing contribution would be subject to a Section 106 agreement under this current Phase 2 application.

## 6.9 **Other Matters**

6.9.1 The Parish Council have indicated that the footpath from the proposed site to the centre of Woore village is 2km and that it is not continuous. Officers have measured the distance which indicates that the access of the development will be 1.1km from the outer edge of Woore and 1.6km from the cross road junction of the A51 and A525 in the centre. It is acknowledged that the footpath is not continuous on one side of the road and pedestrians would need to cross. However, it does provide a safe pedestrian link for any residents who wish to access services on foot.

6.9.2 The Parish Council have also raised a number of queries regarding existing drainage and laying of services which have had no agreement by statutory undertakers or Building Control. However, these matters are outside of the control of planning and the builder would need to seek approval from the relevant authorities to enable the development to be signed off as completed.

## 7.0 **CONCLUSION**



- 7.1 The proposed site falls within the development boundary for Woore Neighbourhood Plan and forms part of the Woore, Irelands Cross and Pipe Gate Community Cluster and therefore the principle for residential development is acceptable. The development site can be developed to provide a safe means of access, suitable drainage and a layout which could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife, whilst no important trees will be lost.
- 7.2 This revised application has demonstrated that adequate open space can be provided for the future residents in compliance with policy MD2 of the SAMDev Plan. Whilst the Noise Impact Assessment has demonstrated that subject to an acoustic wall and open space separating the dwellings the noise impact on future residents would be acceptable in compliance with policy CS6 of the Core Strategy. Therefore, this application is recommended for approval.
- 7.3 This application will be subject to a Section 106 obligation to secure the affordable housing provision and long term, ownership, maintenance and perpetuity of the open space.
- 7.4 In arriving at this decision the Council has used its best endeavours to work with the applicants in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework.

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

### **8.1 Risk Management**

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

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

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

### **8.2 Human Rights**

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

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

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

### 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10.0 **BACKGROUND**

### 10.1 **Relevant Planning Policies**

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

#### **National Planning Policy Framework:**

##### **Shropshire Council Core Strategy (February 2011):**

CS6 : Sustainable Design and Development Principles

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

##### **Site Allocations and Management Development Plan (December 2016):**

MD2 : Sustainable Design

MD3 : Delivery of Housing Development

MD12 : Natural Environment

MD13 : Historic Environment

S11 : Market Drayton

##### **Woore Neighbourhood Plan (May 2019):**

## 10.2 Relevant Planning History

21/05785/OUT - Outline application Phase 2 residential scheme: Development of up to 10 housing plots for self-build/custom dwellings. Refused 11<sup>th</sup> March 2022.

21/02241/FUL - Erection of four detached dwellings with detached garages; formation of estate roads; Application under Section 73A of the Town and Country Planning Act 1990 for the formation of access road and infrastructure (sewer). Granted 8<sup>th</sup> November 2021.

21/00348/AMP - Non material amendment to the layout and elevations of the four plots at the rear of the site relating to Planning Permission 15/03221/REM. Refused 11<sup>th</sup> February 2021.

16/00820/REM - Reserved matters (landscaping) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 31<sup>st</sup> March 2016.

15/03221/REM - Reserved matters (layout, landscaping, appearance, scale) pursuant to outline permission 12/04469/OUT for the re-development of the site. Granted 4<sup>th</sup> March 2016.

12/04469/OUT - Re-development of site including demolition of buildings; erection of 10 detached dwellings; 1 live-work dwelling; detached motor repair garage; detached shop with office over; formation of car parking area; extension of existing private driveway; location of cycle racks and shop refuse storage area all served off existing access. Granted 21<sup>st</sup> March 2015.

## 11.0 ADDITIONAL INFORMATION

List of Background Papers - Planning Application reference 22/01789/OUT

Cabinet Member (Portfolio Holder) - Cllr Edward Potter

Local Member - Cllr Roy Aldcroft

Appendices

APPENDIX 1 - Conditions

## APPENDIX 1

### *Conditions*

#### STANDARD CONDITION(S)

1. Approval of the details of the appearance of the development, access arrangements, layout, 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 5 of the Development Management Procedure (England) 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 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**

5. No development shall commence until Phasing Plans have been submitted to and approved in writing by the Local Planning Authority. The Phasing Plans shall provide for a programme for the implementation of the development of the site and the respective timing and implementation of associated open space and infrastructure required to serve each phase. The development shall proceed in accordance with the approved Phasing Plans or such other Phasing Plans which may be agreed with the Local Planning Authority.  
Reason: To ensure that the development is delivered in a coordinated manner and to clarify which units are self/custom build.
6. No development shall commence until a badger inspection by an appropriately qualified and experienced ecologist has taken place. Should any evidence of badgers be recorded from that inspection a mitigation strategy setting out appropriate actions shall be submitted and approved in writing by the Local Planning Authority before any development commences. These measures will be implemented as approved.  
Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.
7. 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 current Environment Agency guidance ' Land Contamination: Risk Management (LCRM). The Report is to be submitted to and approved in writing by the Local Planning Authority.  
  
b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that

the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

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

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

9. Prior to the first occupation of the development the parking, turning, loading, and unloading shall be laid out and surfaced and thereafter be kept clear and always maintained 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**

10. A three metre high acoustic barrier, of at least 10kg/m<sup>2</sup> in density, shall be constructed along the boundary between the garage and the residential development as indicated on the Phasing Plan showing POS (drawing 5697-201D). The barrier shall be completed prior to the first occupation of the development and shall thereafter be permanently retained.

Reason: To protect residents from any detrimental noise impact from the neighbouring commercial use.

11. Before any other operations are commenced, the approved vehicular access and visibility splays under consent reference 21/02241/FUL, shall be provided and constructed to base course level and completed to an appropriate standard as shown on the application drawings before the development is fully occupied and thereafter maintained. The area in advance of the sight lines shall be kept permanently clear of all obstructions.

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

12. 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 5 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.

- A minimum of 5 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 be maintained for the lifetime of the development.

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

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

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

a) Planting plans, creation of wildlife habitats and features and ecological enhancements (including the recommendations in the Preliminary Ecological Appraisal (PEA) Report (Pearce Environment, March 2021, hedgehog-friendly gravel boards and amphibian-friendly gully pots).

b) Written specifications for establishment of planting and habitat creation.

c) Schedules of plants/seed mixes, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate.

d) Implementation timetables.

Native species used are to be of local provenance (Shropshire or surrounding counties). The plan shall be carried out as approved.

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

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

14. 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, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. 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  
**Northern Planning Committee**  
 6 December 2022

**SCHEDULE OF APPEALS AS AT COMMITTEE 6<sup>th</sup> December 2022**  
**Appeals Lodged**

<b>LPA reference</b>	22/00491/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr C. Bevan-Jones
<b>Proposal</b>	Change of use of former filling station to timber storage yard (B8 - Storage and Distribution)
<b>Location</b>	Site Of Former Filling Station Sandford Whitchurch
<b>Date of appeal</b>	01.07.2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	22/02066/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Ms S Brookes
<b>Proposal</b>	Erection of part two storey and single storey extensions and juliet balcony following some demolition (resubmission)
<b>Location</b>	1 Station Cottages Yockleton Shrewsbury
<b>Date of appeal</b>	16.08.2022
<b>Appeal method</b>	Householder
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/00014/DSA106
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr And Mrs Ben Power
<b>Proposal</b>	Discharge of S106 agreement attached to planning permission reference 13/02031/FUL
<b>Location</b>	Inglish Court, Croeswylan Lane, Oswestry, SY10 9PT
<b>Date of appeal</b>	21/11/2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	22/01976/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs J Griffiths
<b>Proposal</b>	Erection of one replacement dwelling and detached double garage; installation of sewage treatment plant
<b>Location</b>	Darwin House, Dovaston, Kinnerley, Oswestry, Shropshire, SY10 8DS
<b>Date of appeal</b>	04/11/2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	21/05972/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr and Mrs Pritchard
<b>Proposal</b>	Construction of equestrian manege to include change of use of land, installation of post and rail fencing and all associated works (re-submission)
<b>Location</b>	Old Port Cottage, Llwyn Road, Oswestry, SY10 7AA
<b>Date of appeal</b>	04/11/2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

### Appeals Determined

<b>LPA reference</b>	21/05768/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr D Rogerson
<b>Proposal</b>	Change of use of field to horse paddock, formation of a new access, erection of stabling for horses, installation of a packaged sewage treatment plant and other associated external works
<b>Location</b>	Proposed Stables (The Smithy) To The North Of Edstaston Wem
<b>Date of appeal</b>	11.04.2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	18.10.2022
<b>Date of appeal decision</b>	03.11.2022
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	21/05033/FUL
<b>Appeal against</b>	Appeal Against Refusal
<b>Committee or Del. Decision</b>	Delegated Decision
<b>Appellant</b>	Mr J Harmer
<b>Proposal</b>	Erection of a 4 bedroom detached two storey dwelling to replace pair of semi-detached dwellings to be demolished (last used as a single unit) and alterations to existing vehicular access
<b>Location</b>	Barkers House Withington Shrewsbury
<b>Date of appeal</b>	30.05.2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	18.10.2022
<b>Date of appeal decision</b>	15.11.2022
<b>Costs awarded</b>	<b>Award of Costs is Refused</b>
<b>Appeal decision</b>	<b>DISMISSED</b>

<b>LPA reference</b>	22/01167/FUL
<b>Appeal against</b>	Refusal
<b>Committee or Del. Decision</b>	Delegated
<b>Appellant</b>	Mr & Mrs T Jones
<b>Proposal</b>	Replacement garage to side to include first floor extension over, remodelling of existing front, and internal layout
<b>Location</b>	Crickett Cottage, Lower Perth, Ellesmere, Shropshire, SY12 9HY
<b>Date of appeal</b>	13/09/2022
<b>Appeal method</b>	Written Representations
<b>Date site visit</b>	
<b>Date of appeal decision</b>	03/11/2022
<b>Costs awarded</b>	
<b>Appeal decision</b>	<b>Dismissed</b>

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
<b>Appeal against</b>	
<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
<b>Location</b>	
<b>Date of appeal</b>	
<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	

<b>LPA reference</b>	
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<b>Committee or Del. Decision</b>	
<b>Appellant</b>	
<b>Proposal</b>	
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<b>Date of appeal</b>	
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<b>Costs awarded</b>	
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<b>Appellant</b>	
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<b>Proposal</b>	
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<b>Appeal method</b>	
<b>Date site visit</b>	
<b>Date of appeal decision</b>	
<b>Costs awarded</b>	
<b>Appeal decision</b>	





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# Appeal Decision

Site visit made on 18 October 2022

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 November 2022**

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**Appeal Ref: APP/L3245/W/22/3296748**

**Land Adjacent to The Smithy, Edstaston, Wem SY4 5RG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Danny Rogerson against the decision of Shropshire Council.
  - The application Ref 21/05768/FUL, dated 7 December 2021, was refused by notice dated 4 February 2022.
  - The development proposed is the change of use to field to horse paddock, formation of a new access, erection of stabling for horses, installation of a packaged sewage treatment plant and other associated external works.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A recent permission<sup>1</sup> has been granted on site for a similar, albeit smaller, scheme. This includes the conversion of the field for an equestrian use and the erection of a pair of stables served by a simple track. Although smaller, as the proposal would be very similar and achieve a similar outcome, I find that there is more than a theoretical possibility of this scheme being carried out. As such it is a fallback position and I have been mindful of it in my considerations below.
3. As part of the above permitted scheme, further information was submitted regarding the suitability of the land for agricultural and mineral extraction purposes. These submissions have satisfied the Council's concerns and consequently those parts of the reason for refusal have been withdrawn.

## Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

## Reasons

### *Character and Appearance*

5. The appeal site is an open field set within a rural location primarily characterised by agricultural fields interspersed with sporadic development and wooded areas. I noted a number of dwellings that were immediately adjacent, or near, to the appeal site. At the time of my site visit it appeared that the field was being levelled. Nevertheless, it retained a relatively agricultural character

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<sup>1</sup> 22/01825/FUL

in keeping with its surroundings. The proposal would include the erection of four L-shaped stables within the middle of the field, accessed via a gravel track with a passing area and large turning head.

6. The proposed change of use from an agricultural field to a use associated with equestrian activities would not significantly, or unacceptably, alter the character of the field. Consequently, I find that the change of use would be appropriate for a rural location, and I note that the Council found similarly in this regard.
7. However, as noted above the proposal includes a level of built development. The four proposed stable blocks would be a significant feature within the field, especially given their relatively central location in close proximity to the highway. Although stables are typical of rural areas the scale of the development in relation to the small field, is excessive and erodes the overall open and undeveloped character of the field and its contribution to the surrounding area. This is further exacerbated by the large areas of hardstanding associated with the access, parking spaces and turning head.
8. The permitted scheme, outlined above, would be set at the rear of the site against a backdrop of trees. Moreover, the scale of the built development is much smaller and the associated track, turning heads and passing areas are less prominent given their style, including the use of reinforced grass. Therefore, whilst the appellant may be permitted to carry out a similar scheme to that before me, the appeal scheme would be more harmful and therefore the fallback position does not justify allowing this scheme.
9. Consequently, the proposal would, given its scale, siting and layout, harm the character and appearance of the surrounding area. The proposal therefore conflicts with Policies CS5, CS6, CS16 of the Shropshire Local Development Framework: Adopted Core Strategy and Policies MD2, MD12 of the Shropshire Council Site Allocations and Management of Development Plan. These policies collectively, and amongst other matters, require that developments are of a high quality design that respects the local distinctiveness, including the character of the countryside, and are appropriate to their setting. It also conflicts with the design aims of the National Planning Policy Framework including that set out under Paragraph 130 that seeks for developments to be sympathetic to the local character, including landscape setting, and maintain a strong sense of place.

### **Other Matters**

10. I note that the appellant has referred to a number of potential benefits that could arise from the development. These include improvements to highway safety, neighbouring living conditions, the local economy, the well-being of the appellant's family, as well as a reduction in the number of motor vehicle movements associated with the site. I concur that all of these would be benefits, but given that the same benefits would also result from the extant permission outlined above, I afford them very modest weight.

### **Conclusion**

11. The proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. There are no other material considerations that indicate the decision should be made other than in

accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR

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## Costs Decision

Site visit made on 18 October 2022

**by Samuel Watson BA (Hons) MSc MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 15 November 2022

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### **Costs application in relation to Appeal Ref: APP/L3245/W/22/3300054 Barkers House, Barkers Square, Withington, Shrewsbury SY4 4QG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr J Harmer for a full award of costs against Shropshire Council.
  - The appeal was against the refusal of planning permission for the erection of a four-bedroom detached two storey dwelling to replace a pair of semi-detached dwellings to be demolished (last used as a single unit) and alterations to existing vehicular access.
- 

### **Decision**

1. The application for the award of costs is refused.

### **Reasons**

2. The Planning Practice Guidance (the PPG) makes it clear that parties in planning appeals normally met their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant submits that the Council has acted unreasonably as the reason for refusal is not substantiated or accurate, and no site visit was carried out during the application process. Moreover, the Council did not act proactively and did not properly assign weight to the structural survey submitted by the applicant. They therefore put forward that the Council prevented development that should have otherwise been permitted.
4. It appears from the information before me that the Council may not have been particularly communicative in its consideration of the planning application. The Council also accept that they did not carry out a site visit. Nevertheless, and given the level of detail and information regarding the host dwelling before the Council, it has not been demonstrated that that the lack of communication or site visit necessarily led to the submission of the appeal before me.
5. In issues relating to matters of character and appearance, including where that may affect the historic environment, there is often a strong degree of judgement employed and the matters raised by the Council related to issues where there was a reasonable potential for difference of opinion. I am satisfied that the Council suitably justified its concerns within its submissions. This

included detailing the existing conditions of the site, its surroundings, the contents of the works and highlighting issues which it considered would compromise the non-designated heritage asset or character and appearance of the wider area. The Council, to this extent, justified their decision-making.

6. Although I have reached a different decision to the Council with regard to the retention of the non-designated heritage asset, it is clear that the Council made reference to, and therefore considered, the applicant's structural survey. As such, I do not find that the Council giving the survey's findings a lesser weight to be unreasonable.
7. In light of the above, I consider that the Council did not act unreasonably in their decision making and that the decision was justified against the relevant policies. I consider that the Council did not act unreasonably in refusing the planning application and therefore the work undertaken by the applicant, involved in defending the appeal, was necessary and therefore not a wasted expense.
8. Unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. I find that an award of costs would therefore not be justified in this case.

*Samuel Watson*

INSPECTOR



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# Appeal Decision

Site visit made on 18 October 2022

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 November 2022**

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**Appeal Ref: APP/L3245/W/22/3300054**

**Barkers House, Barkers Square, Withington, Shrewsbury SY4 4QG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr J Harmer against the decision of Shropshire Council.
  - The application Ref 21/05033/FUL, dated 20 October 2021, was refused by notice dated 15 December 2021.
  - The development proposed is for the erection of a four-bedroom detached two storey dwelling to replace pair of semi-detached dwellings to be demolished (last used as a single unit) and alterations to existing vehicular access.
- 

## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr J Harmer against Shropshire Council. This application is the subject of a separate decision.

## Main Issue

3. The effect of the proposal on the character and appearance of the surrounding area with particular regard to the historic environment.

## Reasons

4. The appeal site is set within a rural location and is, with the exception of the single neighbouring dwelling, surrounded by agricultural fields. There is other development near the appeal site, but this is limited and sporadic. The appeal site itself is a spacious plot that contains a detached dwelling sited fairly centrally with a small group of large outbuildings to the rear. The site also contains two static caravans, but I understand that these are temporary to provide accommodation and workspace.
5. The Council consider that Barkers House, the host dwelling, is a non-designated heritage asset (a NDHA) as a result of its history, design and setting. In particular, I understand that the building had originally comprised four dwellings. During my site visit, I noted some suggestions of this original layout, including the presence of four external doorways and two internal staircases. The dwellings would have likely housed tenant farmers and its historic setting, agricultural fields, therefore largely remains the same. The neighbouring dwelling is a recent replacement for a very similar property to the host dwelling. I find the significance of the dwelling stems from the architectural style of the building, which is less than common, and its legible connection to the rural landscape.

6. As the appeal dwelling is the only remaining example within this area, its significance as a NDHA is somewhat increased. However, I am also mindful that the property has been substantially altered and, as set out within the appellant's structural survey, is in a state of disrepair. Cumulatively this has resulted in the loss of a large amount of its historic interest and significance. In particular, and although I noted the doors and staircases, it is very difficult to read the dwelling as having once been four, and so the, potentially, most interesting feature of the NDHA has already been eroded. I also find that the necessary works to make the building safe and habitable, up to modern standards, would further harm the legibility and interest of the historic building. Such works could be carried out irrespective of planning permission. Consequently, the overall importance of the building is much reduced, relying primarily on its location and relationship with the countryside, and would overall be limited.
7. The loss of the dwelling would result in the complete loss of the historic interest and significance of the host building. However, as the building is of only limited significance, this would not be unacceptable and detailed recording of the building could be required under a suitably worded condition in the event the appeal was allowed. Moreover, the demolition of the host dwelling would not harm the legibility of the wider rural environment.
8. The replacement dwelling would be significantly taller and have a significantly larger footprint than the existing dwelling. It would therefore also have a greater presence in public views and would not reflect the scale of the building it replaces. Whilst I note the proposed hipped roof, the replacement dwelling would not otherwise reference the host or neighbouring dwellings. Of particular note is the front elevation, this would be visible from public views along the carriageway. The large front projection with first floor half-hipped rooves and significant ground floor glazing would be a prominent and incongruous feature that would not be sympathetic to the simple, rural character of the surrounding area. Although there is a hedgerow separating the site from the road, this could be easily removed, die or otherwise cut back, to the detriment of the screening it provides. As such I do not find that the building would be screened from public views.
9. It has been brought to my attention that the neighbouring dwelling replaced an existing dwelling similar to that at the appeal site. I am mindful of the differences in scale and appearance between the neighbouring dwelling and the host dwelling, but it is nevertheless of a fairly simple style that does not result in harm to the host dwelling. I am also mindful of the appellant's reference to the various styles of dwellings present within nearby settlements. However, these appear to be within the settlements and within a different setting to the appeal site before me.
10. Although the Council consider that the appellant has not sufficiently justified the loss of the NDHA as it may be economically viable to retain and renovate the host building, as I have found no harm to occur via the loss of the NDHA it is not necessary for me to consider whether the cost and viability of retaining the existing dwelling would justify its loss. It would be similarly unnecessary for me to consider any public benefits.
11. In light of the above, the proposal would result in an unacceptable impact on the character and appearance of the surrounding area as a result of the scale



and appearance of the replacement dwelling. It would therefore conflict with Policies CS5, CS6 and CS17 of the Shropshire Local Development Framework: Adopted Core Strategy and Policies MD2, MD7a, MD7b and MD13 of the Shropshire Council Site Allocations and Management of Development Plan. These policies collectively, and amongst other matters seek for development to be of a high quality that protects local distinctiveness with particular regard to scale and design. With regard to replacement dwellings, the policies take account of the condition and standard of the host building. The proposal would also conflict with the design aims of the Type and Affordability of Housing Supplementary Planning Document in regard to its guidance on replacement dwellings in the countryside. It would also not comply with the National Planning Policy Framework, in particular Paragraph 130 which seeks for development to be sympathetic to the local character of its surroundings, maintaining a strong sense of place.

### **Other Matters**

12. The appellant has brought my attention to the presence of a Tree of Heaven being present on site. I understand this to be an invasive species and that its removal would be recommended. However, I do not find that the removal of the tree is directly reliant on the proposal before me.
13. The appellant has directed my attention to a number of permissions granted by the council for the demolition of non-designated heritage assets and their replacement by new dwellings. Five of these examples<sup>1</sup> are a significant distance away from the appeal site where the context of their location is likely to be substantially different. Moreover, although I have some details for each case, I cannot be certain of the circumstances under which these were permitted. Nevertheless, mindful of the plans before me I find that none are so similar as to justify the appeal proposal. A further example was given<sup>2</sup> for an approval within Withington, but as this was for an affordable dwelling, I find it is also not directly relevant. Although the appellant has made reference to permission 20/04936, I have not been given sufficient details of this case to allow me to consider it as part of my determination of this appeal.
14. The appellant has raised that they would be willing to have permitted development rights removed from the appeal site in the event that the appeal was allowed, in order to minimise the potential for harm to arise as a result of future extensions or outbuildings. However, this would not be sufficient to outweigh the harm identified above.
15. I note that it is the intention of the appellant that the proposed dwelling would be adaptable to any age or disability related needs that may arise. Although I do not doubt that this would be beneficial to the appellant, it has not been demonstrated that the proposal would be necessary to achieve this. As such it has not been determinative in my considerations. Similarly, whilst the proposal may result in improvements to the vehicular access and highway safety it has not been demonstrated that the proposal before me is necessary to achieve this.

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<sup>1</sup> 20/00786/FUL, 20/01730/FUL, 20/03955/FUL, 21/04677/FUL, 21/04640/FUL

<sup>2</sup> 12/02678/FUL

### **Planning Balance and Conclusion**

16. Although the Government's objective is to significantly boost the supply of housing this proposal would only result in the replacement of a dwelling. It would nevertheless result in a small and time-limited economic benefit during the construction phase of the development. Moreover, the new dwelling would have the potential improve energy efficiency. Given the small scale of the proposal, these matters would at most attract modest weight.
17. Conversely, the proposal would result in harm to the character and appearance of the surrounding area, in conflict with the development plan taken as a whole. This attracts significant weight and outweighs the benefits associated with the proposed development.
18. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR