

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

Date: Thursday 22nd December 2022

Committee: Northern Planning Committee

Date: Tuesday, 10 January 2023

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 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
Nat 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
Nigel Hartin
Pamela Moseley
Alex Wagner

Your Committee Officer is:

Emily Marshall / Shelley Davies Committee Officer

Tel: 01743 257717 / 01743 257718

Email: emily.marshall@shropshire.gov.uk / shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies for Absence

To receive apologies for absence.

2 Minutes

To confirm the Minutes of the meeting of the North Planning Committee held on 6th December 2022 - Minutes to Follow.

Contact: Emily Marshall on 01743 257717; or
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 5.00 pm on Wednesday, 4th January 2023.

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 Proposed Residential Development Land to The South of Welshpool Road, Bicton Heath, Shrewsbury, Shropshire - 22/03543/FUL (Pages 1 - 40)

Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description).

6 Land Adjacent to Melville House, Station Road, Baschurch, Shropshire - 22/03752/FUL (Pages 41 - 66)

Erection of 48 Dwellings Across 3 Phases with Associated Access Roads, Parking and Landscaping, including Provision of Land for Train Station Car Park.

7 34 Bynner Street, Shrewsbury, Shropshire SY3 7NZ - 22/05113/FUL (Pages 67 - 74)

Erection of rear extension and remodelling of existing detached house, to provide fully an accessible house for a disabled applicant (modifications to previously approved 22/02574/FUL).

8 Appeals and Appeal Decisions (Pages 75 - 116)

9 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, 7th February 2023.

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	<u>Committee and date</u>
	Northern Planning Committee
	10 th January 2023

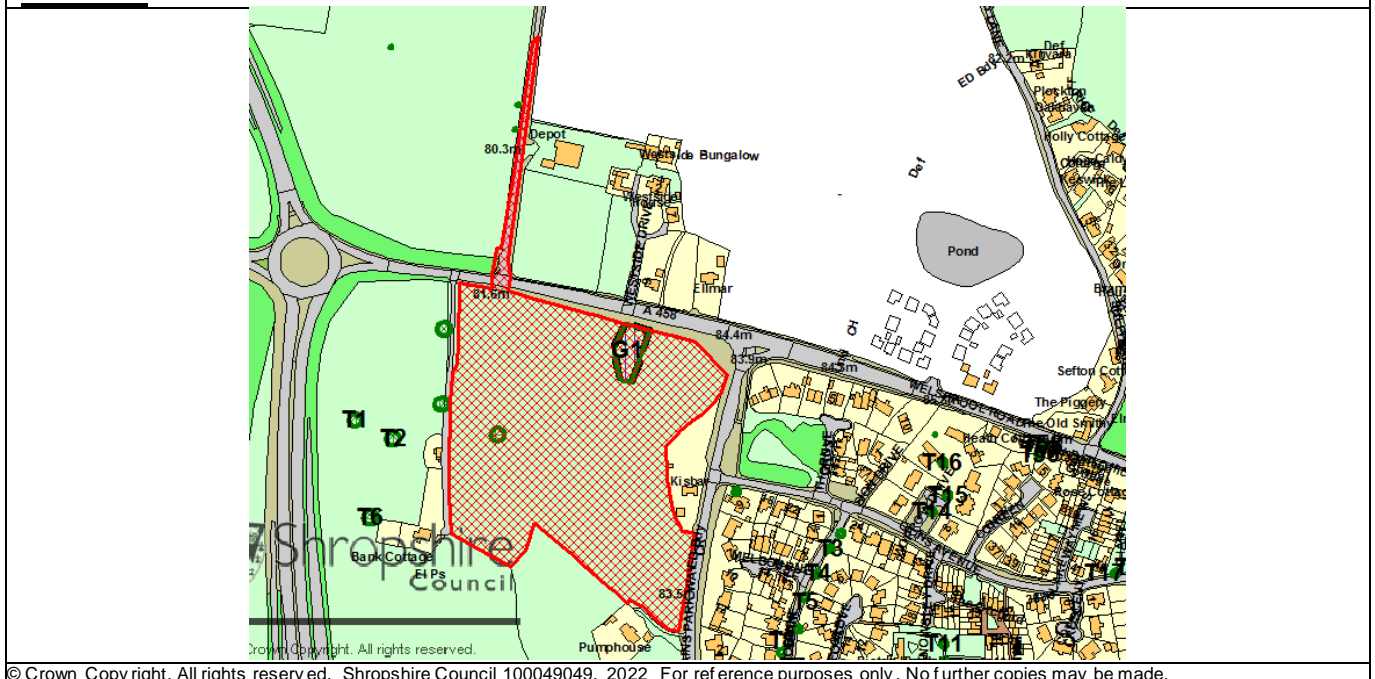
Development Management Report

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

Summary of Application

Application Number: 22/03543/FUL	Parish:	Bicton
Proposal: Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description)		
Site Address: Proposed Residential Development Land to The South of Welshpool Road Bicton Heath Shrewsbury Shropshire		
Applicant: Anwyl Homes		
Case Officer: Philip Mullineux	email: philip.mullineux@shropshire.gov.uk	

Grid Ref: 344993 - 313382



Recommendation: Approval subject to the conditions as outlined in appendix one attached to the report and any amendments to these conditions as considered necessary by the Assistant Director and the signing of a Section 106 agreement in order to secure provision of affordable housing, on site open space provision and a financial contribution towards the Northwest Relief Road.

REPORT

1.0 THE PROPOSAL

- 1.1 The application is made in 'Full' and proposes a mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way, south of Welshpool Road, Bicton Heath, Shrewsbury.
- 1.2 The application is accompanied by a site location plan, block plan, elevations and floor plans, design and access statement, planning statement, phasing plan, affordable housing layout, boundary treatment plan, site layout plan, landscaping plan, hard and soft landscaping plans, construction materials plan, arboricultural assessment, root investigation study, ecology and bat report, landscape and visual assessment, transport assessment, noise impact assessment, wildlife enhancement scheme, construction management scheme, air quality assessment, drainage strategy flood risk assessment and draft Section 106 agreement. During the application processing amended plans and further information was received which reduced the 'Cheltenham' housing range numbers (2.5 storey), in favour of more two-storey dwellings and this also resulted in an amended application form increasing total houses on site from 102 to 106 dwellings to which a full re-consultation took place.
- 1.3 Pre-application advice took place with the Council reference: PREAPP/21/00594 dated 19th January 2022 for residential development comprising of up to 120 dwellings including a range of 2, 3 and 4 bed-dwellings, with associated access from Welshpool Road, landscaping and open space and this concluded that the site is included in the current local plan for housing development as one of two sustainable urban extensions (SUE) for Shrewsbury, in this case the Shrewsbury West SUE. The parcel of land is identified within the SAMDev S16.1, figure S16.1.2 and within the adopted master plan as an area for residential development. and as such the principle of the development is considered acceptable.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located within the western fringes of the urban area of Shrewsbury and covers an area of approx. 4.6 hectare, grade 4 agricultural classification land. The site is located adjacent to existing residential development to the east with Gains Park Way running along the eastern boundary of the site. To the west and south the site is currently bounded by open agricultural land. Welshpool Road is located alongside the northern boundary, and on opposite side of this road is a residential area that also forms part of the wider SUE West and is presently under construction for residential development. The boundaries around the edge of the site are defined by hedgerows and mature trees. A number of mature trees are also present within the site.

2.2 The application proposes 106 dwellings consisting of 85 unencumbered dwellings and 21 affordable dwellings (mainly two-storey), in accordance with the following bedroom breakdowns:

Unencumbered:

- 2 beds - 10
- 3 beds - 34
- 4 beds - 41
- Total - 85

Affordable dwellings (20%).

- 1 bed - 8
- 2 beds - 8
- 3 beds - 5
- Total - 21

2.3 The application is not considered to fall into the remit of Environmental Impact Assessment Regulations 2017 when assessed against either schedule one or two description developments and applicable thresholds and criteria.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is presented to Committee in consideration of comments made by Bicton Parish Council, who have raised material considerations in objection to the proposed development.

4.0 Community Representations

4.1 **Bicton Parish Council** has responded indicating:

Bicton Parish Council (BPC) objects to this application.

1, The drainage will ultimately flow through Bicton village down drains which are proven to be inadequate for present needs. The applicant states that run-off will be no more than the present agricultural run-off but how can this be so when there will be much more hard surface and less opportunity for soak away to occur. There will be attenuation ponds but a substantial (not even an extreme) weather event has been shown to over-top such ponds as these. Also there is the cumulative effect of the entire SWSUE of 750 houses with the drainage expected to go down these same already inadequate drains.

A full drainage report for the SWSUE and Bicton should have been commissioned before any SWSUE approval was given but it is not too late now for Shropshire Council to commission such a report preferably by independent experts.

2, BPC commissioned a parish wide housing survey which showed a demand for bungalows. There are no bungalows in these proposals.

3, The car parking arrangements are insufficient. A BPC survey showed that there are 2.6 cars for every house plus a need for visitor parking. There will inevitably be on road parking which will cause difficulty for service and emergency vehicles.

4, The applicant intends to install gas boilers; this is not sustainable and after all this is Shrewsbury West Sustainable Urban Extension! To meet today's concerns heat pumps and solar panels should be included.

5, The play areas must be secure for all ages of children.

6, Fences and hedges must be wildlife friendly.

7, The extra flow of traffic on to Gains Park Way and thence on to the Welshpool

Road and Churncote Island will cause problems on this already congested area. 8, BPC accepts that the SWSUE is an adopted plan but at least it should live up to its name and be SUSTAINABLE.

4.2 **Consultee Comment**

4.3 **National Highways** have responded indicating no objections:

National Highways has been appointed by the Secretary of State for Transport as a strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such, we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to 22/03543/FUL and has been prepared by Russell Gray.

The closest point of impact from the proposed development on the SRN in the area is the A5 / A458 Churncote roundabout, located approximately 120m to the west of the development site. We note that the development site constitutes the southwestern parcel of land within the Shrewsbury West Sustainable Urban Extension (SUE) comprising of up to 750 units and allocated within the Adopted Core Strategy and Site Allocations and Management Development (SAMDev) Plan (2015). National Highways was previously consulted during the pre-application stage where we noted that the development was not likely to have a material impact on the SRN in the area. Based on our review of the information submitted in support of the formal planning application, we note that the quantum of the development has now been reduced to 102 dwellings when compared with the pre-application consultation for 108 dwellings. As such, our previous view remains the same that the development is unlikely to have a material impact on the SRN in the area. In light of the above, National Highways offers no objections to this planning application.

4.4 **SC Archaeology Manager** has responded indicating:

Background to Recommendation:

The proposed development site comprises a c.4.2ha area of agricultural land on the western edge of Shrewsbury, which is allocated for residential development as part of the Shrewsbury West Sustainable Urban Extension in the SAMDev component of the Local Plan.

At present the Shropshire Historic Environment Record (HER) contains no record of any archaeological features on the proposed development site. The Tithe Award Map and Historic Editions of the Ordnance Survey indicate that the current single field was previously subdivided into a number of small closes, one of which, next the lane leading to Bank Cottage, also contained a small outbuilding at the beginning of the 20th century. Given the size of the proposed development site it is considered that there is also some potential for currently unknown archaeological features and deposits to be present.

RECOMMENDATION:

The application is accompanied by a Geophysical Survey Report by Magnitude Surveys and a Heritage Note by RPS. These supplement a the Desk Based Heritage Assessment by RPS Group dated February 2013 for the wider Shrewsbury West SUE and taken together these documents are considered to satisfy the requirements of Policy MD13 of the Local Plan and Paragraph 194 of the NPPF. The geophysical results indicate that no anomalies that are likely to represent any significant archaeological remains are present on the proposed development site. Taking account of both this and the results obtained from the geophysical survey and trial trenching along the corridor of the NWRR (Oxon Link Road section) to the north, officers concur with the conclusion that is drawn in the RPS Heritage Note that no further archaeological mitigation is required.

4.5 SC Drainage have responded indicating:

The submitted drainage strategy and details are acceptable.

An earlier response indicated:

1. The Draft FRA is generally acceptable although some sections appear to be missing together with the appendices.

2. Whilst the surface water drainage strategy is generally acceptable, in order to fully satisfy the LLFA's requirements, reference should be made to Shropshire Council's SuDS Handbook to develop the design. Guidance can be found on the website at <https://shropshire.gov.uk/drainage-and-flooding/development-responsibility-and-maintenance/sustainable-drainage-systems-handbook/>

The Appendix A1 - Surface Water Drainage Proforma for Major Developments must also be completed and submitted with the application.

4.6 SC Conservation Manager has responded indicating:

Further to our comments provided at the Pre-application stage, a Heritage Note has been prepared as part of this formal application where this is acknowledged, and no additional comments are offered on this application on built historic environment matters.

4.7 **SC Environmental Protection Manager** has responded indicating:
I would recommend that if permission is granted that the following condition is included. The noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 shall be implemented in full Land Contamination A report by Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022 has been submitted in support of this planning application. A previous site investigation has been referenced that was undertaken by Crossfield Consulting Ltd on behalf of the vendor; 'Site investigation report. Land off Welshpool Road, Shrewsbury, Report Reference No. CCL03437.CN56, dated June 2021'. Environmental Protection requests a copy of this report as information has been used within the Cooper (Chester Ltd) Report and we need to review all relevant information before making comments in respect of land contamination. Please consult Environmental Protection again when this report has been made available

4.8 **SC Regulatory Services** in relation to land contamination have responded indicating:

The following two reports have been submitted in support of this planning application:

Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022;

Crossfield Consulting; Mosaic Group; Land off Welshpool Road, Shrewsbury, SY3 8HA; Site Investigation Report; Report No. CCL03437.CN56, June 2021.

The only potential risk identified arises from ground gas (peat deposits) and remediation proposals and verification are detailed within the Coopers Ltd Report (Section 22 ' Earthworks and Build Phase Remediation and Verification Requirements).

Accordingly, if planning permission is granted, the following must be included as Conditions:

1. The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy within Section 22 of the Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022.

2. 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 current Environment Agency guidance ' Land Contamination: Risk Management (LCRM) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which 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. The remediation proposal is subject to the approval in writing by the Local Planning Authority.

3. 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 Councils 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>

4.9 **SC Ecology** have responded indicating:

Conditions and informatives have been recommended to ensure the protection of wildlife and to provide ecological enhancements under NPPF, MD12 and CS17.

I have provided a European Protected Species 3 tests matrix for great crested newts at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The matrix must be included in the planning officer's report for the planning application and must be discussed/minuted at any committee at which the application is considered. The matrices provide guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

I have read the submitted Ecological Assessment (Star Ecology, November 2021), The Bat Survey report (ecus, June 2022), The Biodiversity Net Gain Assessment (ecus, November 2022) and the Great Crested Newt District Level Licensing IACPC.

Great crested newts

There are seven ponds within 500m of the proposed development red line boundary. Star Ecology (November 2021) carried out a Habitat Suitability Index assessment and calculated the ponds to be unlikely to support great crested newts or to be separated from site by significant barriers, such as the A438 and A5.

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00043) has been submitted which confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so. The IACPC covers planning application 22/03543/FUL.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, 'In signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations ("that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range") and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant's proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.'

Bats

The Ecological Assessment carried out by Star Ecology (November 2021) identified seven trees with potential roosting features. These were then surveyed between May and June 2022 ecus (Bat Survey Report, ecus, June 2022) and no roosting activity was recorded. In the event a bat is found during works, works must stop and NE or a licensed ecologist must be contacted for advice on how to proceed.

I have provided a European Protected Species 3 tests matrix at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Conditions and informatives

The following conditions and informatives are recommended for inclusion on the decision notice:

District Level Licence condition for GCNs

No development shall take place (including demolition, ground works and vegetation clearance) until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of great crested newts, which are European Protected Species.

Biodiversity Net Gain – on-site provision

Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP), detailing, in full, the measures to protect existing habitat during construction works and shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation / use of the

buildings, a Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Appraisal documents detailing, in full, the formation of new habitat, to secure a habitat compensation value of no less than 0.50 (+5.97%) Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

- i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
- ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
- iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;
- iv) Proposed management prescriptions for all habitats for a period of no less than 25 years;
- v) Assurances of achievability;
- vi) Timetable of delivery for all habitats; and
- vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feedback mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.

The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

Working in accordance with method statement condition

All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, badgers and hedgehogs as provided in *Section 8* of the Ecological Assessment (Star Ecology, November 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) and badgers which are protected under the Protection Of Badgers Act, 1992.

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 (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 for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. 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.

General site informative for wildlife protection

Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

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

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

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

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

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

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

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

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

4.10 **SC Trees have responded indicating:**

I have reviewed the additional information provided in respect of the root investigation for the veteran trees and would conclude that this demonstrates that the proposed development can be undertaken without significant harm to the trees identified, providing the trees are protected in accordance with the recommendations of the Arboricultural Impact Assessment as amended. I would therefore withdraw my objection to the proposal. The following conditions are recommended should planning permission be granted.

a) 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 Statements 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 followed and 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.

b) 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.

The proposed landscaping scheme will be implemented prior to the occupation of any dwelling approved under this planning consent.

a) Landscaping to be implemented in accordance with the approved general layout plans and schedule.

b) Landscaping to be maintained for a period of 5 years or until the trees are established and independent in the landscape if this is longer. All trees that fail or become diseased, damaged or moribund are to be replaced within the next planting season.

Reason: To ensure the landscape planting can establish and become independent in the landscape in the long term and will contribute towards the appearance of the development and the amenity of the wider area

An earlier response indicated:

Documents Referenced: Site Layout, Arboricultural Assessment, Landscaping Plans, Arboricultural Response

Site Visit: Yes. Tree Locations Verified: Yes. Constraints: TPO, Vet Trees

Notes:

Recommend: Refusal: Proposed development has potential to cause significant harm to high value veteran trees protected by a Tree Preservation Order and therefore is contrary to the principles of sustainable development, National Planning Policy Framework and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan.

Further to my previous comments the Arboricultural impact assessment has been updated to include the two oak trees on land to the west of the site of the proposed development. It is noted that the two oak trees have been given category B status, mean that the author considers that they are of moderate amenity and retention value. I would strongly dispute this. Both trees are prominent and significant in the landscape, they are large, mature, long-lived trees, that have been independently assessed as being veteran trees using the Veteran Tree Specialist Survey Method and are on the ancient tree register as verified veteran trees, clearly these are category A trees of the highest value.

As veteran trees are not just highly valuable, irreplaceable assets, because of their age and condition they are also more vulnerable to development damage than a younger tree would be. This requires that precautionary approach is taken to the protection of veteran trees on development sites, including the use of a larger Root Protection Area extending to 15 x stem diameter and uncapped. There should also be no construction, siting of utilities or formation of new hard surfaces within the RPA.

Under the current site layout there are structures located within the RPAs of the

trees and the justification given, altering the shape of the RPA based on soil and ground conditions, is based on the use of a 12 x stem diameter AIA and without consideration to the enhanced tree protection requirements of a veteran tree.

Therefore it is considered that the proposed development has potential to cause significant harm to high value veteran trees protected by a Tree Preservation Order and therefore is contrary to the principles of sustainable development, National Planning Policy Framework and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan.

An earlier response indicated

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

The AIA has identified 31 individual trees, 3 groups of trees and 6 hedgerows which have been assessed in accordance with BS 5837 (2012) and includes a categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that, in most cases these are appropriate, the exception being trees T16 – T19, which are category B & C, presumably based on their condition and life expectancy, in my assessment these trees form a visual and aerodynamic group and it is not unreasonable to consider that the life expectancy of the group would exceed 40 years and thus could be considered a category 'A' group. Also, T31, this is a very prominent tree and again, on the information available, could reasonably be expected to have a life expectancy in excess of 40 years.

Of some concern is the fact that two veteran oak trees on adjacent land are not included in the AIA assessment. There is a note on the Tree Constraints Plan that states that the presence of the access track to Bank Cottage, between the tree and the site, and the boundary hedgerow would limit root growth into the site. Whilst it would be reasonable to consider that these features would provide some level of constraint to root development, it would be very unlikely that they would act as a complete barrier. The access track, although well-established, is not substantial or well-used by heavy traffic and as such any compaction may well be limited to the upper layers of the soil. Oak trees have the capacity to root deeply in heavy soils and, given the age of the trees, it is probable that they have rooted beneath the track and are exploiting soils in the adjacent field. The protection needs of these trees, which are identified and recorded as veteran trees, must be assessed and taken into account. As it stands, it would appear that the proposed construction along the west boundary of the site would encroach into the RPA / Veteran Tree Buffer Zone and therefore negatively impact these trees.

The AIA notes that, to facilitate the proposed development, two trees and a section of hedgerow would be removed and two additional trees are recommended for

removal based on their condition. The two trees removed are category B and the hedgerow is category A. The AIA considers that the losses can be compensated for through new planting as part of the development.

There are a number of large well-established trees in the wider area surrounding the site and it is considered that the loss of trees and hedgerow will not significantly impact the character or amenity of the wider area.

In addition to the loss of trees there is also some minor encroachment into the RPAs of trees T25 – T29 to allow for construction and the RPAs have been off-set to allow this. I have reviewed the proposal and consider the offsetting reasonable subject to identified control measures being implemented.

The AIA notes that tree loss will be mitigated through new planting as part of the site development. A landscape strategy plan has been prepared that provides for the planting of new trees and the improvement of existing arboricultural assets. The level of planting proposed appears reasonable. A full landscape scheme, based on the strategy and should be provided by way of condition.

No objection is raised in principle to the proposed development but this is subject to the assessment of the tree protection requirements for off-site veteran trees and amendments to the site layout to accommodate the protection of the aforementioned trees. As it stands, this iteration of the site layout puts very valuable trees at high risk of harm, which would have a substantial negative impact on these trees and the wider amenity and would be contrary principals of sustainable development outlined in the NPPF and the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17 and policies MD2 & MD12 of the adopted SAMDev plan

4.11 **SC Highways** have responded with the following advice:

The current application has been the subject of preapp discussions with the applicant and agents which included the access strategy and layout of the site. It is considered that the submitted access and internal estate road infrastructure accords with the discussions held and that the design layout is suitable for future adoption and that the site access into onto Gains Park Way provides adequate visibility sight lines at and in excess of 40 mph criteria, which is the current speed limit of Gains Park Way. On this specific point, concerns have been raised regarding the speed limit being reduced to 30 mph. As part of the access assessment, speed readings were undertaken that demonstrated that vehicle speeds approaching the access from both directions are below the current speed limit. Whilst is considered that there is merit in further assessing the reduction of the current speed limit, this is considered outside the scope of this development proposal and potentially taken forward via CIL as an option.

As part of the development proposals, a pedestrian refuge is shown to be provided on Welshpool Road to improve pedestrian connectivity between the development and the northern side of Welshpool Road. This is a welcome feature in providing wider benefits to pedestrian movement in the locality.

Overall it is considered that the development scheme is acceptable and there are no

grounds to object to this development from a highway or transportation perspective.

- The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details. **Reason:** - In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.
- The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed. **Reason:** - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.
- Prior to the development hereby permitted being first occupied the Welshpool Road pedestrian crossing shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority. **Reason:** In the interests of pedestrian safety and provide improved pedestrian connectivity across Welshpool Road.
- Prior to the development hereby permitted being first occupied, a Travel Plan (TP) shall be submitted to and approved in writing by the Local Planning Authority; the TP shall be implemented fully in accordance with the approved details and shall remain in force for the lifetime of the development. **Reason:** To promote sustainable travel and in the interests of reducing carbon emissions.
- The development shall be implemented in accordance with the approved Construction Management Plan and shall remain in force for the duration of the construction period. **Reason:** In the interests of highway safety and local amenity.

4.12 **SC Housing** have responded indicating:

The proposed development relates to the provision of 106 dwellings. The application site falls within an area where both the current and proposed (emerging plan) prevailing target rate is 20%. The policy requirement for this site is 21.2 (21 dwellings and a financial contribution for the remaining fraction).

The mix, tenure and distribution of the affordable housing is acceptable. It is particularly pleasing to see an imaginative proposal for a 1 bed dwelling. The size of these one bed homes either meets or exceeds Nationally Described Space

Standards (NDSS). The two bed affordable dwellings also meet space standards for a 3-person household. The only negative aspect to the proposal relates to the size of the 3 bed dwellings, which at 80.52 sq. metres falls short of the minimum of 84 sq. metres for a 4-person household. Emerging policy relating to the provision of affordable homes is that they should meet NDSS. Can further consideration be applied to increasing the size of the 3 bed dwellings.

4.13 **Public Comments**

4 14 One letter of objection has been received from members of the public. Key planning related issues raised can be summarised as follows:

- Outdated design
- Poor roof pitches
- Concerns about grey and roof water storage
- Prime agricultural land which would be better put to higher density development.
- Poor landscaping and tree planting.
- Will exacerbate flooding.
- Inadequate health care facilities to cater for additional population as a result of the development.

5.0 **THE MAIN ISSUES**

- Principle of development
- Siting, scale and design of the development
- Visual impact and landscaping
- Highways and transportation
- Drainage
- Ecology
- Residential amenity and privacy
- Section 106 contributions.

6.0 **OFFICER APPRAISAL**

6.1 **Principle of development**

6.11 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.1.2 The granting of the outline planning consent for the wider site of the SUE West and the accompanying master plan that indicated the application site under discussion, as a future housing phase development site, (ref: 14/00246/OUT), accepted the principle of residential development on site.

6.1.3 The application site forms part of the Shrewsbury West Sustainable Urban Extension (SUE), which is identified in the Council's adopted Core Strategy as a strategic location for development as part of the Shrewsbury Development Strategy (Policy CS2). The SUE is also identified in the Site Allocations and Management of Development (SAMDev) Plan SAMDev Plan Policy S16.1 and related Schedule S16.1a (Allocated Housing Sites).

6.1.4 Schedule S16.1b (Allocated Employment Sites), and Figure S16.1.2 (Shrewsbury)

West SUE Land Use Plan) provide further policy guidance. In addition, the Council adopted a Master Plan to guide the development of the SUE (adopted by Council on 19th December 2013). The application site forms a phase of the development of the SUE. This Plan set out a strategy for 750 homes by 2026 delivered in 3 specific parcels of land, to which this site forms one of them, as part of the Shrewsbury West Sustainable Urban Extension area, and thus the proposal is in line with adopted Core Strategy Policy CS2, and SAMDev Plan Policy S16.1 and the adopted SUE Master Plan, all of which seek the delivery of comprehensively planned and integrated development, including housing, employment land, and appropriate infrastructure provision/contributions. The location of the area proposed for housing, as well as the business uses and public open space, and the provisions made with regard to land for, and contribution to the cost of, the planned Link Road (between the Churncote Island on the A5 to the Holyhead Road) accord with the Council's policies.

- 6.1.5 Whilst objections in relation to the application and overall 'sustainability issues' are noted from Bicton Parish Council and a member of the public, issues raised have been considered, including in respect of infrastructure, to which the Community Infrastructure Levy, (CIL), payments will cover, and Building Regulations is the regime that will cover sustainable building requirements. It is also noted in relation to transportation and drainage issues that neither SC Highways, National Highways or SC Drainage raise any objections on these aspects. Whilst it is considered disappointing that there are no single-storey dwellings proposed as part of the overall development, the applicants have amended the plans reducing the amount of 2.5 storey dwellings to a range of dwellings in scale and size considered acceptable in relation to the site, its topography and setting within the surrounding landscape. On balance the principle of the development is considered acceptable subject to matters as discussed below.
- 6.1.6 As referred to in paragraph 2.3 above the application made in 'Full' is not considered to be in need of an Environmental Statement in accordance with Environmental Impact Assessment Regulations 2017, as it does not meet with any EIA Criteria. Biodiversity impacts and net gain, along with consideration to landscape, visual and historic character impacts, archaeology, surface and foul water drainage, highway impacts and amenity can be addressed via subject specific surveys/ reports where considered necessary without the need for an environmental statement. With adequate consideration to these aspects, the Council has not carried out a scoping exercise.
- 6.2 **Siting, scale and design.**
- 6.2.1 Section 12: Achieving well-designed places of the NPPF advocates optimising the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks. The NPPF seeks to improve and enhance places where people live. This national policy is reinforced and expressed locally in Core Strategy Policy CS6 and SAMDev Policy MD2
- 6.2.2 The proposal is for a total of 106 dwellings with associated highway infrastructure, landscaping and open space. The submission includes a total of 21 affordable dwelling representing 20% of the total number of dwellings on site. (The affordable contribution also includes a financial payment of £18,000). The application proposes houses that are mainly semi-detached and detached with some terraced. The

dwellings are predominately 2 storey with a few 2.5 storey. Information in support of the applicants' submission indicates that the development is appropriate in its context and within Shrewsbury Masterplan. Development of the site will contribute to achieving the following aims:

- Will result in a well-planned development, with the residential development echoing the vernacular of the surrounding area so that it will be easily absorbed into its immediate context.
- Has been designed to function well and has considered the opportunities available for maintaining the character and quality of the area.
- Helps address the needs for local housing, making them accessible, usable and easy to navigate.
- Will be visually attractive as a result of the mix of good architecture, urban design and landscaping.
- Will propose a development that will work in harmony with Shrewsbury Master plan in terms of context, movement and density.

6.2.3 The final layout of the proposed development is set out below and this includes provision of an attenuation pond and usable open space. Oak trees that are a feature to the site. To the north of this is the proposed childrens' play area and green connectivity to the drainage attenuation ponds and natural vegetation in relation to this.

6.2.4 GAINS PARK WAY, SHREWSBURY



6.2.5 The development is proposed to create its own identity, respecting the character of its surroundings. The development will produce variety within the development establishing a strong identity whilst also demonstrating a common design theme which is intended to integrate within the context of the surrounding area.

6.2.6 Vehicular access into the site is directly off Gains Park Way which leads onto

Welshpool Road, pedestrian linkages to the surrounding area are also provided and there will be no harm in relation to public rights of ways.

6.2.7 The design of the houses is mostly two-storey with some 2.5 storey houses making use of the roof space. (The Cheltenham range). The house types will demonstrate a cottage like vernacular including brick and render under tiled roofs. The palette of materials proposed will include a range of suitable brickwork and this includes reference to single storey single or double garages to some of the dwellings. Overall, this aspect of the development on balance considered acceptable.

6.2.8 The application meets the affordable housing requirement in that the provision of 21 affordable dwellings represents 20% of the proposed development of 106 dwellings. along with a financial contribution secured along with the housing via Section 106 agreement. The mix, tenure and distribution of the affordable housing is acceptable and most of the affordable dwellings meet the national space standards. Whilst it is disappointing that the size of the 3 bed dwellings, at 80.52 sq. metres falls short of the minimum of 84 sq. metres for a 4-person, on this occasion this is acceptable, as nationally recognised space standards are not currently adopted by the Council policy, although the Council encourages the provision of these standards in all proposed new development.

6.2.9 In relation to scale and design overall the proposed development is considered acceptable and is considered to be in accordance with the aims and aspirations of the SUE policy for this site and thus in accordance with Policies CS1, CS2, CS6, CS10, MD1, MD2, MD3 and S16 of the local plan and the overall aims and objectives of the NPPF in relation to sustainable development.

6.3 **Visual impact and landscaping.**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy encourages development that improves the sustainability of communities whilst requiring development to protect and conserve the natural, built and historic environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, and the achievement of local standards for the provision and quality of open space and ensure sustainable design and construction principles are incorporated within the new development.

6.3.2 In addition, SAMDev Policy MD2 Sustainable Design builds on Policy CS6 providing additional detail on how sustainable design will be achieved. To respond effectively to local character and distinctiveness, development should not have a detrimental impact on existing amenity value but respond appropriately to the context in which it is set.

6.3.3 Policy CS17 'Environmental Networks' states that development will identify, protect, enhance, expand and connect Shropshire's environmental assets and does not adversely affect the visual, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. In addition, SAMDev Policy MD12: The Natural Environment builds on Policy CS17 providing development which appropriately conserves, enhances, connects, restores or recreates natural assets.

6.3.4 Also, SAMDev Policy MD13: The Historic Environment states that in accordance with Policies CS6 and CS17 and through applying the guidance in the Historic Environment SPD, Shropshire's heritage assets will be protected, conserved, sympathetically enhanced and restored. In relation to historic issues this application is considered acceptable.

- 6.3.5 The applicants have submitted in support of their application a landscape and visual impact appraisal and this summarises that the site is not the subject of any statutory landscape designation that indicates that it is part of a valued landscape as described within footnote 7 of the NPPF. In respect to landscape character, whilst there will be a change to the site from a field to a residential scheme, the implications of the proposed development are considered to be acceptable upon the published characteristics of the Estate Farmlands LCT and the character of the site itself since the characteristics which contribute positively to landscape character will be largely retained and enhanced within a strong landscape framework and sympathetic design that responds to its context. The Site has been analysed within this LVA to have a visual envelope largely restricted to short distance views towards the site, with long distance intervisibility to the Shropshire Hills Area of Outstanding Natural Beauty (AONB) located 7.1km south of the Site. Given the settlement edge context of the site and the urbanising influences of Welshpool Road and the active construction site to the north of Welshpool Road, it is considered that the changes associated with the development would not be wholly unexpected and would be viewed in the site's context. It is considered that the implications of the proposed development upon the views and visual amenity of people with short distance views towards the site are acceptable. Views from the AONB were scoped out of this appraisal due to distance. This LVA has analysed the implications of the proposed development on the landscape character and visual context and concludes that there are no unacceptable implications as a result. In addition, no adverse implications are expected upon parcels Bicton B, Bicton C and Shrewsbury A identified within the Shropshire Landscape & Visual Sensitivity Assessment (adopted 2018). On balance, having undertaken a high-level analysis of landscape and visual related policy compliance, this LVA finds that the proposals are in compliance with the landscape and visual relevant aspects of planning policy.
- 6.3.6 The application is also accompanied by a biodiversity net gain report and this indicates that other than the areas of the site associated with residential dwellings and highway infrastructure the post-development habitats within areas of Public open space, (POS) at the site will include an ecological area containing a wildlife pond and wildflower meadow; areas of amenity grassland and scattered urban trees and small areas of native scrub planting. Section of new hedgerows will also be incorporated into boundary treatments. Proposed habitats are presented within the site and their condition post-creation have been assigned based upon management prescriptions for the establishment and maintenance phases of each habitat as detailed within the Soft Landscaping Proposals the area-based habitats produced a habitat area net gain of +0.50 HU and a net percentage change of +5.97 %. Hedgerow linear habitat loss and subsequent replacement across the site results in a net gain of +1.82 HeU and net percentage change of +10.63%. Limitations in the sites potential to support an even higher percentage net gain for biodiversity within the site include the level of recreational POS required to be implemented; current mechanisms in place to allow for highways to be adopted (limiting the numbers and locations of proposed street trees) and the visual aesthetics of the development proposed. It is considered that the habitats proposed at the site and the gains in habitat value at the site are a good representation of what can be maximally achieved at the site due to current limitations
- 6.3.7 In more detail the application makes provision for three distinct landscaped amenity areas consisting of an attenuation basin and indication of an indicative ecology pond

on the north side alongside Welshpool Road, a 400 square metre 'LEAP' alongside Gains Park Way and a separate usable open amenity space area. All to be landscaped, making use of existing trees on site with additional tree planting as mitigation. All areas will have natural surveillance over them provided by the proposed housing on site by means of the site layout.

- 6.3.8 It is considered that landscaping on site is acceptable in relation to the layout and surrounding landscape character. It is considered that adequate landscaping of the site is essential in order to integrate the development into the surrounding landscape. Gains Park Way and its associated development to the east of the site is considered to have integrated well into its landscape. The proposal makes good use in its layout of existing mature trees on site with further tree planting as landscape enhancement along with native boundaries and further native and formal hedgerow planting. The addition of an ecological pond in support of biodiversity enhancement is welcomed. The proposed 'LEAP' is also welcomed and will help provide variety to the site. The Section 106 agreement will ensure provision of the open space on site and provision of the LEAP as part of the site's overall landscaping and also have regard to their long-term future.
- 6.3.9 Given the above in relation to landscape and overall visual impact, and open space provision, on balance and in relation to the overall material considerations of the circumstances, and with consideration to the objections on biodiversity issues raised, (members of the public and non-statutory consultees), it is considered by Officers, that the development is broadly in accordance with Policies CS6, CS17, MD2, MD12 and S16 of the local plan as well as the NPPF in relation to landscaping and visual impacts.
- 6.4 **Highways and Transportation**
- 6.4.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
- 6.4.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel reduced.
- 6.4.3 Policy S16.1a of the Council's SAMDev refers to the Shrewsbury West Sustainable Urban Extension indicating that development will deliver comprehensively planned, integrated and phased development of the SUE having regard to the SUE land use plan and facilitation of the new improvement of the A5 Churncote Island along with sustainable transport measures.

- 6.4.5 The applicants have submitted a transport assessment, and this concludes that the residential development proposals would represent appropriate and sustainable development when considered in highways and transport terms. The application site is located within an established residential area and offers the potential to encourage access by alternative sustainable travel modes to the private car for many day-to-day journeys. It is considered that the application scheme would not give rise to a severe detrimental impact on local highway network operation – development traffic increases would not be significant, and operational effects on local highway network capacity would be limited. It is therefore considered that there are no overriding reasons for refusing the planning application on highways and transportation grounds.
- 6.4.6 National Highways in response to the application raises no objections in relation to the strategic highway network indicating that the closest point of impact from the proposed development on the SRN in the area is the A5 / A458 Churncote roundabout, located approximately 120 metres to the west of the development site. We note that the development site constitutes the southwestern parcel of land within the Shrewsbury West Sustainable Urban Extension (SUE) comprising of up to 750 units and allocated within the Adopted Core Strategy and Site Allocations and Management Development (SAMDev) Plan (2015). National Highways was previously consulted during the pre-application stage where we noted that the development was not likely to have a material impact on the SRN in the area. Based on our review of the information submitted in support of the formal planning application, we note that the quantum of the development has now been reduced to 106 (was 102), dwellings when compared with the pre-application consultation for 108 dwellings. As such, their previous view remains the same that the development is unlikely to have a material impact on the SRN in the area. It must be noted that the application includes a contribution towards the NWRR, and this is in accordance with the requirements of the master plan for the SUE West development area.
- 6.4.7 SC Highways have also raised no objections to the proposed development. The response indicating that the submitted access and internal estate road infrastructure accords with the pre-app discussions held and that the design layout is suitable for future adoption and that the site access onto Gains Park Way provides adequate visibility sight lines at and in excess of 40 mph criteria, which is the current speed limit of Gains Park Way. On this specific point, concerns have been raised regarding the speed limit being reduced to 30 mph. As part of the access assessment, speed readings were undertaken that demonstrated that vehicle speeds approaching the access from both directions are below the current speed limit, this is outside the scope of this development proposal and if necessary, should be potentially taken forward via CIL as an option. As part of the development proposals, a pedestrian refuge is shown to be provided on Welshpool Road to improve pedestrian connectivity between the development and the northern side of Welshpool Road. This is a welcome feature in providing wider benefits to pedestrian movement in the locality.
- 6.4.8 On Highways and Transportation matters in conclusion, with conditions attached as recommended by the SC Highways Manager as set out in paragraph 4.11 of this report overall, the application submission essentially meets with the aspirations in delivering the Shrewsbury West SUE allocation as approved by the Council in its adoption of the SAMDev.

6.4.9 On transportation, access and highway matters, the application is considered acceptable and based on information provided, it is considered that development as proposed can be considered a significant part of the aims in relation to part of a sustainable urban extension in accordance with relevant policy and the master plan in relation to this site. As such the development on transportation issues considered to be in accordance with local plan policies CS1, CS3, CS6, CS8, MD2, MD3 and S14 and the overall aims and objectives of the NPPF in relation to sustainable transportation.

6.5 **Drainage**

6.5.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in the existing runoff rate and not result in an increase in runoff. The site is identified by the Environment Agency flood data map, as being fully located within Flood Zone 1. (Low risk of flooding). Such areas are assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%) in any one year. A flood risk assessment has been submitted with the application. This confirms that the proposed development on land off Welshpool Road, Shrewsbury has been assessed with regards to flood risk and that it is not considered that flooding poses a risk to the proposed residential development of the site subject to implementation of the recommended measures as outlined in the flood risk assessment.

6.5.2 Detail in support of the application indicates that highways, houses and associated hard surfaces will be served by a piped surface water system designed to adoptable standards to ensure, at minimum, no flooding up to the 1 in 30-year event and will be designed to overflow into a basin within the open space area. Overall flows up to the 1 in 100-year event plus allowance for 45% climate change and urban creep will be contained on site within the pipe system and basin supplemented by appropriate setting of levels. It is proposed that under the new Sewerage Sector Guidance the main piped system, control structure and outfall will be adopted by Severn Trent Water with the basin, if not adopted, to become the responsibility of the management company for the development. The risk to water quality from housing developments is categorised as low to very low. The incorporation of trapped gullies to roads and a silt trap within the piped system will nonetheless provide two levels of treatment. Levels will be set, and land drainage introduced to respond to site conditions during construction to facilitate the conveyance of any surface water runoff from higher ground safely through or around the development. In this regard it is noted that development will inherently reduce existing uncontrolled runoff from within the area of the site. More generally, floor levels will be set a minimum of 0.15m above external ground level and will encourage any flows generated by an exceedance event (i.e. greater than the 1 in 100 year plus climate change design event) to pass safely through the development. Formal land drainage consent will be required for the outfall to the watercourse network. It is therefore concluded that the development can be delivered in accordance with the NPPF so as not to be at risk of flooding from external sources or from within the development, and so as not to increase flood risk to the surrounding area.

6.5.3 SC Drainage Manager has responded indicating the submitted drainage strategy and details are acceptable.

6.5.4 Drainage matters are considered satisfactory and in accordance with policies CS6

and CS18 of the Shropshire Core Strategy and the NPPF

6.6 **Ecology**

6.6.1 The NPPF places high importance on protection of biodiversity interests and new development should minimise impacts on biodiversity. Planning permission should be refused where significant harm from a development cannot be avoided. It also places great weight on conserving and enhancing the natural environment. Core Strategy Policies CS6 and CS17 require development proposals to respect the natural environment of Shropshire and its biodiversity interests. Policy MD12 of the SAMDev, amongst other matters, encourages development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition. Development should minimise impacts upon biodiversity and provide net gains in biodiversity wherever possible.

6.6.2 An ecological report accompanies the application, and its conclusions are considered acceptable. The application also accompanied by a bat survey and mitigation report great crested newt survey and mitigation and biodiversity enhancement report.

6.6.3 It is noted that the SC Ecologist raises no objections subject to conditions attached to any approval notice in relation to a district level licence, construction environmental management plan and works being carried out in accordance with a method statement on mitigation and enhancement measures. A European ecology matrix is attached as appendix 2 to this report.

6.6.4 In conclusion on ecological matters, the application is considered acceptable with conditions attached to any approval notice as discussed above and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy and MD2, MD12 and S16 of the SAMDev and the NPPF in relation to biodiversity issues

6.7 **Residential amenity and privacy**

6.7.1 Core Strategy policy CS6 requires that developments safeguard residential and local amenity. The applicants have submitted a noise assessment and impact assessment in relation to the proposal and these have been considered as part of the considerations in relation to the application. The noise assessment concluded that road traffic sound measurements were undertaken for Welshpool Road and the A5. They relied on third party data for the proposed commercial development to the west. A 3D noise model was constructed to assess road traffic and industrial/commercial sound impact. With regards road traffic sound, this was assessed in accordance with the criterion, for day and night, given in BS 8233:2014. Commercial sound is assessed in accordance with BS 4142:2014+A1:2019. The assessment recommended various barriers to control road traffic sound. Furthermore, whole dwelling ventilation has been recommended for all plots due to the impact of sound internally. With mitigation measures in place, this assessment has shown that no adverse impact is predicted day or night at the receptors due to transportation and/or commercial/industrial sound.

6.7.2 The assessment concludes that there will be no significant impacts in relation to the residential amenity of surrounding dwellings. The Council's Environmental Protection recommend that the noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 to be implemented in full.

- 6.7.3 An air quality assessment submitted in support of the application is considered acceptable. Based on the assessment results, and report's findings and conclusions air quality factors are not considered a constraint to the development.
- 6.7.4 Officer have considered residential amenity and privacy in relation to all surrounding dwellings to the application site as well as in relation to dwellings that will form part of the residential development and have concluded that given the location of the site impacts on occupiers of these dwellings is acceptable. It is accepted that vehicular access onto Gains Park Way in relation to residential amenity issues is also acceptable.
- 6.7.5 As noted by the Council's Regulatory Services the applicants have considered potential on-site contamination issues with the submission of two reports on this matter. The conclusions are considered acceptable with conditions attached to any approval notice issued in respect of contamination on site being addressed and carried out in accordance with the remediation strategy and if any further contamination being identified on site being reported to the Council's Regulatory Services for further consideration.
- 6.7.6 Overall and with conditions attached to any approval notice as recommended by the Council's Regulatory Services the proposal on amenity issues, (and this includes consideration to external lighting), is considered acceptable and in accordance with Policy CS6 and the NPPF in relation to these matters.
- 6.8 **Section 106 contributions.**
- 6.8.1 Policy CS9 and CS11 of the Core Strategy seeks to secure provision of affordable housing either on the development site or, where appropriate, as an off-site financial contribution. The applicants have submitted in support of the application a draft Section 106 agreement to which the principle and contributions as indicated appear acceptable. The applicants have agreed to the provision of 20% affordable housing on site which equates to 21 dwellings and a financial contribution of £18,000 This will be delivered through the Section 106 planning obligation and the detail is considered acceptable by the Council's Housing Manager.
- 6.8.2 On site open space provision, delivery and management will also be subject to the Section 106 agreement.
- 6.8.3 Also in accordance with policy as set out in Policy S16:1a of the SAMDev and the master plan for the area known as SUE West, a financial contribution towards the NWRR also secured by the Section 106 agreement.
- 6.8.4 Shropshire Council has been involved in discussions with the applicant and other parties about the appropriate delivery and funding of infrastructure associated with this development. This will be funded by the development's CIL contributions and will be supplemented by on site delivery directly by the developer(s). It is considered that the contributions considered appropriate and necessary in relation to local infrastructure such as educational requirements are in line with the provisions of policies CS9 and CS11
- 6.8.5 The draft Section 106 is considered acceptable and in accordance with the recognised requirements in relation to Section 106 agreements. The application will also attract payment via The Community Infrastructure Levy, (CIL), towards local state schools' infrastructure, local road improvements of the residential development, based on the scale of the development built on site. This requirement complies with relevant planning policy and infrastructure requirements.

7.0 CONCLUSION

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where 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.
- 7.2 The relevant local plan policies are set out below and the proposed scheme has been assessed against them. Other material planning considerations have also been considered in the assessment of the merits of the case. The proposed development forms part of the adopted master plan Shrewsbury West Sustainable Urban Extension site as set out in S16.1a of the SAMDev
- 7.3 It is considered that development as proposed offers in principle a range of dwellings and public open space along with public highway and transportation that complies with the adopted master plan.
- 7.4 Issues in relation to drainage are considered satisfactory, as are matters in relation to ecology and residential amenity, with conditions attached to any approval notice as discussed in this report.
- 7.5 Landscape and visual impact is considered to be adequately addressed, with biodiversity mitigation as proposed and this matter also subject to condition in order to ensure satisfactory consideration to landscape mitigation and integration into the surrounding environment. Historic matters have also been considered as part of the application processing and there are no concerns raised on this latter issue
- 7.6 Public highway access and impacts on the surrounding trunk road highway infrastructure (Churncote Roundabout), also considered acceptable with neither Highways England or SC Highways raising any objections in relation to the proposal, subject to the conditions as advised by SC Highways in their response to the application as set out in paragraph 4.11 of this report. The Section 106 will include provision for a financial contribution towards the proposed NWRP.
- 7.7 Impacts on surrounding residential amenity and privacy have been considered and it is considered that development on site on this matter is acceptable and will have no significant detrimental impacts on existing surrounding dwellings or dwellings as part of the SUE.
- 7.8 It is noted that Bicton Parish Council and a member of the public make comments in relation to impacts in relation to overall sustainability and local infrastructure, these issues have been considered and the CIL contributions will cover the key issues and requirements in relation to this matter. A section 106 agreement will ensure delivery of affordable housing in accordance with the relevant policy requirements. The Section 106 agreement also ensuring delivery and maintenance of the public open spaces the site provides for as well as a financial contribution towards the relief road. Shropshire Council Highways and National Highways raise no objections on highway grounds. Concerns by the Parish Council and member of the public in relation to drainage, highway matters and sustainability issues have been noted, however all matters considered to be adequately addressed within the spirit of current local planning policies relevant to the application. Whilst the emerging local plan is advancing through the relevant stages towards its adoption, it is considered this can be attributed little weight at its current stage in the adoption process. (The proposal in principle broadly in-line with the emerging policy).
- 7.9 It is considered that the proposal accords with the overall aims and provisions of the NPPF and the relevant Shropshire LDF policies CS1, CS3, CS6, CS8, CS9, CS11, CS17, CS16, MD1, MD2, MD3, MD8, MD12, MD13 and S16. As such the

recommendation is one of approval subject to a S106 legal agreement in relation to affordable housing provision financial contributions towards the North West Relief Road and open space provision and maintenance and management and the conditions as set out in Appendix 1 and any amendments as considered necessary to these conditions 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:

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD8 - Infrastructure Provision

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S16 - Shrewsbury

SPD Sustainable Design Part 1

National Planning Policy Framework

RELEVANT PLANNING HISTORY:

PREAPP/21/00594 Residential development comprising of no.120 dwellings including a range of 2, 3 and 4 bed-dwellings, with associated access from Welshpool Road, landscaping and

open space PREAIP 20th January 2022

22/03543/FUL Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description) PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RFY7FGTDHXV00>

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 Lezley Picton
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

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

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

2. The development shall be carried out strictly in accordance with the approved plans, 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. The noise mitigation measures as recommended in section 6.1 and 6.2 of the E3P acoustics report ref: 50-501-R1-2 shall be implemented in full.

Reason: In order to protect the amenity of the surrounding area.

4. The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy within Section 22 of the Coopers (Chester) Ltd; Site Investigation and Build Phase Remediation Strategy Report for Land at Welshpool Road, Shrewsbury; for Anwyl Homes; Ref. 7867siRevA, 5th July 2022.

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.

5 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 current Environment Agency guidance ' Land Contamination: Risk Management (LCRM) and must be submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared which 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. The remediation proposal is subject to the approval in writing by the Local Planning Authority.

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.

6. 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.

7. No development shall take place (including demolition, ground works and vegetation clearance) until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of great crested newts, which are European Protected Species.

8. Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP), detailing, in full, the measures to protect existing habitat during construction works and shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation / use of the buildings, a Habitat Management Plan (HMP) expanding upon the information provided within the Biodiversity Metric, Landscape Plan and Ecological Appraisal documents detailing, in full, the formation of new habitat, to secure a habitat compensation value of no less than 0.50 (+5.97%) Biodiversity Units, shall be submitted to and approved in writing by the Local Planning Authority. Within the CEMP/HMP document the following information shall be provided:

i) Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulphur);
ii) Descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
iii) Details of species composition and abundance (%age within seed mix etc.) where planting is to occur;
iv) Proposed management prescriptions for all habitats for a period of no less than 25 years;
v) Assurances of achievability;
vi) Timetable of delivery for all habitats; and
vii) A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary.
The development shall thereafter be undertaken in accordance with the approved CEMP/HMP.

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 180 of the NPPF.

9. All works to the site shall occur strictly in accordance with the mitigation and enhancement measures regarding bats, birds, badgers and hedgehogs as provided in Section 8 of the Ecological Assessment (Star Ecology, November 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) and badgers which are protected under the Protection Of Badgers Act, 1992.

10. a) 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 Statements 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 followed and 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.

b) 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.

The proposed landscaping scheme will be implemented prior to the occupation of any dwelling approved under this planning consent.

c) Landscaping to be implemented in accordance with the approved general layout plans and schedule.

d) Landscaping to be maintained for a period of 5 years or until the trees are established and independent in the landscape if this is longer. All trees that fail or become diseased, damaged or moribund are to be replaced within the next planting season.

Reason: To ensure the landscape planting can establish and become independent in the landscape in the long term and will contribute towards the appearance of the development and the amenity of the wider area

11. The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: - In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway.

12. The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local

planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

13. Prior to the development hereby permitted being first occupied the Welshpool Road pedestrian crossing shall be fully implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of pedestrian safety and provide improved pedestrian connectivity across Welshpool Road.

14. Prior to the development hereby permitted being first occupied, a Travel Plan (TP) shall be submitted to and approved in writing by the Local Planning Authority; the TP shall be implemented fully in accordance with the approved details and shall remain in force for the lifetime of the development.

Reason: To promote sustainable travel and in the interests of reducing carbon emissions.

15. The development shall be implemented in accordance with the approved Construction Management Plan and shall remain in force for the duration of the construction period.

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

Informatives

1. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils 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>

2. 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 (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 for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. 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.

3. Great crested newts are protected under the Habitats Directive 1992, The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended).

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

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

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

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

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

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

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

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

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

**APPENDIX 2
EUROPEAN PROTECTED SPECIES: The 'three tests'**

Application reference number, site name and description:

22/03543/FUL.
Mixed residential development of 106 dwellings and associated public open space, internal highways, car parking, garages and landscaping with vehicular access from Gains Park Way.(Amended Description) | Proposed Residential Development Land To The South Of Welshpool Road Bicton Heath Shrewsbury Shropshire.

Date:

23rd November 2022

Officer:

**Demi Cook
Planning Ecologist
demi.cook@shropshire.gov.uk
Tel.: 01743 254316**

Test 1:

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

Site is allocated for Housing in the Local Plan.

Test 2:

Is there 'no satisfactory alternative?'

No.

Test 3:

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

Great crested newts have been recorded within 1km of the proposed development boundary. There are seven ponds within 500m of the proposed development red line boundary. Star Ecology (November 2021) carried out a Habitat Suitability Index assessment and calculated the ponds to be unlikely to support great crested newts or to be separated from site by significant barriers, such as the A438 and A5.

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

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00043) has been submitted which confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, 'In signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations ("that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range") and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant's proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.'

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of great crested newts at favourable conservation status within their natural range, provided that the 'District Level Licence condition for GCNs' condition included in the response from Demi Cook to Philip Mullineux (dated 23rd November 2022) is included on the decision notice and are appropriately enforced.

Guidance

The 'three tests' must be satisfied in all cases where a European Protected Species may be affected by a planning proposal and where derogation under Article 16 of the EC Habitats Directive 1992 would be required, i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation

unnecessary (since no offence under the legislation is likely to be committed), it is not necessary to consider the three tests.

The planning case officer should consider tests 1 (overriding public interest) and 2 (no satisfactory alternative). **Further information may be required from the applicant/developer/agent to answer these tests.** This should not be a burdensome request as this information will be required as part of the Natural England licence application. If further information is required, it can be requested under s62(3) of the **Town and Country Planning Act 1990**.

Test 3 (favourable conservation status) will be considered by SC Ecology, with guidance from Natural England.

A record of the consideration of the three tests is legally required. This completed matrix should be included on the case file and in the planning officer's report, and should be discussed and minuted at any committee meeting at which the application is discussed.

As well as the guidance provided below, pages 6 and 7 of the Natural England Guidance Note, ***Application of the Three Tests to Licence Applications***, may assist the planning officer to answer tests 1 and 2.

Answering the three tests

Test 1

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

Preserving public health or public safety must also be shown to constitute a reason of **overriding public interest**. You need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public, e.g.:

1. If an unstable structure (e.g. a building or tree) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.
2. If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Imperative reasons of overriding public interest

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992). Projects that are entirely in the interest of companies or individuals would generally not be considered covered.

Test 2

Is there 'no satisfactory alternative?'

An assessment of the alternative methods of meeting the need identified in test 1 should

be provided. If there are any viable alternatives which would not have an impact on a European Protected Species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) any other solutions, and c) whether the alternative solutions will resolve the problem or specific situation in (a).

Test 3

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

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; and b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if the proposal would have a detrimental effect on the conservation status or the attainment of favourable conservation status for a European Protected Species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of the destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected.

Compensation measures do not replace or marginalise any of the three tests. All three tests must still be satisfied.

	<u>Committee and date</u>
	Northern Planning Committee
	10th January 2023

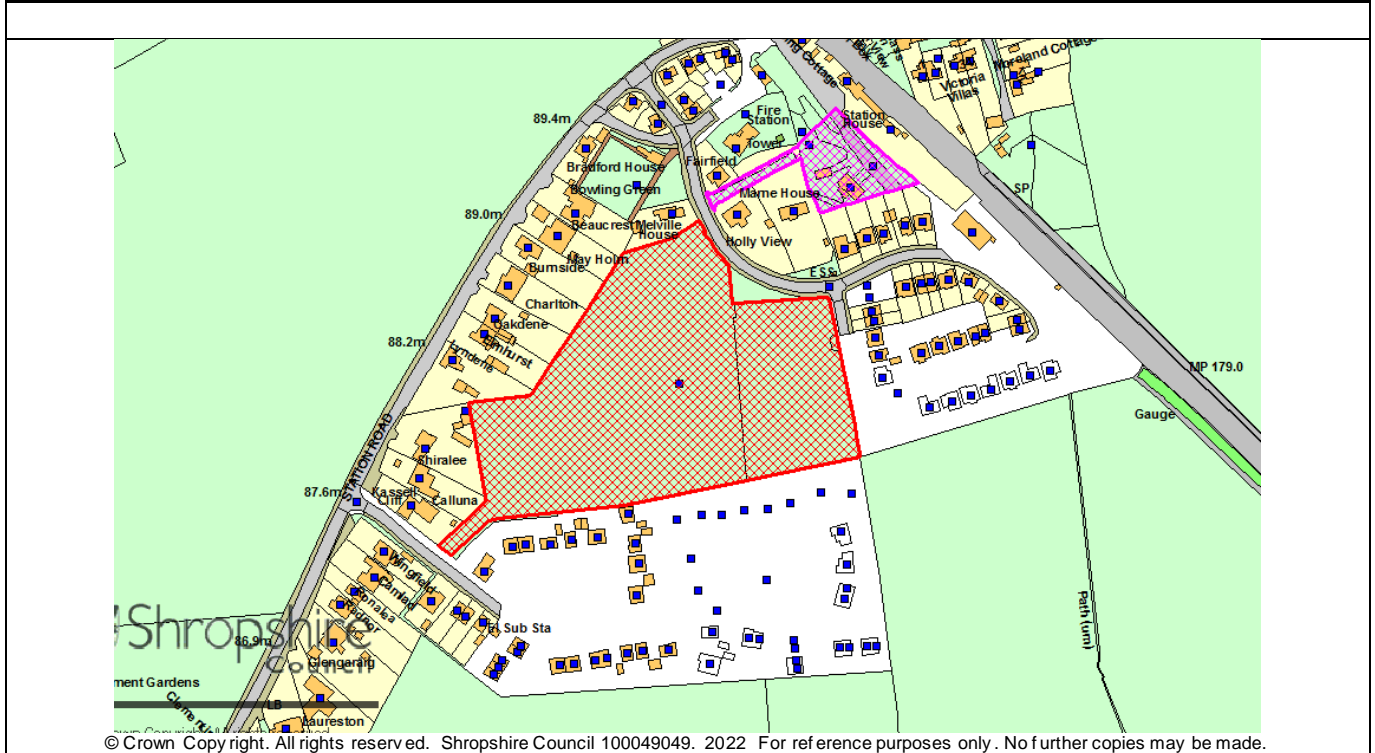
Development Management Report

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

Summary of Application

Application Number: 22/03752/FUL	Parish: Baschurch
Proposal: Erection of 48 Dwellings Across 3 Phases with Associated Access Roads, Parking and Landscaping, including Provision of Land for Train Station Car Park	
Site Address: Land Adjacent to Melville House Station Road Baschurch Shropshire	
Applicant: Shingler Homes Ltd	
Case Officer: Mark Perry	email: mark.perry@shropshire.gov.uk

Grid Ref: 342862 - 322502



Recommendation:- Refusal.

Reason for refusal

1. The site is not located within a defined development boundary and neither is it an allocated site for residential development. The location of the proposed development is therefore contrary to the policies of the Core Strategy and the Council's SAMDev plan which is the starting point for decision making in accordance with the NPPF. Whilst the scheme proposes a number of benefits which includes the over provision of affordable housing, over provision of open space and the provision of land for a station car park these are not considered to outweigh the clear conflict with both adopted and emerging planning policy in respect of its countryside location. Furthermore, there is no undersupply of homes in the Community Hub that would justify a departure from the relevant settlement policies of the Local Plan. The proposal is therefore contrary to policies CS1, CS4, CS5, MD1, MD2, MD3 MD7a and S16.2 (i) of the Local Plan as well as the overall aims and objectives in relationship to sustainable development as set out in the NPPF.

REPORT

1.0 THE PROPOSAL

- 1.1 The submitted application is for the erection of 48 dwellings with associated access roads, parking, provision of public open space, landscaping and the provision of land for the purposes of providing a train station car park. The car park would be provided in place of some of the dwellings that received planning permission under 14/02286/OUT in 2019.
- 1.2 The scheme proposes a mix of dwelling types and sizes. 10 of the dwellings would be on affordable tenures and 38 dwellings would be open market. The makeup of the housing mix is as follows:

Affordable Dwellings

- 3 x 1- bed
- 4 x 2-bed
- 3 x 3-bed

Open Market Dwellings

- 2 x 2-bed bungalows
- 7 x 2-bed dwellings
- 12 x 3-bed dwellings
- 17 x 4-bed dwellings

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located to the north eastern side of Baschurch which is identified within the SAMDev as a Community Hub. The site is within close proximity of the railway line which passes to the northeast of the site. Beyond

the northwestern boundary of the site there is a row of large, detached dwellings in a linear layout which front onto Station Road. Historically the land to the rear of these dwellings has been agricultural land although recent housing developments which have been granted in 3 separate planning applications has changed the use and character of the land.

- 2.2 For planning policy purposes, the application site is classed as being an open countryside location
- 2.3 Around 42m to the north of the site is the Conservation Area where there are three grade two listed buildings these are: Station Building, Pump House and Railway House (Station Crossing Cottage). There are located around 115m from the edge of the application site.
- 2.4 The access to the application site is via the access which was originally approved as part of the housing built that is under construction, with references 14/02286/OUT and 17/02174/REM. This development sits to the north and east of the current application and runs parallel with the railway line and much of the site is located within the defined development boundary for Baschurch. At the time of considering the above application in 2014 the encroachment of development beyond the development boundary was considered justified because of the age of the policies in place at that time and the sustainability of Baschurch as a settlement containing a range of services and facilities. As such, the scheme was considered to be windfall development and was granted outline planning permission with the reserved matters submission proposing 48 dwellings on the site.
- 2.5 A further application was submitted which sought amendments to part of the above scheme. This was a development for 34 dwellings which was approved under the reference 21/00666/FUL.
- 2.6 A further housing development is currently under construction, this is directly to the south of the application site and is for a development of 53 dwellings. This was approved under the reference 14/02454/OUT and 18/05447/REM. This site was allocated for housing in the adopted SAMDev plan.
- 2.7 All of the previously approved housing schemes are well advanced in terms of their construction. As such, despite the application site being classed as open countryside for planning policy purposes it is now entirely enclosed by other housing development whether that is by the older houses on Station Road or by the recently completed/ under construction dwellings on the remaining sides as referred to above.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Within 21 days of notification the local member requested that the application be referred to committee for determination and it was agreed by the Team Manager

(Planning) in consultation with the committee chairman and vice chairman that it is appropriate for this application to receive consideration at Committee as the site whilst located outside of the recognised development boundary is connected to the built form and worthy of a site visit with consideration to some of the material planning reasons raised by the local member and Parish Council.

4.0 Community Representations

Consultee Comment

4.1 Baschurch Parish Council- supports the application

Nature of the Site

Within the emerging Local Plan Review, the site is mostly surrounded by the village development boundary with little link to open countryside. On the ground the site is mostly surrounded by development on all 4 sides. The site appears as a logical infill site which will assist Baschurch in achieving its housing targets whilst also providing significant local benefits (as described below)

Affordable Housing Numbers

The provision of 20% affordable housing (where adopted policy requires 15% and the emerging policy requires 10%) would significantly benefit local people in need of housing

The scheme includes 1 bedroom affordable units which are identified as being much needed within the village by the Housing Officer.

Mix of housing

A mix of 3 one-bed, 13 two-bed, 15 three-bed and 17 four-bed homes is proposed. The last Right Home, Right Place survey indicated the most popular 'next move' by responders was to downsize, so Baschurch Parish Council welcomes the choice and number of 2 and 3 bed open market properties.

Land for Baschurch Railway Station Car Park

The provision of land for the Baschurch Station car park is a one-off chance to secure the future of the railway station. It is a key aspiration of the Parish Council to re-open the train station and this is an integral part of the project. Without this land for the car park the chance of the re-opening is lost. A leading railway planning expert, Dr Nigel G Harris described the plan to re Baschurch Station as a 'perfectly sensible plan'. A previous feasibility study deemed the station not viable as the catchment area wasn't large enough. Baschurch Parish Council believes the provision of 60 car parking spaces expands the catchment area to make the station feasible, providing benefits of improved public transport which will reduce the carbon footprint in Baschurch and neighbouring parishes. On Friday 15th July 2022, a public consultation event was held in Baschurch to discuss the proposals to reinstate the railway station. The event was very well attended by over 250 people, with an overwhelmingly positive response.

Footways and Highways

Another key objective of Baschurch Parish Council is to tackle a traffic pressure point and improve road safety around where the schools are situated in Baschurch. This application makes provision of the first stage of a road link to Eyton Lane enabling a future road to be constructed to alleviate school traffic and congestion around Eyton Lane, its junction with the B5067 Shrewsbury Road and the Shrewsbury Road and B4397 Station Road junction.

This proposed development will improve pedestrian connectivity and safer walking routes into the village and to the potential reopened railway station, both westerly towards Station Road Crossroads and southerly onto Eyton Lane.

Considerations

We ask that the Ecology report is updated to reflect the presence of Japanese Knotweed.

Summary

Baschurch Parish Council fully endorse the comments made and rationale provided in the Planning Statement attached to the planning application.

- 4.2 **Myddle, Broughton & Harmer Hill Parish Council-** support in principle the re-development of a Railway Station in Baschurch.
- 4.3 **Hordley Parish Council-** The parish council supports the campaign for a railway station in Baschurch and in principle therefore is in support of the release of land for a car park as an essential element to the reopening of the station.
- 4.4 **Drainage-** All foul and surface water proposals are acceptable with the submission of the revised highway drainage calculation.
- 4.5 **Ecology-** No Objection.
A financial contribution, secured through a S106 agreement for visitor management mitigation measures at Cole Mere Ramsar site in order to demonstrate that the proposal will not cause an offence under The Conservation of Habitats and Species Regulations 2017 (as amended) has been agreed by the applicant. A separate Appropriate Assessment has been undertaken and is provided below.

Conditions have been recommended to secure ecological protection and enhancements under NPPF, MD12 and CS17.

Biodiversity Net Gain

The Metric Report and accompanying spreadsheet show that with the implementation of the landscape plan and its successful ongoing management a net gain in habitat area of 3.01% and for hedges of 18.43% is possible.

I note that trees to be planted in private spaces have been included as an area

in the spreadsheet. These should not be included as there is no certainty going forward that these trees will remain.

Having removed the 19 trees in private spaces, the habitat area is now at a small loss of 1.94%, however it is considered that with the inclusion of the minimum of 16 bat boxes and 16 integrated swift bricks into the development, as well as a gain in hedgerows there will be no net loss of biodiversity. A condition is recommended to secure a detailed management plan including monitoring requirements, to ensure that the development meets the stated level of biodiversity gain.

It is noted that with the removal of the 19 trees (that are located in private spaces) trading rules have not been satisfied for the loss of the plantation woodland, however, as the plantation to be removed is very young, the 10-12 cm girth trees to be planted will, in my opinion, adequately compensate for the loss. Trees also do not raise any objection to the scheme. In addition, it is actually unclear if the young beech trees are to be removed as the submitted AIA shows them to be retained.

Invasive Species

The Japanese Knotweed Assessment recommends that:

‘The area where JKW has been recorded will be separated from the remaining site so there can be no disturbance with tracked or digging machines and monitored monthly until mid-summer 2023. Should any fresh growth of JKW be recorded then appropriate treatment by a fully insured, licensed contractor will be advised. This will ensure that the non-native invasive plant is treated appropriately and effectively controlled, allowing safe construction work in the area’.

The report does not include a plan showing the location of where the JKW has been recorded or delineate the zone where no disturbance will take place. This should be submitted so that the development can proceed in accordance with both the recommendations of the report and the associated plan so there is no avoidance of doubt as to the requirements in this regard. A condition is therefore recommended in this regard.

Recreational Impacts on International Sites - Habitats Regulations Assessment
This application has been considered under the Habitats Regulations Assessment process in order to satisfy the Local Authority duty to adhere to The Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations). Recreational pressure on Cole Mere Ramsar (part of the Midlands Meres and Mosses Phase 2 Ramsar) has been identified as having an adverse effect on this designated site.

The applicant has agreed to a financial contribution to Cole Mere Ramsar/SSSI to mitigate for recreational impacts and I have no objection to the development. I have compiled a Habitats Regulation Assessment on this basis.

- 4.6 **Archaeology-** Officers conform approval of the WSI by Hampton Heritage Design & Consultancy that has now been submitted by the Applicant. The following amended planning condition is therefore advised to secure its implementation:

The programme of archaeological work for the development approved by this permission shall be carried on in complete accordance with the Written Scheme of Investigation by Hampton Heritage Design & Consultancy dated October 2022.

Reason: The development site is known to have archaeological interest

- 4.7 **Affordable Housing-** Under current policy a site of 48 new homes would be required to provide 7.2 affordable units. The applicant has provided 10 which is an over provision of 2.8. homes. Under the new policy the provision would reduce to 10% giving a slightly larger over provision.

Agree to the 2 additional units being discounted market sale and the policy provision being split 5/3 between rent and shared ownership.

- 4.8 **Parks and Recreation-** The Design and Access plan now acknowledges the need for open space as set out under SAMDev Policy MD2 and Officers are happy that the development fulfils the planning criteria.

- 4.9 **Network Rail-** No objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

SAFETY

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwales@networkrail.co.uk.

NOISE

The potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of Planning Policy Wales and Technical Advice Notes which hold relevant national guidance information. The current level of usage may be subject to change at any time without notification including increased frequency of trains, night time train running and heavy freight trains.

LEVEL CROSSINGS

As there is a level crossing in the vicinity then no part of the development shall cause any existing level crossing road signs or traffic signals or the crossing

itself to be obscured. Clear sighting of the crossing must be maintained for the construction/operational period and as a permanent arrangement. The same conditions apply to the rail approaches to the level crossing, this stipulation also includes the parking of vehicles, caravans, equipment and materials etc, which again must not cause rail and road approach sight lines of the crossing to be obstructed. At no point during construction on site or after completion of works should there be any deterioration of the ability of pedestrians and vehicles to see the level crossing and its signage. There must be no reduction in the distance that pedestrians and vehicles have sight of the warning signs and the crossing itself. Network Rail reserves the right to provide and maintain existing railway signals/signs (whistle boards etc) and level crossing equipment along any part of its railway.

- 4.10 **Conservation-** We do not wish to comment in great detail from a built heritage perspective on this application as the site is not within the Baschurch Conservation Area and it is not envisaged that it will cause harm to the identified designated heritage assets, due to distance and intervening built and natural form between them and the site. The Council's Archaeology Adviser will comment on archaeological matters separately.

Comments:

- It is noted that the application indicates provision of car parking for any future use in connection with the possible reopening of Baschurch Railway Station. We would therefore wish decision takers to note that the surfacing, lighting and landscaping of such an area will need careful consideration, in terms of its proximity to the identified designated heritage assets (Railway Station and associated buildings), and the potential harm that could be caused if not undertaken sensitively.
- We expect variation in the palette of construction materials used across the site to provide visual interest.
- Boundary hedge to the south of the site should be protected and retained as this will provide a natural buffer between this development site and the adjacent development already under construction.

- 4.11 **Highways-** The application site seeks to link with the current housing development site being developed by Shingler Homes and in effect forms a Phase 3 extension of the whole development site. The proposals are considered acceptable from a highway perspective and in terms of providing an adoptable road layout.

Highways therefore raise no objection to the granting of consent subject to conditions.

'The construction of any new estate street shall not be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details.

Reason: - In the interest of highway safety; to ensure a satisfactory appearance

to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway..

'The construction of any new estate street shall not be commenced until an estate street phasing and completion plan has been submitted to and approved in writing by the local planning authority. The estate street phasing and completion plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: - To ensure that the estate streets serving the development are completed and thereafter maintained to an acceptable standard in the interest of residential / highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the development; and to safeguard the visual amenities of the locality and users of the highway.

- 4.12 **Education-** Shropshire Council Learning and Skills reports that the local primary school is currently forecast, with the cumulative effect of developments in the area, to require additional school place capacity to manage pupil numbers. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements at the school. Based on the scale of the proposed development it is recommended that contributions to address any arising primary capacity are secured by means of contributions raised by the Community Infrastructure Levy (CIL)
- 4.13 **Police Design Out Crime Officer** - Do not wish to formally object to the proposal at this time. However, there are opportunities to design out crime, reduce the fear of crime and to promote community safety.
- 4.14 **Trees** - No objection to the proposed development subject to a suitable 'no dig' access road and footpath design being provided the impositions of tree protection conditions.

There are a number of significant trees on this site, a number protected by a Tree Preservation Order and registered as veteran or notable trees. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

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

The AIA notes that three trees, one group of trees and a 30 metre length of hedgerow will be removed to facilitate the development. The trees, T10, T11 & T15, G1 and hedgerow H6 are all category B features and are not protected by

TPOs or hedgerow retention notice. All other trees are to be retained and the site design accommodates the retained trees and ensures that they are not visually separated or isolated and their function in the landscape is not significantly degraded. I have reviewed the site layout, AIA and undertaken a site visit and do not consider that the loss of trees would have a significant impact on the arboricultural resource, character of the area, local landscape or be detrimental to public amenity.

The retained trees have been provided with adequate protection areas in accordance with BS5837: 2012 and this will significantly reduce any risk of harm to the trees arising from the construction work, providing they are physically protected in accordance with the submitted arboricultural method statement and tree protection plan.

There is reasonable separation between the proposed dwellings and the retained trees to avoid any significant impact to future residential amenity caused by proximity and, in the main, the orientation of the dwellings relative to the trees is such that excessive shade would not be cast over dwellings and gardens. The exception may be with trees T17 & T18, which are relatively small at this time but will become larger in the future. However, this is not considered significant as future management may negate any significant issues.

The proposed development sites an access road and footpath within the RPAs of several trees. The AIA recommends the use of a 'no dig' CCS construction method to reduce potential damage to the root system of these trees. From an arboricultural perspective this approach would be acceptable in this situation but the use of such a system for this purpose in this location must be confirmed by an engineer and full details must be provided along with an installation method statement.

The site landscaping proposes a number of new trees and is considered acceptable.

No objection is raised to the proposed development subject to a suitable 'no dig' access road and footpath design being provided. Conditions recommended.

4.15 Public Comments

14 objections and 113 representations made in support of the application have been received commenting on the following:

Objections

- Baschurch is overcrowded
- Exceeded housing target
- Lack of school places
- Availability of doctors' appointments
- Open countryside location
- Ecological impact
- Highways safety
- Traffic speed on Station Road

Many only support station car park
 Lack of facilities in village
 No guarantee of rail station being delivered
 Other station locations are available
 Loss of privacy
 Rail station is only aspirational
 Insufficient information of the rail station
 Station being used as justification for dwellings.
 Car park no benefit to community
 Impact character of the area
 Manipulated the "New Station" issue to stir up enthusiasm for development
 Noise from trains stopping at station

Support

Site is infill development
 Long term benefits of proposal
 Benefit to wider area
 Opportunity for new rail station
 Public support for reopening station
 Presence of Japanese knotweed
 Includes provision of affordable dwellings
 Site is/ will be surrounded by houses
 Site is between other housing developments
 Enhancement of village's infrastructure
 Environmental benefits of new station
 Station would reduce traffic
 Public benefits of proposal
 Lots of work on new station done already
 Current short supply of smaller houses in village
 Application should be considered in the wider context
 Development includes connectivity
 Reduce traffic into Shrewsbury
 A selection of smaller houses are proposed.

5.0 THE MAIN ISSUES

Principle of development
 Siting, scale and design of structure
 Visual impact and landscaping
 Ecology
 Highway Safety
 Affordable Housing
 Other material benefits

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless other material considerations indicate otherwise.

- 6.1.2 The National Planning Policy Framework is a material consideration that should also be taken into account where it is relevant to the planning application. The presumption in favour of sustainable development at paragraph 11 of the Framework does not apply and is not engaged as Shropshire Council has a healthy 5-year land supply for housing, the local plan policies relevant to the determination of the application are therefore considered up to date.
- 6.1.3 The most relevant policies in determining whether this site is acceptable in principle for housing development are Core strategy policies CS1, CS4, and CS5 and SAMDev policies S16.2(i), MD1, and MD7a.
- 6.1.4 Shropshire Council currently has in excess of a 5-year land supply for housing (5.60 years supply of deliverable housing land against the housing requirement within the adopted Core Strategy (2011) and 7.44 years supply of deliverable housing land against the housing need identified using government standard methodology) and consequently, there is no undersupply of homes across Shropshire and the national housing delivery test has been met. The housing policies within the local plan are therefore up to date.
- 6.1.5 Paragraph 12 of the NPPF states:
- “The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.”
- 6.1.6 The Shropshire Core Strategy (2011) and the Site Allocations and Management of Development Plan (2015) clearly identify the hierarchy of settlements where new market housing is considered appropriate. The locations are set out in Policies CS1, CS3, CS4 and CS5 of the Core Strategy and Policies MD1, MD7a and S16.2(i) of the SAMDev Plan which relates specifically to Baschurch and identifies the settlement as a Community Hub.
- 6.1.7 SAMDev details that Baschurch has a housing guideline of around 150-200 additional dwellings over the period to 2026. This will be delivered through the development of the allocated housing sites together with development by infilling, groups of houses and conversion of buildings which may be acceptable on suitable sites within the development boundary identified on the Policies Map.
- 6.1.8 Baschurch has already exceeded the housing guideline referred to above with there being 206 completions between 2011/12 and 2020/21 with a further 112 dwellings having planning permission as of the 31st March 2021. These figures, do not consider any further planning permissions or completions achieved since

the specified base date, however they demonstrate a sufficient supply has been identified to achieve the residential guideline for the community hub set out in SAMDev policy S16.2(i).

- 6.1.9 This application site has become entirely enclosed by other built development, however it is not within the development boundary and therefore not identified as a location for additional open market housing in the current adopted development plan. It is also not identified as a housing site in the local plan review presently under consideration.
- 6.1.10 On the basis of the above the proposal does represent a departure from the development plan and the application has been publicly advertised as such.
- 6.1.11 CS1 and CS4 sets out the strategic approach for the identified Community Hubs and Community Clusters identifying that they will become more sustainable through a “rural rebalance” approach, accommodating around 35% of Shropshire’s residential development over the plan period. Development and investment will be located predominantly in community hubs and community clusters, and will contribute to social and economic vitality. Outside these settlements, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.
- 6.1.12 Both Core Strategy policy CS4 and SAMDev policy MD7a strictly controls development in the countryside such that only limited types of development, such as accommodation for essential countryside workers and other affordable housing, is permitted.
- 6.1.13 The proposal is not for development that would be permitted in the countryside under policy CS5 and MD7a and therefore development of this site for open market housing would be contrary to the local plan policies identified as most relevant to the determination of this application and should not be supported unless there are material considerations that indicate otherwise.
- 6.1.14 The site is located on the edge of Baschurch which is identified in the SAMDev plan as a Community Hub. It is accepted that the whole of the site is located outside of the development boundary as set out in the adopted SAMDev plan. In the current adopted SAMDev plan the development boundary runs along the southern, western and northern boundaries of the site. Whilst the eastern boundary does not adjoin the development boundary it does now adjoin the housing development which was approved under the references 14/02286/OUT and 17/02174/REM. As such the application site is entirely hemmed in by other housing developments whether that is by existing dwellings or by those that are currently under construction.
- 6.1.15 Shropshire Council is at a relatively advanced stage of a Local Plan Review. To inform the Local Plan Review, a number of Regulation 18 (plan-making) consultations and a Regulation 19 (pre-submission) consultation have been undertaken. The draft Shropshire Local Plan (2016 - 2038) was subsequently submitted to the Secretary of State for examination on the 3rd September 2021.

- 6.1.16 Baschurch is proposed to remain as a community hub within the Draft Shropshire Local Plan (schedule SP2.2 of draft policy SP2 – Strategic Approach). The draft settlement policy S16.2 proposes that Baschurch has a residential guideline of around 360 dwellings. The residential development for Baschurch is intended to be delivered through the identified saved SAMDev residential allocations (BAS035 & BAS017), both of which have now been delivered; any identified Local Plan residential allocations (BNP024 & BNP035); appropriate small-scale windfall residential development within the development boundary, as shown on the Policies Map, where it is consistent with Community Hub Policy SP8 and other relevant policies of this Local Plan.
- 6.1.17 The emerging plan for Baschurch does propose a revision to the development boundary to extend it around the housing development built to the east which currently falls outside of the current adopted development boundary. The effect of this is that the proposed development boundary would surround the application site but the application site itself would remain outside of the defined area, as detailed on the extract below taken from emerging local plan. The site would therefore continue to be classed as open countryside for planning policy purposes.



- 6.1.18 The development of the site for open market residential development is contrary to adopted planning policies and also those of the emerging plan because of its open countryside designation. Additionally, the proposed development does not fall within any of the examples listed in policy CS5 of the Core Strategy in terms of development which may be permissible in the countryside; such as affordable housing, conversion schemes or dwellings for agricultural/ forestry workers.
- 6.1.19 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. In this particular case, when assessed against the adopted development plan the site is not an allocated site or within a defined development boundary, neither is the

proposal for a type of development that is normally deemed suitable for open countryside locations. It is therefore necessary to consider the other material considerations and whether these are sufficient to outweigh the conflict with the development plan and these are set out below and considered later in the report.

6.1.20 The applicant has set out what they consider to be other material considerations which should be taken into account by the Council in determining the application. These include the following which will be considered later in this report:

- No countryside function
- Site is within the settlement
- No wider visual impact
- Dedication of land for Railway Station Car Park
- Biodiversity neutral impact
- Over provision of affordable housing
- Housing mix in line with emerging policy
- Eyton Lane link road
- Electric vehicle charging points
- Energy efficient properties
- Delivery of development within 12 months.

6.2 Site Assessment

6.2.1 Whilst the site is not included within the development boundary, it does have the feeling of being part of the settlement. It is not the situation here that the proposed site extends outwards from existing built development and out into the surrounding agricultural land; which can often have a landscape and visual impact. The application site has been fully absorbed into the settlement by virtue of the recent housing developments that have or are being built around it. The application site is effectively a large infill site with all of the surrounding development screening it from the wider area. Whilst the application site is classed as 'open countryside' for planning policy purposes it is entirely surrounded by other residential development which does mean that it no longer has the function or the character of a more typical open countryside location.

6.2.2 The site is classed as open countryside for planning policy purposes and the authorised use of the site is agricultural. However, the site is now enclosed on all sides by residential development and therefore there is limited prospect of the site being used for agriculture because of its small size, relationship to adjacent dwellings and because any access to it would be through a housing estate. It is recognised by Officers that the site is no longer visually related to the rest of the open countryside which surrounds Baschurch and the wider countryside beyond; which typically comprises of open fields defined by hedgerows. It is considered by Officers that the site has a closer affinity, both visually and functionally, to the rest of the settlement than it does the surrounding countryside.

6.2.3 Policy CS5 sets out the types of development which may be permissible in the countryside. The policy also sets out the reasons why development is strictly

controlled in countryside locations. This includes maintaining and enhancing countryside vitality and character and avoiding isolated, sporadic, out of scale development, or which may either individually or cumulatively erode the character of the countryside. It is considered that given the unusual location of this 'open countryside' site some of the rationale behind policy CS5 does not apply to this particular site. Given the passage of time the site has been encircled by other development and has effectively closed off the site from the surrounding countryside.

6.3 Layout, Scale and Design

- 6.3.1 The proposed development consists of 2 storey dwellings and a small number of bungalows. The dwellings propose a mix of terrace, detached and semi-detached dwellings. Access into the development would be from the existing estate road which passes along the northern boundary of the site. The existing estate road would be the only means of entering and leaving the development for vehicles. There would however be a pedestrian option for entering/ leaving the site as footpath connectivity will be provided at the southwestern corner of the site providing a shortened route onto Station Road and onwards into the centre of the village. The scheme also proposes connectivity to the housing development to the east via paths through the proposed area of public open space at the eastern end of the site. The paths will also provide residents of the adjacent development with a shorter route into the village allowing them to bypass part of the busy Station Road.
- 6.3.2 The proposed layout of the site is such so that it integrates with the housing development to the east and once both are completed, they would be visually read as one single development. The area of open space utilises an area of land that already has a more formal and domestic character to the rest of the site as it already benefits from hedgerows and ornamental planting. This area will benefit from the natural surveillance provided by the proposed dwellings to the south (plots 12-15) and also from the dwellings on the adjacent development to the east which are under construction. Both sets of dwellings will have their front elevations directly facing over the area of public open space.
- 6.3.3 The proposed dwellings are all of a traditional design. All the dwellings have concrete tiled roofs and are finished in brick. All have casement windows and a number of the properties have chimneys which help to break up the roofscape. Some of the properties, namely the terrace and bungalow, have some rendered elements on them. It is considered that the mix of dwelling types provides good variation of design across the site; thereby providing visual interest.
- 6.3.4 All of the properties proposed would have an adequate amount of private garden to the rear and each would have two off street parking spaces. Some of the spaces would be to the front of the dwellings and other would be to the sides. Plots 11 and 39 are in prominent corner positions and to maintain the character of the street scene the parking has been provided to the rear of the gardens.
- 6.3.5 It is considered by Officers that the overall layout of the development is

acceptable and that it would provide an attractive development whilst ensuring that there is adequate private and public amenity space and the development is at a density that is appropriate for the site's context.

6.4 Impact on Neighbours

6.4.1 The proposed development will introduce built development on to what is currently an open green parcel of land and provides the outlook from the rear of the existing dwellings on Station Road. Much of the proposed development has a landscaping buffer between the proposed housing and the rear boundaries of the existing dwellings. This is with the exception of the six dwellings at the southwestern corner of the site, where these have their rear gardens, which have a depth of 10m, backing directly onto the rear boundary of the dwelling to the west. Despite this there will still be a distance of separation of around 31m between the facing rear windows.

6.4.2 Across the wider site it is considered that the proposed development provides adequate distance between dwellings and that there would be no detrimental loss of light or privacy to neighbouring occupiers.

6.5 Visual impact and landscaping

6.5.1 As noted above the application site is enclosed by existing/ under construction development. The existing dwellings along Station Road are generally large detached properties. There are small gaps in between these dwellings which will provide intermittent views of some parts of the proposed dwellings; but overall the existing dwellings will significantly screen the development from views along Station Road. The rest of the site will only be visible from either within the application site or from the neighbouring residential developments, thereby prevent any views of the application site from the surrounding landscape.

6.5.2 The application site benefits from hedge planting along the southern and eastern boundaries, interspersed with the occasional tree. The boundary with the dwellings on Station Road is more varied with a mix of hedgerows, fences and trees. The most landscaped area is the part of the site that would form the area of public open space. This benefits from robust hedges and trees planting around its perimeter. The existing planting will be retained with further tree planting and reinforcement of hedgerows proposed as part of the detailed landscape scheme submitted.

6.5.3 An Arboricultural Impact Assessment has been submitted as part of the application which has been considered by the Council's Tree Officer who raises no objection to the scheme. The Tree Officer has confirmed that contrary to his comments there are no trees on the site that are covered by a Tree Preservation Order and neither are there any veteran trees.

6.5.4 It is considered by officers that whilst the development will result in the loss of a green open space there would be no detrimental impact upon the character and appearance of the wider area.

6.6 Affordable Housing and Housing Mix

6.6.1 Adopted policy requires that in Baschurch new residential developments provide a 15% provision towards affordable housing which for a scheme of 48 dwellings would result in a provision of 7.2 dwellings. This would equate to 7 affordable dwellings on site plus a financial contribution to cover the 0.2. The applicant is proposing to provide 10 affordable dwellings on the site which equates to a 21% contribution.

6.6.2 The affordable dwellings would be provided on the following tenures:

- 5 x affordable rent
- 3 x shared ownership
- 2 x discounted sale dwellings

The Council's Affordable Housing Officer has confirmed that the above tenures are considered to be acceptable.

6.6.3 The above over provision of affordable housing is a material consideration which weighs in the application's favour. Not only is the amount of affordable housing greater than the current 15% requirement but it is also greater than the emerging development plan policy which if adopted by the Council would require only a 10% contribution.

6.6.4 In addition to the affordable dwellings being proposed the application is also proposing that of the 38 open market dwellings there are 9 x 2-bed (7 dwellings and 2 bungalows) and 12 x 3 bed dwellings. This equates to 23.6% and 31.6% respectively of the open market dwellings. I. Emerging policy DP1 at point 2b requires that:

At least 25% of open market dwellings will be dwellings with 2 bedrooms or less. At least a further 25% of open market housing will be dwellings with 3 bedrooms or less.

As such the greater percentage of smaller dwellings than are normally provided on similar developments does align with emerging policy DP1 concerning the housing mix.

6.6.5 Across the development as a whole (affordable and open market dwellings) the applicant is proposing 3 x 1-bed dwellings, and 13 x 2-bed dwellings and 15 x 3-bed dwellings. As such 64.5% of the dwellings would be either 1, 2 or 3 bedrooms. The housing mix proposed has been supported by the Parish Council in their consultation response and is a material consideration weighing in favour of the scheme.

6.7 Highway Safety

6.7.1 Access to the site would be via the same route as approved to serve the adjacent housing development. The road is being constructed to an adoptable standard as would the estate road being proposed as part of this current application. A small number of properties would be served by shared private driveways which are mainly located on the extremities of the proposed development. All of the dwellings would have two off street parking spaces. The

application has been considered by the Council Highways Officer who raises no objection subject to the addition of appropriate planning conditions to secure further details of the proposed highway works.

- 6.7.2 The proposed development will also include an alternative route for pedestrians by providing a pedestrian route onto the estate road of the neighbouring development which will create a quicker, safer and more pleasant route towards the centre of the Baschurch; this would cut out the need to walk along a 400m stretch of Station Road which can be busy with traffic especially at peak times. This would not only be beneficial to the residents of the proposed development but also to those of the existing development to the east who would be able to cut through the development proposed on their way into the village centre.

6.8 Open Space

- 6.8.1 The scheme proposes a large area of green open space of around 3,600 sqm at the eastern side of the site, a smaller area at the south western corner where a pedestrian footpath would link through to the neighbouring development and a strip of land along the boundary shared with some of the dwellings on Station Road. In total the development would deliver around 5,240 sqm of public open space
- 6.8.2 Policy MD2 of SAMDev and also DP15 of the emerging plan aims to secure at least 30 sqm of open space per bedroom provided. The development proposed would deliver a total of 142 bedrooms which would require the provision of a 4,260 sqm of public open space. As such the proposed scheme is providing 980 sqm of open space over and above the policy requirements. This over supply is a material consideration which weighs positively in favour of the development.
- 6.8.3 It is considered that the proposed areas of open space have been located and laid out so that they utilise the existing planting on the site and so that they provide a useful purpose for those using the space; whether that be for recreational purposes or to facilitate pedestrian movements through the site. The applicant is proposing further tree, shrub and hedge planting throughout the site which will provide both a visual and ecological benefit.

6.9 Ecology

- 6.9.1 The application has been submitted with an Ecological Appraisal, Metric Report, Japanese Knotweed Assessment along with ecological enhancements details on a plan showing proposed bird and bat box locations and proposed landscaping plans.
- 6.9.2 The ecological assessment of the site concluded that there were no features on the site for potential roosting bats and there are no ponds within 500m of the site so no impact on newts is expected. The site does however offer foraging habitat for hedgehogs and badgers.
- 6.9.3 The Council's Ecologist has considered the impact of the proposal and the implementation and management of the landscaping plan. They have concluded that after excluding the 19 trees to be planted in private gardens from the

Biodiversity metric calculation, it shows the habitat area would be at a small loss of 1.94% as a result of the development. However, it is considered that by including a minimum of 16 bat boxes and 16 integrated swift bricks into the development, as well as a gain in hedgerows there will be no net loss of biodiversity on the site.

- 6.9.4 This application has been considered under the Habitats Regulations Assessment process in order to satisfy the Local Authority duty to adhere to The Conservation of Habitats and Species Regulations 2017 (known as the Habitats Regulations). Recreational pressure on Cole Mere Ramsar (part of the Midlands Meres and Mosses Phase 2 Ramsar) has been identified as having an adverse effect on this designated site. The applicant has agreed to a financial contribution to Cole Mere Ramsar/SSSI to mitigate for recreational impacts which would equate to £50 per bedroom created.
- 6.9.5 The presence of Japanese Knot Weed on the site has been established and this has been the subject of an assessment by the applicant's ecologist. The assessment is considered to be acceptable by the Council's Ecologist. A condition could be imposed on any consent requiring the submission of further details and the development being carried out in accordance with the assessment.
- 6.10 Station Car Park**
- 6.10.1 As part of this application the applicant is also making land available for the provision of a railway station car park for around 60 vehicles. The land will be made available for a period of 12 years which would enable the local community to continue their ambitious plans to have a new railway station built in Baschurch. It is understood that the provision of space for the car park is an intrinsic part of the plans for a station.
- 6.10.2 The reopening of a railway station at Baschurch is acknowledged within the current Shrewsbury Place Plan as a long-standing project and long-term aspiration of the Parish Council. However, it is not classified as a priority category A or B project in the place plan. Neither does the railway reopening form part of the draft Shropshire Local Plan, and it is currently not an objective of the Councils Local Transport Plan.
- 6.10.3 As noted in the consultation response from the Parish Council, they consider that securing the land for the Baschurch Station car park is a one-off chance to secure the future of the railway station and that without this land for the car park the chance of the opening a station is lost. Prior to the submission of the planning application a public meeting was held and attended by over 250 people. This is reflective of the large number of representations that have been received, the vast majority of which are in support of this planning application.
- 6.10.4 A letter of support has been provided on behalf of the applicant from an experienced Railway Consultant who attended the public consultation meeting. The consultant advises that he regards the proposal to re-open the station as a sensible one and one which he would be happy to support as appropriate. The

consultant also outlines the timescale involved for new rail projects which is largely determined by the need to assemble the necessary funding. The consultant explains that the whole process of station development can take between 5 and 7 years, and estimates that the Baschurch station project is about 6 months into this period.

- 6.10.5 Whilst the proposal for a station at Baschurch is an aspiration for the local community it is evident from the information that has been provided as part of this application that the process is at an early stage. It must be noted that any offer of the land for the purposes of providing the car park will not necessarily lead to the delivery of a station, it is however accepted that securing the land is just one component of the overall project working towards securing a new rail station. It is evident from a large number of the public representations received that much of the support is given on the basis of Baschurch having a new railway station. However, as noted above this is by no means guaranteed, even if the land offered as part of this planning application for a car park is secured. However, the offer of the land for the station car park is a material consideration which can be awarded some weight in favour of the proposal. However, Officers consider that only very limited weight can currently be given to this as a material consideration on the basis that there remains a lot of uncertainty about whether the ambitious plans of the community can be realised.

6.11 Impact on Heritage Assets

- 6.11.1 The proposed housing does lie outside of the defined Baschurch Conservation area but the area that would be made available by the applicant for the station car park would be within the Conservation Area and adjacent to the grade II listed for Station House.
- 6.11.2 In accordance with para 194 the applicant has provided a Heritage Assessment and a Written Scheme of Investigation where the applicant has described the significance of any heritage assets affected, including any contribution made by their setting.
- 6.11.3 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.*
- 6.11.4 It is considered that the proposed housing will not cause harm to the identified designated heritage assets, due to distance and intervening built and natural form between them and the site.
- 6.11.5 No details of the specification of the car park has been provided as part of this application, the details of the hard surfacing, lighting and landscaping can be secured by planning condition to ensure that any impact on the listed Station House is fully considered.

- 6.11.6 No objection to the scheme has been raised by the Council's Conservation officer.
- 6.11.7 Within the vicinity of the site there are a number of archaeological cropmark sites of likely prehistoric date. This suggests that the proposed development site has low-moderate archaeological interest.
- 6.11.8 A Written Scheme of Investigation (WSI) for a programme of archaeological work has been submitted and has been considered by the Council Archaeologist who has accepted the details of the archaeological works proposed.

6.12 Other Matters

- 6.12.1 The applicant has confirmed that they propose to install electric vehicle charging points within all of the dwellings. This is not a requirement of current adopted planning policy but it is a requirement that is set out in policy SP3 of the emerging development plan. As such the provision of EV charge points is a material consideration which can be awarded some weight.
- 6.12.2 The applicant has detailed that the proposed dwellings will have a 30% reduction in carbon dioxide emissions when compared to the usage of the adjacent dwellings currently under construction. Utilising low carbon technology will reduce the overall level of onsite energy demands. As this is to be a requirement under building regulations little weight can be awarded to this as a material planning consideration.
- 6.11.3 In the submission of the application the applicant refers to the delivery of the Eyton Lane link road as a material consideration. It is understood that the applicant does propose to deliver this link as part of the previous application for the land to the east (21/00666/FUL) sought to facilitate this.
- 6.12.4 The position of the link road falls outside of the current application site and therefore the current proposal has no bearing on whether or not it is delivered. As such in the context of the current application the delivery of the Eyton Lane link road cannot be awarded any weight as a material consideration.

7.0 CONCLUSION

- 7.1 The adopted Local Plan is the starting point for decision making as stated at paragraph 12 of the NPPF. Whilst Baschurch itself is established as a suitable location for sustainable development within the adopted Local Plan because of its inclusion as a community hub, the application site is located outside of the identified development boundary and therefore located within the 'open countryside'. Adopted Local Plan policies (including Core Strategy policy CS5 and SAMDev Plan Policy MD7a) and the National Planning Policy Framework (NPPF) set out criteria which limits new residential development in the countryside however the proposal does not meet any of these exceptions.
- 7.2 As set out above Baschurch is in a healthy position in terms of housing delivery

having already substantially exceeded the 150-200 dwellings that is set out in the adopted SAMDev plan.

- 7.3 Whilst the application site is classed as 'open countryside' for planning policy purposes it is now surrounded by other residential development which does mean that it has lost some of its function and character of open countryside. Policy CS5 has an overall aim to ensure developments maintain and enhance countryside vitality and character, where they improve the sustainability of rural communities by bringing local economic and community benefits.
- 7.4 It is considered that it is an unusual situation with the site being classed as open countryside yet surrounded by built development and this is a material consideration. The site has effectively become an infill site which now sits within the built-up part of the village. It is recognised by Officers that the development of the site would have no landscape or visual impact and neither would it impact upon the overall character of the village.
- 7.5 In addition to the above the scheme does propose a number of other benefits which are material considerations. These include the over provision of affordable housing 20.8% against a policy requirement of 15%, the inclusion of a significant number of 2 and 3 bedroom properties in line with emerging policies and the over provision of open space where 5,240 sqm is proposed against a policy requirement of 4,260 sqm. The scheme also delivers a neutral impact in terms of Biodiversity net gain. Officers consider these are material considerations which can be awarded weight.
- 7.6 Additionally, there is the benefit of securing the area of land in connection with the case for providing a new railway station for Baschurch. Whilst a new station would bring some economic and social benefits to the village it is apparent that the proposal is only at a very early stage and there is a lack of evidence and justification to show that it could become a reality. It is considered that the land being made available for a station car park would be of benefit to the community is only a part of their overall case for a station. However, it is considered that this can only be awarded very limited weight as a material planning consideration.
- 7.7 Accordingly, taking all the above into consideration, the development of the site would bring some local social, economic and community benefits and would not result in harm to the character of the area. There are also a number of other material considerations as set out above. However, as noted above the site is classed as open countryside for planning policy purposes so permitting housing on it would be a significant departure from the development plan in this respect. Additionally, Baschurch has already substantially exceeded its numbers in terms of its housing delivery. It is therefore a question of whether the other material considerations referred to in this report outweigh this substantial overprovision, a clear conflict with the adopted development plan.
- 7.8 It is considered by Officers that the competing factors are finely balanced, however it is Officers view that the material considerations, do not outweigh the

conflict with the development plan and therefore the application is recommended for refusal.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD7A - Managing Housing Development in the Countryside

MD8 - Infrastructure Provision

MD12 - Natural Environment

MD13 - Historic Environment

RELEVANT PLANNING HISTORY:

22/03752/FUL Erection of 48 Dwellings Across 3 Phases with Associated Access Roads, Parking and Landscaping, including Provision of Land for Train Station Car Park PDE

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RGO4RD9600>

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 Nick Bardsley

Appendices

N/A

	<u>Committee and date</u>
	Northern Planning Committee
	10 th January 2023

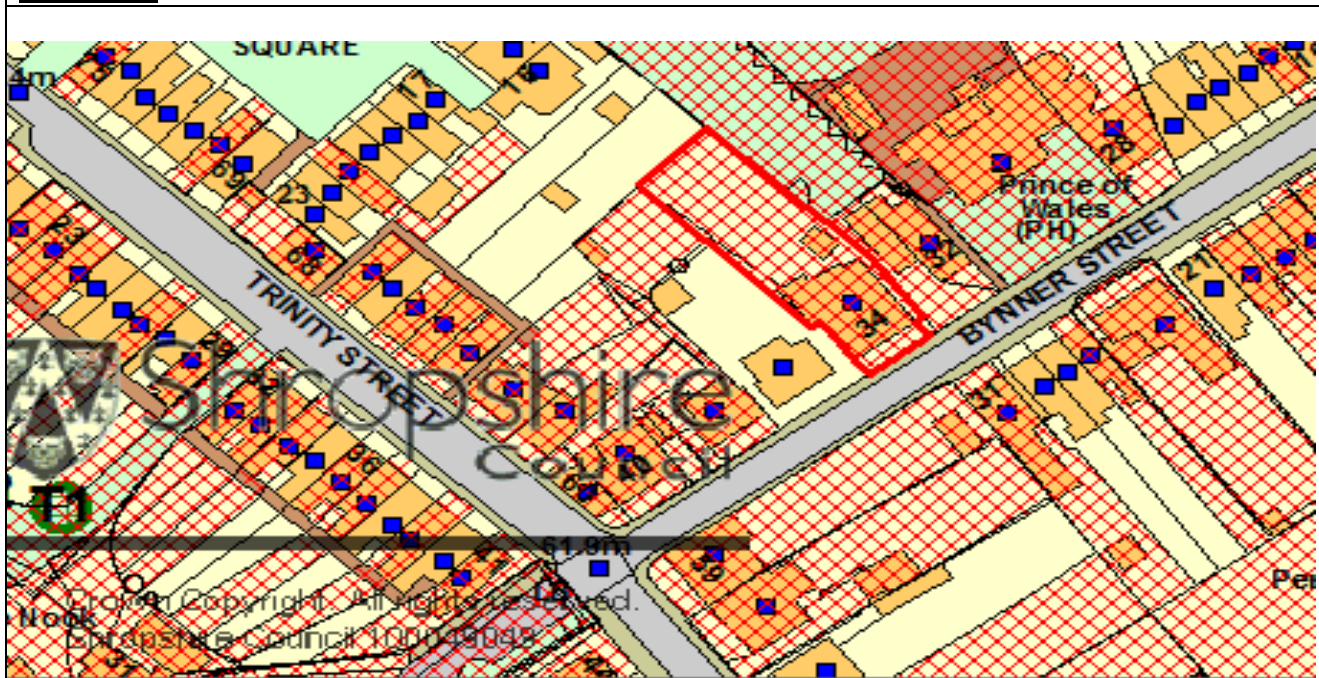
Development Management Report

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

Summary of Application

Application Number: 22/05113/FUL	Parish:	Shrewsbury Town Council
Proposal: Erection of rear extension and remodelling of existing detached house, to provide fully an accessible house for a disabled applicant (modifications to previously approved 22/02574/FUL)		
Site Address: 34 Bynner Street Shrewsbury Shropshire SY3 7NZ		
Applicant: Mrs Rachael Vasmer		
Case Officer: Didi Kizito		email: didi.kizito@shropshire.gov.uk

Grid Ref: 349783 - 311759



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application is a modification for a previously approved scheme. The proposal seeks planning permission for the erection of rear extension and remodelling of existing detached house to provide a fully accessible house for a disabled applicant.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 34 Bynner Street is a detached property dating to the 19th century within the Belle Vue conservation area, and subject to an article 4 direction removing permitted development rights for works pertaining to its frontage. The property benefits from a large rear garden.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 This applicant is in relation to a Shropshire Council councillor and therefore this application has to be determined by Committee.

4.0 Community Representations

4.1 Consultee Comment

- 4.2 Shrewsbury Town Council:
The Town Council raise no objections to this application.

4.3 SC Conservation:

In considering this planning application, due regard to the following local and national policies, guidance and legislation is 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 revised National Planning Policy Framework (NPPF). Special regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also required in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area.

The proposed works relate to the creation of a single storey rear extension, where the proposal does not include any works to the frontage of the property, which is subject to an article 4 direction removing permitted development rights in respect of works to the frontage including windows, doors, walls etc. The proposals include the rationalisation of the existing single storey extensions and addition of a shallow metal roofed structure wrapping around the existing, of render finish. The proposed fenestration will be aluminium and there is a general contemporary appearance to the proposals, however it is located to the rear and is not considered to have a measurable impact in terms of the wider conservation area. A chimney is proposed to be removed to the rear two storey projection, but this is not widely visible within

the conservation area and both chimneys to the main roof pitch on either gable are to be retained.

As such, and subject to further materials and rooflights details to be confirmed, it is not considered that the proposed development would be detrimental to the character and appearance of the conservation area, and no objections are raised where taking account of the above policies and legislation.

4.4 SC Archaeology:

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

4.5 Public Comments

4.6 No comments have been received at the time of writing this report.

5.0 THE MAIN ISSUES

Principle of development

Scale, design and impact on conservation area

Residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

6.1.2 Shropshire Core Strategy policy CS6 requires all 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 that contribute to local character. Policy CS17 which deals with environmental networks and is concerned with design in relation to the environment and places the context of a site at the forefront of consideration so that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environment.

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

- 6.1.4 SAMDev Plan Policy MD13 deals with the historic environment. This requires that all of the County's historic assets should be conserved, sympathetically enhanced and restored by considering their significance in terms of a heritage asset.
- 6.2 Scale, design and impact on conservation area
- 6.2.1 The property is on a prime location and highly visible from the highway. With none of the works proposed to the principle elevation of the dwelling, the scheme is considered to be of an acceptable scale and design on this dwelling. The scheme proposes internal remodelling that would facilitate the creation of wheelchair friendly accesses around the property. The Conservation team have been consulted and raise no objection on heritage grounds. The scheme would preserve and enhance the character of the Conservation Area. The proposal therefore complies with planning policies CS6, CS17, MD2, MD13
- 6.3 Residential amenity
- 6.3.1 SAMDev Policy MD02 and Core Strategy Policy CS06 encourage development that is thoughtfully designed, for the benefit of both the site to which it would be built and its wider surroundings. In designing development, consideration should be given to the impacts of that proposal upon neighbours and/or the local area more generally (including any specific benefit arising from that scheme).
- 6.3.2 The proposal is within close proximity to neighbouring dwellings, however, the scheme has been designed sympathetically in that it would not have a detrimental impact on neighbouring residents whilst also maximising the usability of the dwelling for wheelchair access. The development would not lead to loss of privacy, loss of light or overbearance in relation to neighbouring occupiers. No letters of representation have been received at the time of writing this Report.

7.0 CONCLUSION

Based on the information submitted against the above considerations, the proposal is considered to be acceptable and accords with the principal determining criteria of the relevant development plan policies. Approval is therefore recommended subject to conditions as set out in appendix one attached to the 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.

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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

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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:

22/02574/FUL Erection of a rear extension and remodelling of existing detached house, to provide fully an accessible house for a disabled applicant GRANT 22nd August 2022

22/05113/FUL Erection of rear extension and remodelling of existing detached house, to provide fully an accessible house for a disabled applicant (modifications to previously approved 22/02574/FUL) PDE

SA/02/0611/F Erection of a single storey rear & side extension PERCON 27th June 2002

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RL5BMETDKCM00>

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

Local Member - Cllr Kate Halliday

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 DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

3. Prior to the above ground works commencing samples of 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 their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

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

Informatives

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

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

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

LDF Core Strategy Policies:

CS6 Sustainable Design And Development Principles

CS17 Environmental Networks

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

MD2 Sustainable Design

MD13 Historic Environment

-



<u>Committee and date</u>
Northern Planning Committee
10 th January 2023

SCHEDULE OF APPEALS AS AT COMMITTEE 10 January 2023

Appeals Lodged

LPA reference	22/03519/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs G & R C Price
Proposal	Application under Section 73a of the Town and Country Planning Act for the retrospective change of use of holiday let to an unrestricted residential dwelling
Location	5 Wood Terrace Myddlewood Myddle
Date of appeal	11.10.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	21/05610/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr And Mrs Sissens
Proposal	Conversion of Former Agricultural Building to Tourist Let including Parking and Amenity Area
Location	Horton House Farm Horton
Date of appeal	01.09.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/02131/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr & Mrs I Hebborn
Proposal	Erection of a two storey rear extension
Location	131 The Mount Shrewsbury
Date of appeal	08.08.2022
Appeal method	Householder
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

LPA reference	22/03263/ADV
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Alight Media Ltd
Proposal	Installation of one wall mounted digital display unit
Location	Chase Tyre Specialists Ltd Smithfield Road Shrewsbury
Date of appeal	02.10.2022
Appeal method	Commercial
Date site visit	
Date of appeal decision	
Costs awarded	
Appeal decision	

Appeals Determined

LPA reference	22/02066/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Ms S Brookes
Proposal	Erection of part two storey and single storey extensions and juliet balcony following some demolition (resubmission).
Location	1 Station Cottages Yockleton Shrewsbury
Date of appeal	04.11.2022
Appeal method	Written Representations
Date site visit	
Date of appeal decision	09.12.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/04560/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr Luke Vincent
Proposal	change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes including the erection of two dayrooms ancillary to that use'
Location	Land At Coton Whitchurch (5 Oak Stables)
Date of appeal	06.06.2022
Appeal method	Hearing
Date site visit	05.12.2022
Date of appeal decision	12.12.2022
Costs awarded	
Appeal decision	ALLOWED

LPA reference	22/02531/Ful
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr & Mrs Lane
Proposal	Erection of garage and store
Location	Ashleigh Horton Wem
Date of appeal	02.09.2022
Appeal method	Fast Track
Date site visit	07.11.2022
Date of appeal decision	08.12.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/05863/FUL
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Mr G.Lewis, Mrs N.Rutter, Mrs J.Page
Proposal	Redevelopment of site to include change of use of public house to retail (Class E a-g), conversion of part existing building to residential to create (2no apartments), erection of a new build residential building (7no apartments) following removal of existing outbuildings, and associated external works
Location	Old Post Office And Buildings To Rear 25 High Street Wem
Date of appeal	27.05.2022
Appeal method	Written Representations
Date site visit	18.10.2022
Date of appeal decision	22.11.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	21/05082/VAR
Appeal against	Refusal
Committee or Del. Decision	Delegated
Appellant	Richard Harper
Proposal	Removal of Condition No.3 and No.5 attached to planning permission 10/02100/FUL dated 04/11/2010 for the erection of a detached affordable dwelling and garage (resubmission)
Location	Red Brick House Ashfields Hinstock
Date of appeal	08.04.2022
Appeal method	Written Representations
Date site visit	24.08.2022
Date of appeal decision	19 .12.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	22/01784/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr and Mrs N Williams
Proposal	Formation of first floor accommodation above existing garage to include raising the roof height and insertion of rooflights. Erection of ground floor link extension
Location	Damson Cottage Withington Shrewsbury
Date of appeal	30.07.2022
Appeal method	Householder
Date site visit	07.12.2022
Date of appeal decision	15.12.2022
Costs awarded	
Appeal decision	DISMISSED

LPA reference	19/04925/FUL
Appeal against	Appeal Against Refusal
Committee or Del. Decision	Delegated Decision
Appellant	Mr Mark Kiely
Proposal	Change of use from A1 (Retail) to A4 (Micro Pub)
Location	16 Wyle Cop Shrewsbury
Date of appeal	26.05.2020
Appeal method	Written Representations
Date site visit	
Date of appeal decision	01.06.2022
Costs awarded	PARTIAL COSTS AWARDED 20.12.22 TO COUNCIL
Appeal decision	WITHDRAWN



Appeal Decision

Site visit made on 2 December 2022

by S Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 09 December 2022

Appeal Ref: APP/L3245/D/22/3305240

1 Station Cottages, Yockleton, Shrewsbury SY5 9PU

- 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 Ms Sian Brookes against the decision of Shropshire Council
 - The application Ref: 22/02066/FUL, dated 29 April 2022, was refused by notice dated 22 June 2022.
 - The development proposed is the demolition of an existing conservatory and lounge and a new ground floor layout and a new first floor extension with a pitched roof over.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the host building and area.

Reasons

3. The appeal property which forms one of a pair of two storey, former rail workers' cottages adjoining the railway has been extended by a single storey kitchen and bathroom and by a conservatory. It includes two bedrooms and a study room. The external walls of the original house (including also the adjoining original dwelling) are white render while the single storey extension has brick faced walls.
4. The simple design, limited size and the external materials of the original two storey dwelling all contribute to its character adding positively to its appearance. The single storey extension and conservatory have a less positive effect.
5. The proposed development is to add a two-storey side and wrap round rear extension to the original dwelling of approximately 8.75 metres in width and 8.5 metres deep, with a height to the ridge of some 7.75 metres and approximately 4.95 metres to the eaves. It would have a double pitched gable to its outer elevation, extending to just below the ridge of the original dwelling and with considerable areas of glazing at first floor level. In addition, the existing conservatory would be demolished and also a flat roofed rear extension would sit on the same site as the current kitchen, bathroom and WC.

6. The local planning authority conservation officer considers that, while the cottage has been much extended from its simple original plan form by single storey extensions, the core building *'may represent a non-designated asset'*.
7. Even if the core building were not considered to be a non-designated heritage asset, I find that the proposed development, especially the two-storey side and rear extension, would change fundamentally and adversely the character and appearance of the core building. Indeed, by its bulk and size, the proposed two storey extension would not be subservient to the core building, but rather, it would both dominate and overwhelm it, while the proposed extensive use of glazing at first floor level, would introduce an inappropriate element absent in the original property. While the proposed external materials would match those of the original dwelling, this would not overcome the identified harm to it.
8. Therefore, I conclude that the proposed development would not accord with policy CS6 of the Shropshire Core Strategy 2011 or with policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan 2015, which aim to protect, conserve and enhance the character of heritage assets and also require development to be appropriate in terms of scale and proportion. It would also conflict with paragraph 130 of the National Planning Policy Framework 2021 which emphasises the need for good design which is sympathetic to local character and history.

Other Matters

9. The proposed development would provide more suitable accommodation for the applicant's mother who currently lives next door at No 2 Station Cottages; she has mobility issues which mean that she is unable to access the upper floor of her dwelling.
10. The appellant proposes that she either rents or sells her property and moves into the extended appeal dwelling with a new staircase capable of accommodating a stair lift when the need arises, plus a downstairs shower/toilet room and utility room capable of accommodating a mobility scooter. The new kitchen would provide suitable accommodation for her disability. The appeal is accompanied by a letter from her GP setting out her medical history.
11. I have given consideration to the Human Rights Act, Protocol 1, Article 8 with respect for a person's private and family life and house. I have also taken into account the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. While the personal circumstances of the appellant's mother are put forward as justification for the development, I have no evidence before me which demonstrates that her needs could not be suitably met within her own home, with or without adaptation, or by the existing housing stock in the area. This reduces the weight that can be afforded to these personal circumstances in this case.
12. The appellant makes reference to the internal arrangements of the existing property and which may not conform to Building Regulations. However, I have no evidence before me that any such matters could not be resolved within the proposed development.

13. In this case, I find that my decision to dismiss the appeal is a necessary and proportionate approach to the legitimate aim of ensuring good design in the public interest. This outweighs the personal circumstances outlined above.

Conclusion

14. For the above reasons, I conclude that the appeal should be dismissed.

S. Hartley

INSPECTOR

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Appeal Decision

Hearing Held on 2 December 2022

Site visit made on 5 December 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/L3245/W/22/3300532 Five Oak Stables, Coton, Whitchurch SY13 3LQ

- 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 Luke Vincent against the decision of Shropshire Council.
 - The application Ref 21/04560/FUL, dated 20 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is material change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes including the erection of two dayrooms ancillary to that use.
-

Decision

1. The appeal is allowed and planning permission is granted for material change of use from equestrian to a mixed use of equestrian and the stationing of caravans for residential purposes including the erection of two dayrooms ancillary to that use at Five Oak Stables, Coton, Whitchurch SY13 3LQ in accordance with the terms of the application, Ref 21/04560/FUL, dated 20 September 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Planning permission has been granted on appeal for the change of use of the site to private equestrian use and for the erection of stabling, a hay shed and implement store¹. On my visit I saw horses being kept on the site as well as stables and a hay shed. Also, 2 static caravans were positioned on an area of gravel on the south side of the access. I am advised that one of these mobile homes is occupied by the appellant and his family and the other by the appellant's brother-in-law's family. Therefore, it would seem a mixed residential and equestrian use has already commenced.
3. The Council's reasons for refusal raises doubt over whether the residential element of the development would be for Gypsies or Travellers. However, the Council's objections refer to policy CS12 of the Shropshire Core Strategy 2011 (CS), which relates specifically to Gypsy and Traveller provision. Also, the appellant's agent confirmed at the hearing that the residential accommodation is for Gypsies and Travellers, even though this is not specifically mentioned in the description of development. The evidence demonstrates the current occupants comply with the definition of Gypsies and Travellers as set out in the

¹ Appeal reference number APP/N3210/A/04/1163357.

Planning Policy for Traveller Sites (PPTS). Therefore, I have assessed the development on the basis it provides residential accommodation for Gypsies and Travellers.

4. Reference is made in the submissions to an emerging local plan policy DP8 on Gypsy and Traveller sites. This policy is currently the subject of examination and final comments are awaited from the examining inspector. Also, it is subject to unresolved objections. As such, I am uncertain whether policy DP8 will be adopted in the form provided and so it is attributed limited weight.

Main Issue

5. The statement of common ground (SoCG) explains that the Council no longer objects to the development for ecology reasons. Also, the Council has withdrawn its third refusal reason following the submission of additional highway information. Consequently, the main issue is whether the development is in a suitable location having regard to CS policies, the PPTS, the National Planning Policy Framework (the Framework) and accessibility.

Reasons

6. CS policy CS12 supports the development of Gypsy and Traveller sites close to Market Towns and Community Clusters. Also, it seeks to ensure sites are reasonably accessible to services and facilities. The term "close to" as set out in policy CS12 is not defined in the CS. However, as suggested by the Council's officer at the hearing, it is appropriate to consider a site with reasonable accessibility to services as being close to a settlement. In these regards, CS policy CS12 is generally consistent with the PPTS. Amongst other things, this promotes the provision of private Gypsy and Traveller sites that allow access to schools and health services.
7. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD) recognises the extreme difficulties in obtaining sites for Gypsies and Travellers in towns and villages. Accordingly, it suggests new sites may need to be further outside settlements than would normally be the case for other developments. My assessment on the accessibility of the development has regard to this SPD advice.
8. Coton is a loose cluster of properties interspersed with fields, woods and hedgerow. It is not identified as a settlement in the CS and it contains no obvious facilities. However, Tilstock and Prees Heath lie to the north and north east of Coton and together they form part of a Community Cluster. Whitchurch lies further to the north and is a Market Town. To the south and south east, Prees and Prees Higher Heath are part of another Community Cluster.
9. The SoCG states that Tilstock is approximately 1.6km from the site. The village contains a primary school, pub, village hall, bowl and tennis club and play ground. Also, it has bus stops that serve buses which travel between Whitchurch and Shrewsbury. Prees Heath to the east of Tilstock has several eating establishments, a petrol filling station with shop as well as a separate convenience store. All of these services are within a 5 minute drive from the appeal site.
10. A broader range of facilities including secondary schools, supermarkets and health services are located at Whitchurch. These are further away from the site than Tilstock but they can still be reached by car within 10 to 20 minutes.

Prees is stated as being 3.3 km from the site and it contains a primary school, shops, church and GP surgery. Also, outside the village there is a railway station where trains can be boarded and that run between north and south Wales. These facilities are about a 10 minute car journey from the site.

11. The short drive times from the development to the nearest settlements suggests it is not unduly remote. The occupiers could fairly easily access a range of day to day services and facilities by car.
12. In line with the Framework, CS policy CS5 supports development that maintains and improves the sustainability of rural communities by bringing local economic and community benefits. The development's location between Tilstock, Prees Heath and Prees and the short drive times means it is likely occupants would support local services. Already, children that live on the site attend the school in Prees, so demonstrating such support. Moreover, the site provides a settled base where residents can reach local health services. In these respects, the development accords with the PPTS.
13. The appeal site and its surroundings have an obvious rural feel due to the presence of fields and woods. The Inspector for the aforementioned appeal regarding equestrian use of the site described the area as open countryside. However, there is no mention in this previous appeal decision to the nearby properties that are seen from the road and which also influence the character of the area. As such, it is reasonable for the appellant to suggest the site lies amongst development which defines Coton rather than in open countryside away from settlements. In any event, the PPTS only looks to strictly limit new Gypsy and Traveller sites in the open countryside, rather than to entirely prohibit such development.
14. Residents of the site are unlikely to walk to and from facilities as the routes are unlit with no roadside pavements. However, cycling trips would be feasible given the short separation distances and generally quiet nature of the local roads. Also, I was advised at the hearing that students living at the development would be able to use a bus service that runs along the adjacent road, to and from a secondary school in Whitchurch.
15. Tilstock bus stops and the Prees railway station are beyond a reasonable walking distance from the development but are short car journeys away. Prees Station has no car park but the road next to the platforms allows the easy and safe drop off and pick up of train passengers. The local bus services provide access to towns and villages in the county, while the train services provide wider links to settlements outside Shropshire. As such, there is potential for occupiers of the development to utilise sustainable modes of transport for trips elsewhere in the county and further afield.
16. Even so, it seems likely that the site's occupants would rely on car travel for many trips. This would not be unusual given that the occupiers as Gypsies or Travellers would have a nomadic habit of life. Also, I am mindful that the authorised equestrian use of the site would generate car journeys, especially as the planning permission only precludes commercial use of the buildings and not the associated land. The introduction of a residential use would remove the need for some journeys as the residents do not travel to care for horses on the site. The appellant accepts the development would result in more car trips. However, given the authorised use of the site and the limited scale of the development, it is likely that any increase would be fairly minor.

17. It is noteworthy that CS policy CS12 does not explicitly require Gypsy and Traveller sites to be accessible by pedestrians or public transport. The policy allows new sites outside of settlements and so it is to be expected that accessibility by non-car modes of transport would be less when compared to developments in towns and villages. Also, whilst promoting walking, cycling and public transport, the Framework recognises the opportunity to use sustainable modes of transport varies between urban and rural areas. With these factors in mind, I consider the development provides an appropriate level of accessibility by means other than the car.
18. The Council refer to an appeal decision on a caravan site for Gypsies and Travellers at Beamish Lane near Albrighton². The Inspector dismissed the appeal as they found the site would not be in a suitable location, partly as it would not reduce the need for private car travel to access facilities. However, it is clear from the Inspector's comments that the presence of a dual carriageway between the site and the nearest settlement was an influential factor in the assessment. In these regards, the Beamish Lane scheme is different to the current appeal development where there is no significant physical barrier between the site and the nearest settlements. As such, I am not bound to arrive at the same conclusion. In any event, the Beamish Lane decision refers to another Gypsy and Traveller site development at the Hawthorns, which was permitted although it was found likely that the occupiers would have a high dependency on private car travel. Such comments show that the acceptability of a proposal in terms of its location is reliant on the particular circumstances of the case.
19. In summary, I find the development is close to settlements and provides reasonable access to a range of facilities. It is in a rural area and so most trips to and from the site would be by car. However, services needed on a day to day basis, including schools and health facilities, are at local settlements within short driving distances. Therefore, it is reasonable to expect occupiers would support the vitality of rural communities. Also, the site is a short drive from bus and railway links to towns further afield. Bearing in mind the rural location and the difficulty in finding Gypsy and Traveller sites in villages and towns, the site provides reasonable access to services and facilities. For these reasons, I conclude the development is in a suitable location having regard to CS policies CS5 and CS12, the PPTS, the Framework and accessibility.

Other Matters

20. The main parties have submitted evidence in respect of the need for Gypsy and Traveller sites. In short, the Council claims that a Gypsy and Traveller Accommodation Assessment updated in 2019 appropriately identifies the level of need for pitches. It is claimed that this need will be addressed through turnover on publicly owned sites in the county. The appellant is critical of the 2019 assessment for various reasons and contends that the need is higher. Also, it is suggested that turnover on sites would not address the anticipated demand for pitches.
21. There is no CS policy that requires a need to be demonstrated for new Gypsy and Traveller sites. As such, and in light of my conclusion on the main issue, my views on the level of need and whether this is likely to be met have no bearing on my overall assessment. Accordingly, I do not need to consider the

² Appeal reference number APP/L3245/W/20/3253805

- matter further. However, regardless of the need and supply situation, there is no dispute that the appeal development is supported by the PPTS aim to provide more private Gypsy and Traveller sites.
22. Moreover, the Council at the hearing were unable to identify a suitable alternative plot for the current occupants of the site. None of the authorised sites identified as being vacant have land that would allow the keeping of horses as required by the appellant and his relatives. Also, the Council could not confirm that the identified private vacant sites were indeed available. While this is not a determinative factor in my assessment, the lack of alternative accommodation weighs in favour of the development.
23. The appellant's ecological appraisal recognises that some of the ponds near to the site are suitable for great crested newts (GCNs), a protected species. However, the appraisal says the site itself has limited potential for GCNs due to the poor habitat. The only suitable habitat is the base of the hedgerow on the roadside boundary and so it is suggested that precautionary working methods be adopted during construction to avoid harm. The fence and gravel surfacing along the hedgerow has already been provided to the south of the access, although that is not the case for the northern part of the site. It would be reasonable to impose a planning condition to ensure works close to the hedgerow that have not yet been carried out comply with working methods to be approved. Therefore, the development would not harm GCNs.
24. The ecological appraisal also suggests a further badger survey be carried out on the site before construction works to confirm that there are still no setts that could be disturbed. Also, external lighting should be sensitively designed to ensure dark commuting and foraging corridors for bats are maintained. Again, such measures could be secured through the imposition of planning conditions and so the development would not lead to harm in these regards.
25. The appellant has expressed a willingness to widen the gateway, slightly amend the access and set the entrance gates back to ensure vehicles can pull onto the site without unacceptably preventing traffic flows. These measures could be secured by planning condition. The visibility from the access in both directions onto the road is sufficient and it can be secured through the imposition of a visibility splay condition. Therefore, the development would not prejudice highway safety.
26. The Council raises no objections in terms of the development's effect on the character and appearance of the area, drainage, flooding or on the living conditions of any residence. I find no reason to disagree with the Council in these regards. As such, there are no matters that justify refusing planning permission.

Conditions

27. I have had regard to the list of planning conditions as suggested by the Council. Where appropriate, I have amended the wording for precision reasons and to reflect the fact that the appeal development has commenced.
28. In the interests of clarity and to ensure the development is carried out as shown, I impose a condition that lists the approved drawings. The suggested note regarding the stabling, hay shed and implement store is not needed as no physical changes are proposed in respect of these buildings.

29. In the interests of highway safety, I attach conditions regarding visibility splays and changes to the access apron. As the development has commenced, these set a deadline of 3 months from the date of this decision for implementation.
30. A landscape condition is imposed to ensure a satisfactory appearance and to maintain and enhance the biodiversity value of the site. I have amended the wording to include reference to bat and bird boxes. Also, I have included a condition to ensure the external appearance of the dayrooms are appropriate. A similar condition regarding the existing hay store and stables is unnecessary.
31. Conditions are attached to protect GCNs and badgers. These have been reworded to reflect that hard surfacing and fencing have already been provided on the southern part of the site and to more closely follow the recommendations set out in the appellant's ecological appraisal. A condition regarding external lighting is imposed to minimise disturbance to bats.
32. A condition limits the number of pitches and caravans so as to ensure the development provides appropriate living conditions and has an acceptable effect on the character and appearance of the area. There is no need for the condition to prevent static caravans on the site. A condition to prevent the removal of the roadside hedge is needed to protect the area's visual qualities.
33. It is necessary and fundamental to the acceptability of the development for a condition to be imposed that ensures the residential element is occupied by Gypsies and Travellers. The suggested condition refers to the definition set out in Annex A of the PPTS. However, the Court of Appeal in *Lisa Smith v SSLUHC [2022] EWCA Civ 1391* held that the exclusion of Gypsy and Travellers who have ceased to travel permanently is discriminatory and has no legitimate aim. Imposing the suggested condition would be liable to result in unlawful discrimination. Therefore, I impose a condition that restricts occupation to Gypsies and Travellers, defined so as to not exclude those who have ceased travelling permanently.
34. In the interests of highway safety and to safeguard general amenities of the area, I attach a condition that limits the use of the existing stables, hay shed and implement store. There is no requirement to impose conditions that restrict other commercial activities or the storage of scrap or waste as such uses would require planning permission in any event. Also, I have not attached a condition regarding drainage as a system is already in place that accords with the details as shown on the approved plans.
35. My decision to allow the appeal is on the basis that the scheme complies with development plan policies. Therefore, conditions that limit the occupation to the current residents or for a temporary period are not necessary to make the development acceptable. As such, these conditions are not imposed.

Conclusion

36. The development would be in a suitable location and there is no other reason why it is unacceptable. Therefore, the scheme accords with development plan policies when read as a whole and so I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Green, acting for

Luke Vincent

Appellant

Nathan Gorman

FOR THE LOCAL PLANNING AUTHORITY:

Jane Preece

Senior Planning Officer

Anna Jones

Senior Policy Officer

John Taylor

Gypsy and Traveller Liaison Officer

Edward West

Local Plan Manager

Michael Bullock

Arc⁴

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

1. Statement of Common Ground.
2. Witness Statement of Luke Vincent

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 20_1129_001 KL, 20_1129_004 rev B, 20_1129_005, 20_1129_006 KL.
- 2) After 3 calendar months from the date of this decision, no vegetation or other feature in excess of 0.3 metres in height above the level of the adjoining carriageway shall be allowed to grow or be positioned within visibility splays in both directions at the site access. The visibility splays shall be from a point measured 2.4 metres back from the edge of the carriageway along the centreline of the site access to points on the nearside kerb line at the extremities of the site's road frontage in both directions.
- 3) Within 3 calendar months of the date of this decision, the access apron shall be constructed to provide 7.5 metre junction radii with an access width of 5.5 metres and gates set back a minimum distance of 10 metres from the carriage edge. The access apron shall be constructed in all other respects in accordance with Shropshire Council's access crossing specification.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for residential purposes shall be removed within 28 days of the date of failure to meet any of the requirements set out in i) to iv) below:

- i) Within 3 months of the date of this decision a scheme for the landscaping of the site shall be submitted to the local planning authority for approval in writing. The scheme shall include a) planting plans, creation of wildlife habitats and features and ecological enhancements including details of at least 2 bat boxes and 2 artificial bird nests, b) written specification for establishment of planting and habitat creation, c) schedules of plants/seed mixes noting species, planting sizes and proposed numbers/densities where appropriate, and d) implementation timetables.
- ii) If within 11 months of the date of this decision the local planning authority refuse to approve the landscaping scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted landscaping scheme shall have been approved by the Secretary of State.
- iv) The approved landscaping scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) No construction works on the dayrooms hereby permitted shall commence until full details of external materials of the dayroom buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development hereby permitted shall be carried out on the part of the site to the north of the access as shown on the approved plans until a precautionary working methods statement that seeks to protect Great Crested Newts has been submitted to and approved in writing by the local planning authority. Works that form part of the development hereby permitted shall be carried out in accordance with the approved statement. Also, site clearance works associated with the development shall be supervised by an ecological clerk of works. In the event of a Great Crested Newt being found during works then all works must immediately stop and shall not re-start until any requisite notice from Natural England has been obtained. Once completed, the ecological clerk of works shall provide a report to the local planning authority that demonstrates the implementation of measures as set out in the approved statement
- 7) No development hereby permitted shall be carried out on the part of the appeal site to the north of the access as shown on the approved plans until a badger survey report has been submitted to and approved in writing by the local planning authority. The report shall describe the findings of a site survey and any evidence of badger activity. In the event that the survey identifies that badger setts would be affected, the report shall set out the actions to be taken. Works that form part of the development hereby permitted shall be carried out in accordance with the approved report.

- 8) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the local planning authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. Only external lighting in accordance with approved details shall be provided on the site.
- 9) There shall be no more than 2 pitches on the site and on each pitch hereby approved no more than 2 caravans shall be stationed at any time, of which only 1 caravan shall be a mobile home/static caravan. The mobile homes/static caravans shall be positioned in accordance with the details as shown on the approved plans. Any touring caravan shall only be positioned on the area of proposed loose bound permeable hardstanding as shown on the approved plans and nowhere else on the site.
- 10) No part of the hedges fronting onto the B5476 shall be removed without the prior approval in writing of the local planning authority.
- 11) The residential element of the development hereby approved shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 12) The existing stables, hay shed and implement store as shown and annotated on the approved drawings shall not be used for commercial stabling of horses or associated commercial purposes.

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Appeal Decision

Site visit made on 7 November 2022

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8TH | December 2022

Appeal Ref: APP/L3245/D/22/3306271

Ashleigh, Horton, Wem, Shrewsbury SY4 5ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Lane against the decision of Shropshire Council.
 - The application Ref 22/02531/FUL, dated 27 May 2022, was refused by notice dated 18 July 2022.
 - The development proposed is erection of garage and store.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the character and appearance of the area.

Reasons

3. The appeal site is a detached property that has been subject to extensions and alterations within a large plot in the hamlet of Horton, Wem. For planning purposes the site is within open countryside.
4. Irrespective of the size of the plot the excessive scale and height of the proposal means that the development would not appear ancillary or subservient to the main dwelling. Instead, it would be a prominent, incongruous addition.
5. The development would be set back from the road, use materials found in the area and be partially screened by vegetation. However, this would be insufficient to mitigate the harm. Based on my observations on site I disagree with the appellant and am of the view that their submitted street scene view would be reflective of what passers by would observe.
6. I acknowledge the appellant's reasons for the proposed height of the building to enable roof space storage but this is outweighed by the harm it would cause.
7. The development would harm the character and appearance of the area and therefore would conflict with the part of Policy CS6 of the Shropshire Adopted Core Strategy which requires new development to be of high quality, be appropriate in scale and design, take into account local context and character and respect and enhance local distinctiveness. It would also conflict with Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan which amongst other things requires new development to

respond appropriately to the form and layout of existing development including building heights and scale.

Conclusion

8. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR



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: 22 November 2022

Appeal Ref: APP/L3245/W/22/3299900

The Old Post Office and Buildings to Rear, 25 High Street, Wem SY4 5DG

- 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 G Lewis, Mrs N Rutter, Mrs J Page against the decision of Shropshire Council.
 - The application Ref 21/05863/FUL, dated 14 December 2021, was refused by notice dated 24 February 2022.
 - The development proposed is the redevelopment of site to include change of use of public house to retail (Class E a-g), conversion of part existing building to residential, erection of a new build residential building following removal of existing outbuilding, and associated external works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would provide a suitable standard of living conditions for future occupiers and the effect on the living conditions of neighbouring occupiers; and,
 - The effect of the proposal on the character and appearance of the surrounding area, including the historic environment.

Reasons

Living Conditions

3. The proposal would include the provision of a number of flats providing one or two bedrooms. The proposal would also retain the existing maisonette on the upper floors of the public house. Although primarily comprising single bed flats, as there are multi-bedroom units too, I find it likely that future occupiers could include families with children. Therefore, the typical needs of future occupiers would likely include the need for outside space to sit out, socialise, relax and play.
4. In the rear corner of the appeal site an area has been set aside for use as a communal garden. It is a small, paved space with a planting bed along one side. Adjacent to this, and connected to one of the single bedroom conversions, is a private garden area, similarly described as being paved. I am mindful that flats are usually served by more limited outside spaces, especially private gardens. Nevertheless, the scale of the proposed communal garden space

would not be sufficient to meet the likely needs of future occupiers, especially those with children. Although the private garden would reduce the pressure on the communal space, this would be by only a very modest amount and not sufficient to overcome the under provision.

5. Moreover, the private garden, although sufficient in size, is a relatively tight space that would be, as a result of the tall screening fence and block of flats, an overly enclosed space that would be of a poor quality and not appealing for future occupiers to make use of.
6. A number of windows serving the two converted flats face towards the proposed new building. Given the close proximity of the two buildings and that the windows serve habitable rooms, including living rooms and a bedroom, the outlook afforded to future occupiers would be poor. I find it likely that the new building, by way of its height, would also result in a level of overshadowing that would limit natural light to these rooms. Overall, I find that the living conditions of future occupiers within these two units would be poor as a result.
7. The proposal would result in a number of windows serving habitable rooms facing each other at a relatively close distance. This would allow the overlooking of habitable rooms within the ground floor of both the new block of flats and the converted building. I similarly find that the close proximity of the first-floor, front-facing windows serving the new block of flats would result in overlooking to the upper floor windows on the opposite side of Leek Street. From the evidence before me and my observations on site, I note that they serve habitable rooms, potentially bedrooms. As a result, future occupiers on site and neighbouring occupiers would experience a lack of privacy to the detriment of their living conditions.
8. Although the proposal would be close to the existing dwellings on Leek Street, I do not find that they would be so close, mindful of their massing, to result in any unacceptable harm to the outlook from, or light to, these properties. However, this lack of harm does not outweigh the harm identified above. Similarly, although the proposed flats would meet the floorspaces set out within the Technical Housing Standards – Nationally Described Space Standards, this would also not outweigh the above harm.
9. The proposal would not provide a high quality of living conditions for future occupiers and would harm the living conditions of neighbouring occupiers as a result of the poor provision of outside amenity space, privacy and natural light. The proposal would therefore conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (the ACS) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan (the SAMDev), these require amongst other matters that developments contribute to the wellbeing of residents, including through access to open spaces, and safeguard residential amenity more widely. The development would also conflict with the National Planning Policy Framework (the Framework), in particular Paragraph 130 which seeks proposals to promote wellbeing with a high standard of amenity for existing and future users. It would also conflict with the guidance set out within the Type and Affordability of Housing Supplementary Planning Document (the SPD) with regard to amenity spaces, overshadowing and the loss of privacy.

Character and Appearance

10. The appeal site is within the Wem Conservation Area which is focused around the central streets of Wem. It is primarily a commercial area that transitions into residential buildings towards the edges of the area and along side-roads. The conservation area is primarily characterised by terraces of red brick buildings interspersed with rendered buildings. A significant number of the commercial buildings have stone or painted detailing on the frontages and there are examples of burgage plots to the rear. The dwellings are largely simpler in appearance, but still demonstrate some detailing, again primarily in stone. The significance of this area stems from the age of the buildings, their architectural style and the extent to which the area's historic form and use is still legible.
11. Near the appeal site is a listed building, numbers 19-21, which sits at the junction between High Street and Leek Street. The building is built in red brick and is double fronted with two large display windows on the ground floor. The rear of the property is visible from Leek Street where there is a single-storey outrigger. The listed building does not appear to be served by, or connected, a former burgage plot. The significance of this building stems from its age, the extent to which it is still intact, and the detailing of the frontage on High Street.
12. The appeal site itself is an irregularly shaped plot which fronts on to the High Street and links to the rear with Leek Street. Fronting on to the High Street is The Old Post Office a public house. The ground floor is finished in ashlar with the upper two floors being red brick with two bay windows. The bay windows are served by two front-facing gables that have ornate detailing. In contrast the rear of the site is less regular with a mixture of outbuildings and extensions projecting away from the public house. A row of garages and a significant brick wall front on to Leek Street.
13. Leek Street is a smaller road which runs between the frontages on the High Street. To one side are a row of small and simple buildings that include a café, shop and dwellings. The demolition of the garages would therefore improve the appearance of this street, their replacement with a block of flats, which would be read as a terrace of houses, would also be more in keeping with the character of this street. This is especially so as the building fronting on to Leek Street is of a fairly traditional style that would be sympathetic to the character and appearance of the existing street and wider conservation area.
14. I am mindful that the proposed building along Leek Street would be taller than the existing buildings. However, with the exception of the three-storey section which would be opposite a single-storey portion of Leek Street, the difference in height is not significant. Moreover, the part of the proposed building closest to the High Street would be of a similar height to the buildings on this road and would drop in height to meet the building at the other end of the appeal site. Therefore, although taller than the buildings opposite, the proposed row along Leek Street would not be so tall as to unacceptably harm the character and appearance of the street scene. As the proposal would provide a transition between the rear of the building on High Street and the existing building on Leek Street, it would reflect the existing pattern of development opposite and protect the legibility of the street as a secondary road.
15. The street scene, and its contribution towards the character and appearance of the conservation area, would be further protected by the fairly simple and

traditional appearance of the façade facing Leek Street, as noted above, as well as the retained narrowness of the carriageway. Although I am mindful that the proposed works to the rear of row of flats would be less traditional, given its discrete siting away from public views and the street scene, I find it would have a neutral impact.

16. As noted above the appeal site is within the setting of a listed building at the junction between High Street and Leek Street. As there is no legible burgage plot to the rear of the listed building, and given the lack of harm identified above, I find that the proposal would not adversely affect the historic importance and interest of the listed building.
17. In light of the above, the proposal would not result in any harm to the character and appearance of the surrounding area and historic environment, including the nearby listed building. The proposal would therefore comply with ACS Policies CS6 and CS17 and SAMDev Policies MD2 and MD13. These policies collectively, and amongst other issues, require that developments are of a high-quality design that they protect, conserve, or enhance the built and historic environment. The proposal would also comply with the Framework, and in particular Paragraph 130 and Chapter 16 which have similar aims to the above policies. It would also comply with the overarching design guidance set out within the SPD.

Other Matters

18. I note the appellant's concerns regarding the existing provision of internal and external space serving the existing public house, as well as its general viability. However, it has not been demonstrated that the proposal before me is necessary to overcome these issues. Given this it does not outweigh the harm identified. Similarly, I cannot be certain from the evidence before me that the existing garages cause any unacceptable risk to highway safety and so this matter has not been determinative.
19. The proposed flats may be smaller and therefore have the potential to be less expensive than the larger properties within Wem. However, I cannot be certain that these properties would be affordable, and it has not been suggested that the flats would be controlled as affordable housing.

Planning Balance and Conclusion

20. The Government's objective is to significantly boost the supply of housing and the proposal would provide 9 new dwellings in a location with adequate access to services. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some modest social and economic benefits resulting from future occupiers and the retail use. Given the scale of the proposal these matters would at most attract moderate weight.
21. Whilst the proposal may not result in any harm to the character and appearance of the surrounding area, including the historic environment, this lack of harm is not a benefit in itself. I therefore attach this matter neutral weight in my consideration.
22. Conversely, the proposal would result provide a poor standard of living conditions for future occupiers and would harm the living conditions of neighbouring occupiers. This would conflict with the development plan taken as

a whole and attracts significant weight, outweighing the benefits associated with the proposed development.

23. 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

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Appeal Decision

Site visit made on 24 August 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/L3245/W/22/3296567

Red Brick House, Ashfields Junction Corner Farm To Goldstone Road Junction, Ashfields, Hinstock TF9 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Richard Harper against the decision of Shropshire Council.
 - The application Ref 21/05082/VAR, dated 22 October 2021, was refused on 22 March 2022.
 - The application sought planning permission for removal of conditions No. 3 and No. 5 attached to planning permission 10/02100/FUL, dated 4 November 2010, for the erection of a detached affordable dwelling and garage.
 - The conditions in dispute are Nos 3 and 5 which state that:
 - 3) *"Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 or any Order modifying, revoking or re-enacting that Order, the dwelling hereby permitted, shall not exceed 100sqm gross internal floor area, including any future extensions."*
 - 5) *"Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 or any Order modifying, revoking or re-enacting that Order, no garage, carport, extension or other building shall be erected within the curtilage of the dwelling hereby permitted without the prior consent in writing of the Local Planning Authority."*
 - The reasons given for these conditions are:
 - 3) *"To ensure that the dwelling is of a size appropriate to the local affordable housing market."*
 - 5) *"To enable the Local Planning Authority to retain control of the siting and external appearance of any buildings to be erected in the interest of visual amenity and maintain affordability of the dwelling."*
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Permission was granted in 2010 for the erection of a detached affordable dwelling and garage (10/02100/FUL), which has been implemented. The removal of the disputed conditions would enable the dwelling to be extended and the creation of additional internal habitable space.

Main Issue

3. The main issue is whether the dwelling would remain affordable in perpetuity, having regard to permitted development rights.

Reasons

4. The proposal relates to a rural dwelling that was constructed under the rural exceptions policy of Shropshire Council. Red Brick House is a detached two-storey, three-bedroomed dwelling located in an area of open countryside, accessed off Ashfields.
5. The appellant's work and family requirements mean that they require additional space, as the size of the property no longer meets the family's needs. As a result, the proposal seeks to remove conditions 3 and 5 which would reinstate the permitted development rights and allow the appellant to extend the property under permitted development. This would enable the appellant to continue to live in a location to which they have a strong local connection and in which they work and are raising their family.
6. Policy CS11 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (Core Strategy) seeks to meet the diverse housing needs of Shropshire residents now and in the future, and a balanced approach will be taken with regard to existing and new housing, including type, size, tenure and affordability. Amongst other things, it allows for exception schemes for local needs affordable housing on suitable sites, subject to their suitable scale, design tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity.
7. Policy MD7a of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) states that in order to protect the long-term affordability of single plot exceptions dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions. The appellant makes reference to Policy CS6 of the Core Strategy, which is not referred to in the Council's decision notice. This policy refers to all development being flexible and adaptable, and in relation to housing, adapting to changing lifestyle needs. Whilst the policies do not require retention as built, Policy MD7a does enable specific control of any future development relating to affordable housing such as this.
8. Condition 3 of the permission restricts the dwelling, including future extensions, to no more than 100 square metres gross internal floor area. This is in accordance with the Council's 2012 Type and Affordability of Housing Supplementary Planning Document (SPD), which states that in order to ensure that dwellings approved are, and will remain, affordable, a dwelling size restriction will be imposed.
9. Condition 5 of the permission removes permitted development rights. This is also in accordance with the Council's SPD, which states that permitted development rights of affordable dwellings will normally be removed in order to retain control over future extensions.
10. Paragraph 5.63 of the SPD recognises that there are genuine difficulties faced by growing households already occupying affordable housing, due to its chronic shortage in Shropshire. The SPD states that it may be acceptable to enlarge an existing affordable house in order to accommodate the needs of the existing household, but the potential sale value will remain restricted as if it were still a maximum of 100 square metres and therefore there will be no financial profit from an enlargement.

11. The Council states that 'exceptional circumstances' have not been shown by the appellant; however, this test does not appear to be specified in any development plan policy that is before me. Notwithstanding this, the appellant has not been specific about the development form that they require and, in my judgement, has not submitted sufficient evidence to robustly justify the specific need and associated nature of any additional space required.
12. Although paragraph 5.63 of the SPD makes reference to enlarging an existing affordable house in order to accommodate the needs of the existing household, this would be related to planning applications where the nature of the proposed extension is known rather than relying purely on permitted development rights. If left to permitted development rights, the size of the dwelling may increase to a scale that is no longer suitable for affordable housing. In any event, were the conditions concerned to be removed, this would need to be subject to controls over its ongoing affordability and there is no such mechanism before me to provide that control.
13. The Council does not consider the existing dwelling to be overcrowded and states that it meets the national described space standards (NDSS) for a family of 4. Whilst the NDSS provides a minimum recommendation for space standards and not a maximum, this does not on its own justify the removal of permitted development rights at the appeal site.
14. Were the proposal to remove the conditions concerned to be allowed, a variation on the original S106 legal agreement would be required to secure the status of the property as an affordable dwelling in perpetuity. The appellant has referred to a revised Section 106 legal agreement. However, I do not have a revised S106 legal agreement before me. In the absence of such an agreement I am unable to conclude whether the status of the property as an affordable dwelling in perpetuity can be secured. Therefore, in the absence of a completed planning obligation the conditions remain necessary to limit the floorspace of the dwelling and thereby also limit its value to the affordable limits applied by the Council.
15. My attention has been drawn to a previous appeal decision (APP/L3245/D/14/2229755), which was dismissed for reasons of affordability. This appeal decision was for a two-storey rear extension and link between garage and house at Red Brick House. I note that the Inspector considered Red Brick House to be a relatively large affordable house. Nevertheless, this previous appeal is not directly comparable to the current appeal, which is for the removal of conditions that restrict permitted development rights. Its relevance is therefore limited for the purposes of my determination of this appeal.
16. For the above reasons, I conclude on this main issue that the disputed conditions are reasonable and necessary to ensure that the dwelling remains affordable in perpetuity. Consequently, the proposal fails to accord with Policies CS11 and CS5 of the Core Strategy. In addition, there would be conflict with Policy MD7a of the SAMDev and the SPD. Collectively, these policies, amongst other things, seek to ensure the provision of affordable housing in rural areas.

Other Matters

17. The appellant has referred me to other appeal decisions. However, appeal decision APP/L3245/D/19/3224217 refers to a specific form of development;

appeal decision APP/L3245/W/19/3222930 relates to particular circumstances submitted to the Inspector to support their requirement, including details of a relevant planning obligation. Appeal decision APP/L3245/W/20/3253848 submitted a deed of variation to the original S106, signed and dated. Therefore, these other appeal decisions are not directly comparable to the appeal before me. In any event, I do not know the full details of these cases. I have determined this appeal on its own merits.

Conclusion

18. For the reasons given above, I conclude that the appeal is dismissed.

Helen Smith

INSPECTOR



Appeal Decision

Site visit made on 7 December 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2022

Appeal Ref: APP/L3245/D/22/3304190

Damson Cottage, Withington, Shrewsbury SY4 4QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs N Williams against the decision of Shropshire Council.
 - The application Ref 22/01784/FUL, dated 8 April 2022, was refused by notice dated 6 June 2022.
 - The development proposed is formation of first floor accommodation above garage to include raising the roof height, insertion of rooflights. Construction of ground floor link.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the building and surrounding area.

Reasons

3. The appeal site occupies a prominent location on the corner of Sunnyfields and the unnamed lane (the 'lane'). It is the last property of the village of Withington on this side of the lane. Beyond the site, to the east, lie fields and open countryside. There are a mix of properties of different designs, sizes and ages in the village, and despite the more modern properties in the nearby Sunnyfields, the village retains a traditional character and appearance.
4. The host property comprises a traditional two storey brick and tile cottage with a single storey attached outbuilding that has been converted to living accommodation (the 'converted outbuilding') and which now contains the front door. Next to this is a single storey, detached, pitched roof garage, the subject of this appeal. The property positively contributes to the character and appearance of the village.
5. Due to its orientation, the property is aligned parallel to the lane, such that the cottage, the converted outbuilding and garage approximately follow the same building line, and are exposed to public view. The eaves and roof ridge of the garage are much the same height as the converted outbuilding, both of which are substantially lower than the main cottage. Due to its lower height and narrow gable end that faces the lane, the garage is a diminutive building that is clearly subservient to the cottage.
6. The proposed development would involve adding a first floor to the garage to provide a bathroom and 2 bedrooms. The walls would be raised, and the

- resulting raised eaves would be substantially higher than the eaves of the adjacent converted outbuilding. The roof ridge would also be raised by some 1.2 metres. Consequently, the altered garage would stand significantly taller than the adjacent converted outbuilding. Its raised roof would be only about 0.4 metres lower than the ridge on the main cottage. This would affect the visual relationship between the buildings.
7. The newly created front gable would be infilled with full height glazing across the entire top floor above the garage doors, not just from the eaves. There would be a Juliette-style glazed balcony across the glazed gable. Doors and windows would be dark aluminium. A new double garage door would be inserted to replace the two separate single doors and central brick pillar. These design features, together with the overall increase in height, would disrupt the proportions of the garage building, making it appear wider and bigger than the gable end of the cottage. Consequently, the resulting increased height, size, bulk of the proposal would visually compete with the main cottage and converted outbuilding to appear the dominant element, and no longer subservient. Whilst the garage is set back a good distance from the lane, it is still on the same building line so there would be no further set-back to offset the prominence.
 8. The proposal has embraced a contemporary design. However, the proposed full height glazing and double garage door would see the loss of architectural features such as the rounded brick arches over the two single garage doors, and the top-loading door in the gable with its brick arches. The loss of these features would in turn see the loss of the traditional character and appearance of the building. As the proposal would harm the garage building and the host property, which are an integral part of the village, it follows that the contribution that the garage building and host property would make to the area would be diminished as a result of the proposal.
 9. It is not clear what material 'non-combustible' cladding is, although I note the Council refer to it as uPVC, which would not be a traditional material. I saw timber cladding has been used to totally clad a number of outbuildings in the village, but cladding is not a prevailing design feature. The proposed partial use of a 'cladding' on the raised garage walls above the old eaves line would serve to accentuate the enlargement of the building and change in proportions, especially on the long east elevation that would be viewed from the countryside and lane to the east.
 10. Due to the property's prominent corner location, the changes to the garage and the resulting change to the overall elevation of the property would be clearly seen as one approached it from the village. Approaching the property from the east along the lane, the changes and height increase would be noticeable over the hedge and from the field gate, although the full elevation of the property would not come into view until almost level with the garage due to the curve in the road.
 11. The proposal would also see the garage linked to the house by a narrow single-storey link with a glazed roof. This would run along the rear of the converted outbuilding structure. However, only a full height glazed door would be visible from the driveway and lane and this would be set a substantial distance back from the front of the garage. As such it would be a low-key addition that would have minimal effect on the character and appearance of the property.

12. Drawing all the above points together, the proposed upward extension of the garage, by reason of its size, bulk, design and materials coupled with the loss of a number of architectural features, would be a visually discordant addition to the property that would not be in keeping with the prevailing local vernacular and would not be sufficiently subservient. Consequently, the proposal would materially alter the building and cause unacceptable harm to its character and appearance, to that of the host property and to the surrounding area.
13. According to the Council the appeal property is a non-designated heritage asset (NDHA). There is limited evidence before me regarding this, and I have not been presented with any 'local list' or list of NHDAs to confirm any special attributes or its designation. As the appellant suggests, the building's age and local vernacular may be the reason for the Council's assertion. Even if the building was a NDHA, Paragraph 203 of the National Planning Policy Framework requires that the effect of the proposal on the significance of the NDHA is taken into account as part of a balanced judgement. As described above, the proposed development would see the loss of architectural features and harm the character and appearance of the property, and hence its significance. I am sympathetic to the appellant's desire to improve the living accommodation for his growing family. However, this is not a public benefit nor is it sufficient to outweigh allowing harmful development.
14. Accordingly, the proposal would be contrary to Shropshire Core Strategy Policy CS6 and SAMDev¹ Policy MD2. Collectively these policies seek, amongst other things, to ensure development responds positively to the visual appearance of a place, is of an appropriate scale and design taking into account local character and context and reflects local architectural design and details.

Conclusion

15. The proposed development would not accord with the development plan as a whole and there are no material considerations which outweigh this finding. Accordingly, for the reasons given above I conclude that the appeal should be dismissed.

K Stephens
INSPECTOR

¹ Site Allocations and Management of Development Plan

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Your Ref: 19/04925/FUL
Our Ref: APP/L3245/W/20/3253136

Celia Kilgannon
Shropshire Council
Central Team
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

01 June 2022

Dear Ms Kilgannon,

Town and Country Planning Act 1990
Appeal by Micro Pubs
Site Address: Bottega, 16 Wyle Cop, SHREWSBURY, SY1 1XB

I enclose for your information a copy of a letter received withdrawing the above appeal(s).

I confirm no further action will be taken.

Yours sincerely,

Cassandra Low
Cassandra Low

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

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Shannon Franklin
Technical Specialist Planning Officer
Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Your Ref:
Our Ref: APP/L3245/W/20/3253136
Date: 20 December 2022

Dear Madam

**LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
TOWN AND COUNTRY PLANNING ACT 1990 - SECTIONS 78 & 322
LAND AT BOTTEGA, 16 WYLE COP, SHREWSBURY, SY1 1XB: APPEAL BY
MICRO PUBS: APPLICATION FOR COSTS**

1. I am directed by the Secretary of State for the Department for Levelling Up, Housing and Communities to refer to the Planning Inspectorate's correspondence of 1st June 2022 confirming the withdrawal of the above appeal. The appeal was against the decision of Shropshire Council to refuse planning permission for the change of use of the land from A1 (Retail) to A4 (Micro Pub).

2. This letter deals with the Council's application for an award of costs against the appellants as made in correspondence of 31st May 2022 and 19th July 2022. William Anderson-Stevens of Worcester City Planning Consultancy, responded on behalf of the appellants in correspondence of 11th July 2022, however as per the email of 1st June 2022, the agent stated that they no longer represented the appellants. Therefore, any comments from them in relation to the application for costs cannot be taken into account. Mr Mark Kiely of Micro Pubs responded in correspondence of 23 November 2022.

Summary of decision

3. The formal decision and costs order are set out in paragraphs 11 and 12 below. The application succeeds to the extent that a partial award of costs is being made.

Basis for dealing with the costs application

4. In planning and enforcement appeals, the parties are normally expected to meet their own expenses, irrespective of the outcome. Costs are awarded only on the grounds of "unreasonable" behaviour, resulting in unnecessary or wasted expense. The applications for costs have been considered by reference to the Planning Practice

Guidance on awards of costs (as published on the Gov.uk website under "Appeals"), the appeal papers, the correspondence on costs and all the relevant circumstances.

5. All the available evidence has been carefully considered. The decisive issue is whether or not the appellants acted unreasonably by withdrawing the appeal without any material change in circumstances having occurred since it was submitted, and by not withdrawing it promptly, with the result that the Council incurred wasted or unnecessary expense. The sequence of events leading to the withdrawal of the appeal has been carefully examined.

6. The appeal was submitted on 26th May 2020 and was confirmed as valid on 26th June 2020. The Inspectorate's Start letters of 30th June 2020 informed the parties that the appeal would be dealt with by the written representations procedure and set out the timetable for receipt of representations. The letter to the appellants' agents warned that withdrawal of the appeal at any stage in the proceedings, without good reason, may result in a successful application for costs and directed them to the costs guidance for further information, which could be found on the GOV.UK website. The Council's statement was received by the Inspectorate on 4th August 2020. A site visit was arranged to take place on 25 August 2020 but as nobody representing the appellants attended, the visit was aborted. Another site visit was arranged to take place on 13 October 2020 but again the appellants failed to attend. In the e-mail of 1 June 2022 from William Anderson-Stevens of Worcester City Planning Consultancy, he instructed that the appeal be withdrawn. However, as in the same e-mail he stated that he no longer represented the appellants, he technically had no authority to withdraw the appeal. Nevertheless, as the appellants have not refuted the withdrawal, it is considered reasonable for the Inspectorate to treat the appeal as withdrawn.

Conclusions

7. As the appeal has been withdrawn, thus ending the proceedings, the issues arising on it remain unresolved as they have not been tested by an appointed Inspector after assessing all the evidence before him/her. Therefore, it is not possible to assess the reasonableness of either party's case on appeal, and the Secretary of State has no further jurisdiction in the matter. The only issue before the Secretary of State to consider therefore is whether or not the appellants acted unreasonably by withdrawing the appeal when they did.

8. Paragraph 054 of the guidance explains that appellants are encouraged to withdraw their appeal at the earliest opportunity if there is good reason to do so. The Secretary of State has to decide whether the appellants had good reason for the withdrawal due to a material change in circumstances relevant to the planning issues arising on the appeal, and, if so, whether it was withdrawn promptly. Paragraph 052 of the costs guidance explains that failing to attend or to be represented at a site visit, hearing or inquiry without good reason could give rise to a procedural award.

9. The right to appeal is a statutory right, but it is expected that it will be exercised in a reasonable manner and as a last resort. When deciding to appeal, appellants have a responsibility to ensure they are in a position to pursue it through to a decision unless a material change in circumstances relevant to the planning issues arising on the appeal occurs. In this case, there is no evidence before the Secretary of State of any such change in circumstances having occurred since the appeal was submitted. The fact that the appellants failed to attend or be represented at both the arranged site visits, signifies that the appellants had decided not to pursue the appeal shortly after its submission. In the event, the appeal was not withdrawn until some 2 years after it was

made, which clearly cannot reasonably be considered to be prompt. The result of the appellants actions was to cause the Council to incur wasted expense in having to resist the appeal and in attending 2 aborted site visits. An award of costs will therefore be made.

10. As to the extent of the award, the view is taken that the Inspectorate's letter of 30th June 2020 gave sufficient warning to the appellants, via their agents, that withdrawal of the appeal without good reason, at any time in the appeal process, could result in an award of costs against them. The appellants therefore had adequate opportunity, from that date, to consider their position in relation to the risks of costs. Consequently, it is considered that a partial award of costs from 7th July 2020 is justified. This date allows a nominal period of seven days for the appellants to have fully considered the warning of costs.

FORMAL DECISION

11. For these reasons, the Secretary of State concludes that the appellants acted unreasonably and caused the Council to incur wasted or unnecessary expense as a result. A partial award of costs is therefore considered justified in the particular circumstances.

COSTS ORDER

12. Accordingly, the Secretary of State for the Department of Levelling Up, Housing and Communities in exercise of his powers under section 250(5) of the Local Government Act 1972, sections 78 and 322 of the Town and Country Planning Act 1990 and all other powers enabling him in that behalf, **HEREBY ORDERS** that, Micro Pubs shall pay to Shropshire Council their costs of the abortive appeal proceedings before the Secretary of State, limited to the costs incurred from 7th July 2020; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The Council are now invited to submit to Mr Mark Kiely of Micro Pubs, details of those costs with a view to reaching an agreement on the amount. A copy of this letter has been sent to him.

Yours faithfully

K McEntee

KEN McENTEE
Authorised by the Secretary of State
to sign in that behalf

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