

Development Management Report

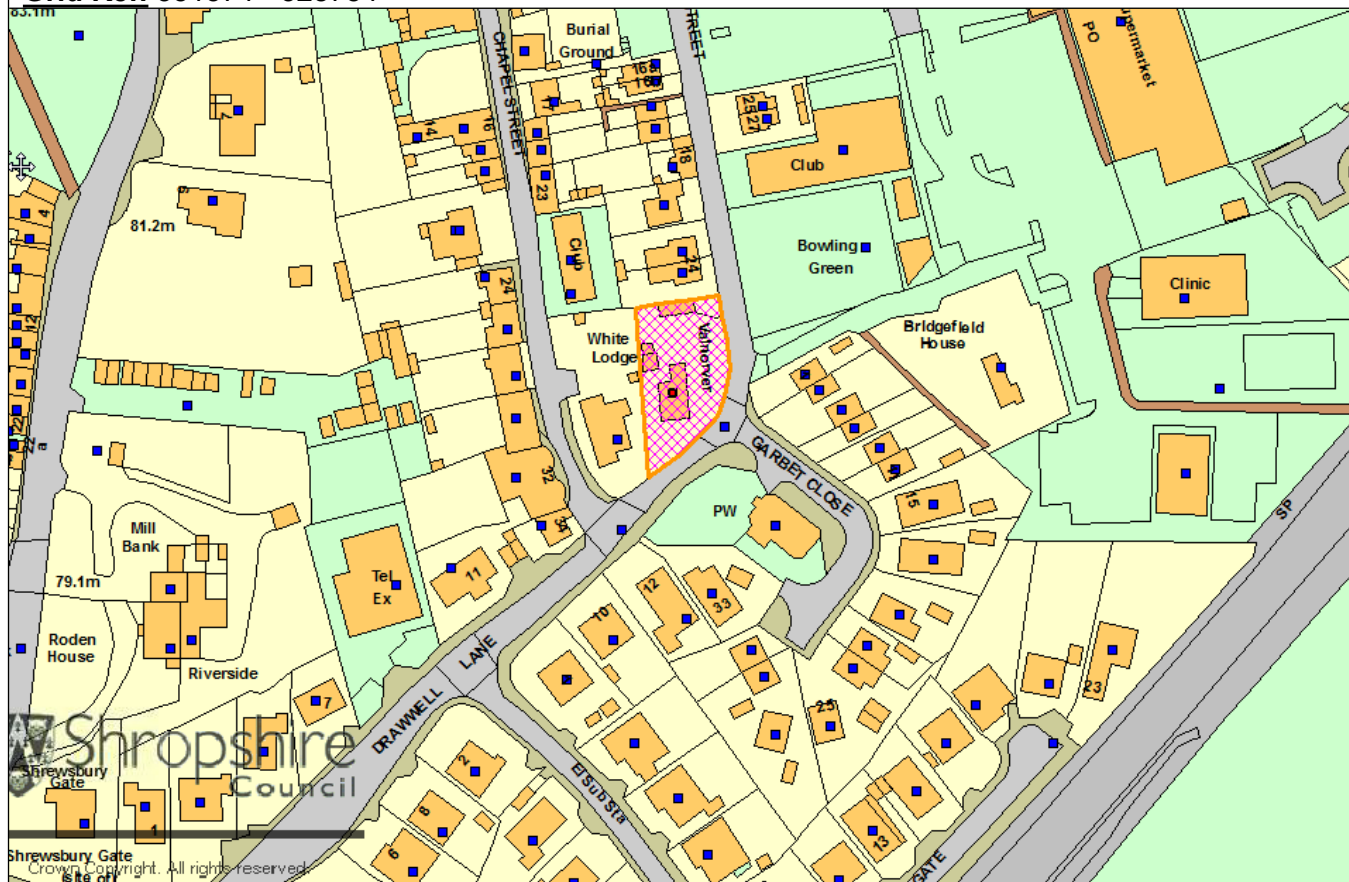
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 15/04233/FUL	Parish: Wem Urban
Proposal: Erection of 2no dwellings with garages and access	
Site Address: Valnorver 26 Leek Street Wem Shrewsbury Shropshire	
Applicant: Ashvale Contracting Ltd	
Case Officer: Jane Preece	email: planningdmne@shropshire.gov.uk

Grid Ref: 351374 - 328754



Recommendation:- That planning permission be granted subject to the prior signing and completion of a S106 agreement and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks full planning permission for the erection of two dwellings with garages and accesses at Valnorver, Leek Street, Wem. The application is a re-submission following the withdrawal of an earlier application ref: 15/01263/FUL in September 2015.
- 1.2 Planning permission has previously been granted for the erection of two dwellings (bungalows) on this site following the demolition of the existing bungalow, together with alterations to the access in October 2012.
- 1.3 The current proposal details two detached, 2 storey/3 bed properties, handed in their design and living accommodation layout. Each dwelling will be served by an access onto Leek Street and a single detached garage.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Valnorver is a timber bungalow constructed of lapboard and roof tiles in poor condition on a corner plot within Leek Street, Wem. The site is located in a largely residential area close to Wem High Street. The site is accessed from a one way street off Wem High Street to the north, and it is set at a higher level than the adjacent highway. There is a shed and a garage on the site, with the garage attached to the northern boundary wall. The existing access is to the north eastern corner of the site.
- 2.2 The site lies within the development boundary of the market town of Wem and is also within the Wem conservation area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council object and a request to refer the application to committee for consideration has been made by the Local Member.

4.0 Community Representations

4.1 Consultee Comments

- 4.1.1 **SC Archaeology (Historic Environment)** – No objection in principle.

Background to Recommendation: The proposed development site lies within the historic core of Wem and lies adjacent to the presumed line of the town's medieval defences. The site was subject to an archaeological field evaluation by Castlering Archaeology in 2012, which indicated that the archaeological potential of the site was lower than initially suspected at that time. However, there remains some potential for other archaeological features or deposits may exist beyond the areas that were investigated in 2012.

RECOMMENDATION: In view of the above and paragraph 141 of the NPPF, recommend a programme of archaeological work, to comprise an archaeological watching brief during ground works, be made a condition of any planning permission.

- 4.1.2 **SUDS** – Original comments: No objection. Drainage details, plan and calculations could be conditioned for prior approval if planning permission were to be granted. Recommend conditions accordingly.

Re-consultation comments: No objection. Drainage details, plan and calculations could be conditioned if planning permission were to be granted. Recommend conditions accordingly.

Further re-consultation comments: The internal first floor layout changed will not alter our Drainage Comments dated 9 December 2015.

- 4.1.3 **SC Affordable Houses** – Additional information required. As an open market housing proposal, the Core Strategy requires the development to contribute towards the provision of affordable housing. The detail of this requirement is contained in Core Strategy Policy CS11 together with Chapter 4 of the Council's adopted Supplementary Planning Document on the Type and Affordability of Housing.

The exact contribution is dependent upon the affordable housing rate applicable at the date of submission of a full planning application or reserved matters in the case of an outline application. This rate is reviewed annually.

The current affordable housing contribution rate for this area is 10% and as such a proposal for 1 new open market dwelling would be liable to make a contribution equivalent to 1 x 0.10 of a whole affordable unit (1 x 10%). As this level of contribution is less than a whole unit, it is translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution used by the Council fund the delivery of affordable housing provision elsewhere in the area.

As part of the application process the applicant should be requested to complete and submit an Affordable Housing Contribution Proforma so that the correct level of their contribution can be calculated and agreed.

Re-consultation comments: The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

- 4.1.4 **SC Highways DC** – Original comments: No objection. Recommend conditions relating to visibility splays, access and parking arrangements, access apron construction and requiring a Construction Method Statement for prior approval before any development, including any works of demolition, take place.

Comments: The site has previously had the benefit of approval for the erection of two properties under application reference 12/01096/FUL. The development now under consideration whilst maintaining the number of units has changed in respect of each of the properties being served by a separate access, plot 1 via the existing access and

plot 2 by a new access located at the southern extremity of the site road frontage.

The new access arrangement loses the potential highway gain of relocating the existing access slightly further away from the lateral boundary with no.24 and the potential improvement to the line of sight that drivers of vehicles will have emerging from the access. Given that the access serves an existing property the situation is not changing as a result of the proposal and therefore a highway objection to the continuing use of the access for a single dwelling could not be sustained.

The formation of the new access to serve plot 2 is located at the opposite extremity of the site road frontage and subject to a visibility splay being provided around the inside of the apex of the bend as previously sought in connection with the earlier approval 12/01096/FUL, it is considered that an acceptable line of site for the prevailing highway conditions could be provided. The provision of a visibility splay around the full length of the site road frontage will provide an improvement to the existing highway situation in terms of improving visibility around the bend.

As with the earlier applications the proposal does not assign two clear parking spaces for each of the properties. The second place would be reliant on the proposed garages being retained solely for parking of vehicles and not ancillary domestic storage. Given the proximity of the site to the town centre it may be considered acceptable to accept the reduced parking provision.

Re-consultation comments: In respect of the submission of the amended details on 13.11.15 the Highway Authority continues to raise no objection to the granting of consent and recommends the imposition of the conditions as sought in the earlier consultation response dated 09.11.15. In respect of condition no.2 the drawing reference number should however be amended to ASH/15/01 Rev 01 to accord with the submission of the revised details.

Informative - Where the formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

Background - Highway Authority Consultation response dated 09.11.15

4.1.5 **SC Conservation** – Original comments: Amendments required.

Background to recommendation: The site lies within the Wem Conservation Area, albeit on the edge. The area surrounding the site is characterised by a mixture of building styles and ages but there are a number of listed buildings in close proximity, along Chapel Street.

A previous application for two bungalows was approved in 2012 following negotiations regarding the details of the proposed dwellings. I note the application that was made earlier this year was withdrawn.

Details: Following amendments being made to the previously withdrawn scheme (for two, two storey dwellings), no objections were raised to this withdrawn application since the dwellings proposed, albeit two storey, had been reduced and simplified with

more appropriate detailing and proportions to ensure the dwellings were not considered to be at odds with the character or appearance of the Conservation Area. The scheme now proposed is similar in design, with a revised porch design, added chimneys and plinth details. However, stone headers and sills would be preferred for the size of opening shown rather than the arched brick headers and sills shown.

The previous proposal included attached garages which are now detached and located to the side/rear of the properties with two separate accesses instead of a central access. Whilst there is no objection in principle to this element of the proposal, the design details of these structures should be enhanced in line with the previous attached garages i.e. design detailing to reflect the dwellings, central opening doors as opposed to up and over metal doors. The garages appear to be very narrow, but assume they comply with standards for garage widths.

In addition to the above, both plots have been re-positioned. Whilst there is no objection to the angled positioning of plot 2 given that the plot is sited on a corner and the proposal goes some way to addressing the road as it goes around the plot similar to White Lodge off Chapel Street, both properties are now further forward than previously proposed. As a consequence of this position the proposed dwellings will be more prominent in the street scene but as there is no set pattern of road edge or set back properties in Leek Street, it is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. However, it is considered that the northern plot could be set back more in line with the adjacent Edwardian semi-detached properties next door.

General design comments:

- The scale of the window on the west elevation, ground floor, is wrongly proportioned when compared to others of the same design in the proposed dwellings.
- The window positions at first floor level west elevation (bedroom 4 and bathroom) should be revised within the external elevation – at present they appear too close to the edge of the gable – it is likely to help by also reducing the width of the bathroom window.
- General care and attention should be taken to ensure that windows and doors (not dormers) have headers and sills (as appropriate) no matter their size etc. This should be revisited when revisions are being carried out.
- Vernacular detailing of chimneys – usually internal not external, and the upper part is too narrow in dimension to given visual enhancement.

Recommendation: Amendments will be required, as noted above. Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Paragraphs 131-132, 134 and 137 of the NPPF, CS6 and CS17 (Shropshire Core Strategy) and MD13 of the emergent SamDev Policy.

Re-consultation comments: Further to our comments of 11th November, amended

plans have been submitted which address the issues raised with regard to the window proportions and positioning, headers and sills, chimneys and garage doors. Whilst it is noted that the northern plot hasn't been set back, as indicated within the previous response there is no set pattern of road edge or set back properties in Leek Street and the positioning of the property is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. In light of the amended details it is considered that special attention has been paid to preserving the character of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the NPPF, local Policies CS6 and CS17 and MD13 of the emergent SAMDev. Subject to conditions relating to materials and finishes, no objections are raised.

Conditions:

C02: Sample panel

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

The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority.

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

C08 - Window Recess

The window frames and doors of the proposed development shall be constructed of timber, painted white and set back a minimum of 55mm from the edge of the brickwork around the window opening.

Reason: To ensure that the development is of a design sympathetic to the locality.

D03 - Enclosures (boundary wall details)

JJ05 - Gutters and Downpipes

JJ07 - Roof Details

JJ09 - Heads and Sills

JJ20 ' Joinery

Further re-consultation comments: The amendments proposed do not appear to have any notable impact with regard to the Conservation Area, though the comments relating to UPVC windows are noted. Whilst timber would be preferential, the context of the site and the modern construction of the buildings is also taken into account. With this in mind if the proportions and appearance of the windows and doors are acceptable then the use of UPVC may not be considered to be detrimental to the Conservation Area in this location. However, having looked at the submitted link I am unable to find the 'Conservation' range referred to, with none of the casement windows viewed appearing to be acceptable. I am aware that there are certain companies that produce well proportioned slimline flush fitting windows, such as Evolution for example. I would recommend that the applicant undertakes further investigation into such products and provides more details either through the

application or as part of a condition.

4.1.6 **SC Ecology** – No objection. Recommend informatives advising of the legislation protecting nesting wild birds and bats are included on the decision notice.

4.1.7 **Wales and West Utilities** – Wales and West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promotor of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

4.2 **Public Comments**

4.2.1 **Wem Town Council** – Object. Wem Town Council to strongly objects to this application for the following reasons;

1. The proposals constitute serious overdevelopment of a small site within the Conservation area and will destroy the street scene of part of the historic town centre.
2. Proximity of the proposed garage (garage plot 2) in relation to White Lodge (specifically the habitable Living Room window)
3. Overlooking issues from proposed first floor rear Bedroom 4. These bedrooms would look across rear garden to White Lodge resulting in loss of privacy.
4. Proposed garages are not large enough for a car (with doors open), which raises a question about their use. More likely that the houses would be extended to connect to these buildings at a later date resulting in potential dwelling space in close proximity to White Lodge boundary.
5. Impingement on rights to daylight/ sunlight. The 25 degree line of unobstructed daylight is drawn from wrong position (not from habitable Living Room window)
6. Size of proposed Bedrooms 3 and 4. Questionable as to whether these meet minimum space standards. Indicative of poor design standard.
7. House design proposals are not in-keeping with Lifetime Homes Standards.
8. The proposed access arrangements are not suitable as vehicles would need to reverse onto road on a corner.
9. Extent of earth excavation and removal of earth from the site would have negative environmental impact locally and wider.
10. Councillors have very serious concerns that the lowering of the ground level will have an adverse impact upon the existing retaining wall and upon adjacent properties. Proposed modifications to the boundary wall could not be built without removing half of the root structure of the existing hedge. The proposed section indicates a change in level across the boundary which would require a new retaining wall on the boundary location; this in turn would result in damage to the root structure of the boundary hedge. The existing boundary wall and hedge are believed to be within the ownership of White Lodge.
11. Insufficient outside space for a family home.

The Town Council would request that this application is referred to both your Conservation Officer and Archaeological department for comment. In addition to this if Officers are minded to recommend approval of this application it be referred to the Northern Planning Committee for consideration and that Committee undertake a site visit to actually view the location and the adverse impact this proposed development would have upon the locality and adjoining neighbours.

Re-consultation comments: Awaited at time of writing report.

4.2.2 **Public representations** – Four representations of objection have been received. The main points of objection relate to:

- Loss of daylight/sunlight and overshadowing
- Proximity of proposed garage giving rise to unacceptable sense of enclosure
- Overlooking and loss of privacy
- Poor quality design
- Proposed buildings are not in keeping with older houses in the street
- Lifetime homes standards
- Parking/highway safety/traffic. On a very narrow part of Leek Street and unsafe
- Retention of existing boundary hedge
- Inconvenience to existing properties during construction
- Overdevelopment/houses are oversized for plot
- Wem infrastructure already stretched, including limited school places
- Excavation could cause landslide

At the time of writing one objection has been received in response to re-consultation on the amended plans. The representation acknowledges the attempt to address issues but objections remain relating to:

- Still concerned about proximity of unit 2 garage in relation to outlook from/daylight to lounge window of White Lodge. Garage could be reduced in height or omitted from scheme to overcome this concern.
- Scheme seems to break the line of the established street scene of Leek Street. Whilst appreciate this increase rear gardens it does emphasise that the development is too large for the site. A scheme reduced in scale could maintain the established street scene.

(The full content of all representations received are available to view on line)

5.0 THE MAIN ISSUES

- Principle of the development
- Affordable housing and CIL
- Design, scale and impact on the historic environment
- Impact on neighbours and residential amenity
- Access and parking
- Ecology
- Other Issues

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site lies within the development boundary of the market town of Wem where

adopted Core Strategy policies CS1 and CS3 support the provision of residential development in principle and where the redevelopment proposals for this urban site meet the sustainable objectives of the NPPF.

- 6.1.2 Recently adopted SAMDev policies MD1, MD3 and S17.1 continue and build on the approach in the Core Strategy Policies. Whilst the site is not an allocated site it does sit within the development boundary and is classed as windfall development which satisfies the sustainable credentials of both SAMDev policies S17.1 and MD3 and the NPPF in principle.
- 6.1.3 Furthermore, planning permission for the residential development of the site has previously been granted under planning permission reference 12/01096/FUL, dated 5th October, 2012. That consent proposed the demolition of the existing bungalow on the site and its replacement with two bungalows, with basement garaging.
- 6.1.4 As such there is no policy objection to the provision of new housing on the site in principle. The acceptability of the scheme therefore revolves around the issues raised by the details of the scheme and through the consultation process. These issues are discussed further below.

6.2 **Affordable housing and CIL**

- 6.2.1 Affordable housing - Core Strategy Policy CS11 and the Type and Affordability of Housing SPD require all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The affordable housing contribution is payable on one dwelling given that there is a net increase of one property. A completed affordable housing proforma has been provided by the applicants' agent. The Councils' Housing Enabling and Development Officer is satisfied that the completed proforma indicates the correct level of contribution. In accordance with adopted policy the applicant is required to enter in a section 106 legal agreement to secure the contribution prior to any planning permission being granted.
- 6.2.2 Community Infrastructure Levy - Core Strategy Policy CS9 requires all new housing to financially contribute to the provision of infrastructure with certain exceptions. This is done through the Community Infrastructure Levy. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application. In this context a CIL Form O has been submitted with the application. As section 5 of the submitted form has not been completed then it is not clear whether the applicant intends to pursue any exemption or relief from CIL. If the development qualifies for some form of relief from CIL then it would deliver little or no benefit to the community in respect of infrastructure provision. As the CIL issue is one to be administered by the Council's CIL Team aside from the planning process this matter will be dealt with by the CIL Team.

6.3 **Design, scale and impact on historic environment**

- 6.3.1 Policies CS6 and CS17 of the Core Strategy together with the adopted Housing SPD seek to ensure that all development protects and enhances the historic environment

and is appropriate in scale, density, pattern and design taking into account the local context and character.

- 6.3.2 SAMDev policies MD2 (Sustainable Design) and MD13 (Historic Environment) are closely related to CS6 and CS17 in their concern for enhancing local design and protecting heritage assets.
- 6.3.3 The submitted scheme has been assessed against the above policy requirements, in addition to the requirements set out at a national level in the NPPF and in consultation with the Councils' Historic Environment Team.
- 6.3.4 Archaeology - The proposed development site lies within the historic core of Wem and adjacent the presumed line of the town's medieval defences. Based on a previous archaeological evaluation by Castlering Archaeology in 2012, the Council Historic Environment Archaeologist is satisfied that determination of the application can be made with a condition imposed on any planning permission requiring a programme of archaeological work, to comprise an archaeological watching brief during ground works. In this context the proposal is capable of complying with adopted Core Strategy policy CS17, emerging SAMDev policy MD13 and the NPPF is so far as it relates to archaeological matters.
- 6.3.5 Historic built environment – As the site is within the Wem Conservation Area the Council's Conservation Officer has commented on the application. The Conservation Officer initially raised some concerns over general design details relating to fenestration, the chimney detail and the garaging. However, these concerns have satisfactorily been addressed with the submission of amended plans. In response to the amended plans the Conservation Officer is now in a position to support the scheme, subject to the imposition of recommended conditions in relation to matters of external materials and details. Despite objections received to the contrary the Conservation Officer is of the opinion that the development (as amended) will have no significant harm on the character and appearance of the area.
- 6.3.6 Some discussion is given by the Conservation Officer as to the siting of the dwellings further forward on the site than previously proposed and their potential impact on the street scene in this regard. However, to insist that the properties are set further back on site would diminish the rear private amenity space afforded to the proposed dwellings and take the built development closer to the neighbouring dwelling at the rear, raising additional issues. The Conservation Officer acknowledges that as there is no set pattern of road edge or set back properties in Leek Street, then the siting of the dwellings it is not considered to be sufficiently detrimental to the character of this part of the Conservation Area to merit an objection on these grounds. In fact, when measured off the plan, both new dwellings will be set back just over 3 m from Leek Street, which is comparable to the Edwardian house to the north.
- 6.3.7 On the basis of the above, it is therefore considered that, subject to the conditional approval of details as recommended by the Conservation Officer, the amended development proposals will cause no significant harm to the character and appearance of the built and historic environment in this locality and are in line with the design objectives of adopted Core Strategy policies CS6 and CS17; SAMDev policies MD 2 and MD13; the Councils' adopted Housing SPD and the NPPF.

- 6.3.8 Boundary wall – In response to concerns raised supplementary advice has been sought and received from the Conservation Officer in relation to the boundary wall as follows:
- 6.3.9 *With regard to the boundary wall ... I understand that this is to be retained as part of the development and whilst it is acknowledged that the existing lightweight timber lean-to garage is to be removed, it is the responsibility of the developer onsite to ensure the structural stability of the wall is not compromised through the works. In addition the developer will need to ensure that they adhere to the relevant building regulations and an informative would be attached to the permission in this regard. Finally I am also of the view that the replacement attached garage will provide improved stability for the wall compared with that existing, if indeed stability is an issue.*
- 6.3.10 *However, in light of the concerns raised I would recommend that the developer is made aware that the wall is considered an historic feature of the Conservation Area and that it is their responsibility to ensure its structural integrity is not compromised through the demolition/construction process. This could be through an attached informative.'*
- 6.3.11 Scale and density - Turning to the matter of scale and density objections have been received on the grounds of overdevelopment. Accounting for the town centre setting and the space about dwellings now proposed, including external private amenity/garden areas, drives and on-site parking/garaging provision, officers are satisfied that the scheme does not represent unacceptable overdevelopment.
- 6.3.12 To expand, the proposal is for two, 2 storey dwellings in a residential area of mixed two and single storey development, the historic built development in the locality generally being higher than a single storey. Whilst the property to the immediate rear may be a bungalow which presently sits on a raised ground level similar to the site, as part of the proposals the ground level of the site is to be lowered by around 500mm more consistent with the adjoining street level. Furthermore, the first floor accommodation will incorporate the use of dormer windows and gable projections, which allows the achievement of a lower eaves and roof ridge height, ie 4.1m and 7.1m respectively as shown on the plans. In terms of height it is not therefore considered that the development will be overbearing or unduly out of keeping with the locality. Otherwise, each dwelling occupies a footprint of around 70 sq m set within a site totalling around 679 sq m. To reiterate each of the dwellings will be provided with private drives/parking/garaging (each garage occupies a footprint of around 23 sq m), front gardens (being set back just over 3 m from Leek St) and a private rear garden of between 6m to 8 m in depth.
- 6.3.13 During the consideration of the previously withdrawn application officer concerns were expressed to the agent about the overdevelopment of the site. However, having regard to the factors discussed above and taking into consideration the surrounding urban context and setting, officers do not concur with objectors that proposal constitutes unacceptable overdevelopment in relation to this current revised scheme. In order to control the any future development of the site associated with the residential development a condition can be imposed removing permitted development rights to extend and erect structures within the curtilages.

- 6.3.14 Additional design matters – Additional objections have been lodged by the Town Council and neighbours on the grounds of ‘poor design’, with particular reference to non compliance with the ‘Lifetime Homes Standards’; the limited size of the garages, rear bedrooms and external amenity space for family homes and the lack of sustainable design features. The agent has retorted that the design meets the Lifetime Homes Standards and at 3 m wide x 6 m long the size of the proposed garages is average for a single garage. A condition can be imposed to ensure the garages are retained for parking and incidental needs and not converted to additional living accommodation without the grant of further planning permission. Officers are satisfied with the outdoor amenity space, as discussed in the paragraphs relating to scale and density above, and as the dwellings will need to be constructed in accordance with current building regulations, then it is accepted that the construction will incorporate sustainable design techniques relating to energy efficiency and the use of resources.
- 6.3.15 As regards internal space standards then the Local Planning Authority has no adopted standards. The Council’s Housing Officers are understood to use the space standards used by the Homes and Communities agency which for a 3 or 4 bed, 5 bed space house should be 85-95 sq m. The proposed dwellings equate to approximately 105 sq m measured internally and so would appear to satisfy those standards.
- 6.3.16 However, the DCLG did provide technical space standards in March 2015 which gives a slightly larger house area for a 4 bed 5 person house of 97 sq m + 3 sq m of storage and room sizes of 7.5 sq m and a minimum width of 2.15m for a 1 bed space bedroom and at least 11.5 sq m and a minimum width of 2.75 m for one 2 bed space bedroom and a width of 2.55 m for every other 2 bed space bedroom. The agent was advised that the submitted proposals did not appear to comply fully with these space standards but that the space standards could be achieved with some internal reorganisation and particularly if the revisions sought to reduce the number of bedrooms to 3 as discussed in section 6.4.4 below were secured. Amended plans have consequently been received reducing the number of bedrooms from 4 to 3 (and in so doing increasing the bedroom sizes to acceptable provision).
- 6.4 **Impact on neighbours and residential amenity**
- 6.4.1 Core Strategy policies CS6 and CS17, together with the Housing SPD seek to ensure that development does not have unacceptable consequences for neighbours and residential amenities.
- 6.4.2 During the consideration of the previously withdrawn scheme officer concerns were also expressed to the agent in relation to potential overshadowing and overlooking, particularly in relation to the neighbouring property ‘White Lodge’. The current re-submission attempts to address those concerns. However, objections have still been lodged by neighbours and the Town Council on the grounds of loss light and privacy.
- 6.4.3 Loss of light and overshadowing – Comments and evidence has been provided by objectors and responded to by the agent regarding the issue surrounding the potential loss of light and overshadowing. The main concern rests with the proximity and height of the proposed structures to existing residential development and the potential for those structures to affect the light levels currently enjoyed by neighbouring residents. Officers have considered the evidence provided by all parties, including reference to

the Building Research Establishment (BRE) 25 degree rule, and have arrived at the view that the proposed dwellings and associated garaging will stand at an acceptable height (above the reduced ground level) and a sufficient distance away from neighbouring properties such that not unacceptable loss of light should occur to existing main habitable room windows that would warrant refusal. It is accepted that some loss of light may occur in comparison with the existing situation but the issue is whether the loss is so adverse or detrimental to justify a reason for refusal solely on these grounds. Taking all the points that have been raised into consideration officers are of the opinion that refusal on the grounds of loss of light and overshadowing is not justified and the proposals are considered capable of complying with adopted planning policy in this context.

- 6.4.4 In light of the amended scheme the objectors at White Lodge have acknowledged that the revisions attempt to address some of their concerns in relation the potential loss of daylight to and the overshadowing of their property. However, they remain very concerned about the proximity of the proposed garage serving unit 2 reducing light to their living room window and request that consideration be given to reducing its height or deleting it from the scheme. The proposed garage is a single garage with a pitched roof. It measures 2.26m high to the eaves, 3.5 m high to the ridge and will be set down 0.5m below the existing land level, meaning only a small portion of the upper wall will protrude above the boundary hedge in addition to the roof plane (which slopes away from White Lodge). In addition, when measured off the plan, the garage will stand over 5 m away from White Lodge and not 3.5 m as specified by the objector. In the circumstances, and further having regard to the fact that that the neighbouring window said to be affected is understood to be a secondary window, then officers do not considered that the proposed garage will adversely affect neighbouring amenity to a significant degree.
- 6.4.5 Loss of privacy – It is not considered that the proposed development will give rise to unacceptable overlooking to the properties on the opposite side of Chapel Street due to the distances involved and the presence of a public highway. However, whilst the submitted plans represented an improvement on the previously withdrawn application, it remained to be considered that the proposed dwellings would be so sited and orientated such that the rear bedroom and bathroom windows would overlook certain habitable room windows, roof lights and the private garden area of White Lodge at close range. To overcome the potential overlooking issue presented by the windows, officers therefore recommended to the agent that the plans were further amended by losing a bedroom, re-arranging the internal accommodation and altering the associated fenestration. In response amended plans have been received which do reduce the number of bedrooms from 4 to 3 and re-arrange the internal accommodation. The window previously intended to serve bedroom 4 has therefore been omitted from the rear elevation. Within the rear elevation there is now only one first floor window and that is to serve the bathroom and will be obscure glazed. The side window within bedroom 3 has been retained but the outlook from this window in the direction of White Lodge is at an obscure angle such that significant adverse overlooking should not occur.
- 6.4.6 In the circumstances, having regard to the revisions now put forward, officers are now satisfied that the amended scheme is capable of complying with adopted policy and without resulting in unacceptable consequences for neighbouring residential amenities in compliance with CS6, CS17 and the Housing SPD.

6.5 Access and parking

- 6.5.1 The existing property is served by a single access directly onto Leek Street and is positioned within the local speed limit of 30 mph. The replacement of this access with a much wider access to serve two properties on the site has previously received approval under application reference 12/01096/FUL. The current proposal differs in the fact that the submitted plans detail two separate accesses to serve each of the two plots - plot 1 via the existing access and plot 2 by a new access located at the southern extremity of the site road frontage.
- 6.5.2 Objections to the application on access and parking grounds have been lodged by neighbours and the Town Council. However, the Highway Authority has been consulted on the proposed access and parking arrangements and does not share these objections. The Highway Officers comments are given in section 4.1 above. In the professional opinion of the Highway Officer there is no objection to the proposal that would warrant a reason for refusal from the highway perspective. With planning conditions in place as recommended by the Highway Officer relating to visibility splays, access and parking arrangements, access apron construction and requiring a Construction Method Statement for prior approval before any development, including any works of demolition, take place, then it is considered that the proposal is capable of compliance with adopted policies in relation to highway issues.

6.5 Ecology

- 6.5.1 The Councils' Natural Environment Team has been consulted on the application and has raised no objection on ecology grounds. The Council's Planning Ecologist simply recommends that an informative be added to any permission issued to advise the applicant of the legal protection afforded to nesting wild birds and bats. With the informative in place, the application is considered to comply with Core Strategy policies CS6 and CS17, emerging SAMDev policy MD12 and the requirements of the NPPF in relation to ecological safeguarding matters.

6.6 Drainage

- 6.6.1 Core Strategy Policy CS18 (Sustainable Water Management) and the NPPF require that development will integrate measures for sustainable water management to reduce flood risk and avoid an adverse impact on water quality. For foul drainage disposal the development will be expected to connect to the mains sewer. As regards surface water disposal, the Councils Drainage Engineer is satisfied that satisfactory surface water drainage details can be secured through imposing conditional requirements for prior approval. On this basis the proposal is considered to be capable of complying with Core Strategy Policy CS18 and the NPPF in drainage terms.

6.7 Other matters

- 6.7.1 Hedge – One of the concerns of the Town Council and the neighbour relates to the impact of the excavation work on the root system of the hedge. Firstly, the agent has provided an extract of a legal document to demonstrate that the boundary hedge dividing the site from White Lodge is in joint ownership. Secondly, it is not proposed to excavate up to the line of the hedge. The proposed site plan shows a retaining wall distanced from the hedge by approximately 1m in order to 'preserve hedge roots'. Officers are satisfied that if a retaining wall is built 1m out from the hedge base and

the existing levels retained then this would be sufficient volume of soil for the roots to be retained and the hedge not damaged. The planning authority has no legal protection over garden hedges and so ultimately any damage that did occur would be a private matter for the parties involved.

- 6.7.2 Inconvenience during construction work – Any inconvenience experience during development works is beyond the reasonable control of the planning authority, although an hours restriction can be imposed on any consent issue to ensure any unreasonable noise and disturbance does not occur during unsocial hours.
- 6.7.3 School places – The site lies within the development boundary of the town where small windfall development such as this is expected to take place and without placing undue pressure on existing infrastructure, including school places.
- 6.7.4 Extent and impact of excavation work - Any implications in respect of the structural integrity of existing boundary walls and land stability following excavation work again falls outside the reasonable control of the local planning authority. Structural and stability issues would no doubt be addressed as part of any subsequent building regulations application.

7.0 **CONCLUSION**

- 7.1 The site occupies a suitable location where residential development is considered acceptable in accordance with adopted development plan policies and in accordance with national planning policy requirements and sustainable objectives of the NPPF.
- 7.2 The proposal will provide affordable housing in accordance with an identified need for the area and in accordance with Core Strategy policy CS11 and the Councils adopted Housing SPD and has the potential to provide financial contributions under CIL towards infrastructure provision in accordance with Core Strategy policy CS9.
- 7.3 Amended plans have been received which satisfactorily overcome the overlooking and room size issues that have been identified within this report. It is considered that the development (as amended) is of an acceptable siting, scale and design that will not cause a significant negative impact upon the character and appearance of the area or the historic environment or have an unacceptable adverse impact on the residential amenities of neighbouring properties, and all subject to compliance with recommended planning conditions.
- 7.4 Despite objections to the contrary the development it is considered the proposed development will provide satisfactory access and parking arrangements, again subject to compliance with recommended planning conditions.
- 7.5 It is considered that the site can be provided with satisfactory foul and surface water drainage arrangements and that the requirement to conditionally provide surface water drainage details for prior approval will safeguard against flood risk.
- 7.6 It is considered that the development will not cause a significant negative impact upon ecology.
- 7.7 Overall, it is considered that the proposal meets with the housing policies and general

requirements of the NPPF and otherwise complies with policies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the adopted Shropshire Core Strategy 2011; Shropshire Council's Supplementary Planning Document: Type and Affordability of Housing 2012; SAMDev policies MD2, MD12 and MD13 and the National Planning Policy Framework.

7.8 Accordingly, approval is recommended subject to the completion of a s106 agreement to secure the affordable housing contribution and the imposition of appropriate planning conditions.

7.9 In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy, Emderging SAMDev and Saved Policies:

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S17 - Wem

SPD Type and Affordability of Housing

D7 - Parking Standards

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

RELEVANT PLANNING HISTORY:

12/01096/FUL Erection of two dwellings following demolition of existing bungalow; alterations to access GRANT 5th October 2012

15/01263/FUL Erection of two detached dwellings with garages following demolition of existing bungalow (revision to previous permission 12/01096/FUL) WDN 9th September 2015

Appeal

12/01994/COND Erection of two dwellings following demolition of existing bungalow; alterations to access WTHDRN 29th November 2012

11. Additional Information

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

Cabinet Member (Portfolio Holder)
Cllr M. Price

Local Member

Cllr Pauline Dee
Cllr Chris Mellings

Appendices
APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

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

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

3. Construction works shall not take place outside 07:30 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to maintain the amenities of the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: This condition is a pre-commencement requirement because the development site is known to have archaeological interest.

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

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

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

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

Reason: This condition is a pre-commencement condition to avoid congestion in the surrounding area and to protect the amenities of the area.

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

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

8. Notwithstanding the details shown on the approved plans, no development approved by this permission shall commence until details of the proposed finished floor levels have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of safeguarding the residential and visual amenity of the area.

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

9. All foul drainage shall be directed to the mains foul sewerage system prior to the occupation of the dwelling.

Reason: To ensure the proper drainage of the site and to minimise the risk of pollution.

10. Visibility splay around the site road frontage shall be provided at a setback distance of 1.8 metres into the site. All growths and structures within the 1.8 metre depth shall be lowered to and thereafter maintained at a height not exceeding 0.9 metre above the adjoining carriageway level and shall be fully implemented prior to the dwellings being occupied.

Reason: To provide a measure of visibility from the new access in both directions along the highway in the interests of highway safety.

11. The amended access and parking shall be satisfactorily completed and laid out in accordance with the approved 1:200 site plan drawing no. ASH/15/01 Rev B prior to the dwellings being occupied. The approved parking areas shall thereafter be maintained at all times for that purpose.

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

12. The access apron shall be constructed in accordance with the Council's specification as follows; 20mm thickness of 6 mm aggregate surface course, 40 mm thickness of 20 mm aggregate binder course and 200 mm thickness of MOT type 1 sub-base and shall be fully implemented prior to the dwelling being occupied.

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

13. Prior to installation, full details of the design, materials and height of all proposed boundary enclosures of the site shall be submitted to and agreed in writing by the Local Planning Authority. The boundary treatments shall be installed in accordance with the agreed details prior to the occupation of the buildings hereby approved and shall thereafter be retained and maintained in situ.

Reason: In the interests of visual amenity and to safeguard the character of the conservation and local area.

14. All gutters, downpipes, soil and vent pipes and other external plumbing shall be of cast iron or cast aluminium.

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

15. Details of the roof construction including details of eaves, undercloaks ridges, valleys and verges shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall be carried out in complete accordance with the approved details.

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

16. Details of the materials and form of the heads and sills to new openings in the external wall(s) of the building(s) shall be submitted to and approved in writing by the Local Planning Authority before any works commence. The development shall be carried out in accordance with the approved details.

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

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

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

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without

modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- any windows or dormer windows

Reason: To enable the Local Planning Authority to manage the development in accordance with adopted planning policy and to safeguard the character and visual amenities of the area.

19. The garages hereby approved shall not be used for any purpose other than for the parking of private vehicles and those incidental to the enjoyment of the property hereby approved but not including use as living accommodation.

Reason: To safeguard the residential character of the neighbourhood and to ensure the provision of adequate off-street parking accommodation to avoid congestion of adjoining streets by parked vehicles.

20. The window frames and doors of the proposed development shall be set back a minimum of 55mm from the edge of the brickwork around the window opening.

Reason: To ensure that the development is of a design sympathetic to the locality.

21. The first floor bathroom and en-suite windows in the rear and side elevations shall be permanently glazed with obscure glass and shall thereafter be retained as such. No further windows or other openings shall be formed in the side and rear elevations at first floor level.

Reason: To preserve the amenity and privacy of adjoining properties.

Informatives

1. Any work involving bonded asbestos cement material and asbestos containing material in general shall be carried out in accordance with Health and Safety Executive guidance and that the disposal of all such material shall be to a suitably licensed waste disposal site via a suitably licensed waste disposal contractor. Should Shropshire Council be notified of any breaches of health and safety during demolition and/or construction including concerns over the handling of asbestos the regulator, Health and Safety Executive (HSE), will be contacted. The applicant is reminded that where any breaches of legislation are found that the HSE will charge for their time undertaking any enforcement duties.
2. The surface water drainage scheme submitted pursuant to planning condition 5 should take on board the following drainage advice:
 1. The submitted soakaway design calculations should be carried out in accordance with BRE Digest 365. The soakaway design should be repeated for a range of storm duration to determine the maximum length (worst case scenario) for the proposed soakaway. The applicant should check on time for the proposed soakaway to half

empty. If the soakaway trench is to be filled with stone, a 30% void should be used in the calculations.

Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

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

2. If non permeable surfacing is used on the new access, driveway and parking area or the new access/ driveway slopes towards the highway, the applicant should submit for approval a surface water drainage system to intercept water prior to flowing on to the public highway.

3. As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new access, driveway, parking/paved area
- ' Attenuation
- ' Greywater recycling system
- ' Green roofs

3. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

4. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.

5. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

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

6. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

7. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
8. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187
9. Consent is required from the service provider to connect into the foul main sewer.
10. Where the formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. The applicant/developer is advised that the details of this, the fee charged and the specification for the works is available on the Council's website.
11. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an 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.

12. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
13. The applicant/developer is advised that the side boundary wall is considered an historic feature of the Conservation Area and that it is their responsibility to ensure its structural integrity is not compromised through the demolition/construction process.

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