Committee and Date	Item
North Planning Committee 12th July 2016	8 Public

Addendum Development Management Committee Report

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Summary of Application

Application Number: 14/01063/OUT	**Parish:**	Welshampton And Lyneal
Proposal: Outline application (access) for the erection of 7 dwellings		
Site Address: Proposed Development Land South Of B5063, Welshampton.		
Applicant: Les Stephan Planning Ltd		
Case Officer: Mark Perry	**email:** planningdmnw@shropshire.gov.uk	

Recommendation: Approval subject to conditions as set out in appendix one attached to the Committee report dated 23rd September 2014.

1.0 Background

1.1 At their meeting on the 23rd September 2014 the North Planning Committee resolved to approve the proposed development subject to the applicants entering into a S106 to ensure 2 of the 7 proposed properties were provided as affordable dwellings.

1.2 At the above meeting members were updated on a late consultation response received from Natural England. Natural England advised that the site is in close proximity to the Clarepool Moss and Cole Mere Sites of Special Scientific Interest (SSSI). The former SSSI forms part of the West Midlands Mosses Special Area of Conservation (SAC) and Midland Meres & Mosses – Phase 1 Wetland of International Importance under the Ramsar Convention (Ramsar Site). The later forms part of the Midland Meres & Mosses - Phase 2 Wetland of International Importance under the Ramsar Convention (Ramsar Site). Natural England confirmed that they have no objection to the proposed development as is not likely to have a significant effect on the interest features of the sites.

1.3 Since the committee meeting a number of circumstances have changed in connection with planning policy and designations on the site. During the course of preparing the S106 agreement it emerged that a section of highway land runs directly through the middle of the site. In 1976 a section of the application site was dedicated as land to form part of the highway. It had been intended that the designated land would become part of an alternative route for the existing highway (the B5063). The realignment scheme was never proceeded with and the land has remained inaccessible to the public and continued to be part of the agricultural field. It is therefore necessary for the designated highway land, which has a length of 226.5m across the site, to be stopped up under section 247 of the Town and Country Planning Act 1990. The applicant has already sought a draft Stopping Up Order from the Department of Transport to this effect.

1.4 As part of the stopping up order the applicant has agreed a land swap with the Council whereby the section currently designated a 'highway land' would be swapped with a section of land around the inside of the sharp bend to the west of the application site. Whilst there are currently no plans for such significant highway changes here; the land would then be available should the need arise at some point in the future. The Council's Highway Officer is in support of the S247 as it will facilitate road improvements in the future.

2.0 Policy

2.1 When the Planning Committee previously considered the planning application, Shropshire did have a five year supply of housing land and it was considered that the development would be sustainable as required by the NPPF despite being located outside of the development boundary identified in the former North Shropshire Local Plan. Furthermore the proposal provided additional planning benefits and these were awarded significant weight in the planning balance. As detailed in the original committee report the benefits included 2 of the 7 dwellings being affordable dwellings and that the scheme would allow the localised widening of the B5063 making it easier for HGV's or agricultural vehicles to pass one another. The development would also provide an opportunity to create a new bus stop lay-by and the provision of a footpath within the application site which would extend east leading to the inside edge of the 90 degree corner on the adjacent road. This would be to the benefit of both proposed and existing residents. Existing residents currently have to walk along the narrow road in order to walk to the school or public house.

2.2 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that must to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

2.3 On 17th December 2015 SAMDev was adopted which identified Welshampton as part of a community cluster together with Lyneal. The cluster has a guideline of up to 5 dwellings being provided during the plan period up to 2026. As a result of the adoption of SAMDev policies S8.2(vi), MD1, MD2 and MD7a also become relevant to the proposed development.

2.4 When the application was previously considered, the final plan version of SAMDev had been sent to the Planning Inspectorate ahead of its examination and therefore only limited weight was being afforded to it. Following the adoption of SAMDev full weight is now awarded to it and the policies referred to above.

2.5 The site lies just outside the development boundary for Welshampton and as such is considered to be open countryside where there is a presumption against new open market development. Since the original consideration of the planning application outline planning permission has been granted for 2 dwelling on the site immediately to the west which does adjoin the development boundary but is also classed as open countryside (15/01305/OUT). Whilst the application site is classed as open countryside there remains the presumption in favour of sustainable development, as set out in the NPPF where it is seen as the golden thread running through the planning system.

2.6 At the time of the previous recommendation and acceptance it was considered that the proposed development was sustainable and that the potential significant benefits as a result of the development would outweigh the harm of developing an open countryside site. This included the benefit to the local community through providing further custom to existing village facilities as well as the benefit from the physical works referred to above. In addition whilst there were concerns regarding the impact on its open countryside location these were considered not outweigh the benefits that the scheme offered.

3.0 Affordable Housing

3.1 On the 20th June 2016, Shropshire become a rural county which under Section 157 of the Housing Act allows identified parishes to be subject to a lower development threshold for providing affordable housing contributions. Welshampton is one of these parishes and as such Affordable Housing Contributions are only payable on developments of five dwellings or more. As this proposal is for seven dwellings there is a policy requirement for a 10% affordable housing contribution, this would equate to a financial payment rather than an on-site provision. As was the case when members previously considered the scheme the applicant remains willing to provide 2 affordable dwelling on site. This equates to a 28.5% provision, which is substantially above the policy requirement of 10%.

3.2 On balance therefore whilst the site may not be within the development boundary and contrary to policy S8.2(vi) of SAMDev, it is still considered to be a sustainable development which will not be in an isolated location given the short distance to the heart of the village and immediately adjoining to another site that has planning permission for 2 dwellings.

4.0 **Conclusion**

4.1 There have been changes to the adopted policy of the Council since members previously considered the planning application. The scheme continues to offer the benefit of an over provision of affordable housing, highway improvements, bus stop and footpath connections, these are considered by Officers to be substantial significant benefits to the local community. Whilst the proposed development will be contrary to policies S8.2(vi), CS5, and MD1 of the Shropshire Local Plan, Officers are of the opinion that in this case, there is sufficient justification to support the proposal in accordance with the NPPF in that the potential benefits referred to above outweigh the adopted policy and meet the criteria for sustainable development. Therefore the recommendation in relationship to this application remains one of approval subject to the conditions as set out in appendix 1 attached to the Committee report dated 23rd September 2014.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 **Risk Management**

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

- ☐ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

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

make the claim first arose first arose.

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

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

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

9.0 FINANCIAL IMPLICATIONS

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