

## Development Management Report

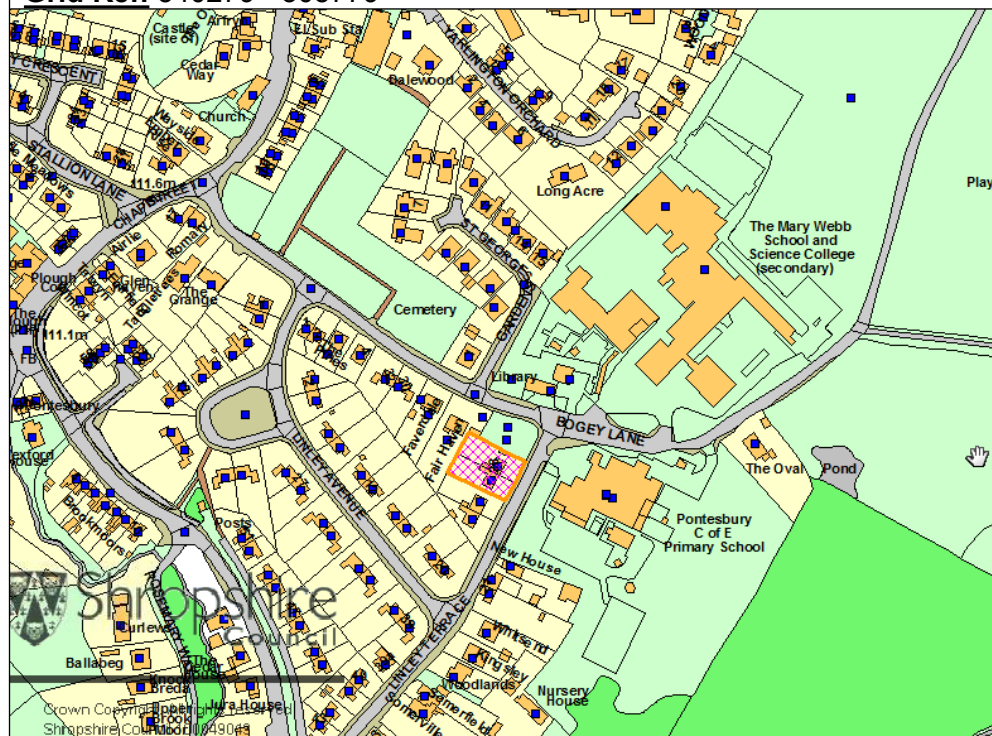
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 18/00644/VAR	<b><u>Parish:</u></b>	Pontesbury
<b><u>Proposal:</u></b> Variation of conditions 5 and 6 attached to planning permission 17/05054/FUL dated 12/12/2017 (Erection of three affordable dwellings) to remove reference to affordable to allow dwellings to be sold on the open market.		
<b><u>Site Address:</u></b> 28 Linley Avenue Pontesbury Shrewsbury Shropshire SY5 0TE		
<b><u>Applicant:</u></b> Severnside Housing		
<b><u>Case Officer:</u></b> Nanette Brown	<b><u>email:</u></b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 340279 - 305779



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**Update for 2<sup>nd</sup> August 2018 Central Planning Committee**

The application was previously deferred by Members for officers to seek further clarification from Severnside Housing in relation to their future plans in Pontesbury. Further information has been submitted to Officers from Severnside Housing confirming that they have recently legally exchanged the conditional contract for a site at the edge of Pontesbury, subject to the receipt of planning consent for a number of affordable homes. Officers understand that this planning application will shortly be submitted for consideration and are satisfied that Severnside Housing is intending to provide new additional affordable homes within Pontesbury. The report previously submitted to Central Planning Committee is set out below.

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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks to vary or remove conditions 5 & 6 of planning permission 17/05054/FUL in order that the development of 3 dwellings can be sold for full market value. Conditions 5 & 6 read:

*5. The dwellings shall not be let or occupied other than under a tenancy in accordance with the normal letting policy of a Registered Provider.*

*Reason: To ensure compliance with the requirements of Shropshire Core Strategy Policy CS11 and ensure affordability in perpetuity*

*6. The affordable housing dwellings shall at all times be allocated and managed in accordance with the councils policies and procedures and advertised as available for occupation through its choice based lettings system, together with the requirements of any local lettings plan.*

*Reason to ensure compliance with Shropshire's housing allocations policy and core strategy policy CS11 with regard to local needs and prioritisation for local people.*

This application also seeks to amend the description of development to remove reference to the affordable housing.

- 1.2 Severnside Housing has confirmed that they propose to redevelop the site at Linley Avenue, Pontesbury by demolishing two existing dwellings and replacing them with three new dwellings for open market sale. It is understood that one of the two dwellings proposed for demolition are currently occupied on a short term tenancy and that Severnside Housing will offer the residents alternative accommodation by the Housing Association. The existing dwellings are of a non-standard form of construction, believed to be a prefabricated concrete 'Airey type' house, constructed after the Second World War. The houses are poorly insulated compared to current standards. Severnside Housing intends to redevelop the site to construct three new dwellings for open market sale.

- 1.3 Severnside Housing has also confirmed that No. 28 Linley Avenue was purchased by them as an open market property in August 2014 and that it is intended that the proceeds from the sale of the proposed development on Linley Avenue will be used to help subsidise future affordable housing developments, as necessary, in Pontesbury and the immediate catchment area. They have also confirmed that they are currently in advance negotiations for the potential purchase of a site for new affordable housing in Pontesbury and its hoped that a Planning Application will be submitted to Shropshire Council later this year. Severnside is keen to expand its affordable housing stock in Pontesbury and continues to seek potential sites.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located within the village of Pontesbury. The site lies surrounded by residential properties and opposite to the local primary school.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council and Locally elected member have both submitted a view contrary to officers.

## 4.0 Community Representations

### 4.1 - Consultee Comments

#### SC Affordable Housing – Objection

Short of affordable housing in Pontesbury and therefore unhappy that there is no guarantee of the money being reinvested in the settlement. Can it be suggested that at least one of three dwellings is retained as affordable?

Variation of conditions 5 and 6 attached to planning permission 17/05054/FUL dated 12/12/2017 (Erection of three affordable dwellings) to remove reference to affordable to allow dwellings to be sold on the open market.

Reference to the above application. Would not wish to support this proposal, which would result of the loss of affordable housing. There is high evidenced need for affordable housing in Pontesbury. The Severnside Housing has indicated that the proceeds will be used to fund other Affordable homes elsewhere. There was no indication that this would be in Pontesbury. It is suggested that proposal is rejected.

#### Pontesbury Parish Council – Objection

Pontesbury Parish Council objects to this application as there is a clear shortage of affordable homes in rural areas and so they would not want to see a further decrease in the affordable housing stock available in Pontesbury and the county.

Cllr Nick Hignett, Locally Elected Member - Objection

I object to the variation of conditions 5 and 6 attached to this Application.

This Application was granted because 2 Affordable dwellings were being demolished, but 3 Affordable dwellings were being built on the same plot.

Pontesbury is in need of more Affordable Housing, and this factor was taken into account on the original Application.

4.2 - Public Comments

None received

5.0 THE MAIN ISSUES

Principle of development

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the adopted development plan (Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date local plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

6.1.2 The adopted development plans for Shropshire are the Local Development Framework (LDF) Core Strategy, the Site Allocations and Management of Development Plan (SAMDev) and the Supplementary Planning Document (SPD) on the Type and Affordability of Housing. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.

6.1.3 The application site is located within the development boundary that surrounds the village of Pontesbury. Pontesbury is part of an identified joint key centre with the neighbouring village of Minsterley as set out in policy CS3 of the core strategy and policy MD1 of SAMDev, where housing development may be permitted that is of an appropriate scale and design that respects the settlements character.

6.1.4 The application site forms a plot located to the west of Linley Terrace and opposite the local primary school. It is understood that of the two dwellings currently on site only one is currently rented and the applicant/housing provider intends to offer alternative accommodation to the occupants.

6.1.5 Officers note that by granting this application then the opportunity for three affordable homes are potentially lost within the village, including the two existing rented dwellings. However, there are no current adopted local plan policies that

specifically require the retention of all existing affordable housing. The applicants, Severnside Housing have now also confirmed that they bought the existing dwellings in 2014 as open market dwellings, not affordable housing.

- 6.1.6 Officers note that Severnside Housing, are registered housing providers within the Shropshire Council area who wish to manage their sites and housing stock to provide provision of accommodation as they consider it is required. The agents for the application have confirmed that proceeds from the sale of the proposed development on Linley Avenue will be used to help subsidise future affordable housing developments as necessary in Pontesbury and the immediate catchment area. They have also confirmed that Severnside Housing is in advanced negotiations for the potential purchase of a site for new affordable housing elsewhere in Pontesbury and it is hoped that a Planning Application will be submitted to Shropshire Council later this year. Severnside is keen to expand its affordable housing stock in Pontesbury and continues to seek potential sites.
- 6.1.7 Due to the sites location within the development boundary of Pontesbury the site would have been considered suitable for development of open market dwellings in policy terms should a new full planning application have been submitted. This fall-back position is noted by officers. As Severnside Housing have also now provided confirmation that they are seeking to provide new and additional affordable housing for Pontesbury and the surrounding area it is considered that on balance the proposed removal of conditions lifting the use of the proposed development as affordable dwellings is acceptable in this instance.

## 7.0 CONCLUSION

- 7.1 The site is located within an identified development boundary to a key centre where the development of new housing is considered to be acceptable in principle. Officers consider that the provision of three open market dwellings on this site would comply with the requirements and aims of these policies that include policies CS3, MD1 and MD2 of the adopted development plans as well as the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and national guidance in the NPPF. The applicants have confirmed that the site was purchased with the existing buildings in open market/private rented use and wish to redevelop the site in order to create funds to invest towards the provision of affordable accommodation elsewhere in the village and immediate area.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ⑦ 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.

- ⑦ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
NPPF

Core Strategy and Saved Policies:  
CS3 - The Market Towns and Other Key Centres  
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  
SPD Type and Affordability of Housing

### RELEVANT PLANNING HISTORY:

17/05054/FUL Erection of three affordable dwellings following the demolition of two existing affordable dwellings. GRANT 12th December 2017

## 11. Additional Information

View details online:

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

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

3. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.  
Reason: To ensure that the external appearance of the development is satisfactory.
4. 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 including delivery times that incorporate busy school drop off and pick up times
  - 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
  - a Traffic Management PlanReason: To avoid congestion in the surrounding area and to protect the amenities of the area particularly in relation to the close proximity of a school.

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

5. The development hereby permitted shall not be brought into use until the accesses and parking shown on the approved plans has been provided, properly laid out, hard surfaced and drained, and the space shall be maintained thereafter free of any impediment to its designated



use. Reason: To ensure the formation and construction of satisfactory accesses and the provision of adequate car parking, in the interests of highway safety and to avoid congestion on adjoining roads.

6. The access aprons shall be constructed in accordance with the Council's specification currently in force and shall be fully implemented prior to the development being brought into use.

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

7. Any hedge or other boundary treatment along the site road frontage is to be kept at a height of 0.6m at all times Reason: To ensure the provision of adequate visibility in the interests of highway safety.
8. Any gates provided to close the proposed accesses shall be set a minimum distance of 5 metres from the carriageway edge and shall be made to open inwards only.

Reason: To ensure a satisfactory form of access is provided in the interests of highway safety.

### **Informatives**

1. 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.
2. 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](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £116 per request, and £34 for existing residential properties.

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

3. 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](mailto: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.

4. 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.
5. This planning permission does not authorise the applicant to:  
construct any means of access over the publicly maintained highway, footway or verge, or  
carry out any works within the publicly maintained highway, or  
authorise the laying of private apparatus within the confines of the public highway including any a new utility connection, or  
undertake the disturbance of ground or structures supporting or abutting the publicly maintained highway  
The applicant should in the first instance contact Shropshire Councils Street works team.  
This link provides further details  
<https://www.shropshire.gov.uk/street-works/street-works-application-forms/>

Please note: Shropshire Council require at least 3 months' notice of the applicant's intention to commence any such works affecting the public highway so that the applicant can be provided with an appropriate licence, permit and/or approved specification for the works together and a list of approved contractors, as required.

6. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
7. The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
8. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. It is available on the council's website at:  
<http://new.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-for-developers.pdf>.  
The provisions of the Planning Practice Guidance, in particular Section 21 Reducing the causes and impacts of flooding, should be followed.  
Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365.  
Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.