

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 18/03663/FUL

Parish:

Shrewsbury Town Council

Proposal: Erection of 1 No split-level house with integral garaging and associated parking, served by an existing access and improved private drive

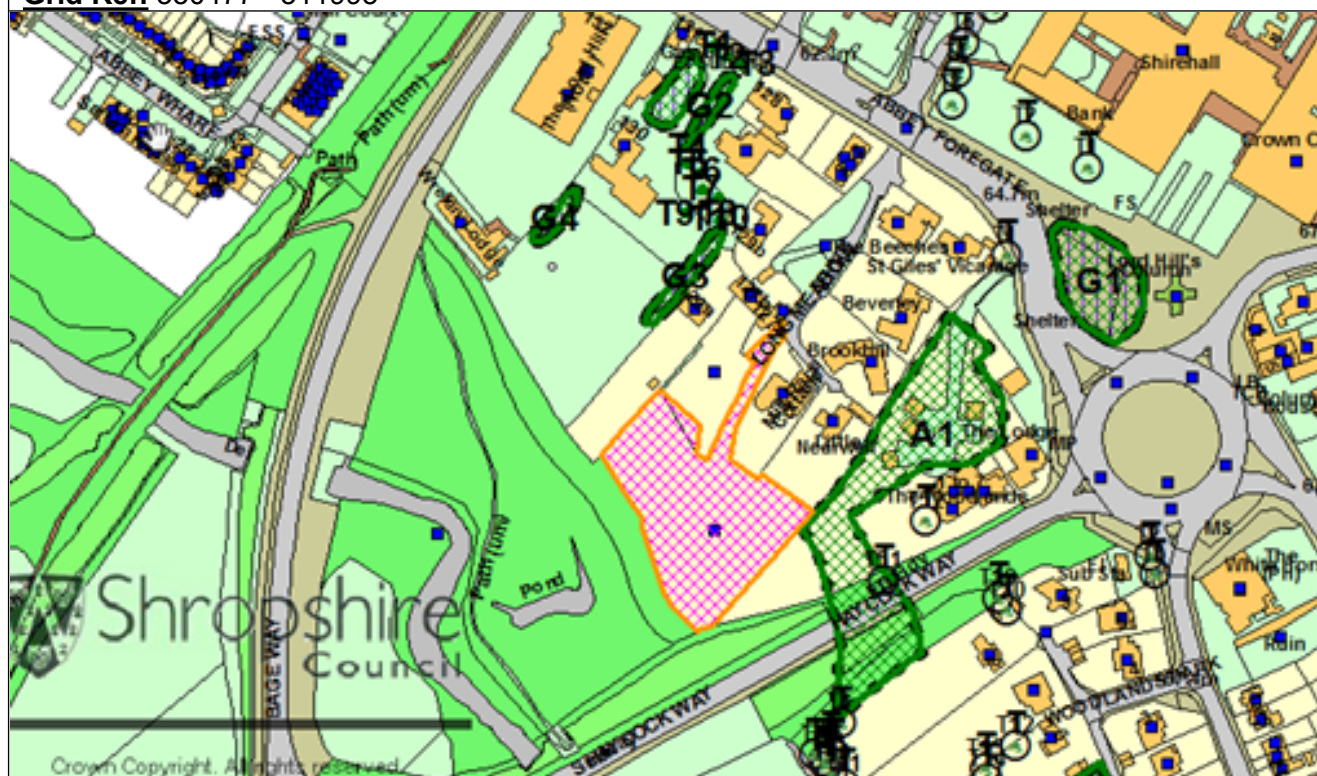
Site Address: Land South Of Millrace Cottage Longmeadow Drive Shrewsbury Shropshire

Applicant: Mr & Mrs C Goode

Case Officer: Jane Raymond

email: planningdmc@shropshire.gov.uk

Grid Ref: 350477 - 311995



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of a split-level house with integral garaging and associated parking, served by an existing access and improved private drive.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Long Meadow Drive is a private lane accessed from Abbey Foregate, opposite the Council Offices at Shirehall, and serves several existing dwellings including Millrace Cottage and Little Nearwell at its far end. A narrow neck of land leads through the curtilage of, and beyond Millrace Cottage and opens into the application site which extends to approximately 0.35ha. The access to the site is adjacent Pear Tree Cottage (127A) and Longmeadow (127B Longmeadow Drive) which are Grade II listed.
- 2.2 The application site forms the extended garden of Millrace Cottage that slopes steeply in parts. The site has been neglected in recent years allowing shrubs and trees to dominate what was in part an ornamental garden. The site is partly terraced and has a disused outdoor swimming pool. A high belt of conifers and other trees extends along the SW boundary.
- 2.3 Abbey Foregate is a designated Special Character Area and forms part of the wider Shrewsbury Conservation Area. Beyond the SW boundary of the site is open ground and the Rea Brook which is a designated Local Nature Reserve and provides informal recreation space in the Rea Valley.
- 2.4 The land just inside the SW boundary falls within Flood Zones 2 and 3 (broadly equivalent to higher and medium risk of flooding).

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 Town Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

- 4.1.1 **SC Regulatory Services:** Having considered the location I have no conditions to recommend on this application.
- 4.1.2 **SC Trees:** The revised scheme represents a greatly reduced density of

development compared to the original proposals which results in retention of more trees including T14 and T15, of concern in the appeal decision for the previous application. I note the proposed new planting to the northern boundary for screening.

An updated Arboricultural Report prepared by Sylvan Resources in May 2018 identifies six trees which have the potential to be effected by the development. None of these trees would be lost due to the proposals. The Arboricultural Report makes a number of recommendations for tree protection during construction of the proposal and refers to the method statement in the previously submitted Pearce Environmental Arboricultural Assessment and Tree Protection measures in accordance with BS5837:2012.

These Tree Protection Plans have demonstrated that provided the measures contained within the plans including use of no dig three dimensional construction techniques, protective fencing and temporary ground protection are strictly adhered to the development can be achieved in accordance with BS 5837 'Trees in relation to Design, Demolition and Construction Recommendations for Tree Protection'.

I can support the application subject to a tree protection condition.

- 4.1.3 **SC Ecology:** I have read the above application and the supporting documents including the Preliminary Ecological Appraisal Report prepared by Pearce Environment Ltd (May 2018). Reasonable avoidance measures have been provided to protect badgers during development. There are badger setts on site, which are currently disused. A pre-commencement check should be undertaken by an experienced ecologist prior to commencement of development on site. An appropriate landscape scheme for the site has been recommended, ensuring the protection and enhancements of commuting corridors for bats.

Recommends conditions and informatives to be included on the planning decision notice.

- 4.1.4 **SC Conservation:** In terms of background I would refer you to our earlier consultee comments on planning application 15/04653/FUL which proposed three large detached dwellings with garages on this site; this application was refused by the Council and the subsequent Appeal was dismissed on March 31, 2017, and also in terms of background, I would refer you to the Inspector's Reasons for dismissing the Appeal as set out in the Appeal Decision.

This site is located within the 'Abbey Foregate Special Character Area' which forms part of the larger Shrewsbury Conservation Area, with the Rea Brook nature reserve to the rear of the subject site on lower ground and forming a long continuous green corridor along the Rea Brook through the Conservation Area, making a significant contribution to it and to the overall setting of the town.

Following the Appeal Decision being made, we have engaged in a formal Pre-application submission with the applicant and agent, reflected in this current planning application, which now proposes a single dwelling incorporating a series

of flat roofs in a very contemporary split-level design and now sited on the higher ground to the immediate south of existing housing which is sited at the end of Longmeadow Drive.

The wider Team view on this revised scheme is that the contemporary multiple flat roof design of the single dwelling and the reduced scheme overall responds much more positively to this sensitive site, where the modern low-lying split-level building can take advantage of the sloping site and better assimilate into the landscape here in views from existing Longmeadow Drive properties and from the valley lands below.

As recommended, an updated Heritage Impact Statement has been prepared and I do not disagree with the conclusions reached in this assessment. Additionally an updated Landscape and Visual Assessment has been prepared which concludes that the building as proposed would integrate well into the sensitive landscape here with no significant visual effects and no visual impacts on local public views predicted. An updated Arboricultural Report has also been prepared with recommendations for tree protection should the application be approved.

It is generally considered that with this current application due regard has been taken regarding Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires proposals to preserve or enhance the character or appearance of the Conservation Area, and with respect to Section 66 of the Act, where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

As noted in our Pre-application comments, it will be important with this proposal to agree appropriate external materials and finishes suitable within the context of this site including darker or recessive finishes so the building will appear natural in this setting. The Planning Statement notes that external materials will consist of smooth grey render, timber cladding, stone panels and wood effect tiles along with contemporary features such as frameless glass balustrading and grey powder-coated aluminum windows and generally these proposed finishes are considered to be acceptable subject to agreeing more specific details and sample finishes.

It is noted that the existing access to Mill Race Cottage will be extended to access the proposed new dwelling. As this runs directly adjacent to the Grade II listed Pear Tree Cottage/Long Meadow barn range, modifications to this access should be such that they do not further impact on the setting or the significance of this heritage asset, and the details of any changes or alterations to the current access to the site should be provided for agreement.

Boundary treatments including any new boundary tree screening or enhanced plantings should be fully agreed by the Trees Team and formal landscaping should be kept to a minimum and as green as possible; similarly hard surfacing on the site including the access drive should be minimized and vehicular access finishes appropriate within the context of the site. Consideration of a green roof finish may be appropriate within the context of the site, subject to further details being agreed.

Subject to further conditions being applied on external materials, joinery details, and landscaping and surface materials, no objections are raised to this current scheme.

- 4.1.5 **SC Archaeology:** The southern boundary of the proposed development site follows the line of a former mill race (HER PRN 62653) which is understood to have early medieval origins. Whilst the proposed development will not directly impact on any remains of this feature, its proximity to the proposed development means that currently unknown remains associated with it may be present. For this reason the proposed development site is considered to have low ' moderate archaeological potential.

In view of the above, and in relation to Paragraph 199 of the revised NPPF and Policy MD13 of the Local Plan, it is advised that a programme of archaeological work be made a condition of any planning permission for the proposed development. This should comprise an archaeological watching brief during the intrusive ground works phase of the development.

- 4.1.6 **SC Highways:** The proposed development seeks to erect a single dwelling to the rear of Mill Race Cottage, Longmeadow Drive, Shrewsbury. Longmeadow Drive is a private road leading off Abbey Foregate opposite the main entrance to the Shirehall. A previous application 15/04653/FUL for four dwellings was refused and dismissed at appeal. Whilst the refusal grounds were not highway related the highway authority did have some reservations regarding access to the site from Abbey Foregate, however it was considered that a highway objection could not demonstrate 'adverse cumulative impact being severe' and the highway authority offered no objection to the proposal. As the current proposal is for a single dwelling no objection is raised from highways perspective.

No Objection subject to the development being constructed in accordance with the approved details, and the suggested conditions and informatives.

- 4.1.7 **WSP on behalf of SC Drainage:** The south western boundary slightly encroaches onto Flood Zone 2 and 3. However, the proposed dwelling is outside the Flood Zone. Suggests informatives and conditions.
- 4.1.8 **SC Affordable housing:** If the development is policy compliant then whilst the Council considers there is an acute need for affordable housing in Shropshire, the Councils housing needs evidence base and related policy pre dates the judgment of the Court of Appeal and subsequent changes to the NPPG, meaning that on balance and at this moment in time, then national policy prevails and no affordable housing contribution would be required in this instance.

4.2 - Public Comments

- 4.2.1 Shrewsbury Town Council: Does not object to the design of this property but the principle of developing this green space which is prominent over the Rea Valley and very visible from Haycock Way. This development would result in the visual amenity of the Rea Valley being adversely affected and given its prominence as a

green lung into the town it should be preserved at all odds.

4.2.2 Shrewsbury Civic Society: The Civic Society's Planning Committee has voted to object to this application because of the position of the proposed building.

Over several years we have looked at a number of applications in this area. In every case, we have found them to impinge upon the very precious green space which is effectively a natural and wildlife corridor accompanying the Rea Brook. This corridor is of great importance to Shrewsbury. The appeal inspector acknowledged this point and the Shrewsbury's Big Town Plan Consultants regard the town highly because of "its mixture of green and built heritage". There is already encroachment of the green corridor's edges and the proposed building would constitute a further narrowing of this important natural space. Furthermore, there have been applications nearby that would suggest any permitted development here, would lead to yet more pressure on the edges of the green corridor.

We were grateful to be consulted earlier and recognise the high quality of the application but the position for this development is wrong for Shrewsbury.

4.2.3 Four letters of support from three households summarised as follows:

- ☐ No objection to Millrace Cottage using Long Meadow Drive for an additional dwelling but would request that any damage caused to the drive is rectified by the owner of Millrace Cottage.
- ☐ The proposed development site and boundaries can easily accommodate the deliveries and construction traffic comfortably within its boundaries, having limited effect and no real impact on the use of Long Meadow Drive.
- ☐ Welcomes a new purpose for the large garden that makes good use of redundant surplus land that is overgrown.
- ☐ The modern, low level and discrete design seems to be well engineered and considerate of others.
- ☐ No objections to the design or proximity of the proposed house.
- ☐ The house nestles at a lower level to our property on what at the moment is unkempt waist land.
- ☐ Unlike the previous scheme for 4 dwellings the proposal integrates well into the landscape.
- ☐ Due to the significant tree screen the building will be virtually invisible from wider vantage points and will not be an intrusive feature in the valley.
- ☐ With a big shortage of housing this application should be supported and approved.

4.2.4 Five letters of objection from two households summarised as follows:

- ❑ Overlooking and loss of privacy
- ❑ Loss of light and overshadowing
- ❑ Impact on the setting of listed buildings, conservation area and Rea Brook Valley
- ❑ Approval would be contrary to previous planning and appeal decisions for refusal of development of this site.
- ❑ The previous decision considered that any development of the area would be “an incongruous visual and physical intrusion into the Rea Valley” and nothing has changed.
- ❑ Allowing this application for a single dwelling would set a precedent for further dwellings
- ❑ Encroachment into the green corridor of the Reabrook Valley Local Nature Reserve and impact on Nature Conservation
- ❑ Impact on protected trees
- ❑ There is evidence of badgers using the site
- ❑ Increased traffic and impact on parking and highway safety and the safety of pedestrians using the drive.
- ❑ The existing drive is too narrow to allow two vehicles to pass as there are no passing places and cannot accommodate additional vehicles during the construction or once the dwelling is occupied.
- ❑ Extra vehicles (delivery, construction and workmen) will prohibit occupiers of surrounding properties from accessing/exiting their driveways and cause danger and delay
- ❑ Entering or exiting Longmeadow Drive is already perilous in an increasingly busy area and is likely to become more so.
- ❑ Noise
- ❑ No approval for the erection of the existing gates which impinge on Long Meadow Drive due to the reduction in turning space. These gates mean that larger emergency vehicles have to leave in reverse as they have no space to turn.

5.0 THE MAIN ISSUES

- ❑ Principle of development
- ❑ Scale, design and appearance and impact on the character and appearance of the locality and heritage assets
- ❑ Access and parking
- ❑ Impact on residential amenity
- ❑ Trees and Landscaping
- ❑ Ecology
- ❑ Flood risk and drainage

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 The site is within the urban development boundary for Shrewsbury on the proposals map of the adopted SAMDev DPD. Residential development of this site is therefore acceptable in principle and would also accord with Core Strategy Policy CS2 that identifies Shrewsbury as the main focus for all new residential development.

6.2 Scale, design and appearance and impact on the character and appearance of the locality and heritage assets

- 6.2.1 This site is located within the 'Abbey Foregate Special Character Area' which forms part of the larger Shrewsbury Conservation Area, with the Rea Brook nature reserve to the south of the application site situated on lower ground and forming a long continuous green corridor along the Rea Brook through the Conservation Area. The proposal therefore has the potential to impact on the character and appearance of this heritage asset and has to be considered against Shropshire Council policies MD2, MD13, CS6 and CS17 and with national policies and guidance including section 16 of the National Planning Policy Framework (NPPF). Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should also safeguard residential and local amenity. MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment.
- 6.2.3 A planning application for three large two and three storey dwellings on this site was refused in 2015 for the following reason:

The proposed development would fail to protect or enhance the Abbey Foregate Special Character Area and the wider Shrewsbury Conservation Area, and would

appear as an incongruous visual and physical intrusion into the Rea Valley. Accordingly it is considered that the proposal would be contrary to adopted Core Strategy policies CS6, CS16 and CS17, management of development policies MD2 and MD13, the NPPF taken as a whole, and would conflict with the requirements of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 6.2.4 The decision was appealed and the appeal was dismissed by an Inspector who concluded that the proposal would not preserve or enhance the character or appearance of the Shrewsbury Conservation Area. The Inspector made the following comments with regards to the impact on the conservation area:

I share the Council's concern that the physical presence of the new dwellings, particularly plots 1 and 2 which would be built into the slope, close to the nature reserve, would not reflect the established character of the area. The new dwellings would intrude into an area that is not characterised by built development. They would result in an alien form of development in this area, at odds with the prevailing character. The character or appearance of the conservation area would not be preserved or enhanced in this regard.

- 6.2.5 Public comments received relating to this application for a single dwelling make reference to these previous decisions and consider that as the Inspector found the proposal to be unacceptable any other proposal for this site should also be found unacceptable. However as the Inspector quite rightly pointed out (in giving no weight to examples where development had been allowed) each planning application must be determined on its own individual merits. Furthermore in the Inspectors costs decision it states that '*It seems entirely reasonable to me that the Council has engaged in discussions with the appellants about a possible solution to the development of the site*' indicating that subject to a satisfactory proposal some form of development of this site is not completely ruled out.
- 6.2.6 The proposed scheme has been designed to respond to the previous concerns of the conservation officer and Inspector and is now for a single dwelling to be constructed on the higher ground closer to the existing built development and further from the nature reserve. The proposal is for a split level predominantly single storey flat roof contemporary dwelling built into and following the gradient of the upper slope that will appear lower than the existing properties behind. The Town Council does not object to the design of the property and the Civic Society recognise the high quality of the application but share the concerns of some nearby residents regarding encroachment into the green corridor of the Rea Valley and impact on views of the site from Haycock Way.
- 6.2.7 Due to the flat roof design of the dwelling that will be built into the natural slope of the ground and that the site is largely screened by mature trees the proposed dwelling will not be visible from Haycock Way to the south, Bage Way to the west or from the footpath in the valley below, apart from possible glimpses in winter when there are less leaves on the trees. The proposal will not result in encroachment into the green corridor of the Rea Valley as it is development of the higher part of the site that is garden land to the rear of Millrace Cottage and is not

part of the Rea Valley nature reserve. Furthermore as garden land all of the site benefits from permitted development rights including the erection of a building (or buildings) incidental to the enjoyment of the dwelling house that could have a pitched roof up to 4 metres high and cover up to 50% of the garden. Large pitched roof garages, garden sheds or green houses could be erected on this land up to 4 metres high to the ridge without planning permission and could have significant visual impact compared to this sensitively designed proposal. If this proposal for a dwelling is approved a condition can be imposed removing these permitted development rights.

- 6.2.8 An updated Heritage Impact Statement has been submitted that in its conclusion considers that:

'the contemporary and low-lying design of the proposed new dwelling, intimately related to the prevailing slope of the site, minimizes any potential visual impact it could have. It lies in a secluded area heavily screened by surrounding woodland and other vegetation and will have little or no impact on the character, setting and significance of the designated and non-designated heritage assets adjacent to the study area. It is further considered that because of the design and positioning, the general impact of the new dwelling on the character of the conservation area and the green corridor of the Rea Brook would be minimal and thus not in breach of the relevant legislation, the guidance set out in the National Planning Policy Framework.'

- 6.2.9 The update to the Landscape and Visual Assessment concludes that:

'the proposed dwelling would be positioned adjacent to existing properties located at the furthest point on the site in relation to Rea Valley Country Park. It would be well integrated into the landscape - utilising site levels and topography to minimise potential effects. There are no significant visual effects predicted for the Rea Valley Country Park. There are no predicted visual impacts on local public views and visual impacts on local residents are predicted to be negligible or minor'.

- 6.2.10 The Conservation officer does not disagree with these conclusions and considers that the reduced scheme responds positively to this sensitive site, where the modern low-lying split-level building can take advantage of the sloping site and better assimilate into the landscape here in views from existing Longmeadow Drive properties and from the valley lands below.
- 6.2.11 It is therefore considered that the proposal would have no adverse impact on the character and appearance of the locality or the conservation area and that due regard has been given to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires proposals to preserve or enhance the character or appearance of the Conservation Area.
- 6.2.12 The proposal includes an extension to the existing access driveway to Mill Race Cottage. As this existing access runs adjacent to the grade 2 listed Pear Tree Cottage in proposing any alterations to this access due regard has to be given to the preservation of listed buildings and their settings as required by Section 66 of

the Act. Any modifications to the part of the access adjacent Pear Tree Cottage should be such that they do not further impact on the setting or the significance of this heritage asset and a condition can be imposed requiring details of any changes or alterations to the current access to be submitted for approval.

- 6.2.13 In addition due to the distance and the relationship between the proposed dwelling and the listed Pear Tree Cottage and Longmeadow it is considered that the dwelling would not impact on the setting of the listed building and the significance of this heritage asset would not be affected.

6.3. Access and parking

- 6.3.1 As mentioned above the proposed access to the site will be via an extension to the existing access driveway to Mill Race Cottage which provides access to the adopted highway (Abbey Foregate) via Longmeadow Drive. Highways previously commented with regards to the application for three large dwellings that it was considered that a highway objection could not demonstrate 'adverse cumulative impact being severe'. They therefore raise no objection from a highway perspective to this current proposal for a single dwelling subject to the imposition of conditions regarding the internal access drive and parking and the submission of a construction management plan.

- 6.3.2 The concern of residents regarding the access gates already erected is not relevant to the determination of this application as they have been erected on the householders own land and not the private shared driveway and no permission is required for the erection of these gates.

6.4 Impact on residential amenity

- 6.4.1 The nearest dwelling that might be affected by this proposal is 'Little Nearwell' immediately to the North of where the new dwelling is proposed to be located. However as the proposed dwelling will be situated on lower ground and is a flat roof single storey building at the point immediately behind the boundary with Little Nearwell, and due to the distance away of over 30 metres it is not considered that it would have any adverse impact in terms of appearing overbearing or obtrusive or result in overlooking and a loss of privacy or any loss of light. A tree and hedge screen is also proposed for this boundary.

6.5 Trees and Landscaping

- 6.5.1 An arboricultural report identifies six trees which have the potential to be effected by the development and none of these trees would be lost due to the proposals. The construction of the access would not result in harm to important trees within the vicinity of the site and the position of the proposed dwelling is sufficiently far away from the northern boundary with the garden to 'Little Nearwell' to allow for hedge planting and also to ensure that it does not impinge upon the root protection area of the nearest significant trees.
- 6.5.2 The Arboricultural Report makes a number of recommendations for tree protection

during construction of the proposal and refers to the method statement in the previously submitted Pearce Environmental Arboricultural Assessment and Tree Protection measures in accordance with BS5837:2012. The tree officer has confirmed that provided the measures contained within the tree protection plans including use of no dig three dimensional construction techniques, protective fencing and temporary ground protection, are strictly adhered to the development can be achieved in accordance with BS 5837 'Trees in relation to Design, Demolition and Construction Recommendations for Tree Protection' and has no objection to the application subject to a tree protection condition.

- 6.5.3 The Conservation officer has recommended that formal landscaping should be kept to a minimum and as green as possible and that hard surfacing on the site including the access drive should be minimized and vehicular access finishes appropriate within the context of the site. A landscaping condition in addition to the recommended tree protection condition will ensure appropriate landscaping of the site and the retention and protection of existing trees.

6.6 Ecology

- 6.6.1 The application site is composed of amenity grassland, scattered trees, ornamental planting, standing water, hardstanding, a timber summer house, walls and fencing. The Preliminary Ecological Appraisal Report concludes that the summer house nor any trees on the site offer any degree of bat roosting potential but that the site itself offers good potential foraging and commuting habitat for bats, notably along the site margins/ boundaries. That the trees and other vegetation on the site provide 'high' nesting potential for both passerine and corvid bird species. The three significant standing waterbodies identified within a 250m zone of influence offer 'below average' or 'poor suitability' for GCN and that the terrestrial habitat present on the site is deemed as being of moderately-good quality for amphibian species. The site provides sub-optimal reptile habitat, given the high degree of over-shading from trees and there is some connectivity to the wider landscape. Three disused outlier badger setts are present on the site, although none are sited within the footprint of the proposed dwelling. Additional field signs indicating use of the site by foraging and commuting badgers were identified. The Rea Brook Valley LNR is located adjacent to the southwest site boundary and no other habitat features or evidence of pertinent protected species were identified.
- 6.6.2 Reasonable avoidance measures have been provided to protect badgers during development. The Councils Ecologist has no objection to the proposal subject to a pre-commencement check being undertaken by an experienced ecologist prior to commencement of development on site and an appropriate landscape scheme for the site is recommended, ensuring the protection and enhancements of commuting corridors for bats. There are no adverse ecological implications of developing the site subject to the imposition of the planning conditions recommended by the ecologist which will also provide enhancements of the site.

6.7 Flood risk and drainage

- 6.7.1 The south western boundary of the whole site slightly encroaches into Flood Zone

2 and 3 but the proposed dwelling and immediate surrounds will be situated on the highest ground and is not at risk from flooding. A condition is recommended requiring the submission of drainage details.

7.0 CONCLUSION

7.1 The proposed development of the site is acceptable in principle and it is considered that the proposal would have no adverse impact on the character and appearance of the locality or the conservation area or the setting of nearby listed buildings. It is considered that the proposal would have no adverse impact on residential amenity and subject to the recommended conditions the proposal would have no adverse ecological implications, would preserve the trees to be retained and would have no significant highway safety implications. The proposal is therefore considered to accord with the relevant local plan policies CS2, CS6, CS17, MD2, MD12 and MD13.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

- ② 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.
- ② 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 and Site Allocations and Management of Development (SAMDev) Plan:

CS2, CS6, CS17, MD2, MD12 and MD13.

RELEVANT PLANNING HISTORY:

15/04653/FUL Erection of 3 No dwellings and garages (amended description) REFUSE 12th April 2016

Appeal

16/02513/REF Erection of 3 No dwellings and garages (amended description) DISMIS 31st March 2017

11. Additional Information

List of Background Papers

18/03663/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages

Cabinet Member (Portfolio Holder): Cllr R. Macey

Local Member: Cllr. Hannah Fraser

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. 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 (Wintertree Software Inc.). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The development site is known to have archaeological interest

4. No development shall take place, including any works of demolition, until a Traffic Management Plan for construction traffic has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

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

5. Within 90 days prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy that sets out appropriate actions to be taken during the works.

Reason: To ensure the protection of badgers, under the Protection of Badgers Act 1992.

6. No development shall take place (including demolition, ground works and vegetation clearance) until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. integrated bat and bird boxes, hedgehog-friendly gravel boards and amphibian-friendly gully pots);
- b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment);
- c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate;
- d) Native species used are to be of local provenance (Shropshire or surrounding counties);
- e) Details of trees and hedgerows to be planted and to be retained;
- f) Details of proposed boundary treatments and existing to be retained
- g) Details of the materials for all hard surfaced areas
- h) Implementation timetables.

The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design and the establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

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

7. No above ground works shall take place until a scheme of the surface and foul 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 first occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

8. Prior to the development hereby permitted being first occupied full details of the internal access drive, parking and turning areas shall submitted to and agreed in writing by the LPA. The approved scheme shall be fully implemented in accordance with the approved plans prior to the first occupation of the dwelling.

Reason: To ensure a satisfactory appearance to the development and provide a satisfactory internal access, parking and turning areas.

9. Prior to first occupation of the building, the makes, models and locations of bat boxes shall be submitted to and approved in writing by the Local Planning Authority. A minimum of 2 external woodcrete bat box or integrated bat roost feature, suitable for nursery or summer roosting for small crevice dwelling bat species, shall be erected on the site. The boxes shall be sited at an appropriate height above the ground, with a clear flight path and

where they will be unaffected by artificial lighting. The boxes shall thereafter maintained for the lifetime of the development.

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

10. Prior to the above ground works commencing 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 and harmonizes with the context of the area.

11. 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

Reasons: To ensure that the external appearance of the development is satisfactory and harmonizes with the context of the area.

12. Details of the roof construction 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.

Reasons: To ensure that the external appearance of the development is satisfactory and harmonizes with the context of the area.

13. Details of exterior soil and vent pipes, waste pipes, rainwater goods, boiler flues and ventilation terminals, meter boxes and electrical fittings and lighting shall be submitted to and approved in writing by the Local Planning Authority before the commencement of works. The development shall be carried out in accordance with the approved details.

Reasons: To ensure that the external appearance of the development is satisfactory and harmonizes with the context of the area.

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

14. Work shall be carried out strictly in accordance with the Preliminary Ecological Appraisal Report prepared by Pearce Environment Ltd (May 2018).

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 175 of the NPPF.

15. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Pearce Environmental and additional Sylvan Resources Tree Protection Plan and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class E (buildings incidental to the enjoyment of the dwelling house) shall be erected, constructed or carried out without first obtaining planning permission from the LPA.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and visual amenities.