

Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 18/02747/OUT	<u>Parish:</u>	Bayston Hill
<u>Proposal:</u> Outline application for residential development for up to 2No. dwellings with retention of access		
<u>Site Address:</u> Proposed Residential Development Land To The North Of Betley Lane Bayston Hill Shrewsbury Shropshire		
<u>Applicant:</u> Mrs Julie Houlker		
<u>Case Officer:</u> Nanette Brown	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 348384 - 308395



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks outline planning permission including means of access. All other matters of appearance, landscaping, layout and scale are to be reserved matters. The proposed access is shown to utilise an existing access located at the end of Betley Lane.
- 1.2 Submitted illustrative plans show two detached houses set to the western side of the site, avoiding the positions of a foul sewer that crosses the site and the root protection areas of existing trees located close to the sites eastern boundary.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located to the north end of Betley Lane, an unadopted private lane that serves approximately 22 residential properties as well as providing access to the rear gardens of properties located on the south side of Lyth Hill Road.
- 2.2 To the east of the site is a detached property, Highfields that is accessed of a private driveway that runs alongside the northern boundary of the site. To the west of the site lies the ends of the rear gardens to properties fronting Lyth Hill Road. To the south lies the end of Betley Lane as well as the end properties of the lane that are located on the south side of the lane.

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 have submitted a view contrary to officers that the local member considers to be based on material planning reasons and the Area Planning Manager in consultation with the Vice Chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations**4.1 - Consultee Comments**

SC Suds – No objection

Suggested condition – details of surface water and foul drainage to be agreed.

SC Ecology – No objection

Supporting documents have been submitted including an Ecological Assessment prepared by Star Ecology (23rd February 2018).

Suggested conditions – bat boxes, external lighting, and suggested details for reserved matters submission plus informatives.

SC Trees – awaited, on submitted arboricultural report.

SC Highways – No objection

The proposed development site is located at the northern end of Betley Lane, Bayston Hill. Betley Lane is a private lane accessed off Lyth Hill Road, an unclassified urban road governed by a local 30mph speed limit. The junction of Betley Lane is existing, though not ideal due to the height of neighbouring hedges. Planning approval has previously been granted for single dwellings on Betley Lane. The development proposes the erection of up to two dwellings with parking and turning for each to enable vehicles to exit in a forward gear. Access is existing and this will be improved and widened. Due to the narrowness of Betley Lane and traffic and parked vehicles along Lyth Hill Road a Construction Method Statement, including a Traffic Management Plan will be required.

Suggested conditions – access layout and drainage; parking and turning areas; construction method statement

SC Regulatory Services – No objection

The location of the development appears to be in a parcel of land surrounded by residential properties in close proximity. The applicants should ensure that disturbance is minimised by keeping to works hours to protect the existing residents during the duration of works. These are 8am to 6pm Monday to Friday, 9am to 1pm Saturday and no work on Sundays or Bank Holidays.

SC Waste Management – Comments

Vital new homes have adequate storage space to contain waste for a fortnightly collection (including separate storage space for compostable and source segregated recyclable material). Also crucial is that they have regard for the large vehicles utilised for collecting waste and that the highway specification is suitable to facilitate the safe and efficient collection of waste. Recommend that the developer look at the guidance that waste management have produced, which gives examples of best practice.

Bayston Hill Parish Council – Objection

Bayston Hill Parish Council strongly objects to the proposed development of two additional properties on Betley Lane, the proposed access for which is a narrow, unadopted and unsurfaced track unsuitable for additional vehicular movements. The applicant has provided no evidence of a vehicular right of access along Betley Lane, which is an unadopted private road.

As the lane is private no parking restrictions may be enforced, so even should a right of access be in place there is no guarantee that it can be maintained. The narrow lane is already used by residents of Betley Lane for parking and this causes significant problems for emergency and refuse vehicles. It is highly unlikely that a fire appliance or ambulance could get to the site without moving parked vehicles. There are already a number of existing residents with mobility issues who need to park in the lane in order to get into and out of their homes safely.

Betley Lane is untarmacked and is unsuitable for disability scooters, wheelchairs and pushchairs. Should the future occupants of the proposed properties have any mobility issues, it is likely that they would rely heavily on private cars, which would increase the number of movements along the already congested lane. With two allocated parking spaces each the lane is likely to experience up to 10 vehicle movements each day. The properties would also attract delivery vehicles and visitors which the site is unlikely to be able to fully accommodate. These will inevitably increase the number of parked vehicles and further restrict access.

The lane is used as a play area by the many school children who live in Betley Lane. Betley End is the quietest part of the lane due to the lack of through traffic. Introducing two additional properties on this site will significantly compromise a relatively safe area for fresh air and informal recreation.

It has recently been demonstrated that the construction of new housing is detrimental to the surface of the road which is maintained by existing residents. The proposed development would impact heavily on the most fragile section of the lane and is likely to cause significant damage.

Furthermore, the lane already suffers from very poor surface water drainage, which results in regular flooding of Betley End. It is proposed that soakaways be used to deal with surface water drainage but as there is insufficient drainage to cope with the existing run off, it is unlikely that soakaways will be adequate to deal with the accelerated run off from new roofs and driveways.

As the topographically lowest area the proposed site struggles to absorb the existing surface run off from the lane. Even in its present unsurfaced state it becomes swamped so the proposed development is likely to cause flooding problems for the new properties as well as extending flooding back up the lane to existing properties.

The potential for damage to the exiting residential amenity outlined above is contrary to Core Strategy CS6, Sustainable Design and Development Principles and should therefore be rejected.

Whilst the Parish Council recognises that the site lies within the development boundary of a Community Hub it considers that this site is unsuitable for the development proposed

4.2 - Public Comments

23 objections to the application have been made by third parties, summarised as follows:

Principle

Concerned approving this would set a precedent for others to apply.

Access & Highway Safety

Unadopted narrow lane is deteriorating due to excessive use; access for emergency vehicles, construction vehicles, service and delivery vehicles is difficult and extremely limited; lane is limited in width and has no dedicated passing or turning space; any additional use will further endanger the safety of pedestrians, ramblers using the public right of way and school children using the lane; construction vehicles will cause a further hazard and inconvenience to existing residents; visibility at junction of lane and Lyth Hill Road is poor due to volumes of traffic parked along the road; also a bus stop set opposite the junction; access to the site should be taken from the private lane to the north of the site that serves a smaller number of dwellings.

Residential amenity

Loss of privacy will result to adjacent properties through overlooking; added traffic using the lane will impact on quiet residential amenity currently enjoyed; any dwellings built should be bungalows with not first floor openings facing neighbours

Drainage/utilities

The land is frequently flooded throughout the year, providing drainage for the lane; any development of this site may flood itself or cause flooding to existing properties which don't currently experience any flooding; adjacent properties to the site have also flooded (from this site); existing utility pipes and cables cannot cope with increased demand/use

5.0 THE MAIN ISSUES

Principle of development

Access

Drainage

Residential Amenity

Other matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The application site is located within the identified development boundary for

Bayston Hill as set out in SAMDev, policy 16.2(ii). This policy as well as policy CS4 of the adopted core strategy also identifies Bayston Hill as a community hub where development by infilling or by groups of houses may be acceptable on suitable sites within the development boundary.

6.1.2 The site is also surrounded by residential properties. Officers consider that in principle the use of the site for residential development is acceptable.

6.1.3 The submitted layout plan is illustrative only at this stage, but does show that two dwellings could be physically accommodated within the site, subject to more detailed designs at the reserved matters stage.

6.2 Access

6.2.1 The proposed access is shown leading off the end of Betley Lane, through an improved existing gateway. The applicant's agent has confirmed that the applicants have a legal right of way to use this access onto Betley Lane. They have also confirmed that no access is proposed from the application site onto the private access drive to the north, as this driveway is not in the ownership of the applicant and they also have no right of way over it.

6.2.2 SC Highways officers have raised no objections to the proposed access onto Betley Lane and then to the additional use of the junction of Betley Lane and Lyth Hill Road, although they have noted the limited width of the lane itself. They have therefore requested that a Construction Method Statement, including a Traffic Management Plan be required by condition if planning permission is granted.

6.2.3 Officers note that Betley Lane is privately owned. Whilst the lane is narrow and unevenly surfaced, the illustrative layout shows the potential for provision of sufficient parking and turning space within the site to allow vehicles to enter and leave along Betley Lane in a forward gear.

6.3 Drainage

6.3.1 Several of the objections received, including that of the Parish Council, refer to existing flooding of the lane, adjacent gardens and the application site during wet/winter periods. SC Suds officers have raised no objections to the application on this basis, but have requested that the details of surface water drainage and foul drainage be agreed and approved by the Local Planning Authority prior to commencement of any works on site. This information could be required to form part of the first submission of any reserved matters in order to ensure that adequate drainage of the site is considered and carefully designed as part of the more detailed scheme.

6.4 Residential Amenity

6.4.1 Several objectors have raised concerns that the construction of two dwellings will result in significant overlooking of their private gardens and houses.

6.4.2 The illustrative plans show the two proposed properties set close to the western boundary of the site. As shown a distance of over 30 metres would exist between the rear elevations of the existing properties fronting Lyth Hill Road and the closest elevation of the new dwellings. Officers consider that this distance would be acceptable and that any detailed design of houses could also be designed in a way to further mitigate any potential loss of privacy by limiting and reducing the types and numbers of window openings on the west elevation of each dwelling. This matter would be further explored at the reserved matters stage.

6.5 Other matters

6.5.1 Trees – SC Trees officers have raised no objections to the proposed development of the site. Officers are satisfied that the site can be developed to provide two residential units without impacting on the trees with the most significant amenity value. SC tree Officers have requested that an updated Arboricultural Impact Assessment and tree protection is submitted with any reserved matters application in order to confirm that this remains the case with the final proposed design.

6.4.2 Ecology – SC Ecologists have read the submitted ecological assessment report and note that the oak tree to the east of the site boundary was identified as having bat roost potential. They have suggested conditions relating to provision of additional bat boxes, control over any external lighting and requirement to provide a construction environmental management plan with the reserved matters to ensure that wildlife is adequately protected during building works.

7.0 CONCLUSION

7.1 The site is located within the identified development boundary which surrounds Bayston Hill, a community hub as identified in the adopted SAMDev and Core Strategy Local Plans. Officers consider that the site could be developed for two dwellings without having any significant detrimental impact on either adjacent residents, the local highway network or the local natural environment.

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:
NPPF

Core Strategy and Saved Policies:

CS4 - Community Hubs and Community Clusters

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

MD2 - Sustainable Design

MD3 - Managing Housing Development

MD12 - Natural Environment

RELEVANT PLANNING HISTORY:

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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)

Planning file 18/02747/OUT

Cabinet Member (Portfolio Holder)

Cllr R. Macey

Local Member

Cllr Ted Clarke

Cllr Jane Mackenzie

Cllr Tony Parsons

Appendices

APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Approval of the details of the design and external appearance of the development, layout, scale, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

Details of the proposed foul and surface drainage, including details and sizing of any percolation tests carried out and proposed soakaways;

Reason: To ensure the drainage of the development is of an appropriate standard and to

5. The following information shall be submitted to the local planning authority concurrently with the submission of the reserved matters relating to the layout of the site:

An updated Arboricultural Impact Assessment and tree protection plan that takes into account the chosen design and proposed site layout.

Reason: To ensure that the final proposed site layout of the development ensures the protection of all trees identified on site as having significant amenity value.

6. Work shall be carried out strictly in accordance with the Ecological Assessment prepared by Star Ecology (dated 23rd February 2018).

Reason: To protect and enhance features of recognised nature conservation importance, in accordance with MD12, CS17 and section 118 of the NPPF.

7. The development hereby permitted shall not be brought into use until the access has been provided properly laid out, hard surfaced and drained. The space shall be maintained thereafter free of any impediment to its designated use.
Reason: To provide a safe access to the development in the interests of highway safety.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

8. 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
 - a Traffic Management Plan
- Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

9. No construction works shall take place before 8 am on weekdays and 9am on Saturdays nor after 6pm on weekdays and 1pm on Saturdays; nor at any time on Sundays, Bank or Public Holidays.
Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

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 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. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 35% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. 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 catch pit prior to entering the soakaway to reduce sediment build up within the soakaway. Should soakaways are not feasible, drainage calculations should limit the discharge rate from the site equivalent to 5.0 l/s runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 35% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.
4. On the Surface Water Flood Map, the site is at risk of surface water flooding. The applicant should ensure that the finished floor level is set above any known flood level or at least 150mm above the ground level.
5. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, contains eggs or chicks, or on which fledged chicks are still dependent. It is a criminal offence to kill, injure or take any wild bird; to take, damage or destroy an active nest; and to take or destroy an egg. There is an unlimited fine and/or up to six months imprisonment for such offences. All vegetation clearance, tree removal, scrub removal, conversion, renovation and demolition work in buildings, or other suitable nesting habitat, should be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation or buildings cannot be clearly seen to be clear of nests then an appropriately qualified and experienced ecologist should be called in to carry out the check. Only when there are no active nests present should work be allowed to commence. No clearance works can take place with 5m of an active nest. If during construction birds gain access to any of the buildings/vegetation and begin nesting, work must cease until the young birds have fledged.
6. The European hedgehog is a Species of Principal Importance under section 41 of the Natural Environment and Rural Communities Act 2006. To avoid harming hedgehogs during the works, site clearance (including removal of piles of deadwood and other potential hibernation sites) should be undertaken between April and October. Materials should not be stacked in the working area before then unless they are raised up on pallets, or similar. If a hibernating hedgehog is found on the site then it should be covered over with a cardboard box and advice sought from an appropriately qualified and experienced ecologist or the British Hedgehog Preservation Society (01584 890 801).

7. It is a criminal offence to kill, injure, capture or disturb a bat; and to damage, destroy or obstruct access to a bat roost. There is an unlimited fine and/or up to six months imprisonment for such offences. Should any works to mature trees be required in the future (e.g. felling, lopping, crowning, trimming) then this should be preceded by a bat survey to determine whether any bat roosts are present and whether a Natural England European Protected Species Licence is required to lawfully carry out the works. The bat survey should be carried out by an appropriately qualified and experienced ecologist in line with the Bat Conservation Trust's Bat Survey: Good Practice Guidelines (3rd edition). If any evidence of bats is discovered at any stage then development works must immediately halt and an appropriately qualified and experienced ecologist and Natural England (0300 060 3900) contacted for advice on how to proceed. The Local Planning Authority should also be informed.
8. Where it is intended to create semi-natural habitats (e.g. hedgerow/tree/shrub/wildflower planting), all species used in the planting proposal should be locally native species of local provenance (Shropshire or surrounding counties). This will conserve and enhance biodiversity by protecting the local floristic gene pool and preventing the spread of non-native species.
9. 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 new utility connection, or
undertaking 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.
10. The applicant's attention is drawn to the need to ensure that appropriate facilities are provided, for the storage and collection of household waste, (i.e. wheelie bins & recycling boxes). Specific consideration must be given to kerbside collection points, in order to ensure that all visibility splays, accesses, junctions, pedestrian crossings and all trafficked areas of highway (i.e. footways, cycleways & carriageways) are kept clear of any obstruction or impediment, at all times, in the interests of public and highway safety.
<https://new.shropshire.gov.uk/planning/faqs/>