



Committee and date

South Planning Committee

18 December 2018

## Development Management Report

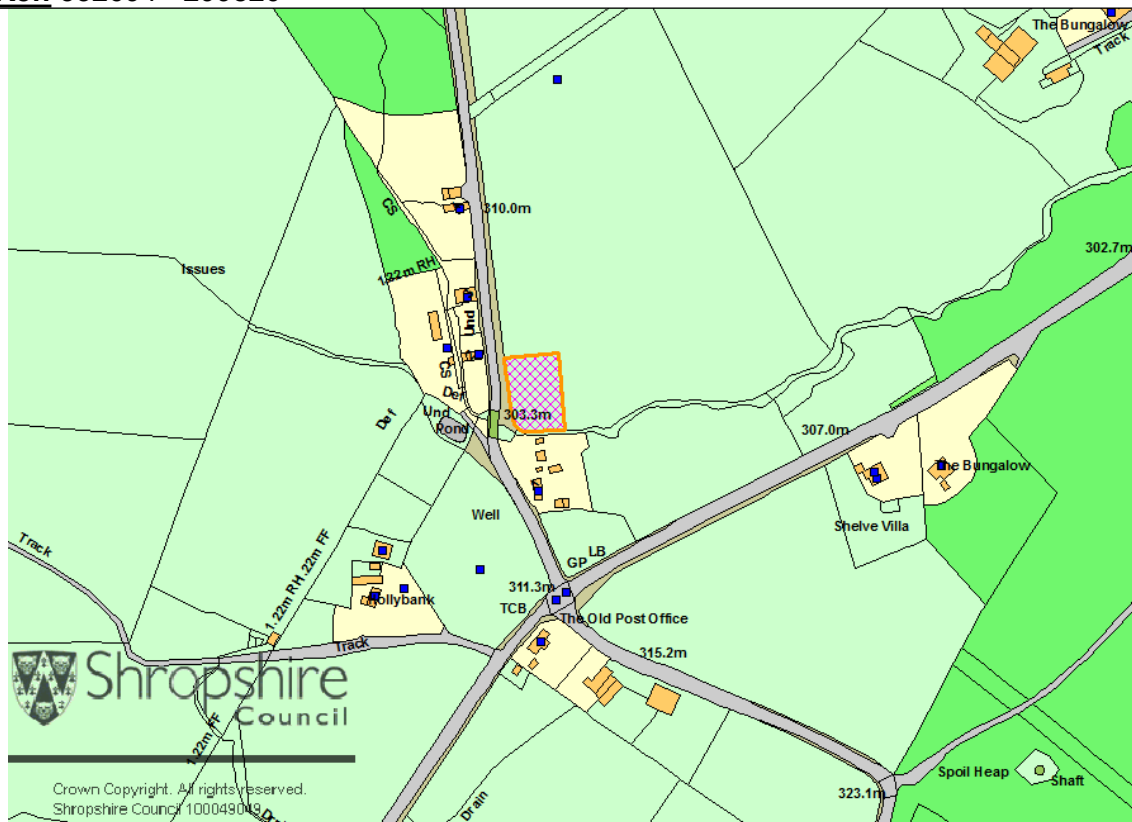
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 18/03312/OUT	<b>Parish:</b>	Worthen With Shelve
<b>Proposal:</b> Outline application for the erection of a single dwelling (to include access)		
<b>Site Address:</b> Land To The South East Of Hemford, Bromlow, Minsterley, Shropshire		
<b>Applicant:</b> Mr & Mrs Chesters		
<b>Case Officer:</b> Cathryn Robinson	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 332694 - 299820



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Contact: Tim Rogers (01743) 258773

**Recommendation:- Permit, subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

**1.1** This application seeks outline permission for the erection of a single open market dwelling. All matters (Appearance, Landscaping, Layout and Scale), with the exception of access, are reserved for later approval. The proposed vehicular access, as amended, would be towards the northern end of the site road frontage. It would have a tarmac surface, with gates set back some 5.5m from the road. The visibility splay to the south would be 2.4m x 41m with that to the north being in excess of 79m. The indicative site layout shows a vehicle parking and turning area adjacent to a detached double garage, with the dwelling positioned in the southern portion of the plot, with hedge planting to the road boundary retained and supplemented by new tree planting. The indicative site layout also shows a post and rail fence to the eastern and northern boundaries to the field.

### **2.0 SITE LOCATION/DESCRIPTION**

**2.1** The development site sits to the Southern segment of the settlement of Hemford. Currently open agricultural land, the site is bounded to the West by the C-classified which travels South to join the A488 and to the South by mature vegetation and a brook. The development site falls within the Shropshire Hills Area of Outstanding Natural Beauty (AONB).

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

**3.1** The Parish Council have provided views contrary to the Officers recommendation. This application has been discussed with the Local Member. The Principal Officer, in consultation with the Chair and Vice Chair of the South Planning Committee, consider that the material planning considerations raised require a committee determination of the scheme.

### **4.0 Community Representations**

#### **4.1 - Consultee Comments**

##### **4.1.1 Worthen with Shelve Parish Council – Object:**

Worthen with Shelve Parish Council would refer the relevant officer to the Parish Plan and LIP. Extracts of which are detailed below:

WSPC L.I.P. and results of the Parish Plan Questionnaire indicate that the future housing stock should provide properties to enable downsizing within our communities, thus freeing up family homes. In addition, good value small family homes (2/3 bed roomed) are required rather than executive accommodation as there is an abundance of these property types in the parish. Outline applications do not indicate the size and type of housing that could be constructed.

The total number of open market housing in the ward, to encompass all settlements, not just Bent Lawnt and Hope is 15. The preference of this council is for infill. A maximum development site will be no more than 2 properties. There will be a maximum development rate of 5 houses per 5 year period.

For information, at the time of writing, Worthen with Shelve Parish Council have been consulted on applications for 34 new open market properties in the Hope and Shelve Ward and to date 15 have been agreed.

The Parish Council consider this site to be open countryside and not infill.

#### **4.1.2 Shropshire Hills AONB Partnership**

The Shropshire Hills AONB Partnership notes that this application affects the nationally designated area and provides general advice on legal and policy considerations for decisions affecting the AONB. The AONB designation remains a matter for the Council to take fully into consideration, fulfilling its statutory duty in respect of the AONB, in reaching a decision on the application.

#### **4.1.3 SUDs**

No objection; see decision notice, where conditions and informatives are recommended.

#### **4.1.4 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.

#### **4.1.5 WSP Consulting for SC As Local Highway Authority**

23.11.18

Following receipt of further information uploaded on 19th November 2018 it is considered that the justification for the proposed revised visibility splay for the new access would appear to be reasonable.

It is incumbent on the applicant to cut back any vegetation within the visibility splay and to keep the visibility splay clear at all times in perpetuity.

No objection subject to the development being constructed in accordance with the approved details, and the conditions recommended to reinforce the critical aspects.

06.11.18

It is considered that the proposed development of a single dwelling at this location is unlikely to have a severe negative impact on the adjacent public highway. Therefore, the principle of such a development is acceptable from a highways & transport perspective. However, the proposed visibility splay for the new access serving the development has not been appropriately justified by the developer.

In the supporting statement accompanying this planning application, it states that the achievable visibility splay at the proposed site access is suitable for the adjacent 60mph highway. This is not factually true and visibility splay shown is significantly lower than that recommended in Manual for Street 2.

It is recommended that the developer provides the appropriate evidence and supporting justification to demonstrate that the substandard visibility splay proposed is adequate and commensurate with the local traffic conditions, and would not be contrary to highway safety.

03.10.18

It is considered that the principle of this proposed development for the erection of a detached dwelling with detached garage here, is likely to be acceptable from a highway perspective, subject to the access and parking facilities being commensurate with highway safety and the local conditions.

#### **4.1.6 SC Ecology**

No objection; please see decision notice, where conditions and informatives are recommended.

#### **4.2 - Public Comments**

**4.2.1** This application was advertised via notice at the site. Additionally, the residents of three neighbouring properties were individually notified by way of publication of this application. At the time of writing this report, no representation had been received in response to this publicity.

### **5.0 THE MAIN ISSUES**

**Principle of development**  
**Siting, scale and design of structure**  
**Design and visual impact**  
**Access**  
**Residential amenity**

### **6.0 OFFICER APPRAISAL**

#### **6.1 Principle of development**

**6.1.1** Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. 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 plan for Shropshire is the Local Development Framework (LDF) Core Strategy, the Supplementary Planning Document (SPD) on the Type and Affordability of Housing and the Site Allocations and Management of Development (SAMDev) Plan. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.

**6.1.3** Core Strategy Policies CS1, CS3, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages. Policy CS4 also allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen; these hubs and clusters

were designated as part of the adoption of the Council's Site Allocations and Management of Development (SAMDev) plan.

**6.1.4** The Council is satisfied it can demonstrate a deliverable 5 year supply of housing land to meet housing need through the sites identified in the SAMDev document and through provision of housing across the county through the community hub and cluster approach; the majority of recent appeal decisions support this position. Consequently the Council's policies on the amount and location of residential development should be regarded as up-to-date and that there is no pressing need to support sites beyond the boundaries of the designated settlements by way of supplementing the County's housing targets.

**6.1.5** Hemford is recognised as comprising part of community cluster within the Bishops Castle area within policy S2.2 (vii) of SAMDev. The hamlet is loose knit and sporadic its nature, thus initial assessments are required in order to ascertain whether or not these peripheral plots comprise part of the settlement. Previously approved property 14/03447/OUT, located within proximity of the plot to the South, was recognised site as comprising part of Hemford. As such, despite the peripheral nature, it can be considered that the hamlet of Hemford extends to this extent.

**6.1.6** Policy S2.2 (vii) notes that infill development, on suitable sites, may here be acceptable. Hemford is acknowledged as no more than a hamlet with a dispersed development pattern, and as such identification of logical infill plots is difficult. This plot is bordered by a residential neighbour to the South – albeit well screened via mature vegetation – with further residential development located on the opposite side of the road. A plot to the South-West – on the opposite side of the road – was also granted outline permission in the last few years. These neighbouring residential developments, on balance, loosely establish the plot as infill. On this basis therefore the outlined development site is, on balance, deemed acceptable in principle.

## **6.2 Design and visual impact**

**6.2.1** As the proposal is outline with all matters reserved, a consideration of design, scale, siting and appearance will take place at the reserved matters stage. This application is simply to assess the principle of the development.

**6.2.2** Notwithstanding the above, the bulk of residential development is located on the opposite side of the highway; as such any property here constructed should be located in the South-Eastern plot corner – where the topography is noted lowest – by way of working to reduce its visual impact. On this basis initial concerns were raised regarding the proposed access, located to the North-West corner particularly where the indicative block plan suggested the property to be located to the North near the driveway.

**6.2.3** To avoid scenarios of the subsequent dwelling being located unnecessarily far North, to relate to the driveway, or a requirement to run the driveway along the length of the plot to reach a southerly located property the applicant was requested to relocate the access point. It is noted that a bend in the highway to the South of the site somewhat constraints the access location; nonetheless amended drawings pushed the access further south, and have been deemed acceptable in terms of

highway safety.

**6.2.4** Alongside careful siting of the subsequent dwelling, the plot should be subjected to a sympathetic landscaping scheme. These measures shall cumulatively work to reduce the visual impact and bulk of any property here constructed. This is particularly key where the development site falls within the Shropshire Hills AONB.

**6.3 Access**

**6.3.1** The property shall be served by a new access entering onto the C-classified which travels South to join the A488. Whilst subject to the national speed limit, due to the alignment of the road from both directions vehicle speeds are highly likely to be universally below this. Accordingly, though the proposed visibility splays are lower than that recommended in Manual for Street 2, sufficient supporting evidence has been provided surrounding the road conditions to justify that the substandard visibility splay proposed is adequate and commensurate with the local traffic conditions and shall not compromise highway safety.

**6.4 Residential amenity**

**6.4.1** It is noted that the layout at this stage is only indicative, thus if necessary further measures can be undertaken to minimise any potentially adverse impacts. In terms of residential neighbours, 1 Hemford to the South is separated from the development site by a brook and mature vegetation. The C-classified highway from which the property gains access separates the development site from the nearest residential neighbour to the West. Based on the ample size of the plot, and the separation from residential neighbours it is not considered that the addition of a sole dwellinghouse at this location would pose unacceptable harm to the amenity of neighbouring residents.

**7.0 CONCLUSION**

**7.1** The proposal is considered, on balance, an acceptable infill development thus according with the specifications of the SAMDev plan in relation to housing development in Hemford and its associated cluster settlement. Although the site is on the fringes of the village the development would be relate to the context of the neighbouring buildings and would not encroach visually into the surrounding open countryside. The application therefore accords with the principle determining criteria of the relevant development plan policies; officer approval is therefore recommended.

**8.0 Risk Assessment and Opportunities Appraisal**

**8.1 Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication

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

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

## **8.2 Human Rights**

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

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

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

## **8.3 Equalities**

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

## **9.0 Financial Implications**

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

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and SAMDev Policies:  
 CS1 - Strategic Approach  
 CS3 - The Market Towns and Other Key Centres  
 CS4 - Community Hubs and Community Clusters  
 CS5 - Countryside and Greenbelt  
 CS11 - Type and Affordability of housing  
 Settlement: S2 - Bishops Castle

### RELEVANT PLANNING HISTORY:

16/00819/AGR Detached, pitched, steel framed building with concrete block and Yorkshire boarding above. Open fronted to the North Eastern elevation. REN 17th March 2016

## 11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PC0VHRTDMTH00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Supporting Statement Ecology Report
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Cabinet Member (Portfolio Holder) Cllr R. Macey
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Local Member Cllr Mrs Heather Kidd
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Appendices APPENDIX 1 - Conditions
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## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the 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 5 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 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.

5. Prior to commencement of development an appropriately qualified and experienced Ecological Clerk of Works (ECW) shall provide a report to the Local Planning Authority demonstrating implementation of the GCN RAMMS, as set out in section 3 of the Preliminary Ecological Assessment (Salopian Consultancy, September 2018).

Reason: To demonstrate compliance with the GCN RAMMS to ensure the protection of great crested newts, which are European Protected Species.

6. No development 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 occupied/brought into use (whichever is the sooner).

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

7. The first submission of reserved matters shall include a landscaping plan. The submitted plan shall include:

- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. hibernacula, 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 retained and measures to protect these from damage during and after construction works;
- f) Implementation timetables.

The plan shall be carried out as approved.

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

8. The development hereby permitted shall not be brought into use until the areas shown on the approved plans for parking and turning of vehicles 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 ensure the provision of adequate vehicular facilities, to avoid congestion on adjoining roads and to protect the amenities of the area.

9. Prior to the first occupation of the development hereby permitted (or Prior to the commencement of the use hereby permitted) a visibility splay shall be provided in full accordance with the details indicated on the approved plan Drawing No.SA30136\_PL\_03 REV A. The splay shall thereafter be maintained at all times free from any obstruction above the level of the adjacent highway carriageway.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

10. The access apron 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 access in the interests of highway safety.

11. Any gates provided to close the proposed access 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. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. The above conditions have been imposed in accordance with both the policies contained within the Development Plan and national Town & Country Planning legislation. Your attention

is specifically drawn to any conditions above that require the Local Planning Authority's approval.

In accordance with Article 27 of the Town & Country Planning (Development Management Procedure) Order 2015 a fee may be payable to the Local Planning Authority for applications to discharge conditions. If a fee is necessary this will be required per request. The required forms are available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority.

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. Failure to discharge pre-commencement 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. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

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

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 land adjacent to the watercourse 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 to minimise the risk of surface water flooding.

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 and/or scrub removal 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 for active bird nests should be carried out. If vegetation 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. No clearance works can take place with 5m of an active nest.

If during construction birds gain access to the building and begin nesting, work must cease until the young birds have fledged.