

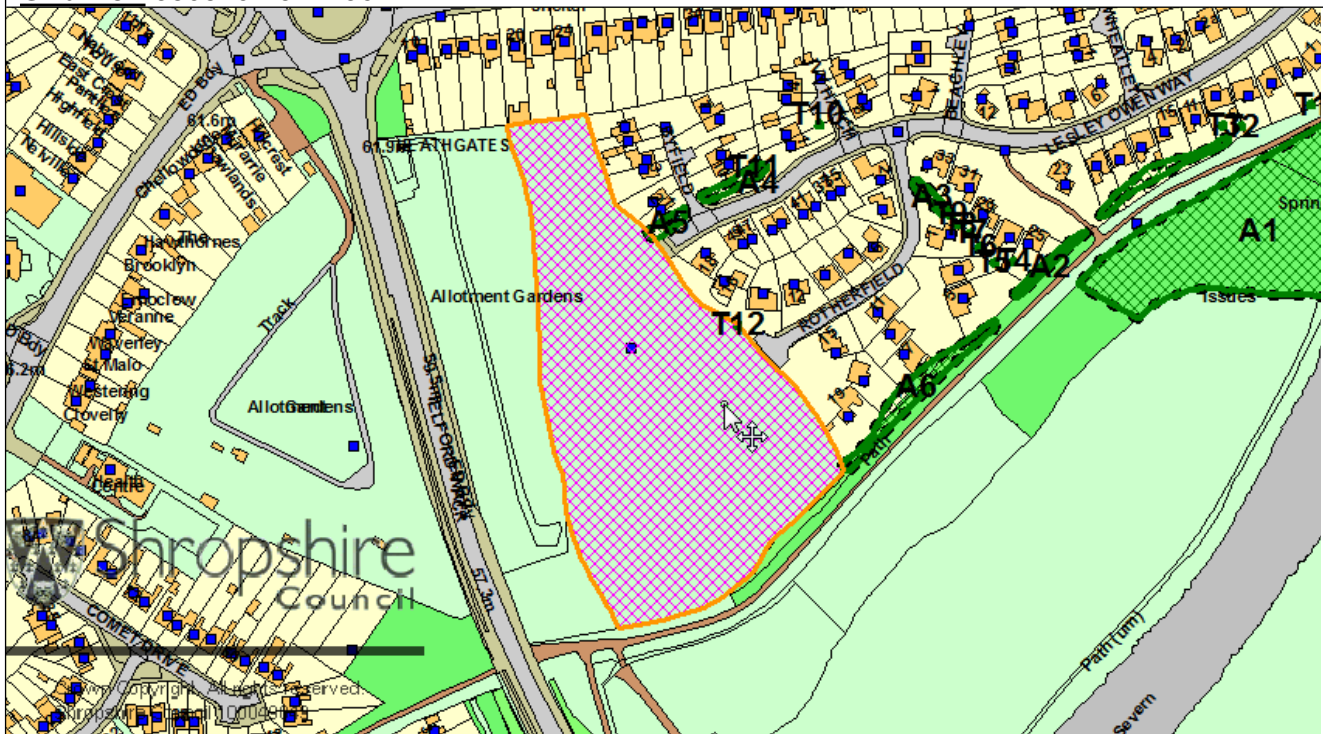
Development Management Report

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Summary of Application

<u>Application Number:</u> 18/04674/REM	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 16/00476/OUT for mixed residential development of 40 dwellings to include affordable houses; formation of vehicular access (from Lesley Owen Way) and estate roads		
<u>Site Address:</u> Development Land to The West Of Lesley Owen Way Shrewsbury Shropshire		
<u>Applicant:</u> Jessup Brothers		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	

Grid Ref: 350540 - 314436



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

REPORT

1.0 THE PROPOSAL

1.1 This application relates to the approval of reserved matters (access, appearance, landscaping, layout and scale) pursuant to 16/00476/OUT for mixed residential development of 40 dwellings to include affordable houses; formation of vehicular access (from Lesley Owen Way) and estate roads.

1.2 As part of this application for Reserved matters details of the following have been submitted for approval as required by the following conditions attached to the outline planning permission:

4. Surface water drainage
5. Updated tree protection plan
6. Updated phase 1 and where appropriate phase 2 ecological surveys
7. Construction Environmental Management Plan (CEMP)
8. A scheme of landscaping
9. A habitat management plan.
10. Provision of nesting opportunities for swifts
11. Details of bat boxes or bat bricks.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is a vacant roughly rectangular field which is narrower to the North and is situated to the East of allotments accessed off Telford Way located further to the West of the site. The Northern boundary is shared with the rear gardens of three properties that face Sundorne Road to the North, there are residential properties to the East accessed off Lesley Owen Way and to the South is a public footpath / public bridleway / cycleway and further to the South is the River Severn.

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 application has been requested by the Local Member to be referred to committee within 21 days of receiving electronic notification based on material planning reasons. In addition the Town Council have submitted a view contrary to officers and 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 **WSP on behalf of SC Drainage:** The drainage layout is acceptable however the Environment Agency should be consulted regarding the part of development in Flood Zone 2 of the River Severn.

4.1.2 **Environment Agency:** The EA have not responded to the consultation but they are not a statutory consultee for development in Flood Zone 1. At the Outline stage they provided the following comments: *I would have no comments to offer on the application as the site lies wholly within Flood Zone 1, the low risk Zone. Whilst the Flood Map does indicate a small portion of Flood Zone 2 detailed modelling has confirmed that, in fact, the whole site is within the low risk zone.*

4.1.3 **WSP on behalf of SC Highways:** No Objection subject to the development being carried out in accordance with the approved details, and the recommended conditions and informatives.

Observations/Comments: It is considered that this proposed residential development is unlikely to have a severe adverse impact on the adjacent local highway network. As it forms a minor extension to an existing residential estate. As there are some local amenities nearby, then there is opportunity for sustainable movement. The proposed new links to the adjacent estate roads and existing cycle route, will also be of benefit to the local community.

The highway plans and information submitted, are not sufficiently detailed to undertake a full technical appraisal. Subsequently, the developer will need to submit these details separately, to satisfy the highway authority's highway adoption requirements prior to starting the development's construction.

4.1.4 **SC Affordable Housing:** This Reserved Matters proposal relates to the provision of 40 affordable dwellings comprising 26 x 2 beds, 10 x 3 bed, 2 x 2 bed bungalows and 2 x 3 bed bungalows (wheelchair accessible). The tenure will be a mix of rented and rent to buy/shared ownership. The properties will be owned and managed by Wrekin Housing Trust and rented to those on the Housing Register. The Housing Enabling and Development Team expressed a requirement for wheelchair standard bungalows and Wrekin Housing Trust have been willing to assist and work with the Council to support these specific requirements. There is high affordable housing need in Shrewsbury and this scheme will be fully supported by the Housing Enabling and Development team. Any planning permission should be subject to a legal agreement which will need reference for the need for a Local Letting Plan.

4.1.5 **SC Learning and Skills:** Shropshire Council Learning and Skills reports that the local infant and junior schools are currently close to capacity. It is forecast that the cumulative effect of developments will require additional school place capacity to be created to manage pupil numbers. It is therefore essential that the developers of this and any new housing in this area contribute towards the consequential cost of any additional places/facilities considered necessary to meet pupil requirements. In the case of this development it is recommended that any contributions are secured via CIL funding.

4.1.6 **SC Ecology:** I have read the above application and the supporting documents including the:

- Great Crested Newt Habitat Suitability Survey & Newt Mitigation Strategy prepared by Dr Stefan Bodnar (Revised December 2018).
- Habitat Management Plan prepared by Dr Stefan Bodnar (December 2018).

- Construction & Environmental Management Plan/Ecological Enhancement Scheme for Lesley Own Way prepared by Dr Stefan Bodnar (December 2018).
- Badger Survey prepared by Dr Stefan Bodnar (29th August 2018)

Condition 6: Information to cover condition 6 has been provided. The mitigation strategy for gcn has been modified. The mitigation will be on site only, consisting of: 6 refugia, 6006 sq. m (0.6 hectares) of semi-improved grassland, SUDs pond. Although the proposed enhancement area to the south of the development site is less than the outline planning permission SC Ecology does not object to this proposal. The area to the south of the development is still available for gcn/badgers and will be considered under its own ecological merits if it comes forward for development. I am satisfied that the great crested newt mitigation is sufficient to obtain a licence from Natural England, and therefore I accept the reduced area of great crested newt enhancement land provided.

Objections have been raised regarding Badgers. I would refer to Natural England's Badger Standing advice which is freely available on the Gov.uk website.

'A sett is any structure or place which shows signs indicating it's currently being used by a badger'.

There is no current outlier sett on site (please refer to Stefan Bodnar report dated 29 August 2018, site visit 21st July & 27th August 2018). An artificial badger sett is not required to be shown on the site plan at Reserved Matters Stage. The planning system cannot enforce that an artificial badger sett is included within the development proposal as it is not essential for this proposal to proceed.

Prior to development a badger survey, in line with Natural England's standing advice, will be undertaken. If an active sett is identified on site (or within 30m of the site) update mitigation measures will be submitted and approved in writing by the LPA prior to any development commencing.

In addition to the above, commuting routes have now been retained on site along the boundary of the allotment, and land for foraging is available on site. The area to the south of the development (below the cycle path) is still available. SC Ecology does not object to this proposal and is satisfied that the reserved matters application is acceptable.

Condition 7: Information regarding the CEMP has been provided and is sufficient to support this application.

Condition 8 Landscape Plan: The landscape plan which has been submitted contains several non-native species. I accept that more formal planting areas can benefit from non-native species due to their appearance. The ecologist has provided a list of none native species which may be beneficial for wildlife.

In addition to the landscape plan provided, prior to commencement of development a scheme to enhance the eastern and southern boundary of the development site shall be submitted in writing for the approval of the local planning authority. The submitted scheme shall set out measures proposed to enhance the boundary along the allotment, and canal path, for biodiversity with the inclusion of: 1) a native

mixed species hedgerow, 2) field margin left to provide tussocky grassland. The agreed planting scheme shall be implemented in the first planting season and retained thereafter.

Condition 9 Habitat Management Plan: The information submitted in support of the Habitat Management Plan condition is sufficient. Providing works are carried out as proposed, I am satisfied that this condition can be discharged.

Condition 10 & 11: Information regarding bird and bat boxes has been provided and is sufficient.

Recommendation: SC Ecology is satisfied that conditions 6, 7, 8, 9, 10 and 11 can be discharged.

Please note: There is an existing planning condition regarding a pre-commencement Badger Survey. This will remain on the outline planning decision notice.

Recommends a condition regarding additional landscaping.

4.1.7 **SC Rights of Way:** No further comments to make on this application

4.1.8 **SC Trees:** Satisfied with the proposed landscaping and notes the inclusion of 3 new *Quercus robur* Oak trees to be included as long lived large canopy trees. These need to be identified on the planting plan to ensure correct planting and assumes they are referenced as T18 T19 and T22.

Provided the submitted Arboricultural Method Statement is adhered to the existing trees on site should be protected, the following condition should be imposed:

4.2 - Public Comments

4.2.1 **Shrewsbury Town Council:** The Town Council objects to this application.

The Town Council reluctantly accepts the principle of development on this site as per the approval of outline for 29 dwellings. It therefore considers the erection of 40 dwellings as a significant over-development of the site and certainly not within the sentiment of the existing outline permission.

The layout of these properties is too close to existing boundary measures and is one that is likely to undermine existing local neighbouring uses.

Such an increase in dwellings will have too much a strain on the local infrastructure which cannot cope with the existing development pressures, particularly around traffic and access through Lesley Owen Way to the Highways network and the impact on local services such as schools.

There has been very little consideration to the existing environmental benefit to this site and the effect such a development will have on the flora and fauna with the applicant accepting that no work had been done to communicate with statutory bodies like the Shropshire Wildlife Trust to preserve wildlife.

Members wish to understand more about the boundary treatments, particularly the retention of the existing hedgerow and adjacent ditch to ensure good management of water flow within the site resulting in no flood impact in the neighbouring allotment site.

The Town Council agrees in principle to a development on this site but consider 40 dwellings to be too high to cope with the local infrastructure. Such a development will impact on existing traffic problems and oversubscribed local schools. They wish to see the allotment holder's concerns addressed including the preservation of wildlife on this site, maintenance of the hedgerow line, maintenance of the ditch to manage the floodwater and to reconsider the layout to move houses away from the boundary with the allotments.

4.2.2 **Local Member (Cllr Pardy):** Requests that the application is determined at committee and objects to the application on the following grounds:

- I) Beyond expectations of the Outline Application
- II) Encroachment upon wildlife corridor
- III) Overdevelopment
- IV) Highways

4.2.3 **Shropshire Badger Group** (summary of comments on proposal as first submitted):

Appears to rescind conditions Nos. 6 and 8 of the outline.

The outlying sett was found to be inactive when surveyed in 2018 but by definition, an outlying sett is one that is used occasionally and seasonally; therefore no conclusion can be drawn to its status based on one visit.

We know the local badger population depend on this field as a valuable foraging resource in an area where available foraging is at a premium. It also forms a significant part of the territory of this badger clan and contains several commuting routes.

The application now proposes 40% more housing and a greatly increased amount of land-take on the site with the possibility of little or no mitigation for badgers.

Shropshire Badger Group feel that the following measures should be reinstated to mitigate the significant disruption that will undoubtedly be caused to the local clan:

- Reinstatement of the wildlife corridor running along the edge of the allotments.
- Reinstatement of the wildlife corridor that has now been removed to allow creation of Plot 1 garden and driveway. Badgers will undoubtedly attempt to follow their traditional commuting route through this property resulting in damage and complaints.
- Re-routing of the cycle path across the area of open space which fragments it and reduces the value to wildlife as well as potentially increasing the level

of disturbance.

- Reinstatement of the artificial sett which was agreed in the 16/00476/OUT Decision to provide some compensation for the loss of habitat and available refuge areas for badgers.

4.2.4 **Heathgates Allotment Holders** (summary of comments on proposal as first submitted):

- Concerns with the increase in the number of buildings close to the allotment boundary and the lack of attention on the boundary to the needs of the allotment neighbours.
- Cutting to the tree line and the removal of the hedge destroys an important protection for the allotment from north and easterly winds and the micro-climate it affords us and should be retained.
- Details of the management of the boundary area has been deleted from the original plan and should be reinstated.
- Removal of the hedge along this line will seriously affect the privacy of the allotments and the site.
- Completely removing the hedge at the north end is unacceptable and the plans should be reconsidered.
- Running along the hedge and fence line is a ditch which is important for the drainage from the allotment and is also therefore critical for the wellbeing of the cultivation management on the allotment.
- This line and drainage from the allotments must be maintained and managed at least to the current standard to ensure that the allotments are not affected by the development.
- This drainage feeds in to the current Council maintained wildlife pool and is also an important feature in maintaining the wellbeing of this area.
- No attention is given in the new application to the wildlife in the area, particularly badgers who visit regularly.
- Badger management must be included in any plans for the site development otherwise there will be issues in the gardens of any new development.

4.2.5 **Shrewsbury & Newport Canals Trust (SNCT):** SNCT understands that the development as currently proposed remains outside the boundary of the old canal route and therefore should not have a significant impact on the eventual canal restoration. We do, however, note the proposal for a footpath across the site to meet what is currently a footpath and cycleway along the line of the canal. We would draw your attention to the fact that, when the canal is reinstated, this will meet the canal on the opposite bank away from the towpath. If the proposed path is felt to be a significant feature of the scheme we would be grateful if this could be re-

routed to exit the site away from the line of the canal. If the developers would prefer not to make this change we would appreciate provision being made for the installation of a suitable footbridge with sufficient clearance for the passage of typical canal boat traffic. We can provide the relevant dimensions for such a bridge design if required.

We would also ask that officers and members are mindful of the close proximity of the canal route when giving any approval to the current proposals, particularly if the developers see a need for any associated services or other elements of the development to reach across the line of the canal. If this is proposed or there are any other aspects of the development which might have an adverse impact on a future canal restoration we would ask that SNCT is invited to join a dialogue with the developers and the council to seek a suitable solution.

4.2.6 **14 letters of objection received summarised as follows:**

- Increased number of dwellings from 29 at outline stage to 40 which is an increase of 40%
- An earlier proposal (over 20 years ago) has been refused
- Additional traffic making it difficult getting on and off the estate
- Disruption, noise and dust and parking of workers vehicles during the construction phase.
- The roads leading to the site are bendy and uneven and have blind spots with potential hazards.
- Visibility from cul-de-sacs onto Lesley Owen Way is poor and additional vehicles will increase the existing dangers.
- Construction vehicles passing at the entrance off Sundorne Road will result in them mounting the curb with fatal consequences for pedestrians.
- The width of Lesley Owen way is often reduced due to parked visitor and delivery vehicles and is unable to sustain additional traffic.
- There has been considerable developments along Sundorne Road and the resultant increase and expected increase in traffic onto Heathgates roundabout will increase pollution beyond the current level.
- Increased traffic resulting in frequent tail backs on Telford Way and Sundorne Road at peak times.
- The Heathgates roundabout already has the highest pollution compared to any other in Shrewsbury. Telford Way, Sundorne Road, Ditherington Road and Whitchurch Road are already at the point of maximum capacity with queues of traffic constantly backing up trying to gain access to the roundabout. Another 80 plus cars exiting Lesley Owen Way will exacerbate the conditions along this road and increase pollution problems beyond what

is safe and reasonable

- Objects to the footpath leading to/from Rotherfield which is not necessary and is unsuitable for any more pedestrians or cyclists and will attract anti-social behaviour.
- The addition of a footpath from the canal path and in very close proximity to Telford Way is unnecessary and will encourage people to take shot cuts through the estate.
- This is one of the few remaining green spaces in Shrewsbury and should be retained.
- The beauty and tranquillity of the area will be spoiled
- Destruction of habitat and impact on wildlife.
- Loss of beautiful landscape and views
- The compensatory area referred to at outline stage is already a wild area
- The protected area for wildlife has been omitted
- There is considerable badger activity in the area and no provision for displaced bats
- A large tree which was home to bats was demolished following the first ecological report in 2013
- Local schools,, doctors and dentists are at capacity
- All new dwellings should have solar panels fitted as standard
- Existing internet is poor and additional users will see a further reduction in download/upload speeds.
- The houses on plots 1, 2, 3 and 4 should be bungalows and not houses to reduce the impact on the residents in Rotherfield
- House will overlook existing properties resulting in loss of privacy and affect the visual amenity currently enjoyed by residents
- The open outlook from existing houses will be destroyed
- Possible risk of subsidence and drainage issues.

5.0 THE MAIN ISSUES

The principle of residential development of this site was established at the outline stage with all matters reserved for later approval including layout and number and type of dwellings. The main issues for consideration are the details reserved for

later approval and the details required to be submitted by condition at this reserved matters stage:

- Access
- Layout, scale and appearance
- Impact on residential amenity
- Landscaping, tree protection and ecology (conditions 5, 6, 7, 8, 9, 10 and 11)
- Surface water drainage (Condition 4)

6.0 OFFICER APPRAISAL

6.1 Access

6.1.1 Access was not included at the outline stage but as pointed out by Highways at the time it is somewhat implicit that *'access to the site would be derived via and extension of Lesley Owen Way. This is confirmed by the indicative layout drawing which shows a potential housing scale and layout'* Highways also made the following comments:

'The highway authority consider that a level of housing development is acceptable but that access, scale and design would need to be considered further as part of any subsequent reserved matters application. This would include further consideration of traffic calming measures being introduced to mitigate the impact of the development, in particular the interface between the site and current termination of Lesley Owen Way. Issues regarding the junction of Lesley Owen Way and Sundorne Road have been raised and again mitigation measures will need to be properly considered dependent upon the scale of development promoted'.

6.1.2 Highways have reviewed the proposed layout and access to the site which includes the scale of development proposed and have no objection to the proposal. They have not requested traffic calming measures within the new development or along the existing Lesley Owen Way or any alterations to its junction with Sundorne Road.

6.1.3 Highways have commented that it is a minor extension to an existing residential estate road and considers that the proposal is unlikely to have a severe adverse impact on the adjacent local highway network.

6.1.4 They have commented that the layout plans are not sufficiently detailed to undertake a full technical appraisal but this refers to the technical details relating to the construction of the road and its adoption under Section 38 of the Highways Act 1980 and for the construction of works on the existing public highway under Section 278. The developer will need to submit full construction details separately, to satisfy the highway authority's highway adoption requirements.

6.1.5 Paragraph 109 of the NPPF advises that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*. It is considered that the proposal would not result in unacceptable highway safety

implications or have a severe adverse impact on the adjacent local highway network.

6.2 **Layout, scale and appearance**

6.2.1 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.

6.2.2 Many of the objections refer to the proposal being an overdevelopment of the site and that the number of dwellings and the developable area being greater than at the outline stage. An indicative layout was submitted at the outline stage but the description of development did not include the number of dwellings, and the layout was for illustrative purposes only. The amount of development (layout and scale including number and size of houses) has not yet been determined and is to be considered at this reserved matters stage.

6.2.3 Notwithstanding this the agent has provided the following information in response to the concerns about over development of the site compared to the illustrative layout at the outline stage:

1. *The site developable area for the outline scheme of 29 houses is 0.97 hectares, the area for the reserved matters application of 40 houses is 0.96 hectares, a decrease of 1%.*
2. *The building footprint for 29 houses is 1654m², and 2043m² for 40 houses, an increase of 23%.*
3. *The number of bedrooms for the 29 houses is 82, for the 40 houses is 92, an increase of 13%.*
4. *Maximum number of persons for 29 houses is 145 and 174 for 40 houses, an increase of 20%.*

So, although the increase in the number of dwellings is 38% the actual increase in impact on the area is much less.

6.2.4 The developable area of the site is proposed to be the same (or slightly reduced) to that indicated at the outline stage with the remaining area to be enhanced for wildlife. However the amount of development (layout, scale, number and size of houses) was not determined at the outline stage and is for consideration now as part of this application for reserved matters. An assessment of whether the proposed amount of development is acceptable should be based on an assessment of the applications merits and not a comparison with something that was never previously approved.

6.2.5 The proposal is for 40 affordable dwellings including a mix of tenures and includes 26 x 2 beds houses, 10 x 3 bed houses, 2 x 2 bed bungalows and 2 x 3 bed bungalows. It is considered that the mix of size and type of dwellings is appropriate and has also been agreed with the affordable housing team to meet the local need

including disabled access.

- 6.2.6 The layout provides satisfactory spacing between the dwellings and good separation distance from existing dwellings, and provides adequate sized rear gardens and off road parking. The houses and bungalows are traditional in design with pitched roofs and front facing gables with external materials being a mixture of brick and render. It is considered that the layout, scale and appearance of the development is acceptable, does not represent an over development of the site and would have no adverse impact on the character and appearance of the locality.

6.3 **Impact on residential amenity**

- 6.3.1 Policy CS6 and MD2 seek to ensure that development contributes to the health and wellbeing of communities, including safeguarding residential and local amenity. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that development '*creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*'.

- 6.3.2 Development has the potential to impact on residential amenity due to the proximity and scale of new buildings that might appear overbearing or obtrusive or result in overlooking and a loss of privacy. The proposed houses are all sufficiently far away from existing houses that they would have no adverse impact on residential Amenity.

- 6.3.3 The proposed dwellings nearest to existing dwellings are plot 1, plot 39 and plot 40. Plot 1 is a semi-detached house with its side gable facing the front of 18 Rotherfield. Due to the distance between and the difference in ground levels the development will not appear overbearing or result in a loss of privacy. Plots 39 and 49 are proposed to be bungalows and are also sufficiently distant from the rear of properties in Sundorne Road that they would have no adverse impact.

- 6.3.4 The concerns of the allotment holders are noted but allotments are not afforded the same level of privacy as private residential gardens and are often close to residential gardens in many situations. The revised plans do however indicate that the existing hedge will be retained in addition to a narrow wildlife corridor and buffer between the private rear gardens of the new houses and the existing allotments.

6.4 **Landscaping, tree protection and ecology (conditions 5, 6, 7, 8, 9, 10 and 11)**

- 6.4.1 A revised landscaping plan has been submitted that indicates the landscaping of the developed area and the enhancement of the undeveloped area. The proposal includes a revised tree protection plan as required by condition 5 and the tree officer has no objection to the proposal subject to a condition which will ensure the protection of all existing trees to be retained.

- 6.4.2 The existing trees are not within a Conservation area or protected by a TPO so could be removed without the Councils consent. The previous removal of a tree with potential for roosting bats did not require consent from the Council. Approval of this development will secure the retention of the important higher value trees on this site in addition to the provision of enhanced landscaping which includes the

planting of three Oak trees to be planted with sufficient space to enable them to grow and become long lived large canopy trees.

- 6.4.3 Condition 6 required the submission of an updated phase 1 and where appropriate phase 2 ecological survey and an assessment of impacts from the development, and a detailed ecological mitigation strategy. This condition also stipulated the provision of an area within the red line boundary for Great Crest Newt mitigation no less than 4670m² and also an area for wildlife enhancement to the south of the site.
- 6.4.4 The Councils Ecologist has confirmed that there is no requirement for the area to the south of the site to be enhanced in order to make this proposal acceptable from an ecological perspective. It has been agreed that managing or attempting to enhance this area for wildlife would be counterproductive and the best wildlife enhancement would be to leave it as it is. This area will still be available for GCN and badgers post development and should a proposal come forward in the future it would be considered under its own ecological merits.
- 6.4.5 With regards to the land within the application site the area proposed for Great Crested Newt mitigation is more than originally shown on the indicative layout at the outline stage. The on-site mitigation will consist of 6 refugia, 6006m² (0.6 hectares) of semi-improved grassland and a SUDs pond. This is an increase of over 1300m² and has been achieved as the recreational open space originally indicated to the west of the existing houses will now be semi-natural open space with no defined footpath. This amendment is partly in response to existing residents objecting to the use of this land for recreation and to the provision of a footpath link to Rotherfield.
- 6.4.6 Officers consider that there is no requirement for additional recreation ground in this location due to the sports pitches, recreation grounds and play facilities in close proximity to the site in Sundorne. The area of land enhanced for Great Crested Newts and Badgers within the site boundary is significantly higher than that anticipated at the outline stage. Although the whole of the site might be suitable for terrestrial habitat for newts and the proposed development will reduce the amount of undeveloped land the proposed enhancement of over 6000sqm of the land within the red line boundary will more than compensate for the loss of terrestrial habitat.
- 6.4.7 Condition 6 also recommended that an artificial badger sett should be included in the updated ecological mitigation. The Councils Ecologist has however confirmed that based on the information submitted is satisfied that there is no requirement for an artificial badger sett. The planning system cannot enforce that an artificial badger sett is included within the development proposal when it is not essential for this proposal to proceed. Condition 13 on the outline consent remains relevant and will ensure that the site is re-inspected for badger setts prior to commencement of any development and appropriate mitigation proposed to include an artificial badger sett if considered necessary.
- 6.4.8 Ecology is satisfied that land for foraging will still be available on site (and to the south of the site) and commuting routes for badgers will still be available due to the change in layout of the site, and retention of a green corridor along the allotment

boundary. Initially questioned whether measures are being put in place to ensure that post development the badgers do not have access into residential gardens such as badger proof fencing. Condition 16 on the outline consent requires that all garden fencing should be badger proof.

- 6.4.9 Condition 7 required the submission of a Construction Environmental Management Plan (CEMP). The Councils Ecologist has confirmed that the submitted CEMP is satisfactory and is approved. The condition requires that all construction activities shall be adhered to and implemented strictly in accordance with the approved CEMP in order to protect features of recognised nature conservation importance.
- 6.4.10 Condition 8 required the submission of a landscaping plan and the Councils Ecologist has confirmed that the submitted landscaping proposal is acceptable but could be further enhanced by additional native species planting to the hedgerow on the eastern and southern boundary of the development. a condition is recommended regarding this.
- 6.4.11 Condition 9 required the submission of a habitat management plan. The Councils Ecologist has confirmed that the submitted plan is satisfactory and is approved.
- 6.4.12 Condition 10 and 11 required the submission of details for the provision of nesting opportunities for swifts and the details of the location and design of a minimum of 10 bat boxes or bat bricks. Ecology have confirmed that the submitted details and information are acceptable and these conditions require that the approved details are implemented in full prior to the occupation of the dwellings.

6.5 **Surface water drainage (Condition 4)**

- 6.5.1 Condition 4 required details of the proposed surface water drainage be submitted as part of the reserved matters. Drainage have confirmed that the submitted drainage details are acceptable but that the Environment Agency should be consulted regarding the part of development in Flood Zone 2.
- 6.5.2 The EA previously provided comments and advised that the site lies wholly within Flood Zone 1, the low risk Zone and that whilst the Flood Map does indicate a small portion of the site in Flood Zone 2 the detailed modelling confirms that the whole site is within the low risk zone.

6.6 **Other matters**

- 6.6.1 Shrewsbury and Newport Canals Trust (SNCT): SNCT has submitted comments (and has previously commented) regarding the proposed footpath from the housing site to join with the footpath and cycleway which is on the line of the Shrewsbury Canal. It is concerned that when the canal is restored the path would meet the canal on the non-towpath side and there would be no access to the towpath. This is exactly the same situation that will affect all footpaths that currently join the old towpath route (now a national cycle route) to the south of Sundorne Road. This situation would need to be resolved for all existing footpaths (and roads) if the canal is restored. However as the footpath in relation to this application joins the old tow path and National Cycle Route 81 adjacent to the A5112 Telford Way with pavements either side there is already provision in place for both cyclists and

pedestrians to cross the canal (if restored) and the River Severn.

- 6.6.2 Developer contributions: Highways have confirmed that no developer contributions are required for traffic calming measures on either the new estate road or Lesley Owen Way or for alterations to the junction with Sundorne Road. Any works to the existing Highway or surfacing materials and construction of the new road to an adoptable standard will be subject to a section 38 and section 278 agreement.
- 6.6.3 The application is already subject to a S106 agreement to secure affordable housing and this requires the landowner to confirm the affordable housing tenures and dwelling types and in accordance with a Local Letting Plan to be agreed with the Council as requested by the Affordable Housing team.
- 6.6.4 Shropshire Council Education (Learning and Skills) have confirmed that the local infant and junior schools are currently close to capacity and that it is forecast that the cumulative effect of developments will require additional school place capacity to be created to manage pupil numbers. In this case they have recommended that any contributions are secured via CIL.

7.0 CONCLUSION

- 7.1 The principle of development has been established by the outline permission. It is considered that the proposed access and layout of the site is acceptable and would not result in unacceptable highway safety implications or have a severe adverse impact on the local highway network. The scale, density, design and appearance of the dwellings would have no adverse impact on the character and appearance of the locality or adversely impact on residential amenity. The proposed landscaping and habitat management is acceptable and the proposal includes more than satisfactory ecological mitigation and enhancement and appropriate measures for the protection of the significant trees to be retained. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS17, MD2, MD12 and MD13 and the aims and provisions of the NPPF.

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 Site Allocations and Management of Development (SAMDev) Plan:
CS6, CS17, MD2, MD12 and MD13

RELEVANT PLANNING HISTORY:

16/00476/OUT Outline application (all matters reserved) for mixed residential development to include affordable houses; formation of estate roads and vehicular access from Lesley Owen Way GRANT 22nd February 2018

11. Additional Information

List of Background Papers

18/04674/REM - 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 Kevin Pardy

Appendices

APPENDIX 1 – Conditions

Conditions**STANDARD CONDITION(S)**

1. 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

2. 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 construction traffic management (& HGV routing plan) and community communication protocol.

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

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

3. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the submitted Arboricultural Method Statement 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.

4. Notwithstanding the submitted and approved landscaping plan prior to above ground works commencing a scheme to enhance the eastern and southern boundary of the development site shall be submitted in writing for the approval of the local planning authority. The submitted scheme shall set out measures proposed to enhance the area for biodiversity. The agreed planting scheme shall be implemented in the first planting season following commencement of development and retained thereafter. Any trees planted that are lopped, felled or die within five years of first planting shall be replanted.

Reason: To seek a biodiversity enhancement consistent with Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD12 and the policies of the National Planning Policy Framework.

5. All hard and soft landscape works shall be carried out in accordance with the approved plans. The works shall be carried out prior to the occupation of any part of the development hereby approved. 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 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, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs.

6. No above ground works shall take place until details of the design and construction of any new roads, footways, street lighting, accesses, together with details of the disposal of highway surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the buildings are occupied.

Reason: To ensure a satisfactory access to the site.

7. The garages, car ports and car parking spaces indicated on the approved plans shall be provided prior to the first occupation of the dwellings hereby approved and shall be kept available for the parking of motor vehicles, at all times. The garages, car ports and car parking spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Reason: To ensure an appropriate level of parking is provided for the lifetime of the development.