

Development Management Report

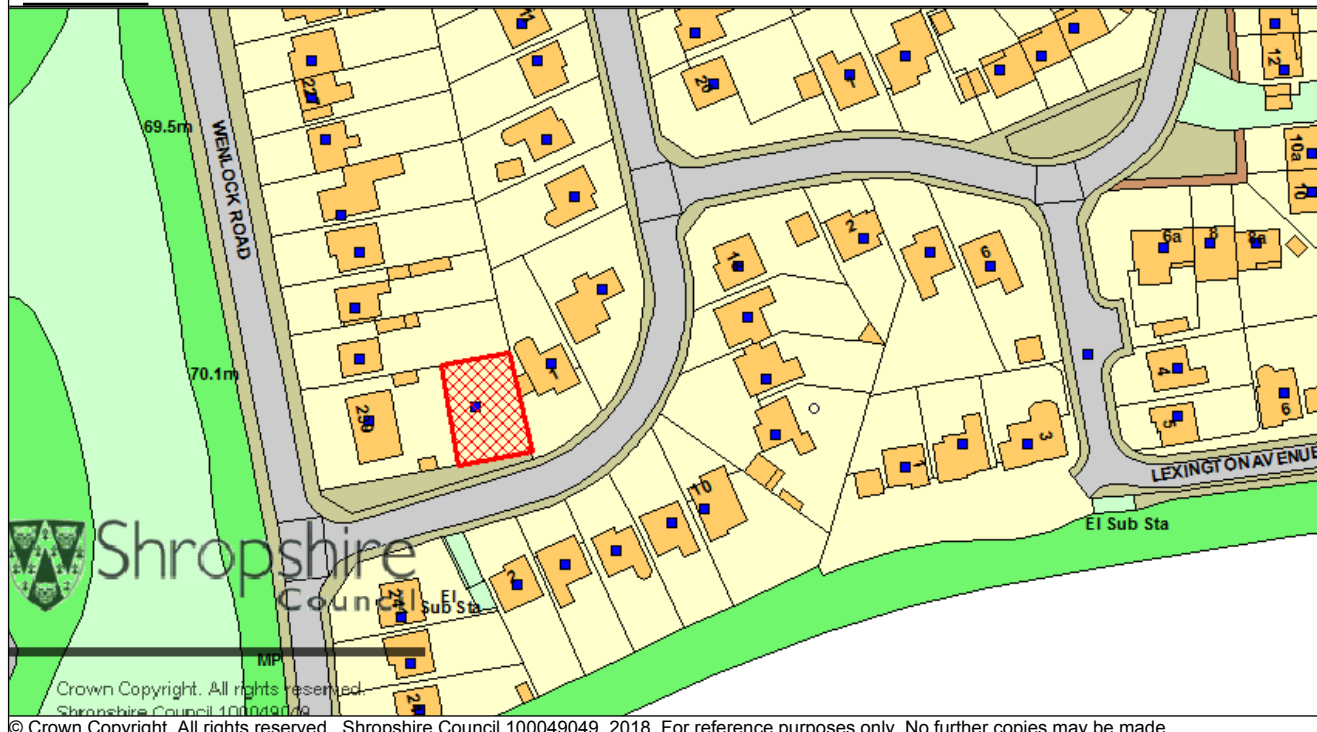
Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 19/02898/FUL	<u>Parish:</u>	Shrewsbury Town Council
<u>Proposal:</u> Erection of 1No dwelling and formation of vehicular access		
<u>Site Address:</u> Land To The Rear Of 239 Wenlock Road Shrewsbury Shropshire		
<u>Applicant:</u> Margaret Reynolds		
<u>Case Officer:</u> Jane Raymond		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 351249 - 310709



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

REPORT

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of a detached dwelling and formation of vehicular access.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a vacant piece of land that was once part of the rear garden of 239 Wenlock Road but has been fenced off for several years and is now in separate ownership

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Town Council have submitted a view contrary to officers and the 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: Suggests conditions and informative notes.
- 4.1.2 WSP on behalf of SC Highways: Access to the proposed new dwelling will be taken off Kingston Drive an urban estate road. Several previous applications for similar development on the site have been submitted and the highway authority offered no objection to the proposals.

It is considered that visibility will need to be improved by the cutting back of the bushes along the site road frontage and eastern boundary to allow the driver of an emerging vehicle to have clear sight of approaching pedestrians and traffic. An open frontage, in keeping with other properties along Kingston Way, would be appropriate.

4.2 - Public Comments

- 4.2.1 Shrewsbury Town Council: Objects to this application for the following reasons: Policy CS6 (Core Strategy) promotes good development which protects, restores, conserves and enhances the area. This application does not accord with such policy for the following reasons:

1) Whilst fronting the highway, members feel this constitutes back land development which harms the setting and context of both the existing property and the proposed dwelling, compromising the amenity value of both properties;

2) The development will have a detrimental impact on the character, street scene

and appearance of the locality;

3) This development will impact on the neighbouring properties in terms of their rights to privacy, particularly given the layout so close to neighbouring boundaries;

4) This development will impact on the visibility splays of the highway, accessibility of the site and parking in the locality.

4.2.2 Two letters of objection summarised as follows:

The site is the former rear orchard garden of 239 Wenlock Road and when the house was sold 5/6 years ago the orchard part of the garden remained in the ownership of the late owner's family.

The front boundary hedge has been removed to expose the site.

The proposal has no garage whereas all properties in Kingston Drive have a garage.

Would not be in keeping with the current properties or open plan nature of the estate.

Will impact on neighbours' privacy as the layout is very close to neighbouring properties.

Impact on the highway due to parking in Kingston Drive since the introduction of the business park.

The application should be refused as the previous four applications have all been refused.

Applications for a 3 bed dwelling, a 5 bed dwelling and a 2 bed bungalow have previously been refused and this should be refused for the same reason.

The previous reports and decisions emphasise the following and are still relevant:

- any proposal would be cramped and somewhat shoe-horned into the plot
- would stand out as different from the rest of Kingston Drive
- would appear to be an afterthought squeezed into a small plot at the back of a larger house
- any screening would not make it invisible
- changes to national policy were intended to prevent harmful forms of development on garden sites
- would appear overly prominent within the street scene and not in keeping with the appearance of nearby properties
- would fail to protect the amenities of nearby residents
- contrary to CS6

5.0 THE MAIN ISSUES

- Principle of development
- Access and parking
- Layout, scale, design and appearance
- Impact on residential amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

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

6.2 Access and parking

- 6.2.1 The proposal indicates a driveway to the front of the house with space to park 2 cars and would require cars to either reverse on or off the driveway. This is the same situation as for the majority of other driveways within Kingston Drive.
- 6.2.2 Highways have no objection to the proposal subject to the cutting back of the bushes along the site road frontage and eastern boundary and maintaining an open frontage.
- 6.2.3 Concern has been raised by the Town Council and a few local residents regarding parking in the road close to the junction with Wenlock Road by people at the business park. As this proposal includes the formation of a private driveway and a dropped kerb this will deter people from parking in this part of Kingston Drive.

6.3 Layout, scale, design and appearance

- 6.3.1 Policy CS6 requires new development to be designed to be appropriate in scale, density, pattern and design taking into account the local context and character of the area and make effective use of land whilst protecting the natural and built environment. SAMDev policy MD2 amongst other things requires proposals to:

Contribute to and respect locally distinctive or valued character and existing amenity value by:

- Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and*
- Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion;*

- 6.3.2 The site is separated from the properties in Wenlock Road by a fence that has been erected for several years. Although the site was once part of the rear garden

of 239 Wenlock Road it is now more closely associated with the properties in Kingston Drive. In addition now that the front boundary hedge has been removed (and a condition can be imposed to ensure that the frontage remains open) it is considered that the proposal would be in keeping with the local pattern of development including the open plan nature of the locality.

- 6.3.3 The plot size is commensurate with plots sizes of surrounding properties and it is considered that the proposed house will fit comfortably within the plot providing adequate parking and garden space. The separation distance between the proposed house and the side of 1 Kingston Drive is the same as (or slightly greater than) the separation distances between the existing houses in Kingston Drive. Similarly the distance from the side of the proposed house and the rear of 239 Wenlock Road is the same distance as that between the side of the house opposite in Kingston Drive and the rear of 241 Wenlock Road. The relationship of the proposal with neighbouring properties is therefore consistent with the relationship of surrounding properties with their neighbours and it is therefore considered that the proposed house would not appear cramped or 'shoe horned' into the site.
- 6.3.4 Previous proposals that have been refused at this site were for either smaller or larger houses, or bungalows and this is why in these earlier decisions it was considered that the proposals would look out of place. The house as now proposed has been designed to be in keeping with the scale and design of the nearby properties in Kingston Drive and it is considered that the proposal would not have an adverse impact on the character and appearance of the locality or the scene.

6.4 **Impact on residential amenity**

- 6.4.1 Due to the separation distance from nearby properties it is considered that the proposal would not appear overbearing or intrusive and would not result in overshadowing or a loss of light. The house has also been carefully designed so that there are no first floor windows in the side or rear elevations that could result in overlooking and a loss of privacy.
- 6.4.2 The occupiers of the nearest properties to either side and to the rear have not commented on the application and it is considered that the proposal would not have any impact on their enjoyment of their properties or on residential amenity. It is also considered that the proposal would not have any adverse impact on the outlook from properties opposite the site.

7.0 **CONCLUSION**

- 7.1 The development of this site to provide a single dwelling is acceptable in principle as it is located within the Shrewsbury Urban development boundary and accords with CS2. The proposed house has been designed to match the existing houses in Kingston Drive and combined with the open frontage it is considered that the development would have no adverse impact on the character and appearance of the locality. The plot size is commensurate with plots sizes of surrounding properties and it is considered that the proposal will fit comfortably within the plot

providing adequate parking and garden space. The separation distance from surrounding houses will ensure that the dwelling will not appear overbearing or intrusive and would not result in overshadowing or a loss of light. In addition there are no first floor windows in the side or rear elevations that could result in overlooking. The proposal is considered to make effective use of land and is appropriate in scale and design taking into account the local context and character of the area and would have no adverse impact on visual or residential amenity. It is therefore considered to accord with CS6 and MD2.

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:
CS2, CS6 and MD2

RELEVANT PLANNING HISTORY:

10/04139/FUL: Erection of a detached 5 bedroom dwelling REFUSED 05.11.2010
APPEAL DISMISSED April 2011.

11/01115/FUL: Erection of a detached 2 bedroom bungalow REFUSED 08.06.2011
APPEAL DISMISSED Feb 2012.

14/02407/FUL: Erection of a 3 bed dwelling REFUSED 12.01.2015

15/02483/OUT Application for outline planning permission with some matters reserved for the erection of a 3 bedrooomed detached dwelling. REFUSED 25.11.2015
APPEAL DISMISSED November 2016

11. Additional Information

List of Background Papers

19/02898/FUL - Application documents associated with this application can be viewed on the Shropshire Council Planning Webpages <https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PTRRDETDFRJ00>

Cabinet Member (Portfolio Holder): Councillor Gwilym Butler

Local Member: Cllr Ted Clarke, Cllr Jane Mackenzie and Cllr Tony Parsons

Appendices

APPENDIX 1 – Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

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

3. No above ground works shall take place until full details of the means of access, including the layout, construction and sightlines have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented before the development hereby approved is first occupied.

Reason: To ensure a satisfactory means of access to the highway.

4. No above ground works shall take place until full details for the parking of two vehicles have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be laid out and surfaced prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

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

5. The access apron shall be constructed in accordance with the Council's specification currently in force for a residential access 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.

6. No above ground works shall take place until a scheme of surface and foul water drainage has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied.

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

7. The external materials shall match in colour, form and texture those of the existing dwellings in Kingston Drive.

Reason: To ensure that the works harmonise with the existing surrounding development.

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

8. There shall be no wall or fence erected or hedge planted at the front of the site.

Reason: To retain an open frontage in keeping with existing properties in Kingston Drive and to ensure adequate visibility splays are maintained.

9. No first floor windows or other openings shall be formed in the side or rear elevations.

Reason: To preserve the amenity and privacy of adjoining properties.