

## Development Management Report

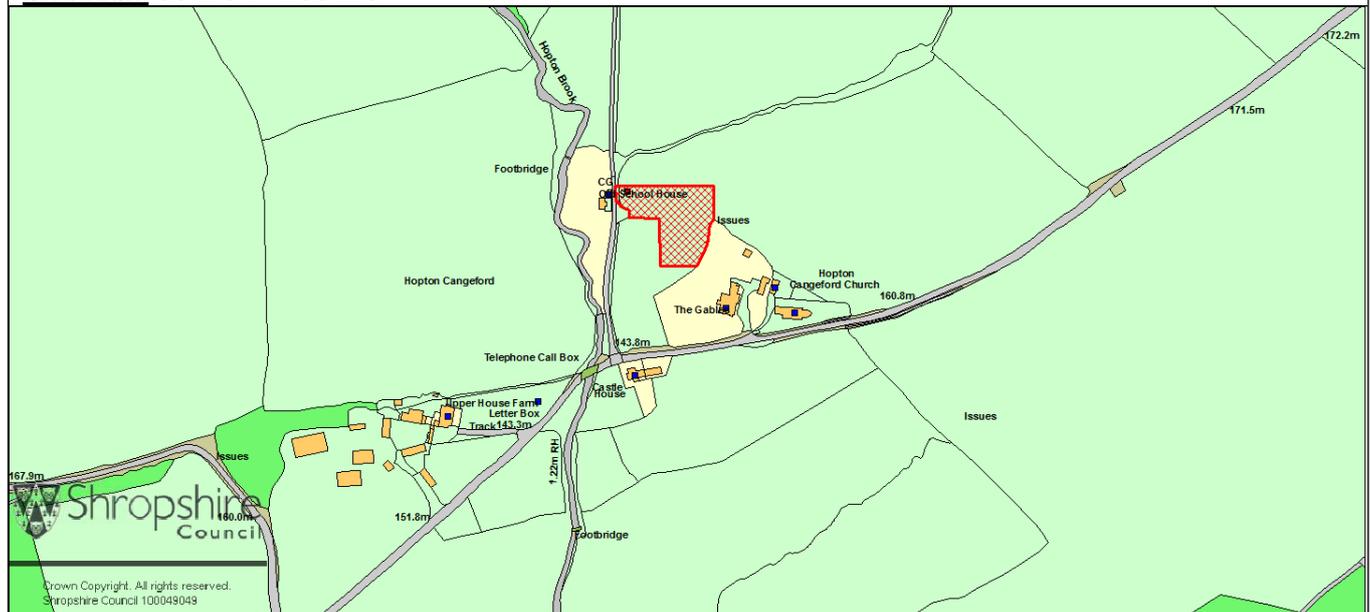
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 17/04421/FUL	<b>Parish:</b>	Hopton Cangeford
<b>Proposal:</b> Erection of two detached dwellings with detached open fronted double garages		
<b>Site Address:</b> Land East Of The School House Hopton Cangeford Shropshire		
<b>Applicant:</b> Mr Wiggin		
<b>Case Officer:</b> Heather Owen	<b>email:</b> <a href="mailto:planning.southern@shropshire.gov.uk">planning.southern@shropshire.gov.uk</a>	

**Grid Ref:** 354734 - 280478



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 3.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission for the erection of two detached dwellings and two detached open fronted double garages. The application was previously considered by Members of the South Planning Committee held at a meeting on 28<sup>th</sup> August 2019.
- 1.2 During the debate Members considered the submitted plans and noted the comments of the speakers. Members particularly noted:
- The positioning of the proposed dwellings on the site and the impact of this on the amenity of neighbouring properties;
  - The lack of sustainable energy sources;
  - The impact of further development on the existing community;
  - The lack of identified housing need in the Hopton Cangeford;
  - The design merits of the development;
  - Positioning of access; and
  - Definition of clusters set out in SAMDev and its flexibility.
- 1.3 Members determined that the application be deferred to enable the applicant and their agent to reconsider the position of the access and relocation of the dwelling on plot 2.
- 1.4 In response to the Members request a revised scheme has been submitted which proposes the following alterations:
- Formation of a new access approximately 15m south of the existing access to serve both plots 1 and 2. The existing access would be partially closed off to prevent vehicle access. Pedestrian access would remain as the existing access also a public right of way which needs to remain open.
  - Re-siting of the proposed dwelling on plot 2 – The revised plans proposed to re-site the dwelling further forward in the plot by approximately 5.5m to increase separation distance between rear elevation of plot 2 and boundary with neighbouring property.
- 1.5 Members will recall at the same committee planning application 18/02529/FUL for three dwellings on land east of Upper House Farm, Hopton Cangeford was also considered and deferred to a future meeting to enable the applicant to review the proposed size of the dwellings and to consider entering into a Section 106 agreement to ensure that the dwellings are only occupied by essential workers on the applicant's estate. Negotiations are ongoing on this matter however there is no planning reason to delay a decision on this application for the land east of the Old School House.
- 1.6 A copy of the report considered by planning committee on 28<sup>th</sup> August 2019 is attached as Appendix 1 to this report for cross referencing.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 This application site is a relatively flat part of a field accessed off the public road network along a single width track which provides shared access to Lower Wood Farm and a residential property known as Old School House. This latter dwelling is set opposite the application site. Sharing a mature boundary hedge to the south east of the site is an existing residential property shown on plans as The Gables, but this is also known as The Old Rectory. Beyond this property at around 60m lies The Old Church a converted grade II\* listed church.
- 2.2 A public right of way runs west-east through the site which is within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). To the south approximately 88m away lies a grade II listed dwelling and grade II listed telephone box.

## 3.0 Community Representations:

**NOTE: The responses set out below relate to the scheme as amended, the original responses received are summarised in the original report to committee which members can view at Appendix 1 of this report.**

### 3.1 Consultee Comments in response to re-consultation on amended scheme

- 3.1.1 Hopton Cangeford Parish Council: Unanimous Objection:
- The driveway location is an improvement for the property opposite. However....
  - Our previous comments remain as the revised plans do not alter/remove any of our previous objections.
  - The proposed properties are too large; not in keeping with the current properties in the hamlet, not affordable for local people, and their scale in relation to listed properties in close proximity.
  - The potential increase of 3x the population would strain infrastructure; the demand on water; where pressure is already low. This concerns local farmers who need water for livestock.
  - Phone and internet that is already in the bottom 5% in UK.
  - Plus the increase in traffic on very small, narrow and poorly repaired lanes. There are no services in the proximity such as schools, shops etc.
  - It is a greenfield site.
  - The potential 5 houses; 2 in Stoke St Milborough Parish, and 3 in Stanton Lacy, is excessive for the very rural location, and currently sparse 5 other dwellings that make the hamlet.
  - The development is inappropriate for local need as the properties will be too large and expensive.
  - The Parish Plan is not being met as we agreed housing should meet local demand. This is too many dwellings in one of the most rural of the 4 clusters in the Parish, when we agreed on 10 more, 11 have already been granted, of which 4 have been built out, 2 have commenced and others are expected to be built. But 5 properties in 1 of 4 clusters would allow a potential agreement of 20. 2 x our agreed level.

3.1.2 SC Highways: The proposed development could be acceptable from a highways and transport perspective – recommend conditions requiring formation of access, parking and turning areas and informatives on the works to a highway.

3.1.3 SC Ecology: No additional comments to make on this application.

Members are referred to the comments of the Ecology Team made 15<sup>th</sup> August 2018: Recommend conditions requiring an EPS licence before works starts to building 1, repeat previous recommended conditions relating to the provision of bat and bird boxes; details of external lighting and informatives regarding general wildlife protection during construction works.

3.1.4 SC Archaeology: Recommend condition requiring archaeological inspection of the ground works.

3.1.5 SC SUDs: The proposed foul water drainage is acceptable. Recommend condition relating to surface water drainage details, plan and calculations.

3.1.6 SC Rights of Way: Footpath No 9A runs through the development site. From looking at the plans it appears that the footpath will run along the proposed new access into the properties, although not directly affected by the development.

Recommend informative regarding the developers' responsibilities to ensure the right of way remains open and safe for users during construction works.

3.1.7 SC Affordable Housing: No objection.  
There are no affordable housing obligations associated with this proposal.

3.1.8 Shropshire Hills AONB: Standing advice regarding need to consider the impact of development on the AONB designated. This standing advice does not indicate either an objection or no objection to the current application.

## 3.2 Public Comments in response to re-consultation on amended scheme

3.2.1 Letter of Petition sent to the members of the South Planning Committee signed by 15 occupiers of 9 properties with Hopton Cangeford addresses. The main areas of objection are summarised below:

### Definition of Infill

- It is irrational that the recommendation identifies the site for two dwelling as being 'infill'
- When members discussed both application there appeared to be considerable unease expressed by members in turn about the character and nature of the development.
- The proposals are not infill as they do not fill a small gap and are not alongside a continuously developed highway.
- They are in open countryside grazed by cattle.
- A proposal to reject the development was not made.
- Suggest a justifiable reason for refusal maybe as follows:  
*"Whilst it is acknowledged that Hopton Cangeford is identified in the Local Plan*

*as forming part of a cluster together with Stoke St Milborough, Cleestanton, and Cleedownton within which infill development will be allowed, this site is considered to be detached from the settlement of Hopton Cangeford and as such it is not considered to represent infill but amounts to development in the open countryside. As a result the scheme is considered to be contrary to Core Strategy policies CS1 Strategic Approach, CS4 Community Hubs and Community Clusters, Settlement Management Policies MD1 Scale and Distribution of Development, and in particular S7.2(iii): Stoke St Milborough, Hopton Cangeford, Cleestanton, Cleedownton.”*

- It would be preferable to reject the application for the reason above. The applicant then can appeal to the Planning Inspectorate whom can then decide as to whether or not the site constitutes 'infill'.
- The above reason can also be used in connection with 18/02529/FUL.

#### Housing Numbers

- The policy S7.2(iii) allows for the deliver of 'around 10 additional dwellings in the period to 2026' Still some 7 years from that end date and there are 11 consents give. If permission is granted for the proposals the total will be 16 new dwellings, exceeds 10 by over 50%
- It would be sound planning sense to air of the side of caution and resist these developments bearing in mind the real concern over whether or not the sites are infill and that they breach allocated numbers.
- Approving these sites potentially fetter the Councils favourable consideration of better sites that may come forward within the settlements within the next 7 years and clearly fall within the definition of infill or conversion.

#### Impact on Settlement

- Doubling the size of a settlement will cause significant impact.
- When members visited the site they will of seen how remote Hopton Cangeford.
- Access to schools, shops and services are all dependant on motor vehicles.
- Whilst Hopton Cangeford maybe included in the cluster it was surely never envisaged that this would result in the settlement being doubled?
- The Officer reports states the opportunity for infill is limited – If that is the case how can there be development of 5 new dwellings in a hamlet of 5 dwellings.
- The sites are open fields in the AONB – the loss of open countryside to facilitate the building would have harmful impact on the openness and natural beauty of this national designation.
- The roads and infrastructure cannot accommodate the additional loadings.
- The development would inexorably change the entire character of the settlement.
- The scale of development is too large for this rural community to absorb without adverse impact.
- Members are asked to revisit the principle of these projects. The Parish Council and local community consider the proposed developments do not sit comfortably within any reasonable definition of infill and is sporadic residential development in the open countryside that should be resisted.

#### 3.2.2 2 objections received:

- Despite the amended plans the objections previously stated remain unchanged – these two dwellings are neither infill nor conversion of derelict buildings but

- new builds in the open countryside and should therefore be rejected.
- Hopton Cangeford has always been a precious and tranquil hamlet with a close stable community embedded within the AONB.
  - The development will increase traffic on roads unsuited for it.
  - The occupiers are unlikely to be local rural workers not needing to commute.
  - The dwelling would likely have more than one car as residents go to work, shop, socialise and take children to school
  - The development is for speculative housing, which would change this unique little hamlet.
  - Should the houses be let through Air B&B there would be more traffic and noise nuisance.
  - Light pollution would be increased through the additional of 5 dwellings and traffic.
  - Bats are evident at dusk.
  - The site is low lying and close to the brook and often floods with standing water slow to drain.
  - The development is greenfield and should not be labelled as 'infill'.
  - It appears Hopton Cangeford may have been incorrectly assigned to Stanton Lacy Parish Council and it is in fact within the Stoke St Milborough Parish Council.
  - Doubling the size of the hamlet will change it irrevocably.
  - Only urgent housing need can justify so much unnecessary building – this need has not been evidenced.

## MAIN ISSUES

Principal of development

Access alterations – Highway Safety

Re-siting of dwelling on plot 2 – Residential amenity.

The below appraisal focuses on the issues raised in response to the amended design and should be read by Members in conjunction with the original report presented to committee on 28<sup>th</sup> August 2019, attached as Appendix 1 of this report which includes assessment of the overall scheme including the scale and design of the dwellings, impact on historic environment, the Shropshire Hills AONB, biodiversity and drainage. It is not considered that the amendments to the scheme alter the previous recommendations on those aspects.

## 6.0 OFFICER APPRAISAL

### 6.1 Principal 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. The development plan for Shropshire is the Council's Adopted Local Development Framework Core Strategy, the associated 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and the adopted Site Allocations and Management of Development (SAMDev) Plan.

- 6.1.2 For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in policy CS3; CS4 and set out in detail in the Council's SAMDev Plan, policy MD1.
- 6.1.3 Since the application was presented to planning committee a further letter in the form of petition signed by the occupiers of 9 residential properties with Hopton Cangeford addresses. Key areas of concern raised in the letter is with regard to the principle of the development focusing on the Councils interpretation of infill and the housing numbers for this cluster settlement. Members are referred to the below extracts from the committee report of 28<sup>th</sup> August 2019:
- 6.1.4 *Hopton Cangeford is identified as a community cluster alongside Stoke St Milborough, Cleestanton and Cleedowntown where settlement policy S7.2(iii) allows for limited infilling and conversions on small scale sites, which will meet local demand for housing to deliver around 10 additional dwellings in the period up to 2026. It is acknowledged that Hopton Cangeford is a small settlement with little in the way of services and facilities of its own. However its inclusion as a component of a Community Cluster under SAMDev Policies MD1 and S7 implies broadly that the location is sustainable, and this carries significant weight. National Planning Policy Framework (NPPF) stating that proposals which accord with an up-to-date local plan should be approved without delay.*
- 6.1.5 *The SAMDev Plan does not define development boundaries around these Cluster settlements and provides no definitive definition of infill, as such the question of whether or not specific schemes constitute infilling is a matter for judgment is required in each case. Whilst Core Strategy Policy CS4 confirms that new housing must be located within the settlements themselves and not on adjoining land or in the countryside in-between.*
- 6.1.6 *As noted above Hopton Cangeford is a small settlement, it has a rather dispersed and irregular development pattern, due to many of the properties being separated by existing fields and spread out either side of the highway. As such there is little opportunity for infill in the traditional sense (i.e. The dictionary defines 'infill' as 'the act of filling or closing gaps'.) It is also noted that the applicants have spent some time considering alternative locations within the settlement for the proposed dwellings, including the lower section of this field closer to the road. These alternative sites were dismissed as inappropriate and less viable options for reasons including poor drainage, access and land level concerns. In terms of whether the application site represents infill, there is existing residential development to the west and south east sides of the site and as such is judged to be one of the few appropriate infill locations for this settlement.*
- 6.1.7 In terms of housing numbers, the previous committee report advises as follows:
- The Councils most recently published Five Year Housing Land Supply Statement, March 2019 includes analysis of completions and commitments and sites with planning permission as at 31st March 2018. In the case of the community cluster within which*

*Hopton Cangeford part of the statement advises that there have been 2 completions and 7 sites are with planning permission.*

- 6.1.8 Both the Parish Council and the additional letter of petition highlight that 11 planning permissions have been granted. Officers have checked the records of planning permissions for the cluster since the housing supply statement and can confirm that since 01<sup>st</sup> April 2018, two additional planning permissions for open markets dwellings have been granted at Stoke St Milborough (18/00317/FUL and 18/0451/FUL), taking the number of planning permissions for this cluster to 11. It should be borne in mind however that none of the planning permissions including the most recent permissions are within Hopton Cangeford.
- 6.1.9 As advised within the previous committee report SAMDev Policy MD3 explains that the settlement housing guidelines are not absolute maxima and provides further guidance on how decisions should be determined in such circumstances where development would result in the number of completions plus outstanding permissions providing more dwellings than the guideline. The policy requires decisions to have regard to:
- i) The increase in number of dwellings relative to the guideline; and*
  - ii) The likelihood of delivery of the outstanding permissions; and*
  - iii) The benefits arising from the development; and*
  - iv) The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and*
  - v) The presumption in favour of sustainable development.*
- 6.1.8 The development would contribute to the housing stock within the county as a whole and contribute to maintaining a five-year supply. It would provide some local benefit in terms of construction work and additional residents who in turn will spend money within the wider local area, albeit it is acknowledged that for small scale developments these benefits are small. Hopton Cangeford has been identified as an appropriate location for residential development and the Local Planning Authority is satisfied that this designation has been made taking into account the long term sustainability of the settlement and county as a whole. There have been no planning permissions for new dwellings within Hopton Cangeford itself and thus there is currently no cumulative impact of new housing developments within this settlement. As such it is judged that the erection of these two dwellings would not cause demonstrable harm to the character of the settlement in terms of delivering excessive housing to which may result in disproportionate car usage or excessive energy consumption in the context of the Community Cluster policy.
- 6.2 **Access – Revised location**
- 6.2.1 Impact on Highway Safety - Paragraph 109 of the NPPF states that developments should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.2.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car

based travel reduced.

- 6.2.3 The scheme as originally submitted sought to use an existing field access of the existing shared access which leads to Lower Wood Farm. In deferring the application Members requested the position of the access be reconsidered. In response the applicants agent has submitted revised plans which proposes to form a new access approximately 15m to the south of the existing access. A shared drive is proposed to then run at a diagonal direction within the site before splitting to provide access to plot 2 and then plot 1. As with the original proposal no alterations are proposed to the access where it joins with the classified C road which runs through Hopton Cangeford. The Councils Highways Team have considered the amended access point and are content with the amended access design.
- 6.2.4 The revisions proposed do not alter the size or number of dwellings proposed and thus the previous conclusions of the Councils Highways Team remain in that it is judged to be unlikely that the addition of two dwellings will generate a level of traffic which would significantly adversely affect highway safety or local conditions.
- 6.2.5 Members will note that the amended block plan indicates that the existing vehicle access is to be partially blocked off to prevent vehicles using the access. A partial closing is proposed to allow for pedestrian access to remain due to the presence of the public right of way which runs through this current access. A condition is recommended requiring details of the scheme for the partial blocking of this access to be provided and to ensure the access is close to vehicles prior to the first occupation of the dwellings.
- 6.3 **Plot 2 – Revised siting of dwelling – Impact on residential amenity**
- 6.3.1 The amended block plan seeks to re-site the proposed dwelling on plot 2, bringing it forward within the site by approximately 5.5m. This would increase the separation distances between the rear elevation of the proposed dwelling and the boundary the neighbouring property known at the Gables/Old Rectory to around 15m at its closest point, rather than the 9.5m which the original proposals indicated. The separation distance between the proposed dwelling and the existing residential property (corner to corner would be around 43m rather than 36m). This increased distance when considered along with the presence of the mature hedge which defines the boundary between the sites and that this neighbouring property is set at a slightly higher ground level than this application site concludes that the proposed dwelling would not unduly compromise the enjoyment of the occupiers dwelling or private amenity space to warrant recommending refusal of this planning application.

## 5.0 CONCLUSION

- 5.1 The amendments to the access and re-siting of the dwelling for plot 2 would not result in serve harm to highway safety or be of detriment to the visual amenity or result in undue harm to residential amenity. In terms of the scheme, as a whole, the conclusions remain as previously set out in the 28<sup>th</sup> August 2019 Committee Report (See Appendix 1).

- 5.2 The application site is situated within the settlement of Hopton Cangeford which is part of a nominated community cluster, the principal of open market housing development is therefore acceptable on suitable sites in accordance with policies CS4 and MD1. In this case it is considered that the site would represent infill given the proximity of the site to existing built development.
- 5.3 The scale and design of the two dwellings and garages is reflective of the character of existing built development within Hopton Cangeford and it is concluded that the proposals would not harm the character or natural beauty of this part of the Shropshire Hills AONB.
- 5.4 There are no undue or insurmountable concerns regarding the historic environment, residential amenity, highway safety or drainage. Whilst there is an outside possibility of individual great crested newts being affected, with appropriate mitigation the three tests set out in the EPS matrix are satisfied, and no other significant ecological impacts are anticipated. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

## **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  
National Planning Practice Guidance

#### **Core Strategy:**

CS1 Strategic Approach  
CS4 Community Hubs and Community Clusters  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
CS18 Sustainable Water Management

#### **Site Allocations and Management of Development (SAMDev) Plan:**

MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Managing Housing Development  
MD12 Natural Environment  
MD13 Historic Environment

Settlement Policies  
S7 Craven Arms

Supplementary Planning Document (SPD) on the Type and Affordability of Housing.

RELEVANT PLANNING HISTORY:

None.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=OW4NK8TDGIC00>

List of Background Papers  
Design and Access Statement  
Heritage Impact Statement  
Foul Drainage Assessment Form and Details  
Great Crested Newt Survey

Cabinet Member (Portfolio Holder)  
Councillor Gwilym Butler

Local Member

Cllr Cecilia Motley

Appendices

APPENDIX 1 – Committee Report to South Planning Committee held 28<sup>th</sup> August 2019

APPENDIX 2 - European Protected Species Matrix – 3 tests

APPENDIX 3 - Conditions

**APPENDIX 1 - Copy of original report considered at South Planning Committee on 28<sup>th</sup> August 2019**

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

**REPORT**

**1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission for the erection of two detached dwellings and two detached open fronted double garages.
- 1.2 Both of the properties proposed under this application would provide 4 bedrooms, plot 1 is proposed to provide approximately 147sqm of accommodation over two floors and plot 2 seeks to provide approximately 170sqm, again over two floors. Both dwellings are designed with the majority of first floor accommodation being set within the roof, served by dormers and roof lights. The two properties are proposed to be constructed with a mix of red brick, and timber weather boarding. The front elevation for plot 1 proposes an oak timber framed detailing. This oak frame detailing is also proposed for plot 2, although in this case wrapping around the upper part of the rear and front elevation.
- 1.3 The garages would measure approximately 5.3m in width by approximately 6m in depth and would have a height to ridge of approximately 5.7m.
- 1.4 This planning application has links with another planning application from the Downton Hall Estate, reference 18/02529/FUL, which is also on this South Planning Committee agenda for determination by members.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 This application site is a relatively flat part of a field accessed off the public road network along a single width track which provides shared access to Lower Wood Farm and a residential property known as Old School House. This latter dwelling is set opposite the application site. Sharing a mature boundary hedge to the south east of the site is an existing residential property shown on plans as The Gables, but is also known as The Old Rectory. Beyond this property at around 60m lies The Old Church a converted grade II\* listed church.
- 2.2 A public right of way runs west-east through the site which is within the Shropshire Hills Area of Outstanding Natural Beauty (AONB). To the south approximately 88m away lies a grade II listed dwelling and grade II listed telephone box.

**3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 This case is presented for committee determination as the Local Ward Member has “called in” this application within 21 days of it being validated. Following discussion of the reasons for call in with the Chair and Vice Chair of Planning Committee it was agreed that the reasons are material planning considerations and the call in request complies with the terms of the scheme of delegation as set out in Part 8 of the Councils Constitution.

#### 4.0 Community Representations

##### 4.1 Consultee Comments

##### 4.1.1 Hopton Cangeford Parish Council: Objects:

- Due to the scale of the properties and their proximity to listed properties.
- It is a greenfield site.
- Two is excessive for the location, and the total of four new properties will have a massive impact on such a small hamlet.
- Inappropriate development for local need as the properties are too large and expensive.
- The Parish Plan is not being met as its too many properties in a very small area.

##### 4.1.2 SC Rights of Way: Footpath No 9A runs through the development site. From looking at the plans it appears that the footpath will run along the proposed new access into the properties, although not directly affected by the development.

Recommend informative regarding the developers responsibilities to ensure the right of way remains open and safe for users during construction works.

##### 4.1.3 SC Highways: No objection, recommend informatives on the works to a highway.

##### 4.1.4 SUDs: The proposed foul water drainage is acceptable. Recommend condition relating to surface water drainage details, plan and calculations.

##### 4.1.5 SC Ecology: 15<sup>th</sup> August 2018 – Final Comments - following submission of Great Crested Newt Assessment prepared by Teme Ecology (30<sup>th</sup> July 2018): Recommend conditions requiring an EPS licence before works starts to building 1, repeat previous recommended conditions relating to the provision of bat and bird boxes; details of external lighting and informatives regarding general wildlife protection during construction works.

SC Ecology: 20<sup>th</sup> November 2017: Great Crested Newt Survey is required – Information have been provide in relation to unmapped ponds in close proximity to the site, once of which contains Great Crested Newts as such further information is required.

SC Ecology: 16<sup>th</sup> November 2017: Recommend conditions relating to the provision of bat and bird boxes; details of external lighting and informatives relating to general wildlife protection during construction works.

##### 4.1.6 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

- 4.1.7 SC Archaeology: Recommend condition requiring archaeological inspection of the ground works.
- 4.1.8 Shropshire Hills AONB: Standing advice regarding need to be considered the impact of development on the AONB designated. This standing advice does not indicate either an objection or no objection to the current application.
- 4.1.9 Ramblers Association: Observations - As has been commented on by the Rights-of-Way Department the block plan indicates that the access to the 2 houses opposite the Old School House will use the line of footpath 0535/9A/1 and legally the surface of the footpath can only be changed with the permission of the Department. In addition no new restrictions should be put on the line of the footpath without permission, so if there is a fence or boundary to the east of the properties then access through it must be of the least restrictive nature, as should be the access off the track leading to the Old School House and the new properties i.e. no locked or lockable gates or barriers difficult to pass through.
- 4.1.10 SC Conservation: No principle objections to developing of this site. The design of the proposed dwellings for both sites should be very modest in their character and appearance respecting the character and appearance of existing heritage assets as well as the wider rural setting. The use of local vernacular materials should be considered including red brick, timber framing and plain clay tiles.

## 4.2 Public Comments

- 4.2.1 This application was advertised for 21 days via site notice and press notice and directly in writing to 4 neighbouring properties.

5 objections have been received and are summarised below:

- 4.2.2 Impact on Hopton Cangeford and surroundings
- Development will fundamentally change the character of the hamlet.
  - Overdevelopment of the village.
  - Not a sustainable community - No amenities in Hopton Cangeford, no mobile phone signal and no school.
  - We are in an area of the Government's 5% of the population which will continue to receive poor Broadband and Mobile Phone service provision. Additional dwellings and families demanding modern technology amenities will put greater pressure on very poor networks and will significantly impair existing business need for digital services.
  - Doubling the size of the community is not small scale development.
  - Housing on the Downton Hall Estate is mainly isolated farmhouses and cottages, rather than grouped development.
  - Will ruin one of the last remaining picturesque villages in the area.
  - There are far better, potentially brownfield sites, with better access and communications, that could and should be developed, long before any consideration is given for the greenfield development that these applications propose.

#### 4.2.3 Residential Amenity

- The site entrance is 10m from our sitting room/bedroom windows – would be directly impact from traffic, noise and light pollution and loss of privacy.
- The site causes the maximum disruption to the maximum number of residents.
- The garden of one of the houses on site 1 will come up to the boundary with the garden of The Old Rectory (shown on plan as The Gables) – loss of amenity, privacy and noise disturbance.
- Noise and light pollution from the increase population would be an issue through the loss of peace and tranquillity – the settlement in in a hollow where sound travels.

#### 4.2.4 Design and scale

- Scheme is too large and out of keeping with the area.
- The houses are 4 bed mansions – no locals could afford.

#### 4.2.5 Highway Safety

- Increase in traffic on narrow and dangerous lanes.
- Already have a considerable amount of heavy goods vehicles, both agricultural and the lorries from a nearby scaffolding company. The little bridge over the stream and the narrow lanes were never designed for this and would not cope with the extra traffic.

#### 4.2.6 Drainage and flooding

- The site has a natural spring and is constantly wet.
- The area already floods. The land was the site of the village well. By definition this area is permanently very wet and boggy. Concerns over potential for water course pollution from soakaways/cesspits - let alone the practical difficulty of building and insuring dwellings in such an area.

#### 4.2.7 Biodiversity

- Site is a haven for wildlife.
- There are Great Crested Newts in the area and the buildings would disturb and destroy their habitat.
- Loss of hedgehogs and disturbance to owls.

#### 4.2.8 Other matters

- Water supply to Hopton Cangeford is frequently at low pressure and sometimes interrupted. As farmers we source all of our water from the mains supply, because that is the correct manner in which to do so. Being at higher altitude than the main hamlet, we are the first to experience reduction or withdrawal of supply. This provides us with an animal welfare issue and additional demand of the system from new dwellings could only be satisfied if there were a very good improvement to water supply pressure.
- The Parish Plan is for affordable houses on the open market – the questionnaire stating there is strong support is invalid as no resident receive this questionnaire.
- The former vicarage as shown on old maps, was demolished over 50 years ago and should establish a pre-existing building for development.
- The true strength of feeling against this development is not being expressed

- due to the landlord/tenant relationship and the damage this could cause.
- Heritage is what you keep, not what you lose. The proposed developments are opposed by all the local inhabitants and in some measure the locality belongs in spirit to those that live there. These proposals are without merit or need. They need not just to be scaled back, but to be refused completely. The landowner may say they are meeting a need but this has been shown to be false from the responses of so many objectors.
  - As a planning authority you must weigh up the positives and negatives for planning proposals and hope you will take into account the total local opposition to these plans and the fact it would destroy a real jewel in the Shropshire landscape.
  - The Stoke St Milborough Parish Plan has been incorporated into Shropshire Council's Site Allocations and Management of Development Plan (SAMdev Plan). The Parish Plan was based on a community survey done in 2011/2012 and the SAMdev Plan was adopted in December 2015. These applications have been submitted based on the plan. The settlements of Stoke St Milborough, Hopton Cangeford, Cleestanton and Cleedownton form a community cluster where 'infilling and conversions on small scale sites will meet the local demand for housing to deliver 10 additional dwellings in the period to 2026'. These applications are not infilling or conversions on a small scale and there is no local demand for housing of any description.
- The SAMdev Plan states that 'the door is left open for communities to opt in to become part of a community cluster' as the Council acknowledges that community needs change over time. If this is the case, communities should be able to opt out. The community survey was six years ago with a very low questionnaire return rate of 30% and it is no longer valid in 2017.

## 5.0 THE MAIN ISSUES

Principle of development  
Siting, scale and design of structure  
Historic Environment  
Visual impact and landscaping – Shropshire Hills AONB  
Biodiversity  
Highway Safety  
Residential Amenity  
Drainage

## 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. The development plan for Shropshire is the Council's Adopted Local Development Framework Core Strategy, the associated 'Type and Affordability of Housing' Supplementary Planning Document (SPD) and the adopted Site Allocations and Management of Development (SAMDev) Plan.

- 6.1.2 For new housing development, Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to steer new housing to sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters') as identified in policy CS3; CS4 and set out in detail in the Council's SAMDev Plan, policy MD1.
- 6.1.3 Hopton Cangeford is identified as a community cluster alongside Stoke St Milborough, Cleestanton and Cleedowntown where settlement policy S7.2(iii) allows for limited infilling and conversions on small scale sites, which will meet local demand for housing to deliver around 10 additional dwellings in the period up to 2026. It is acknowledged that Hopton Cangeford is a small settlement with little in the way of services and facilities of its own. However its inclusion as a component of a Community Cluster under SAMDev Policies MD1 and S7 implies broadly that the location is sustainable, and this carries significant weight. National Planning Policy Framework (NPPF) stating that proposals which accord with an up-to-date local plan should be approved without delay.
- 6.1.4 The SAMDev Plan does not define development boundaries around these Cluster settlements and provides no definitive definition of infill, as such the question of whether or not specific schemes constitute infilling is a matter for judgment is required in each case. Whilst Core Strategy Policy CS4 confirms that new housing must be located within the settlements themselves and not on adjoining land or in the countryside in-between.
- 6.1.5 As noted above Hopton Cangeford is a small settlement, it has a rather dispersed and irregular development pattern, due to many of the properties being separated by existing fields and spread out either side of the highway. As such there is little opportunity for infill in the traditional sense (i.e. The dictionary defines 'infill' as 'the act of filling or closing gaps'.) It is also noted that the applicants have spent some time considering alternative locations within the settlement for the proposed dwellings, including the lower section of this field closer to the road. These alternative sites were dismissed as inappropriate and less viable options for reasons including poor drainage, access and land level concerns. In terms of whether the application site represents infill, there is existing residential development to the west and south east sides of the site and as such is judged to be one of the few appropriate infill locations for this settlement.
- 6.1.6 In terms of housing numbers, the Council's most recently published Five Year Housing Land Supply Statement, March 2019 includes analysis of completions and commitments and sites with planning permission as at 31st March 2018. In the case of the community cluster within which Hopton Cangeford part of the statement advises that there have been 2 completions and 7 sites are with planning permission. It is acknowledged that should this application and its associated scheme both gain permission the number of houses with permission within the cluster would be over the 10 recommended within the settlement policy. However SAMDev Policy MD3 explains that the settlement housing guidelines are not absolute maxima and provides further guidance on how decisions should be determined in such circumstances where development would result in the number of completions plus outstanding permissions providing more dwellings than the guideline. The policy requires decisions to have regard to:

- i) The increase in number of dwellings relative to the guideline; and*
- ii) The likelihood of delivery of the outstanding permissions; and*
- iii) The benefits arising from the development; and*
- iv) The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and*
- v) The presumption in favour of sustainable development.*

6.1.7 The development would contribute to the housing stock within the county as a whole and contribute to maintaining a five year supply. It would provide some local benefit in terms of construction work and additional residents who in turn will spend money within the wider local area, albeit it is acknowledge that for small scale developments these benefits are small. Hopton Cangeford has been identified as an appropriate location for residential development and the Local Planning Authority is satisfied that this designated has been made taking into account the long term sustainability of the settlement and county as a whole. There have been no planning permissions for new dwellings within Hopton Cangeford itself and thus there is currently no cumulative impact of new housing developments within this settlement. As such it is judged that the erection of these dwellings would not cause demonstrable harm to the character of the settlement in terms of delivering excessive housing to which may result in disproportionate car usage or excessive energy consumption in the context of the Community Cluster policy.

6.1.8 Third party objectors question the validity of the questionnaire which as carried out to inform the parish plan and SAMDev and query whether the SAMDev is out of date. In terms of the formal inclusion of Hopton Cangeford as part of the cluster settlement within the SAMDev, this inclusion was following formal consultation with the local community and assessment of the local plan by the Planning Inspectorate. In terms of opting out of cluster settlements, a formal mechanism to enable this is via a local plan review which the NPPF requires Local Planning Authorities to carry out in whole or part to respond to flexibly to changing circumstances. The Council is currently carrying of a part review of the local plan, which has included review of the nominated hubs and cluster settlements in consultation with Parish Councils. It is noted that the Consultation document on preferred sites, published November 2018, continues to include Hopton Cangeford as part of the cluster settlement. The alleged manner in which the parish council conducted questionnaires is not a material planning consideration and nor can this planning application be an arena to assess whether or not a settlement should have been included as part of the community cluster or not, the planning application has to be considered on its merits and in accordance with the adopted development plan, which includes the SAMDev plan.

## 6.2 Affordable Housing Contribution

6.2.1 Core Strategy Policy CS11 and an accompanying Supplementary Planning Document require all market housing schemes to make an affordable housing contribution (usually a payment in lieu of on-site provision where a small number of dwellings is proposed). However the revised version of the NPPF published in February 2019, incorporated the 2014 Written Ministerial Statement which announced that planning obligations should not be used to secure such tariff-style

contributions below certain thresholds, the stated intention being to boost housing supply by removing “disproportionate burdens on small-scale developers”. Paragraph 63 of the NPPF states, that affordable housing provision should not be sought in connection with small-scale residential developments (i.e. those comprising fewer than ten dwellings, or five or fewer in ‘designated rural areas’), without any reference to developer burden or other motives. This application is for 2 dwellings and given the above circumstances it must be accepted that the Council’s policies in this respect are out-of-date and can no longer be given significant weight, meaning no affordable housing contribution should be sought here.

- 6.3 Siting, scale and design of structure, Visual impact and landscaping – Shropshire Hills AONB
- 6.3.1 Both national and local plan policy seek to ensure developments are of a high quality of design which seeks to create distinctive places. At paragraph 126 the NPPF acknowledges that the level of design detail and degree of prescription should be tailored to the circumstances of each place.
- 6.3.2 Core Strategy Policy CS4 requires development in Community Clusters to be of a scale and design sympathetic to the character of the settlement and its environs, and to satisfy the more general design requirements under Policy CS6 and SAMDev Policy MD2. Both these latter policies seek to ensure that all development is appropriate in scale, density, pattern and design, taking into account the local context and character. The relevant SAMDev settlement policy at S7.2(iii) also states with regard to new development that it is expected to be sympathetic to the character and setting of the settlements.
- 6.3.3 Part 15 of the NPPF at paragraph 172 states that great weight on conserving landscape and scenic beauty Areas of Outstanding Natural Beauty. Policies CS17 and MD12 support these national policies seek to protect and enhance the diversity, high quality and local character of Shropshire’s natural, built and historic environment.
- 6.3.4 The two dwellings propose the use of local vernacular materials and detailing such as the timber oak framing and dormers which picks up on features existing on properties with the settlement. It is acknowledged that the two properties are sizable in terms of the floorspace they would provide, however both dwellings would sit within the individual plots comfortably and are reflective of the style of properties already existing within Hopton Cangeford.
- 6.3.5 The two detached garages are of simple form and single storey in character, as such would appear subsidiary additions to the dwellings they would serve.
- 6.3.6 In terms of the wider landscape impact of these dwellings and garages, the site is set back from the public road and the topography and mature landscaping around the site is such that the properties would not be highly visible from wider public view points. It is acknowledged that the dwellings would be visible from the public right of way which runs through the site, however the structures would be viewed as part of existing built development which makes up the village rather than as isolated developments in the countryside. The impact of the proposal on the character and

natural beauty of the Shropshire Hills AONB is as such considered to be neutral.

6.3.6 Objection is raised that the development of both this site and the site to the south (18/02529/FUL) would lead to the overdevelopment of the village and detract from the character of the settlement. It is noted that if both sites are permitted and subsequently built the size of the village would increase by 5 houses, which would effectively double the number of properties. Whilst the settlement policy provides a guideline to the number of new dwellings across the cluster as a whole it does not set a limit to the number of properties which should be built within each settlement named within the cluster. In this case the two application sites are almost at opposing ends of the settlement, which would spread the development out which retains the existing dispersed character of the settlement. Further it is noted the south site subject to application 18/02529/FUL, in particular seeks to introduce a number of smaller units to the settlement, which would assist with the policy aims of rural rebalancing. Overall on balance it is considered that the development of both sites would not significantly alter the character of the settlement in a detrimental manner sufficient to justify refusal of this application.

#### 6.4 Heritage Assets

6.4.1 Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 local planning authorities must pay particular regard to the desirability of preserving the special architectural or historic interest and setting of listed buildings. This is reflected by Part 12 of the NPPF, CS17 and SAMDev Policy MD13, which require great weight to be given to conserving designated heritage assets in particular.

6.4.2 A Heritage Impact Assessment and Heritage Asset Plan has been submitted as part of this planning application in accordance with paragraph 128 of the NPPF and policy MD13 of SAMDev. The Councils Conservation Officer considered this application at the same time as considering the subsequently withdrawn application on the site adjacent to Upper House Farm in the south of the settlement (17/4427/FUL) and the comments made remain valid for this application. It is noted that the Conservation Officer raises no principle objections to the developing of this site. The designated listed buildings are set away from the site and much of the site would be screened by mature landscaping or in the case of the grade II\* the topography and presence of existing built development which sits in between. The scheme proposed utilises vernacular materials as recommended by the Conservation Officer including red brick, timber framing and plain clay tiles and conditions can be used to ensure the precise materials and finishes used as appropriate to the area. The dwellings are considered to sit comfortably within their plots and would not harm the setting of the nearby listed buildings and other non-designated heritage assets within the wider area.

6.4.3 The Councils Archaeologist notes that the land lies within the historic settlement of Hopton Cangeford and the estate map of 1860 and Historic editions of the Ordnance Survey maps of the late 19th and early 20th century indicate buildings, possibly a former cottage and outbuildings, on the site of proposed dwelling on plot 2. The building was demolished sometime in the mid to late 20th century. As a consequence, the proposed development site is deemed to have some archaeological potential. In view of the above the Councils Archaeologist

recommends an archaeological inspection of the ground works be made a condition of any planning permission for the proposed development.

## 6.5 Biodiversity

- 6.5.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible.
- 6.5.2 During the process of this application it was brought to the Councils Ecologists attention that there are a number of unmapped ponds within 250m of the application site. As such additional information was requested relating to Great Crested Newts. An assessment by Teme Ecology dated 30<sup>th</sup> July 2018 was subsequently submitted to the Council by the applicant's agent.
- 6.5.3 The assessment found the presence of Great Crested Newts within the grounds of the Old Church, with a medium population recorded during the 2018 survey season. As the development is located close to this breeding pond and there is a risk of disturbance, killing/injury of individual great crested newts and potential destruction of the terrestrial habitat within the home range of the population any works for this application site will require an European Protected Species (EPS) Licence from Natural England must be obtained before any works commence.
- 6.5.4 The implications of the development on the sites conservation objectives are considered fully within the EPS Matrix attached to this report at Appendix 1. It is concluded that the development would meet the 'three tests' in that the development is in the public interest, there is no satisfactory alternative and that subject to conditions as recommended by the Councils Ecologist there would be no detriment to the maintenance of the species' populations at a favourable conservation status within their natural range.
- 6.5.5 Other Ecological enhancements can be secured via conditions requiring the implementation of bird and bat boxes and provision of a landscaping scheme which would also help soften the visual impact of the development.
- ## 6.6 Highway Safety
- 6.6.1 Paragraph 109 of the NPPF states that developments should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.6.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic be located in accessible locations, where opportunities for walking, cycling and use of public transport can be maximised and the need for car-based travel reduced.

- 6.6.3 Access for these two plots would utilise the existing field access, off the existing shared access which leads to Lower Wood Farm. No alterations are proposed to the access where it joins with the classified C road which runs through Hopton Cangeford. The Councils Highways Team have reviewed the proposals here and raise no objection to the scheme concluding that it is unlikely that the addition of two dwellings will significantly adversely affect highway safety or local conditions.
- 6.6.4 In assessing this application the Councils Highways Team raise concern as to the design of the turning area proposed, particularly for Plot Two, where it is noted that a vehicle will have to reverse to the corner of the driveway to turn around to leave the site in a forward gear and it is preferable to have a turning area close to where cars are going to be parked. A condition is recommended to establish the final parking and turning area arrangements and to ensure they are laid out in full prior to the first occupation of the dwellings.
- 6.6.5 The Councils Highways Team also suggest that the applicants may want to consider the addition of a passing place along the share track that leads to the application site. However this is a private lightly trafficked access and vehicles would be typically travelling at low speed, it is therefore considered that the installation of such a passing place is not necessary for highway safety and such request would fail to meet the 'tests' within National Planning Practice Guidance on the use of conditions or obligations on planning applications.
- 6.6.6 The comments regarding the length of the driveway, position of letter boxes and walking surfaces are noted, however these are not matters which could compromise highway safety and thus are not factors which could justify refusal of a planning application.
- 6.6.7 Due to the narrow nature of the surrounding highway network it is considered that a Construction Method Statement should be provided to ensure that vehicles associated with the construction works are managed in an appropriate way to prevent congestion within the surrounding area and to protect amenity.
- 6.7 Residential Amenity
- 6.7.1 Policy CS6 requires that development should safeguard residential and local amenity. The closest neighbouring properties to this application site are The Old School House to the west of the site and The Gables (referred to as The Old Rectory by third party objectors) located to the south east of the site. Objection to the proposal in terms of impact on residential amenity and in particular through loss of privacy, and disturbance through noise are raised by both properties.
- 6.7.2 The two dwellings have been orientated in an L shape along the north and east sides of the application site. Plot one would be the closest property to the Old School House and is proposed to sit roughly in line with this existing property. The access track to the farm separates the two properties and the block plan indicates that there would be a distance of approximately 30m from the front elevation of this neighbouring property and the gable end of the dwelling proposed for plot 1. No openings are proposed in this side gable end, as such there would be no direct overlooking from plot 1 into The School House. The block plan also indicates a

degree of landscaping along the boundary between plot 1 which would mitigate potential for overlooking into the side garden of this application site from the occupiers of The Old School House and vice versa. Any degree of overlooking from this part of the site is mutual and it not considered to be sufficient to result in undue harm to the residential amenity of either the occupiers of the existing property or the future occupiers of plot 1. Plot 2 is set further to the south east of this neighbour at a distance of around 54m. At such distances it is not considered that the development of plot 2 would result in the loss of residential amenity to the occupiers of this neighbouring dwelling. The level of disturbance which maybe created by traffic coming to and from these two dwellings is unlikely to be of a significant level that could unduly harm the residential amenity of the occupiers of this property, particularly bearing in mind that the existing track provides access to a farm and utilises an existing field entrance, both of which could be frequented by tractors or other farm vehicles at any time of the day.

- 6.7.3 Plot 2 would share a contiguous boundary with the upper part of the curtilage around the neighbouring property known as The Gables/Old Rectory. The block plan indicates that the proposed dwelling for plot 2 at its closest point would be approximately 9.5m from the boundary with this neighbour. It is noted however that this closest point is with the upper corner of the neighbours overall curtilage, the neighbouring dwelling itself being approximately 36m to the south east of the proposed dwelling. A mature hedge currently defines the boundary between the sites and it is noted that this neighbouring property is set at a slightly higher ground level than this application site. As such it is considered that the application site would not unduly compromise the enjoyment of the occupiers dwelling or private amenity space to a level. The potential impact of noise created by the occupiers of the dwellings going about their daily business is not a material planning consideration sufficient to result in refusal of the application.
- 6.7.4 To mitigate with the temporary impact of the building works themselves a condition is recommended to restrict the hours of working (07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays, Public or Bank Holidays). The implementation of a construction method statement (as required by condition 6) would also help to mitigate potential temporary neighbour amenity impacts during the construction works.
- 6.8 Drainage
- 6.8.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way. Objection is raised as to the flood risk on this site. The application site is outside of flood zone 2 or 3 which it is noted takes in part of the lower section of the field and track and is one of the reasons these lower sections of the field were dismissed as alternative locations for the development. The Councils Drainage Consultants have considered the application documents provide and are satisfied with the foul drainage detail which has been provided and are content that the surface water drainage interests can be safeguarded adequately through a pre-commencement planning condition.

6.9 Other matters – Water supply

- 6.9.1 Third parties have raised comments and concerns as to the capability of local infrastructure and services and whether there is capacity to cope with the additional demand arising from the 2 dwellings. It is the duty of the individual service providers to respond to increased demand in line with Government requirements. Many of the services, are involved at a strategic level in local planning and develop their services in accordance with projected increases in population.

**7.0 CONCLUSION**

- 7.1 The application site is situated within the settlement of Hopton Cangeford which is part of a nominated community cluster, the principal of open market housing development is therefore acceptable on suitable sites in accordance with policies CS4 and MD1. In this case it is considered that the site would represent infill given the proximity of the site to existing built development.
- 7.2 The scale and design of the two dwellings and garages are considered to be reflective of the character of existing built development within Hopton Cangeford and it is concluded that the proposals would not harm the character or natural beauty of this part of the Shropshire Hills AONB.
- 7.3 There are no undue or insurmountable concerns regarding the historic environment, residential amenity, highway safety or drainage. Whilst there is an outside possibility of individual great crested newts being affected, with appropriate mitigation the three tests set out in the EPS matrix are satisfied, and no other significant ecological impacts are anticipated. Overall, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to conditions to reinforce the critical aspects.

## **APPENDIX 1 - EUROPEAN PROTECTED SPECIES – Consideration of the three tests**

Application name and reference number:

17/04421/FUL  
Land East Of The School House  
Hopton Cangeford  
Shropshire  
Erection of two detached dwellings with detached open fronted double garages

Date of consideration of three tests:

15<sup>th</sup> August 2018

13<sup>th</sup> August 2019

Consideration of three tests carried out by:

Nicola Stone  
Planning Ecologist  
01743 252556

Heather Owen  
Technical Specialist Planning Officer  
01743 258764

### **1 Is the development ‘in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?**

The scheme involves the erection of two new dwellings in a sustainable policy compliant location. Boosting housing supply in line with local planning policy is a key ambition of the NPPF, and is in the public interest as it would deliver clear social and economic benefits and help to reduce the pressure for development elsewhere.

### **2 Is there ‘no satisfactory alternative’?**

The alternative would be to refuse planning permission so that the land remains undeveloped for housing. However this would downplays the role of economic and social progress in helping to achieve sustainable development.

### **3 Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?**

#### **Great Crested Newts**

I have read the above application and the supporting documents including the:

- Great Crested Newt Assessment prepared by Teme Ecology (30<sup>th</sup> July 2018).

The proposed works for the development at Site 1 will require an EPS licence to

proceed within the law as the development is located close to a breeding pond for great crested newts located within the grounds of the Old Church and there is a risk of disturbance, killing/injury of individual great crested newts and potential destruction of the terrestrial habitat within the home range of the population. A medium population was recorded during the 2018 survey season.

It is recommended that the method statement of the EPS licence outlines the full mitigation strategy to be agreed with Natural England and will include the timings of the works, and how measures to avoid conflicts with great crested newts will be implemented e.g. handsearching, then strimming the site prior to works and turf/soil strip, then implementing a suitable fencing design to prevent great crested newts re-entering the site during the construction phase. Any individuals discovered during the works should be removed from the site and relocated into suitable habitat around the field boundaries. All contractors should be made aware of the potential for great crested newts to be discovered within the site and should be briefed in how to safely move any individuals discovered to a pre-designated safe area away from the works activity.

Once the works are completed a licensed ecologist should be present on site during the removal of the amphibian fencing. A report of the actions taken under the licence should be sent to Natural England following the removal of the fencing. Habitat enhancement is already in place as the design includes new hedge and tree planting. All planting should be restricted to native species of local provenance. The planting scheme should be optimised to provide links through and around the site to offer maximum biodiversity gain.

The proposed activity will not be detrimental to the maintenance of great crested newts at a favourable conservation status within their natural range provided that the conditions detailed in the response from Nicola Stone to Heather Bradley (15<sup>th</sup> August 2018) are on the decision notice and are appropriately enforced.

1. No works to building 1 shall take place until either:
  - a) a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority; or
  - b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

**Reason: To ensure the protection of great crested newts, a European Protected Species.**

2. No development shall take place (including demolition, ground works and vegetation clearance) until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
  - a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. 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, unless otherwise approved in writing by the Local Planning Authority.

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

### **Guidance for filling in the EPS form**

The three tests detailed below must be satisfied in all cases where a European Protected Species may be affected and where derogation under Article 16 of the EC Habitats Directive 1992 would be required – i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary; since no offence is likely to be committed, it is not appropriate to consider the three tests.

Test 1 'overriding public interest' and test 2 'no satisfactory alternative' should be addressed by Shropshire Council planning team. Test 3 'favourable conservation status' should be addressed by Shropshire Council Ecologists with guidance from Natural England.

#### **1 Is the purpose of the development/damaging activity for '*Preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment*'?**

NB in order to meet this test, the purpose of preserving public health or public safety must also be shown to constitute a reason of overriding public interest. You would need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public.

If an unstable structure ( e.g. buildings, trees) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.

If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992), projects that are entirely in the interest of companies or individuals would generally not be considered covered.

#### **2 Is there no satisfactory alternative?**

An assessment of alternatives needs to be provided. If there are any viable alternatives which would not have an impact on a European Protected species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) are there any other solutions, and c) will the alternative solutions resolve the problem or specific question in (a)?

**3 Is the proposed activity 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'?**

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if it has a detrimental effect on the conservation status or the attainment of favourable conservation status for a species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected. Compensation measures do not replace or marginalise any of the three tests, all three tests must still be satisfied.

## **APPENDIX 3**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

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

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

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

#### **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

3. No development shall commence (including any site clearance) until either:
  - a) a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority; or
  - b) a statement from an appropriately qualified and experienced ecologist has been submitted in writing to the Local Planning Authority explaining why a licence is not required and setting out any additional mitigation measures required.

Reason: To ensure the protection of great crested newts, a European Protected Species.

4. No development approved by this permission shall commence until the applicant has notified Shropshire Council's Historic Environment Team not less than three weeks prior to commencement of ground works, and to provide him/her with reasonable access in order to monitor the ground works and to record any archaeological evidence as appropriate.

Reason: The site is known to hold archaeological interest.

5. No development shall take place until a scheme of surface 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 (which ever is the sooner).

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

6. No development shall take place, 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 construction works
  - a Traffic Management Plan

Reason: This is a pre-commencement condition 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**

7. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory.

8. Prior to the commencement of the relevant work details of all external windows and doors and any other external joinery shall be submitted to and approved in writing by the Local Planning Authority. These shall include full size details, 1:20 sections and 1:20 elevations of each joinery item which shall then be indexed on elevations on the approved drawings. All doors and windows shall be carried out in complete accordance with the agreed details.

Reason: To safeguard the character of the development and setting of nearby Heritage Assets.

9. Prior to their installation full details of the roof windows shall be submitted to and approved in writing by the Local Planning Authority. The installation of the windows shall be carried out in complete accordance with the approved details.

Reason: To safeguard the character of the development and setting of nearby Heritage Assets.

10. No above ground works shall be commenced until a landscaping plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:
- a) Planting plans, creation of wildlife habitats and features and ecological enhancements (e.g. 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, unless otherwise approved in writing by the Local Planning Authority.

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

11. Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:
- A minimum of 2 external woodcrete bat boxes or integrated bat brick], suitable for nursery or summer roosting for small crevice dwelling bat species.
  - A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for swifts (swift bricks or boxes) or sparrows (32mm hole, terrace design).

The boxes shall be sited in suitable locations, with a clear flight path and where they will be unaffected by artificial lighting. The boxes shall thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 118 of the NPPF.

12. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning

condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Artificial lighting and wildlife: Interim Guidance: Recommendations to help minimise the impact artificial lighting (2014). The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species.

13. Before either of the dwellings hereby approved are first occupied the new access, parking and turning areas associated with the dwellings they would serve, shall be constructed in accordance with details of their design and surfacing which have first been approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, to ensure adequate parking and turning area is are provided to avoid congestion on the highway network in the surrounding area and to safeguard the visual amenities and rural character of the area.

14. Prior to the first occupation of the dwellings hereby approved the foul drainage scheme shall be carried out in accordance with the approved drainage scheme.

Reason: To ensure satisfactory drainage of the site.

15. Prior to the first occupation of the dwellings hereby approved the existing access shall be closed off to motor vehicles in accordance with a scheme that shall be first approved in writing by the Local Planning Authority.

Reason: To define the permission in the interests of safeguarding amenity and to ensure the access remains open as a pedestrian route to serve the Public Right of Way.

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

16. Demolition, construction works or deliveries shall not take place outside 7.30am - 6.00pm Monday to Friday, and 8.00am - 1pm Saturdays, with no work taking place on Sundays, Bank or Public holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

#### **Informatives**

1. This permission does not entitle the developer to obstruct a public right of way. Development insofar as it affects a public right of way should not be started and the right of way should be kept open unless and until any necessary statutory orders have been made and confirmed. The applicants should ensure that:
  - The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
  - Building materials, debris, etc must not be stored or deposited on the right of way.
  - There must be no reduction of the width of the right of way.

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- The alignment of the right of way must not be altered.
- The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged.
- No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation.

2. Access via public right of way

Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of the Road Traffic Act 1988 regarding the prohibition of driving motor vehicles elsewhere than on roads. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way. For further information, contact the Public Rights of Way Section, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury SY2 6ND.

Vehicular use of public rights of way

The development hereby approved may result in vehicles being driven across or along a Public Right of Way. As a result, notification should be given to the Highway Authority before the permission is implemented. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way. For further information, contact the Public Rights of Way Section, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury SY2 6ND.

Mud on highway

The applicant is responsible for keeping the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Works on, within or abutting the public highway

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.

3. As part of the SuDS, the applicant should consider employing measures such as the following:
  - o Water Butts
  - o Rainwater harvesting system
  - o Permeable surfacing on any new access, driveway, parking/paved area
  - o Attenuation
  - o Greywater recycling system
  - o Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

#### Surface Water Soakaways

Percolation tests and 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, the Council 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 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.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

4. Nesting birds informative

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 any of the buildings and begin nesting, work must cease until the young birds have fledged.

#### General site informative for wildlife protection

The following procedures should be adopted to reduce the chance of killing or injuring small animals, including reptiles, amphibians and hedgehogs.

The grassland should be kept short prior to and during construction to avoid creating attractive habitats for wildlife.

All building materials, rubble, bricks and soil must be stored off the ground, e.g. on pallets, in skips or in other suitable containers, to prevent their use as refuges by wildlife.

Where possible, trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a close-fitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.

Hedgerows are more valuable to wildlife than fencing. Where fences are to be used, these should contain gaps at their bases (e.g. hedgehog-friendly gravel boards) to allow wildlife to move freely.

#### Landscaping informative

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.

5. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: [snn@shropshire.gov.uk](mailto:snn@shropshire.gov.uk). Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.

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6. 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.

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