



Committee and date

South Planning Committee

17 December 2019

Development Management Report

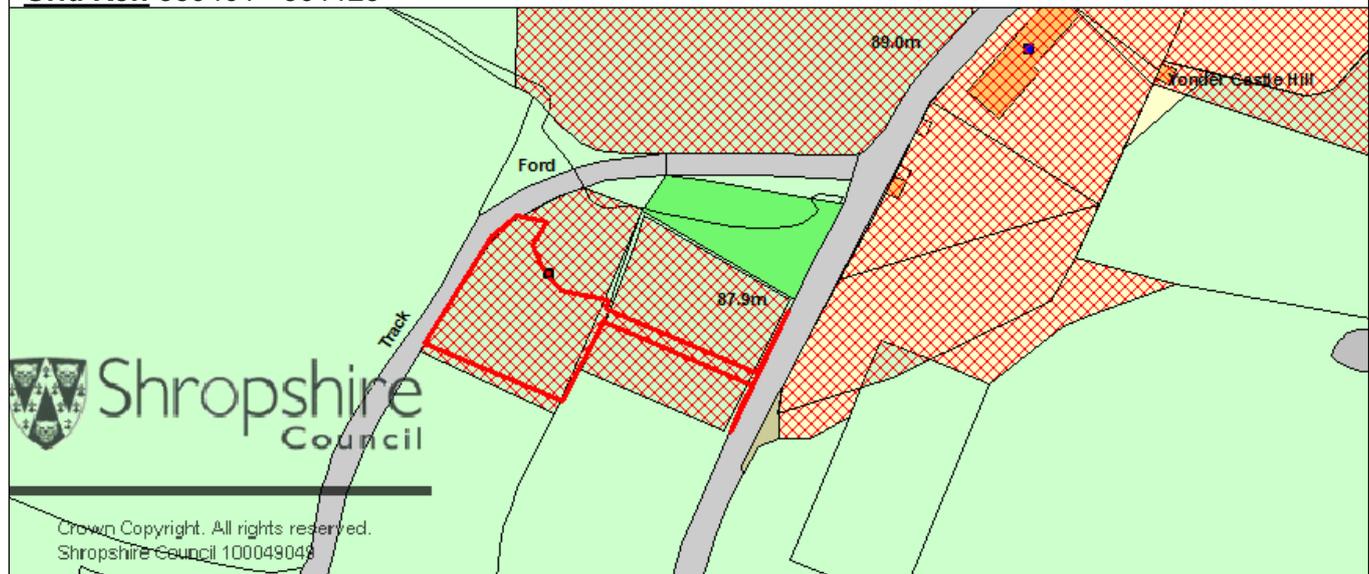
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 19/04227/FUL	Parish:	Harley
Proposal: Erection of Local Needs Dwelling and garage, access and installation of package treatment plant		
Site Address: Proposed Affordable Dwelling to The South West of Harley Shrewsbury Shropshire		
Applicant: Mr Neil Aitchison and Ms Andrea Preston		
Case Officer: Mandy Starr	email:	planning.southern@shropshire.gov.uk

Grid Ref: 359401 - 301123



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Recommendation:- Refuse.

Contact: Tim Rogers (01743) 258773

Recommended Reason for refusal:

It is acknowledged that the proposed development would make a small contribution to the economic objective of sustainable development during the build process and the spend by occupiers on subsequent occupation, and that it would contribute to the social objective by delivering a unit of affordable housing to meet an identified need. However, due to the proposed plot position set back some 47m from the highway, which would be accessed via a new driveway, constructed across the agricultural land between the highway and the main body of the plot, it would result in the siting of the dwelling being out of character with the form and layout of existing nearby development, nor is this layout the most effective and sustainable use of the land. The residential amenities of any future occupiers of the dwelling who do not have control of the adjacent farm land and farm buildings are likely to be adversely impacted on by farming operations. The proposed siting of the plot is therefore contrary to Policies CS6 and CS17 of the Shropshire Core Strategy, Policy MD2 of the Shropshire Council Site Allocations and Management of Development Plan and would not satisfy the environmental objective of sustainable development set out in the National Planning Policy Framework.

REPORT**1.0 THE PROPOSAL**

- 1.1 The proposal is for the erection of a Local Needs rural exception dwelling and garage, access and installation of package treatment plant on land at Domas Lane. The proposed dwelling would provide a one and half storey structure with small single storey wing to the north and central porch. The eaves of the proposed dwelling would be 4.1m high and the ridge would be 7.6m high. The dwelling would have a traditional cottage appearance with dormer windows to the front and rear and would be built with a stone front wall with brick detailing as quoins and window detailing with a traditional tiled roof. The single storey lower wing would be constructed from blockwork with cladding beneath a matching roof and have eaves of 2.2m and a ridge of 4.6m. The rear and the sides would be constructed of render with similar brick detailing. The house would have a single chimney and a rooflight would be inserted above the bathroom in the roof slope. The accommodation would comprise of a front porch leading to a hallway with a lounge to one side and wood burner. On the other side of the hallway there is an open plan kitchen and dining area and beyond this would be a WC, utility room and back door. At first floor, there would be three bedrooms with ensuite to master bedroom and a family bathroom. The gross internal floor area would comply with the 100 sqm limitation for single plot affordable dwellings.
- 1.2 A detached double garage of some 36sqm would be positioned in the north-west corner of the plot with its west elevation alongside the existing farm track that leads to the cattle building. Floor plans and the elevation treatment of the double garage have now been provided. This shows that the garage would have a traditional

appearance with a pitched roof and two up and over garage doors with windows above. There would also be a pedestrian door to the side. It would be constructed from horizontal timber cladding with a clay tiled roof to match the proposed dwelling.

- 1.3 At the rear of the dwelling, there would be the garden backing onto the farm track. Part of the application site near the frontage also includes the root protection zone of two trees; T 1 and T2. T1 is a mature oak and T2 is a mature ash. Access to the property would be via a new long vehicular driveway created off the existing field gate into the field from the highway, and would run between these trees. Some 40m of road side boundary hedge would be removed in order to achieve the necessary sight lines. This hedge would be replanted further into the field as part of any landscaping scheme. The dwelling would not be sited next to the highway, but instead it would be positioned in a separate field further away and it would back onto an existing agricultural access that leads to a recently erected agricultural building from a separate farm track to the north of the copse.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is in the open countryside off Domas Lane which is an unclassified road that here slightly rises up along the field adjacent to the highway towards Domas Cottage and the fields themselves gently slope from west to east.
- 2.2 The land beyond then drops away to Harley Brook before rising upwards to Rowley Farm at the end of the lane where further on the land rises more steeply to the Wenlock Edge. The application site would be sited about a quarter of the way down this Lane on the west side. The nearest property is Yonder Castle Hill that has its garden and access close to the other side of the road from the application site.
- 2.3 To the north of the field behind the roadside boundary hedge of the site is a small copse that is outside of the applicant's land. Beyond this copse is a field access off Domas Lane that runs behind the copse and then turns south to run along the western side of the applicant's land to an existing agricultural building that is sited to the southwest of the application field.
- 2.4 Harley is a small compact Conservation Area village that bypassed by the main A458 between Cressage and Much Wenlock. The village to the west has several roads that radiate out including Domas Lane to the south which is a dead end. This part of Domas Lane is outside of the Harley Conservation Area and main part of the village and there are no listed buildings in the vicinity and nor is the site within the Shropshire Hills Area of Outstanding Natural Beauty, but the boundary of the AONB is further down the lane at Harley Brook.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council view is contrary to the officer recommendation. The Ward Member has advised that she supports the application and wishes it to go to Committee. The Chair and Vice Chair of the South Planning Committee, in consultation with the Principal Officer, consider that material considerations are raised, particularly with respect to siting, that warrant consideration by the South Planning Committee.

4.0 **Community Representations**

-Consultee Comments

4.1 Harley Parish Council: The Parish Council support the application as applicants have demonstrated the local need, the land benefits from being behind trees and setting it back from the road is good for the amenity of the neighbours as it avoids overlooking. The property would use local stonework and is in keeping with the general pattern of landowners in Harley having property adjacent to their farming activities.

4.2 SC Drainage – Comment:
Recommend condition and informatives

4.3 SC Archaeology - We have no comments to make on this application with respect to archaeological matters

4.4 SC Ecology – No objections subject to conditions requiring the development to be carried out in accordance with the recommendations of the Preliminary Ecological Assessment and to control external lighting, together with informatives relating to active birds nests and procedures to minimise the risks to small animals, including reptiles, amphibians and hedgehogs.

4.5 SC Highways - No objection subject to development being constructed in accordance with approved details, conditions and informatives

4.6 SC Trees - No objection provided that a replacement 40m mixed native hedge is planted to replace the hawthorn hedge to form visibility splay. Recommend conditions. Tree consultant should rule out the presence of ash dieback disease before the siting of the house is confirmed. Proximity of this tree to the proposed dwelling may have an overbearing effect leading to probable pruning or even felling in the long term. Shading will be an issue from the east and south so the front of the property will be shaded most of the day, however the rear garden will receive sun in the afternoons and evenings.

4.7 SC Conservation - No objections on heritage grounds but recommend that access to new dwelling should be gravel and any access gates should be of a simple rural design, materials to be confirmed by way of condition and the joinery should be timber.

4.8 SC Rural Housing Enabler - The applicant satisfies the requirements of Affordable Housing Policy, but concern is raised regarding the proposed siting and length of the driveway.

- Public Comments

4.9 The Site Notice was displayed on 2nd October 2019 and it expired on 23rd October 2019.

Three neighbours were notified and have written in to support the scheme on the following grounds:

- Mr Aitchison lives locally all his life and has worked in the area for his whole working life in and around farming. He is an asset to this village and supports the village functions. He is well aware of the sensitivity of the conservation area and will do nothing to harm the environment
- Aware that the area is very sensitive because of its proximity to the Wenlock Edge and the Harley conservation area, feel that an individual home would enable a young family to continue to live and work in countryside in a rural based business and this would be an acceptable compromise
- Wish to be informed of any new details as this land can be seen from our property.

5.0 THE MAIN ISSUES

Principle of development

Siting, scale, design of structure and visual impact

Residential Amenity

Landscaping

Ecology

Highways

Drainage Matters

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material

considerations indicate otherwise. The adopted development plan for Shropshire is the Local Development Framework (LDF) Core Strategy and the Site Allocations and Management of Development (SAMDev) Plan along with the Type and Affordability of Housing and Build your own affordable home SPD. Significant weight is also to be attributed to the National Planning Policy Framework (NPPF) in the determination of planning applications.

- 6.1.2 A key objective of both national and local planning policy is to concentrate residential development in locations which promote economic, social and environmental sustainability. Specifically the Council's Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 state that new open market housing will only be permitted on sites within market towns, other 'key centres' and certain named villages ('Community Hubs and Clusters'), as identified in the SAMDev Plan. Isolated or sporadic development in open countryside (i.e. on sites outside the named settlements) is generally regarded as unacceptable unless there are exceptional circumstances.
- 6.1.3 The site is positioned in open countryside outside of any development boundaries designated under existing Planning Policies. LDF Core Strategy Policy CS5 states that new development will be strictly controlled in accordance with National Planning Policies protecting the countryside. The policy goes on to state that proposals on appropriate sites which maintain and enhance countryside vitality and character will be permitted where they improve the sustainability of rural communities by bringing local economic and community benefits. In relation to new housing proposals, Policy CS5 identifies specific types of development which may be acceptable, including dwellings for agricultural, forestry or other essential countryside workers, or other affordable housing/accommodation to meet a local need, or conversion of a building of historic merit. Policy MD7a of the SAMDev Plan reinforces CS5.
- 6.1.4 As noted above under LDF Core Strategy Policy CS5 new development in the countryside is strictly controlled, however, potentially acceptable development does include the erection of new dwellings which provide affordable housing/accommodation to meet a local need in accordance with Policy CS11. In support, SAMDev Policy MD7a states that suitably designed and located exception site dwellings will be positively considered where they meet evidenced local housing needs and other relevant policy requirement.
- 6.1.5 LDF Core Strategy Policy CS11 supports the provision of affordable housing on suitable sites in recognisable named settlements, subject to suitable scale, design, tenure and prioritisation for local people and arrangements to ensure affordability in perpetuity i.e. the completion of a Section 106 Legal Agreement to secure the dwelling as affordable, before an Approval Decision is issued for any such application.
- 6.1.6 The build your own affordable home on a single plot exception site scheme is detailed in Chapter 5 of the SPD Type And Affordability Of Housing beginning at paragraph 5.10. Applicants will normally be the prospective occupiers of the proposed single plot affordable dwelling and must qualify for the scheme by

demonstrating the following points (summarised) to the satisfaction of the Housing Enabling Officer:

1. That they are in housing need and are unable to identify or afford a suitable alternative home currently available for sale on the open market in the local area or within 5km of the proposed site.
2. That they have a strong local connection to the area. Applicants are expected to be proactive obtaining formal written confirmation of their 'strong local connection' from the relevant Parish Council.
3. That their housing need should be met in the local area.

6.1.7 The SC Housing Enabling Officer has confirmed that Mr Aitchison and Miss Preston have demonstrated strong local connections. After considering their housing needs and personal circumstances, it is also confirmed that the requirements of the Supplementary Planning Document in relation to the build your own affordable home scheme have been satisfied.

6.1.8 The Local Housing Need elements of this application were established as follows from information presented to the Housing Enabling and Implementation Team in January 2019.

- Mr Aitchison and Miss Preston are currently living in rented accommodation in the adjacent parish of Eaton Constantine, as this tenure is insecure it is deemed unsuitable for the families long-term housing needs.

- We can confirm that Mr Aitchison and Miss Preston have demonstrated strong local connections to Cressage, Harley and Sheinton Parish Council local administrative area, which has also been confirmed by the Parish Council. After considering the couples housing needs and personal circumstances, we can confirm that the requirements of the Supplementary Planning Document in relation to the 'build your own affordable home scheme' have been satisfied.

- Mr Aitchison works in the local area as a self-employed agricultural worker. He works at various local farms and on his own land at Harley. He also supplies hay to customers in the immediate area. He stores his equipment and materials at Harley. Mr Aitchison's mother lives within the parish and relies on the couple for support

- From information provided Mr Aitchison and Miss Preston are unable to purchase a suitable property in the immediate area due to availability and cost, this is due to a lack of lower cost smaller affordable properties available locally.

6.1.9 Single plot affordable exception sites are permitted in locations that would not normally obtain Planning Permission for new open market residential development, as they are intended to engender additional community resilience and sustainability. However this does not translate as free rein to always allow single plot affordable dwellings wherever they are proposed. Policy CS11 permits exception sites for local needs affordable housing on suitable sites in and adjoining

Shrewsbury, the Market Towns and other Key Centres, Community Hubs, Community Clusters, and sites which are demonstrably part of or adjacent to recognised named settlements of all sizes. Sites that do not lie in a settlement, constituting isolated or sporadic development or which would adversely affect the landscape, local historic or rural character are not considered acceptable.

6.1.10 Having assessed the location of the proposed dwelling against the Core Strategy policy CS6, CS17 and SAMDev Policy MD2, the selected site is not considered to respond appropriately to the form and layout of the area which is the key part of creating sustainable communities. The reason for this Officer view is explained in Section 6.2 below. Whilst the applicants may fulfil the qualifying criteria, the proposed plot is not in a location that is in keeping with the character of the locality, or sustainable use of land, and therefore not in accordance with adopted planning policy. It is considered that the benefits to the individual of the proposed development do not outweigh the loss of amenity in this case and the principle of the proposed development is not acceptable.

6.2 **Siting, scale, design of structure and visual impact**

6.2.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built and natural environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. Policy MD2 of the SAMDev Plan builds on Policy CS6 providing additional detail on how sustainable design should contribute to and respect locally distinctive or valued character and existing amenity value by:

- i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale density, plot sizes and local patterns of development; and
- ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
- iii. Protecting, conserving and enhancing the historic context and character of heritage assets, their significance and setting, in accordance with MD13; and
- iv. Enhancing, incorporating or recreating natural assets in accordance with MD12.

6.2.2 Paragraph 5.20 of the SPD Type and Affordability of Housing states that, '*Given the exceptional nature of these developments, high quality design is essential and full, rather than outline planning applications will be required for single plot exception sites*'.

Core Strategy policy CS6 requires developments to be appropriate in scale, density, pattern and design taking account of the local context and character. Core Strategy policy CS17 seeks to ensure that all proposals protect and enhance the

diversity, high quality and local character of Shropshire's natural, built and historic environment. SAMDev Plan policy MD2 requires that for a development to be considered acceptable it must achieve local aspirations for design in terms of visual appearance and how a place functions as set out in local community led plans and it must also contribute to and respect local distinctive or valued character and existing amenity value by a number of specific criteria such as responding to the form and layout of the existing development and the way it functions including building heights, lines, scale etc. It must also reflect local characteristic architectural design and details. There is also a requirement to consider the design of the landscaping which responds to the local character and context of the site such as natural and semi-natural features such as trees, hedges, woodlands and ponds.

- 6.2.3 In terms of the pattern of development the majority of dwellings in Domas lane are sited near to its northern end with those that are sited further south are sited very close or on to the edge of the lane. However, this proposal seeks a different siting in that the dwelling would be sited in a separate field behind the roadside field and be set back some 47m back from the highway. The proposed site is positioned centrally within an existing agricultural field, reached from the existing farm gate along a proposed permeable driveway that would run between two mature trees that are growing on the field boundary to the west and would lead to a driveway within the main plot that would turn north. The result would be an isolated development in a field. It is not considered that this proposed siting responds appropriately to the form and layout of existing adjacent development nor is the most effective and sustainable use of the land. There are alternative locations which would have significantly less impact on the usability of the remainder of the agricultural field and have more respect for the existing pattern of the built and rural environment.
- 6.2.4 In support of the proposed siting, the agent advises that the parcel of land to the east of the application site is subject of a legal covenant that prevents the construction of residential dwellings on the field fronting the highway. This means that notwithstanding any planning view, this would be unable to build a dwelling with a road frontage here. The agent has also noted that the Parish Council appear to be supportive of the scheme and in addition the applicant considers that the proposed location is the best location for their scheme, and one which would not impact on the trees in the immediate locality. In response, Officers comment that it is open to the parties affected by a covenant to seek modifications to its terms. This is a private matter between the parties involved and should not dictate the acceptance of the location of dwelling with the harmful impact upon the character of the area, and the limitations it would impose on the sustainable use of the surrounding land immediately outside the application site.
- 6.2.5 In terms of any potential impact on the Conservation Area, the edge of the conservation area ends about 94m to the north of the proposed road entrance, so it is not considered that the proposal would result in any measurable impact on the character or appearance of the conservation area when considering the requirements of Section of the Planning and (Listed buildings and Conservation Areas) Act 1990 (as revised).

6.2.6 With regard to the design of the proposed dwelling and detached double garage, it is considered that their form, described in paragraphs 1.1 and 1.2 above, would be appropriate in scale and design and would take account of the local context and character, as required by Core Strategy policies CS6, CS17 and SAMDev Plan policy MD2. However, the proposed siting does not respond appropriately to the form and layout of the existing nearby development where dwellings are sited adjacent or close to the highway and so this layout is not considered to be the most effective or sustainable use of the land.

6.3 Residential Amenity

6.3.1 Core Strategy policy CS6 and SAMDev Plan policy MD2 indicate that development should safeguard residential and local amenity.

6.3.2 There are two issues here. Firstly, as to whether a dwelling sited in this location would result in loss of amenity to the neighbouring properties and secondly whether existing farming use around the application site would result in loss of amenity for future users of the proposed affordable dwelling in the event that it is sold by the applicants to a new family in housing need. The nearest dwelling is Yonder Castle Hill which would be 100m away on the north east side of the road. Due to the distances involved and the position of the small copse, it is not considered that there would be any loss of amenity to these neighbours.

6.3.3 With regard to the second issue concerns are raised regarding the proposed siting of this affordable dwelling in relation to the use of access track to the rear, the cattle building beyond and the use of the land either side of the proposed driveway to the dwelling, which remains part of the field. Future users of any affordable dwelling sited here are likely to be affected by the adjoining agricultural use which they will have no control over as the recently constructed agricultural farm building under 15/03301/FUL is for keeping a small number beef cattle and farm machinery storage but would be sited less than 100m away from the barn.

6.3.4 In conclusion, the use of the agricultural building and land for keeping cattle may be acceptable for the applicant who would be used to the impacts of having cattle surrounding the application site, managing the pollution from their waste products and vermin associated with their fodder, but this same agricultural use has the potential to result in unacceptable impacts for any future occupiers of the any rural exception site dwelling sited in this particular location. Although an argument could be made that siting the dwelling closer to the road would not make a material difference in terms of distances between buildings, such a dwelling would be clearly separate from rest of the land and could have a vehicular access that would in sole use of the occupier of the rural exception site dwelling, not a shared with existing agricultural land as is now proposed.

6.4 Landscaping

- 6.4.1 Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's built, natural and historic environment and it does not adversely affect the values and function of these assets. SAMDev Plan policy MD12 seeks to safeguard important woodlands, trees and hedges in new developments. The application site is in the open countryside which in this area is typified by well- established native species hedgerows with occasional single trees as found in the immediate vicinity of this site.
- 6.4.2 The submitted Arboricultural Survey and Assessment establishes that there are two mature trees in front of the application site; an oak and ash. The Oak with a stem diameter of 1350mm is categorised as having an 'A' category which specifies a high-quality tree with an estimated life span of 40+ years and which is visually important and may have historical or conservation values. On the other side of the proposed driveway through the hedgerow is an Ash with a stem diameter of 1025mm. This is a 'B' category tree, and these tend to have a moderate quality with a lifespan of between 20 and 40 years and can be downgraded if in poor health. As is common elsewhere in Shropshire this tree is now showing signs of Ash die-back. The proposal also requires the removal of a 40m section of hawthorn hedge from the roadside boundary in order to achieve the required sight lines for a domestic driveway. However, the proposal does include new hedge planting inside the visibility splays which will use native species. No other trees are to be lost.
- 6.4.3 Turning to the two individual trees, the submitted plans show that the new driveway will encroach slightly upon the root protection area of the canopy of the oak. Furthermore, the construction of the driveway by conventional means would result in damage to the tree roots and soil below caused by compaction. To prevent this a no-dig construction technique would need to be employed along with a 3-D cellular confinement system such as Cell Web to prevent compaction of the soil below it. Additional areas around these trees will also need to be appropriately protected to ensure there is no damage to the roots.
- 6.4.4 From the information in the submitted Tree Assessment it would appear that the Root Protection Areas for both of these trees would be in close proximity to both the new dwelling and new driveway. As both of these trees are over 20m high they will result in shading to the dwelling when the sun in the east and south east especially in full leaf. This would make the garden to the east of the proposed dwelling and driveway prone to shading and dampness. There then could be pressure to have these important trees reduced in terms of the overall crowns or even felling which would result in a material loss of visual amenity that these two trees provide at present.
- 6.4.5 The Council's Tree Officer considers the submitted Old Oak Tree Care Protection Plan has demonstrated that provided that the measures contained within this plan and Method Statement including the use of no-dig 3-D cellular construction techniques, protective fencing and temporary ground protection are strictly adhered to the development can be achieved in accordance with the requirements with BS5837: 2012 Trees in relation to Design, Demolition and Construction

Recommendations for Tree Protection.

6.4.6 As has been indicated above, should permission be granted, then in addition to the requirement to replace the 40m length of hedge along the roadside, new hedging will be required either side of the new driveway as well. Details would need to be set out in a landscaping scheme.

6.5 Ecology

6.5.1 Core Strategy policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and it does not adversely affect the values and function of these assets. SAMDev Plan policy MD12 reiterates the need to safeguard ecological interests in development proposals.

6.5.2 A Preliminary Ecological Appraisal was submitted in September 2019 by Greenscape Environmental Ltd. The land owned by the applicants includes a watercourse that runs along the northern part of the site and is forded by the farm track which is a designated corridor for the Shropshire Environmental Network from there it feeds into the Hughley and Harley Brook which is a Geological SSSI and where otter were recorded in 2000. The habitats for bats is limited to a single tree which has potential roost features but this is to be retained. Beyond the site are two ponds within 250m and the pond to the east scored good with regard to a habitat suitability index. However, the habitats are the existing hedgerows for the application site. No evidence of badgers, water vole or otter were found. It was not considered that Phase 2 surveys for bats and great crested newts were necessary as the features of value can be satisfactorily mitigated and additional surveys are not required. The proposal will see the stream protected with suitable fencing to ensure that stream is protected from construction and contaminants/run-off. The tree and its roots with bat activity would be protected from development and no artificial lights would be attached to the tree, but a bat box is recommended to be erected on the dwelling. The boundary hedging will be removed in a two-stage process to allow for the protection of newts and bird boxes are also required to be attached to the new dwelling. The risk to newts is considered low, but measures will be required to manage this risk, but this will not include the need to provide the three tests under Regulation 55 of the Conservation of Habitats and Species Regulations (2017).

6.5.3 The Council's Planning Ecologist has advised that she is happy with the level of survey work carried out and the recommendations contained in the Preliminary Ecological Appraisal. Any grant of planning permission should be subject to conditions requiring all site clearance, landscaping and biodiversity enhancements to be carried out in accordance with the recommendations contained in the Preliminary Ecological Assessment; and to specify the design and installation requirements of any exterior security or decorative lighting, in order to minimise disturbance to bats.

6.6 Highways

Contact: Tim Rogers (01743) 258773

6.6.1 Core Strategy policy CS6 seeks to secure safe developments. The NPPF, at paragraph 109, advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be severe. The Council's Highways Consultants are content that the proposed access arrangement, improving an existing agricultural access as shown on the submitted site plan, is acceptable for the prevailing highway conditions and proposed development.

6.7 **Drainage Matters**

6.7.1 CS18 Sustainable Water Management requires that developments will need to integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on the water quality and quantity including ground water resources. The agent has stated that in relation to foul sewage a bio-disc package treatment plant will be provided for the dwelling for this 5-person household and that updated percolation tests will be required but nevertheless the soil would be sufficient free-draining to enable this plant to be used effectively. The bio-disc would be sited in the south west corner of the new garden area. The same would apply for the surface water drainage that would lead to a soakaway being constructed to the west of the permeable driveway. Nevertheless, the agent has asked that the detailed drainage design be dealt with by way of a planning condition on any approval. The Council's Drainage Consultants are content with this approach.

7.0 **CONCLUSION**

7.1 The proposed design of the affordable dwelling and garage would not be inappropriate for the locality. There are no highway safety, drainage or ecology grounds that would justify a refusal in this case. However, although the applicants have demonstrated a housing need with strong local connections and a need to live in the area, the proposed siting of the dwelling is not considered to be acceptable in policy terms because it would result in a development that would be sited in an isolated location that would be set back from the road by a long driveway. Therefore, the proposed site is not considered to respond appropriately to the form and layout of existing nearby development in Domas Lane nor is this layout the most effective and sustainable use of the land. The residential amenities of any future occupiers of the dwelling who do not have control of the adjacent farm land and farm buildings are likely to be adversely impacted on by farming operations.

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

National Planning Policy Framework 2019
National Planning Practice Guidance 2019

Shropshire Council Adopted Core Strategy

CS1 Strategic Approach
CS5 Countryside and Green belt
CS6 Sustainable Design and Development Principles
CS7 Communications and Transport
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management

Supplementary Planning Guidance

Type and Affordability of Housing SPD
Build your own Affordable Home SPD

Shropshire Site Allocations and Management of Development (SAMDev) Plan

MD2 Sustainable Development
MD3 Managing Housing Development
MD7A Managing Housing Development in the Countryside.
MD12 Natural Environment

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PYAQ0ITDI0Z00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Supporting Statement
Design and Access Statement
Preliminary Ecological Survey

Cabinet Member (Portfolio Holder)
Councillor Gwilym Butler

Local Member

Cllr Claire Wild

Contact: Tim Rogers (01743) 258773

Informatives

1. Despite the Council wanting to work with the applicant in a positive and proactive manner as required in the National Planning Policy Framework paragraph 38, the proposed development is contrary to adopted policies as set out in the officer report and referred to in the reasons for refusal, and it has not been possible to reach an agreed solution.

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