

## Development Management Report

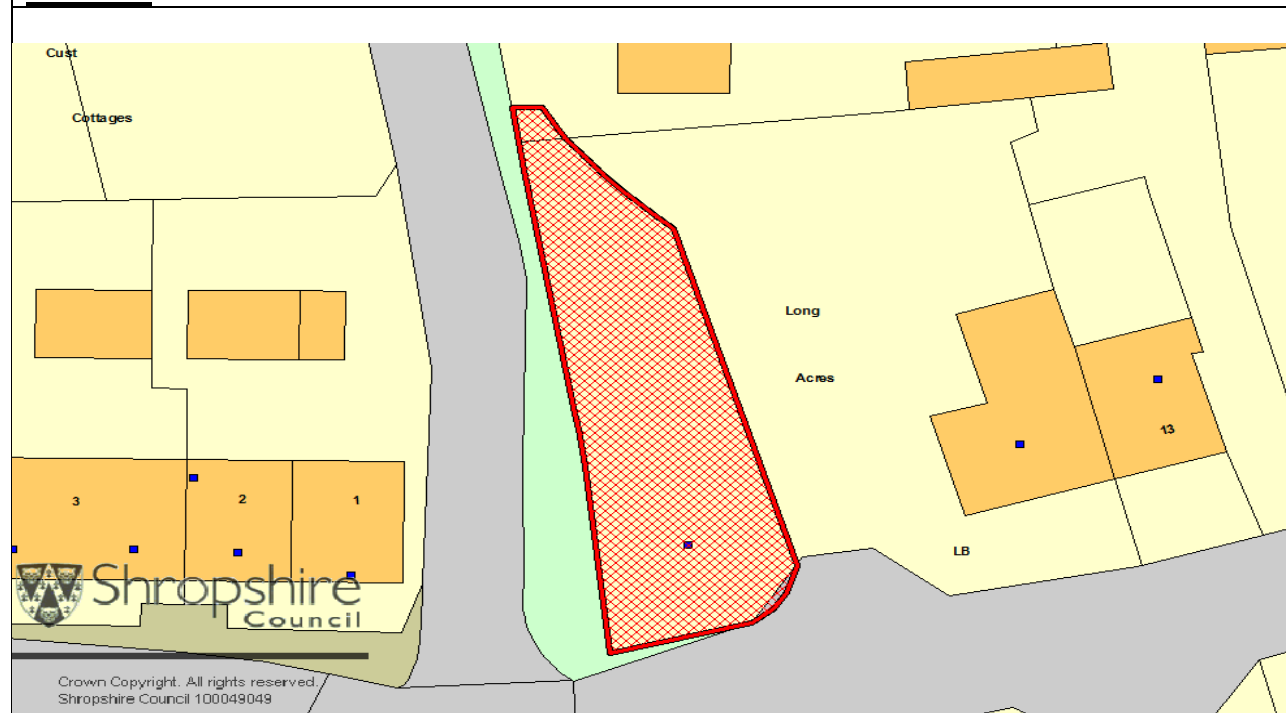
Responsible Officer: Tim Rogers

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### Summary of Application

<b><u>Application Number:</u></b> 20/04023/FUL	<b><u>Parish:</u></b>	Ellesmere Rural
<b><u>Proposal:</u></b> Erection of 1No dwelling and realignment of private access drive; and all associated works		
<b><u>Site Address:</u></b> Proposed Dwelling To The West Of 14 Ellesmere Road Tetchill Shropshire		
<b><u>Applicant:</u></b> Keith Woods		
<b><u>Case Officer:</u></b> Melanie Williams	<b><u>email :</u></b> <a href="mailto:planning.northern@shropshire.gov.uk">planning.northern@shropshire.gov.uk</a>	

**Grid Ref:** 339021 - 332722



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

## **REPORT**

Members will recall that this application was presented to the last Committee meeting, which took place on 12th January 2021 at which members resolved that planning permission be granted, in accordance with the Officer's recommendation subject to:

- The conditions as set out in Appendix 1 and delegate powers to the Planning Services Manager to amend conditions 3 and 4 in relation to the comments as noted by the Highways Manager during the meeting with regarding the visibility splay and the inclusion of a footpath as set out on a previous planning consent; and the additional condition in relation to boundary treatments as noted during the presentation to members by the Principal Planning Officer.

The application is re-presented to this meeting as it is considered necessary to update members, on the advice given in relation to a footpath along the site's road frontage with regards to the 2017 Reserved Matters approval is incorrect in relation to the relevant planning history for development to the rear of the site.

The three dwellings recently constructed to the rear of the site are in accordance with planning approval references 18/04197/FULL dated 25/11/2019, 18/03858/FUL dated 13/12/2018 and 18/04198/FUL dated 26/11/2019. None of these approvals had a condition attached to their respectful approval notices requiring installation of a footpath alongside the roadside elevation adjoining the site subject to this application.

Further still it would be considered unreasonable to expect the applicant to install a footpath at this location, which is located on the edge of the village, with no footpath either side of the site to which the proposed stretch of footpath could connect up to.

Otherwise Officer advice in relation to this application is as per the report and recommendation to Committee on 12th January 2021 with the addition of the additional landscape condition as recommended by the Principal Officer and the condition with regards to visibility splays as recommended by the SC Highways Manager.

The recommendation therefore is one of approval subject to the updated conditions as set out in appendix one attached to the previous report to Committee attached below.

### **1.0 THE PROPOSAL**

- 1.1 Erection of 1 No dwelling and realignment of private access drive; and all associated works.

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

- 2.1 The application site is located within Tetchill Settlement Boundary as identified on Policy Map S8 INSET 4. The application site comprises a portion of roughly rectangular shaped land to the west and north of the detached property known as

Long Acre.

- 2.2 The site is bounded to the north by a newly granted development site and to the east, south and west by residential properties and their curtilages. The site has been cleared of internal vegetation in preparation for the development however the mature tree and hedge planting forming the sites boundaries has been retained.

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

- 3.1 The Parish Council object to the proposal contrary to the officer recommendation for support. In addition the Local Member called the application in immediately should officers be minded to approve. Therefore, under the terms of the scheme of delegation to officers, as set out in Part 8 of the Council Constitution the application should be referred to planning committee for determination.

### 4.0 **Community Representations**

- Consultee Comments

**WSP Highways on behalf of SC Highways** No objection. Further to the Highway Advice Note dated 22.10.2020, the red edged area has been revised to include the access junction, driveway and visibility splays. Subject to the conditions listed above being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

No objection subject to the development being constructed in accordance with the approved details and conditions to require that the access, parking and turning areas are completed, laid out and maintained prior to the occupation of the dwelling; the access apron being constructed in accordance with the Council's specification; no access gates or other means of closure to be erected within 5 metres of the highway boundary.

**SC Affordable Houses** 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.

**SC Drainage** No objection – advice provided which can be added to the decision notice as an informative note.

- Public Comments

Ellesmere Parish Council: (*following amended proposal submitted 8th Dec 2020*)

**Objects** The Parish Council objects to the proposals outlined in this application. In relation to the application for the realignment of the private access drive the Parish Council would like to refer to Highways comments relating to the previous application 18/05405/OUT, which the Parish Council considers to be pertinent to this application.

The Parish Council would further like to refer to the reasons for refusal given in respect of planning application: 20/00582/VAR:

"The proposed variation is not considered to be acceptable within the context of the

overall streetscene and the proposed works would not result in any material benefit to surrounding amenity and highway safety. Therefore the proposal is deemed not to comply with the relevant development plan policy framework laid down within CS5, CS6 & CS18 of the Core Strategy or SAMDev Policies MD2, MD7a & MD13." The Parish Council objects to the further development of this site which would amount to overdevelopment of the plot. There are existing drainage issues around this site and any new houses should be connected to the mains drainage scheme i) to alleviate these issues and ii) there is limited space to site a sewage treatment plant on the proposed site.

### **The Parish Council objects to the application.**

15 letters of **objection** (an additional 3 following amendment) have also been received from neighbouring properties highlighting a number of points including the following:

- Highway safety
- Street scene
- Impact on residential amenity
- Drainage issues
- Plot size/ cramped development
- Against policy
- Overdevelopment
- Ecological Impact (removal of hedgerow/ trees)
- No bus service/ local amenities

A letter of **objection** has also been received from the **Local Member: Cllr Brian Williams** as follows:

*I object to the application on the grounds that the site is too restricted in size to provide for a dwelling with adequate external facilities and also that it restricts the exit visibility from the newly built houses further into the site.*

*If officers are minded to approve the application, I request that it be referred to the North Planning Committee for determination. I would wish to attend the Committee and give more comprehensive reasons for refusal.*

### **(and following amendments:)**

*I am the Shropshire Councillor for the Tetchill area. Notwithstanding the approval given by WSP consultants to the highways aspects of the proposal, the application should be refused on the planning grounds stated by officers in the previous similar application for this site which are still valid as the plot size and location are unchanged.*

## **5.0 THE MAIN ISSUES**

- Principle of development
- Siting, scale and design of structure
- Impact on Residential Amenity
- Highways

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Applications for planning permission must be determined in accordance with the adopted development plan unless material considerations indicate otherwise

(Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

- 6.1.2 As of December 2015, the Council formally adopted the Site Allocations and Management of Development Plan (SAMDev) which is attached full weight when determining planning applications. Further to this, since the adoption of the Shropshire Core Strategy in March 2011, the revised National Planning Policy Framework (NPPF) has been published and is also a material consideration that is afforded significant weight in the determination of planning applications.
- 6.1.3 In order to establish a proposals principle of development, it is important to establish the location of the development site in accordance with CS1 and its segmentation into the Market Towns and Key Centres (CS3), the Community Hubs and Community Clusters (CS4) and the Countryside and Green Belt (CS5). Within CS1 it is prescribed that throughout the plan period, 27,500 new homes will be provided across Shropshire in accordance with the SAMDev Plan and its identification and distribution of housing within those settlements categorised within the CS1.
- 6.1.4 The settlements of Tetchill, Lee and Whitemere are a Community Cluster which will provide for future housing growth of around 20 dwellings during the period to 2026. Development by infilling, groups of houses and conversions may be acceptable on suitable sites within the development boundary identified on the Policies Map. A single allocated site identified on the Policies Map will deliver around 10 dwellings in Tetchill. In Lee and Whitemere development will be limited to single infill plots and conversions.
- 6.1.5 The site is within the development boundary for Tetchill and therefore the principle of residential development is supported on this site, subject to scale, design, impact on neighbours etc. which will be discussed further in this report.
- 6.2 Siting, scale and design of structure**
  - 6.2.1 Policy CS6 (Sustainable Design and Development Principles) of the adopted Core Strategy is also relevant to this application. This seeks to ensure that development is designed to a high quality using sustainable design principles. Proposals are required to be appropriate in scale, density, pattern and design taking into account the local context and character, having regard to national and local design guidance. The policy is supportive of proposals which contribute to the health and wellbeing of communities and aims to ensure the safeguarding of residential and local amenity.
  - 6.2.2 The proposal is for a two storey 2 bedroomed house with parking to the rear. A 3rd room upstairs is labelled as a study presently but this could easily be utilised as a 3rd bedroom. The ground floor will have an open plan kitchen and dining area with a patio door to the rear leading to the rear garden. A living, utility room and wc is also proposed for the lower floor. Upstairs there will be a study, 2 bedrooms and separate bathroom with the master bedroom having en-suite as mentioned above.
  - 6.2.3 The external appearance has been amended since the original submission to

enable the property to complement and blend with the surrounding dwellings. Initially the proposal was for a quite bland house with a tapered wall to maximise the plot availability. However the applicant was requested to submit amendments to provide a more in keeping dwelling house, to this effect a further scheme was submitted indicating more traditional village features such as dormers to front and rear, chimney stack and wooden porch. In addition the plot layout has been 'squared off'. It is felt that the latest design is much more sympathetic and subservient in appearance given the prominent location of the plot within the village.

6.2.4 The property will be orientated towards the road frontage with vehicle access directly from the adjoining highway and adjacent roadway. The landscaping has been designed with 2 parking spaces and reasonably sized rear garden. Materials are described as slate with render facing, a condition would be added requesting materials are in accordance with these details.

6.2.5 It is considered that the proposed scale and design of the proposed dwelling as amended is in keeping with the site, neighbouring properties and the wider area and would not appear out of keeping.

### **6.3 Impact on Residential Amenity**

6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.3.2 Given the characteristics and size of the site officers are satisfied that the dwelling is positioned a sufficient distance away from the nearest neighbouring properties and windows orientated such that no adverse impact will occur in terms of overlooking or loss of light.

6.3.3 Therefore it is felt there will be minimal impact on the neighbouring amenity of surrounding properties caused by this proposal. In addition the dwelling fits comfortably into the plot leading to adequate amenity for any future occupiers of the property.

### **6.4 Highways**

6.4.1 The development proposes the erection of dwelling to the west of no.14 Ellesmere Road, including an amended access arrangement that formed the subject of the refused application under reference 20/00582/VAR.

6.4.2 The Council's Highways section has advised that the principle of the amended access layout was accepted in the previous application; the detailed layout of which has been replicated on the current submitted details on Transport Plan Drawing No. 41001-A02002 Rev 00.

6.4.3 Highways previous comments were as follows:

*Having considered all highway matters in this case the highway authority do not wish to raise a highway objection subject to the imposition of a highway condition listed below. In reality the proposed visibility splay cuts through the adjacent Parish Notice Board & Defibrillator Station but has the effect of maintaining the frontage growths within the property boundary. Our term consultant WSP has considered the impact of the Parish*

*Notice Board and Defibrillator Station on the site access and considers the access arrangements are acceptable.*

- 6.4.4 Therefore subject to conditions being included on any approval, there are no sustainable Highway grounds upon which to base an objection.

## **7.0 CONCLUSION**

The site is located within the development boundary of Tetchill as identified within the adopted SAMDev Plan and the proposal is deemed to be suitably sustainable for its location. Issues in relation to residential amenity, landscape and visual impact, plus drainage and highway are considered to be addressed satisfactorily. The application is therefore considered to comply with the relevant policy framework as provided by Core Strategy Policy CS6 and SAMDev Policy MD2 and is recommended for approval subject to conditions as indicated in appendix one below.

## **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:

Core Strategy and Saved Policies:

National Planning Policy Framework  
CS4 - Community Hubs and Community Clusters  
CS6 - Sustainable Design and Development Principles  
CS18 - Sustainable Water Management  
MD2 - Sustainable Design  
MD1 - Scale and Distribution of Development

### RELEVANT PLANNING HISTORY:

18/05405/OUT Outline planning application (all matters reserved) for the erection of one dwelling WDN 16th May 2019

20/04023/FUL Erection of 1No dwelling and realignment of private access drive; and all associated works PDE

NS/81/00612/FUL Erection of extension to form Kitchen/Dining room at Long Acres, Tetchill GRANT 27th July 1981

NS/90/01118/FUL Installation of 1200 Litre L.P.G Tank at 14 Ellesmere Road, Tetchill GRANT 4th December 1990

18/01937/FUL Erection of 1no dwelling WDN 24th May 2018

18/01939/FUL Erection of 1no dwelling WDN 30th May 2018

18/01940/FUL Erection of 1no dwelling (Plot 3). WDN 20th July 2018

18/02464/FUL Erection of single storey extension following demolition of existing GRANT 18th July 2018

18/03858/FUL Erection of 1no dwelling (Plot 2) resubmission GRANT 13th December 2018

18/04197/FUL Erection of one dwelling (plot 1) resubmission GRANT 25th November 2019



18/04198/FUL Erection of one dwelling (plot 3) resubmission GRANT 26th November 2019  
 19/04615/DIS Discharge of condition 3 (materials), condition 4 (trees) and condition 5 (trees) for the erection of 1no dwelling (Plot 2) resubmission relating to 18/03858/FUL DISAPP 13th November 2019

20/00210/AMP The addition of stone quoins and a brick plinth to match plots 2 and 3 for the erection of one dwelling (plot 1) resubmission relating to 18/04197/FUL. GRANT 29th January 2020

20/00582/VAR Application under Section 73A of the Town and Country Planning Act 1990 for the variation of condition no. 7 attached to planning permission 18/03858/FUL to move the access road to the east REFUSE 25th June 2020

20/04023/FUL Erection of 1No dwelling and realignment of private access drive; and all associated works PDE

20/05314/AMP Non-material amendment - the original site plan measurements were inaccurate, after siting the new development the measurements to the boundaries were different relating to 18/03858/FUL. PCO

## 11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Councillor Gwilym Butler
Local Member  Cllr Brian Williams
Appendices APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

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

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

2. The development shall be carried out strictly in accordance with the amended plans received 8th December 2020.

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

**CONDITIONS THAT REQUIRE APPROVAL PRIOR TO THE COMMENCEMENT OF DEVELOPMENT**

3. Prior to the commencement of development visibility splays at the access with the county road shall be set out in accordance with the approved plan Drawing No.41001-A 02 002 Rev 01; all growths/obstructions in advance of the visibility splay shall be lowered to and thereafter maintained at a height not exceeding 0.3 metres above the level of the adjoining highway carriageway.

Reason: In the interests of highway safety.

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

4. Prior to the dwelling hereby permitted being first occupied the access, parking and turning areas shall be satisfactorily completed, laid out and maintained in accordance with the Transport Plan Drawing No. 41001-A 02 002 Rev 01.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

5. The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

6. Prior to first occupation of the dwelling hereby approved, detail will be submitted to and approved in writing to the Local Planning Authority with regards to boundary treatments. The western boundary will be of hedgerow construction and will be planted before first occupation of the dwelling hereby approved. Any species that fail in the first five years after planting will be replaced with varieties of the same species and size.

Reason: In order to ensure adequate landscaping in this semi-rural location and with consideration to visual impact.

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

7. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no access gates or other means of closure shall be erected within 5.0 metres of the highway boundary.

Reason: To provide for the standing of parked vehicles clear of the highway carriageway in the interests of highway safety.

8. The external materials shall be as described on the deposited plans and documents, no alterations shall be made to these materials.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development relating to schedule 2 part 1 class A, B, D & E; shall be erected, constructed or carried out.

Reason: To maintain the scale, appearance and character of the development and to safeguard residential and / or visual amenities.

### **Informatives**

1. A sustainable drainage scheme for the disposal of surface water from the development should be designed and constructed in accordance with the Councils Surface Water Management: Interim Guidance for Developers document. It is available on the councils website at:

<https://www.shropshire.gov.uk/media/5929/surface-water-management-interim-guidance-fordevelopers.pdf>

The provisions of the Planning Practice Guidance, Flood Risk and Coastal Change, should be

followed.

Preference should be given to drainage measures which allow rainwater to soakaway naturally. Soakaways should be designed in accordance with BRE Digest 365. Connection of new surface water drainage systems to existing drains / sewers should only be undertaken as a last resort, if it can be demonstrated that infiltration techniques are not achievable.

2. 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 a 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/roads-and-highways/road-network-management/application-forms-and-charges/>

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.

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.

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