

# Development Management Report

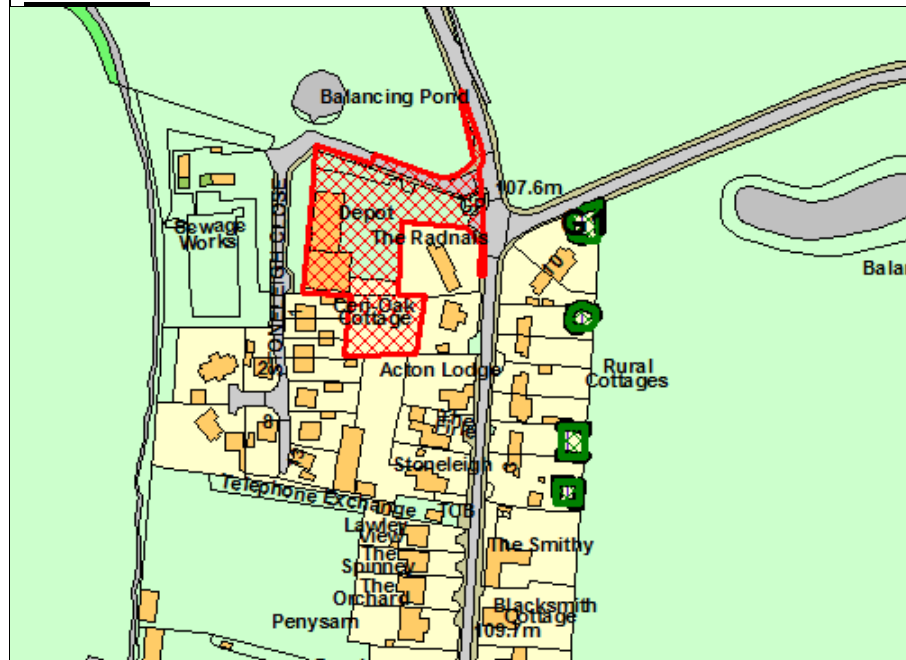
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## Summary of Application

<b><u>Application Number:</u></b> 20/01757/OUT		<b><u>Parish:</u></b>	Acton Burnell
<b><u>Proposal:</u></b> Outline application for a residential development to include matters of access and layout (amended description)			
<b><u>Site Address:</u></b> Proposed Residential Development Land To The East Of Stoneleigh Close Acton Burnell Shropshire			
<b><u>Applicant:</u></b> Bulkrite			
<b><u>Case Officer:</u></b> Frank Whitley		<b><u>email :</u></b> planning.southern@shropshire.gov.uk	

**Grid Ref: 353054 - 302322**



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**Recommendation:- Refuse**

Recommended Reason for refusal

1. The application site is in a countryside location where in principle there is a presumption against new build open market residential development according to the Council's settlement strategy, as set out in the adopted Shropshire Core Strategy and Site Allocations and Management of Development (SAMDev) Plan. In this case the Albert Davies Yard is deemed Previously Developed Land according to the definition as set out in the National Planning Policy Framework (NPPF) and it is acknowledged that there would be community benefits arising from the cessation of commercial activity at the yard which would weigh in favour of residential development as a departure from the Development Plan if the proposed development was confined to that area of land only. However, the application site extends significantly beyond that area onto garden land in this settlement which is subject to countryside Development Plan policies where the presumption against such development still applies. Overall, the proposed development is therefore contrary to Adopted Development Plan policies, CS1, CS4, CS5, MD1, MD3, MD7a and paragraphs 77- 79 of the NPPF.

## REPORT

1.0	<b>THE PROPOSAL</b>
1.1	The application seeks planning permission in outline for a residential development to include matters of access and layout (amended description).
1.2	Remaining matters of scale, appearance and landscaping are reserved for later consideration.
1.3	The development layout is for 10 dwellings to include accommodation as follows: Plots 1,2,9: 4 bedroom detached Plots 3-6: 3 bedroom semi-detached Plots 7&8: 2 bedroom bungalows Plot 10: 3 bedroom detached
1.4	All feature detached garages apart from Plot 10.
1.5	The application site includes a small area of open space and play area.
1.6	Two units would become affordable, by way of a Section 106 agreement.
2.0	<b>SITE LOCATION/DESCRIPTION</b>
2.1	The proposed residential development would replace the existing workshops and depot on the north side of Acton Burnell, known locally as the Albert Davies Yard (hereafter described as the "Yard"). The Yard comprises two adjacent buildings against the western boundary. One is a brick building under an arched corrugated roof, with sliding or roller shutter doors. The other is a more modern and slightly larger shed of portal frame construction. Externally, the entire area is hard surfaced aside from a small grassed parcel measuring approx 7x16m against the

	south boundary of the Yard
2.2	The application site is within the northern boundary of Acton Burnell Conservation Area.
2.3	The Yard is bounded immediately to the north and west by Stoneleigh Close which serves a sewage works and a new residential development of 11 dwellings immediately to the southwest of the application site.
2.4	The Yard lies behind The Radnalls which fronts the highway and is owned by the applicant. Also owned by the applicant is the adjacent dwelling Ceri Oak Cottage which has a large and partly wooded garden to its rear. The application site comprises the Yard, but also an adjoining section of garden land belonging to Ceri Oak Cottage.
2.5	The existing access to the Yard is between The Radnalls and the Stoneleigh Close/highway junction. The existing access would provide domestic access for Plot 1 only. A branch off the first part of Stoneleigh Close would provide access to Plots 2-10.
	<i>Background</i>
2.6	Residential development to the southwest of the Yard was originally approved in 2014 (reference 14/00648/OUT) at a time when Shropshire Council could not demonstrate a five year supply of housing land (5YHLS). The site was, and still remains in a countryside location according to the Core Strategy (adopted 2011). Acton Burnell is not a Hub or Cluster settlement according to CS4. However in 2014 the proposed development was nevertheless deemed sustainable under National Planning Policy Framework (NPPF) guidance and approved accordingly.
2.7	Following the grant of outline permission, a scheme comprising 9 dwellings was approved at the reserved matters stage in 2016. Later, a full application was submitted (17/00236/FUL) which proposed a revised layout to the approved scheme and the addition of another 2 dwellings within the same boundary as before. The 11 dwelling scheme was approved in August 2017 and is now completed and occupied.
2.8	Members may also wish to note a further planning application (ref 20/01936/FUL) for a single dwelling (still to be determined), on the narrow strip of land between Stoneleigh Close and the main Yard workshop building. A previous application for two dwellings on this land was refused planning permission in 2018, mainly on account of amenity issues relating to the sewage works on one side and the workshop building on the other. The application for a single dwelling is likely to be decided following a decision on the proposal to re-develop the Yard.
2.9	The Yard is currently occupied by a local company named Bulkrite, specialising in the design and manufacture of commercial vehicle bodies. Bulkrite currently operate from a premises near Dorrington which is well served by the A49 trunk

	road and away from residential dwellings. The Yard and its workshop building for the time being appears to be used for vehicle storage only. Nevertheless, the Yard has a lawful commercial use, without any planning restrictions on hours of operation, noise, number or size of vehicles, and the types of commercial use.
3.0	<b>REASON FOR COMMITTEE DETERMINATION OF APPLICATION</b>
3.1	The Parish Council have submitted a view contrary to officers and the Ward Member has requested Committee determination if the recommendation is for approval. The Principal Officer, in consultation with the Chair and Vice-Chair of the South Planning Committee, consider that the material planning considerations raised in this case warrant the application being determined by Committee.
4.0	<b>Community Representations</b>
	<b>Consultee Comments</b>
	Where consultees have submitted more than one set of comments the latest is listed first below, in order to show whether anyb earlier concerns have been overcome.
4.1	<b>Acton Burnell Parish Council (22.07.2020) – Support:</b>
	<p>The Parish Council removes its original objection since amended plans have now been submitted.</p> <p>The Parish Council supports the outline application as the development is primarily sited on previously developed land and will not affect the open countryside status. Support of detailed plans will be dependent on the site plan following that presented in Berrys drawing no. SA36473_PL03 Rev. E and provision of at least (and preferably more than) the minimum of 2 required affordable housing units, in accordance with the Community Led Plan.</p>
4.1.1	<b>Acton Burnell Parish Council (03.06.2020) – Object:</b>
	<p>-Query if there is a risk of losing 'Open Countryside' status</p> <p>-Although broadly approving of certain aspects of the planning application, the PC is of the opinion that the construction of House Nos 7, 8, 9 &amp; 10 indicated on the Concept Site Plan would not form part of an otherwise 'brownfield site', having until relatively recently formed part of the garden of Ceri Oak, and would therefore be contrary to the PC's 'Open Countryside' status, as well as being potentially detrimental in terms of ecology and the invasion of the privacy and quality of life of adjacent properties.</p>
4.2	<b>SC Conservation- no objection</b>
	We had previously provided comments related to the residential development along Stoneleigh Close which I would refer you to for any relevant background. The current application site is also fully inside the northerly boundary of the Acton Burnell Conservation Area where additionally the site has frontage to the main highway running through the settlement at the main northerly gateway entrance to

	<p>the Conservation Area.</p> <p>We would again advise that legislatively Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is applicable to this proposal in considering its impact on the character and appearance of the Conservation Area and in terms of whether the proposed scheme would preserve or enhance the character and appearance of the Conservation Area.</p> <p>Additionally due regard is required to the following local policies and guidance: SC Core Strategy policies CS5 (Countryside and Greenbelt), CS6 (Sustainable Design and Development) and CS17 (Environmental Networks), SC SAMDEV policies MD2 (Sustainable Design), MD7(a) (Managing Development in the Countryside), MD13 (The Historic Environment), and with national policies and guidance including the National Planning Policy Framework (NPPF) and relevant Historic England guidance including GPA3 The Setting of Heritage Assets. Additionally as this site is located within and at the entrance to the Conservation Area there should be sufficient information provided to satisfactorily address the HE guidance found in Statements of Heritage Significance: Analysing Significance in Heritage Assets (HE Advice Note 12) in order to address the requirements of NPPF paragraph 189 and local policy requirements.</p> <p>Should the residential development of these lands be considered planning policy compliant, plot size and scale of housing should reflect and not be greater than the established development nearby. Particularly with any potential dwelling fronting the main highway the scale, design, external materials and finishes will need to be sensitive to the surrounding buildings and area where it will need to be demonstrated that an enhancement to the Conservation Area and the street scene will result.</p> <p>Should this outline application for access only be approved, we would ask that our Team is consulted at the reserved matters stage in order to agree further details of the scheme to ensure that the development visually harmonises with the existing building forms in the area and to ensure the requirements of Section 72 are being met.</p>
4.3	<b>SC Archaeology-</b> no objection
	No comments to make
4.4	<b>SC Highways-</b> no objection subject to conditions and informatives
	<p>The application is an outline application with access included; all other matters reserved. The application site is a commercial yard located in the village of Acton Burnell. The proposal will be served by two access points – 11 of the dwellings to be accessed via Stoneleigh Close and the twelfth (plot 1) to be accessed where the existing access to the depot is located. 11 dwellings accessed via the existing private drive is acceptable; the road is of sufficient width, and the junction with the adopted highway is suitable to serve the development. The visibility proposed is acceptable and it is assumed that the highways dedication will be completed via a S106 agreement. The reserved matters application will need to have consideration for where refuse will</p>

	<p>be stored for household waste collections.</p> <p>Whilst it is acknowledged that the Concept Site Plan is indicative, it is noted that plots 7,8,9,10 may be awkward to access by foot should all parking spaces be occupied.</p>
4.5	<b>SC Affordable Housing</b> - no objection subject to an affordable housing contribution
	<p>If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full application or a Reserved Matters application. The current prevailing target rate for affordable housing in this area is currently 20% . The size, type and tenure of the affordable home will need to be agreed with the Housing Enabling Team before any further application is submitted.</p>
4.6	<b>SC Drainage</b> - no objection subject to condition and informative
4.7	<b>SC Regulatory Services</b> - no objection subject to condition
	<p>In answer to question 6 'Existing Use' on the application form, the applicant has confirmed in answer to all 3 questions that contamination is an issue and therefore an appropriate assessment should have been submitted in order for the application to be validated.</p> <p>Regardless of this Regulatory Services has identified the proposed development site as potentially contaminated land and therefore if planning approval was granted, the following must be included as conditions:</p> <p>a) No development, with the exception of demolition works where this is for the reason of making areas of the site available for site investigation, shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11. The Report is to be submitted to and approved in writing by the Local Planning Authority.</p> <p>b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.</p> <p>c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.</p> <p>d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk</p>

	<p>assessment must be undertaken in accordance with requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.</p> <p>e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land. Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Councils Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:  <a href="http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf">http://shropshire.gov.uk/committeeservices/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf</a></p>
4.8	<b>Ecology-</b> no objection: Standing advice only recommended in relation to precautions to be taken during building works.
4.9	<p><b>Public Comments</b></p> <p>5 Objections have been received, the full texts of which in may be viewed on the file. In summary the grounds of objection are:</p> <ul style="list-style-type: none"> <li>• Impact on privacy to neighbours</li> <li>• access is by single track private road, causing obstructions- should be an alternative entrance</li> <li>• harm to Conservation Area, nearby listed building and countryside status</li> <li>• application site includes garden of neighbouring property, not part of haulage depot</li> <li>• too many dwellings for size of site</li> <li>• insufficient parking</li> <li>• insufficient open space/play area for families and children, green belt</li> <li>• removal of orchard and loss of wildlife</li> <li>• storm water disposal</li> <li>• few local services and limited bus service</li> <li>• development already underway for barn conversions in village</li> <li>• dwellings would likely be bought by Concorde College</li> </ul>
5.0	<b>THE MAIN ISSUES</b>
	<p>Principle of development</p> <p>Previously Developed Land</p>

	<p>Loss of Employment Land</p> <p>Layout</p> <p>Historic Environment</p> <p>Access</p> <p>Affordable Housing</p>
6.0	<b>OFFICER APPRAISAL</b>
6.1	<b>Principle of development</b>
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.
6.1.2	The NPPF states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
6.1.3	The NPPF at Chapter 5 seeks to deliver a sufficient supply of homes. Para 77-79 deal with rural housing in particular. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
6.1.4	Shropshire Council published a five year housing land supply statement (5YHLSS) on 16 March 2020, based upon data to 31 March 2019. The statement concludes that the Council currently has 6.42 years supply of deliverable housing land. By the Governments standard assessment methodology, there is currently 8 years supply of deliverable housing land. Accordingly, as per section 38(6) of the Planning and Compulsory Purchase Act 2004, the application must be considered against the Local Development Plan, which is considered up to date. Policies of the adopted Core Strategy and adopted SAMDev Plan policies are therefore given full weight in determining this application.
6.1.5	CS1 (Strategic Approach) sets a target of delivering 27,500 dwellings over the plan period with 35% of these being within the rural area, provided through a sustainable “rural rebalance” approach. Open market residential development in rural areas will be predominantly in Community Hubs and Clusters (CS4). CS11 seeks to ensure that development creates mixed, balanced and inclusive communities.
6.1.6	The application site is within a countryside location as defined by the adopted Core Strategy CS1 and CS5 (Countryside and Greenbelt). CS5 generally limits new residential development to a small number of stated exceptions (for example historic building conversions and essential housing for local needs purposes).
6.1.7	MD1 of the adopted SAMDev Plan states in part, sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres, and the Community Hubs and Community Cluster settlements identified in Schedule MD1.1. Acton Burnell is not a Community Hub or Cluster settlement which could otherwise permit



	some, appropriate new residential development in the countryside. For the purposes of the Core Strategy and SAMDev Plans, the application site lies in a countryside location where new open market residential development would not be supported in principle. MD7a states new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. However, the recommendation takes into account further main issues below.
6.2	<b>Previously Developed Land (PDL)</b>
6.2.1	Chapter 11 of the National Planning Policy Framework (NPPF) seeks to make effective use of land, and states that policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
6.2.2	<p>According to the NPPF, previously developed land (also known as "brownfield") is defined as:</p> <p><i>Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.</i></p> <p>The definition continues by stating that it excludes land in built-up areas such as residential gardens.</p>
6.2.3	The NPPF states that decisions should give substantial weight to the value of using brownfield land within settlements for homes and other identified needs.
6.2.4	<p>The Core Strategy defines brownfield land as:</p> <p><i>Land, or specific sites, that have been previously used for buildings or infrastructure.</i></p>
6.2.5	The SAMDev Plan explains at Para 3.18 (Delivery of Housing) that a key component of the housing land supply are sites allocated in the Plan specifically for that purpose. However 'Windfall' development on other sites is also important, which includes brownfield land within settlements and in the countryside.
6.2.6	There is no policy in the Development Plan in favour of previously developed land (PDL) which expressly overrides the presumption against new residential development in the countryside. Instead, every application must be taken on its own merits giving appropriate weight to material considerations in the planning balance.
6.2.7	The Yard forms @78% of the application site area and constitutes 'brownfield' land. The remainder is land within the residential curtilage of a dwelling (Ceri Oak Cottage) and the whole site is deemed according to the Development Plan as countryside. The development is contrary to Core Strategy Policy CS5 and the presumption against new build residential development in the countryside. While

	significant weight can be given to the principle of re-developing the brownfield (PDL) land in this case if it is considered that it's continuing use for business purposes is inappropriate and/or an alternative business use unlikely, that principle does not apply to the remainder of the application site. The harm arising as a consequence is discussed in Section 6.5 (Historic Environment) below.
6.2.8	The agent was asked to delete the garden land to Ceri-Oak Cottage from the application site, but has declined to do so. No justification or explanation has been provided why significant encroachment into the countryside may be essential to deliver development. There is no known reason why development and resulting community benefits from cessation of the commercial use could not be achieved on the land within the Yard only, albeit on a proportionately smaller scale than currently.
6.3	<b>Loss of Employment Land</b>
6.3.1	MD9 seeks to protect employment areas. The application site is not included on the SAMDev Plan Policies Map. Instead, the application site is in a relatively isolated countryside location. For that reason the site is likely to fall at the lower end of the Hierarchy of Existing Employment Areas according to Table MD9.1 where as a mixed commercial site, it would provide an affordable business location and accessible local employment. The level of protection by way of MD9 should be proportionate to the significance of the site. The proposal has been discussed with the Economic Development Officer who has not described the site as significant in employment terms and has not raised an objection to its loss.
6.3.2	Supporting details claim the application site has operated under an unrestricted commercial use for over 50 years. There is no evidence to dispute this information. Plainly the use has become established without any associated means of limiting potential noise and disturbance through the planning regime. The risk of harm to local amenity is given some weight in favour of residential development and securing an alternative more compatible use in the context of Acton Burnell.
6.4	<b>Layout</b>
6.4.1	CS6 seeks to secure sustainable design. Further, MD2 in seeks to ensure development contributes to and respects locally distinctive or valued character and existing amenity value by (in part) responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement.
6.4.2	The planning application is made in outline, but seeks approval of layout as per the submitted amended block plan at this stage. The development would be limited to a maximum of 10 dwellings. Eight dwellings are proposed within the Yard area and two to the rear of Ceri Oak Cottage. Overall, some weight is given to the proposal to provide small, lower cost dwellings which is a housing mix supported by the Parish Council. Even so, matters of scale are reserved for later consideration so there is limited certainty of the size and height of each dwelling. At this stage, two

	bungalows on Plots 7 and 8 to the rear of Ceri Oak are proposed and are supported by the Parish Council on account of apparent local need for this design. Being single storey, they would also have less impact upon the amenity of the occupiers of No.1 Stoneleigh Close (to the west) and Ceri Oak Cottage.
6.4.3	A small area of open space is proposed in the centre of the development. The area of open space is less than required by MD2 (according to criteria of at least 30sqm per person), but generally is deemed sufficient for the proposal in the countryside location. The application also proposes a play area though is not specifically required by MD2.
6.4.4	The proposed site layout would not result in any significant adverse impacts in terms of safeguarding the residential amenities of the proposed dwellings and those of existing immediately adjacent dwellings, subject to the new dwellings submitted at the reserved matters stage in the event of outline permission being granted being of an appropriate scale and appearance. The proposed layout would Provide adequate on plot parking and access for service vehicles.
6.4.5	The Parish Council has expressed support for the development and for the layout proposed. However it has to be pointed out that the benefits of smaller, lower cost open market housing could equally well be secured within the boundary of the Yard only, albeit from fewer dwellings on a proportionately smaller site. Such benefits could be achieved without alteration to the access arrangements currently proposed.
6.5	<b>Historic Environment</b>
6.5.1	Chapter 12 of the NPPF seeks to secure well designed places. Further, Chapter 15 seeks to conserve and enhance the historic environment.
6.5.2	CS17 and MD13 in particular seek to ensure Shropshire's heritage assets will be protected, conserved, sympathetically enhanced.
6.5.3	The application site is situated in the northwest corner of the Acton Burnell Conservation Area. Acton Lodge, immediately to the south of Ceri Oak Cottage is a listed dwelling.
6.5.4	Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is applicable in considering its impact on the character and appearance of the Conservation Area and in terms of whether the proposed scheme would preserve or enhance the character and appearance of the Conservation Area.
6.5.5	The Conservation Officer has explained the application site is within, and at the entrance of the Conservation Area. The proposed development if approved would create a residential development of 21 dwellings (with development approved under 17/00236/FUL) in the north western part of the Conservation Area. Here, there is an absence of notable areas of open space. The retention of the large garden of Ceri Oak Cottage would mitigate against the pattern of new development

	in the vicinity.
6.5.6	Further, there are several relatively young trees, adding to (amongst others), important trees subject to a Tree Preservation Order on the east side of the highway leading through Acton Burnell. The trees in the garden of Ceri Oak contribute to the verdant setting and rural character of the Conservation Area and its historic buildings. As they mature, enhancements are likely to be greater. For these reasons it is considered the development of the garden of Ceri Oak Cottage should be resisted.
6.5.7	The absence of an objection from the Conservation Officer at the outline stage does not in this case outweigh the principle that development should be limited to Previously Developed Depot Land, and not encroach further into the Conservation Area without justification. However it is acknowledged there is currently insufficient harm to identify conflict with the conservation policies set out in the NPPF, CS17, MD13 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
6.6	<b>Access</b>
6.6.1	CS6 seeks to ensure development is safe and accessible. No objections have been received from Council Highways (subject to conditions and informatives)
6.6.2	The layout as proposed would limit use of the existing Yard access to Plot 1. Stoneleigh Close, which currently bounds the Yard to the north would serve remaining properties. It is acknowledged that visibility to the south from the existing Stoneleigh Close/highway junction is limited, on account of a wall, signpost and vegetation extending into the highway verge. The development, if implemented would resolve this concern by removal of this feature. The new Plot 1 boundary would be set further back from the highway.
6.7	<b>Affordable Housing</b>
6.7.1	The development would be required to contribute towards affordable housing in accordance with CS11. The prevailing rate is currently 20% according to the requirements of the SPD Type and Affordability of Housing. The application has expressed a commitment to providing 2 affordable units in accordance with the SPD. Since the application provides a commitment to the minimum policy requirement, affordable housing provision is a neutral consideration in terms of the planning balance.
7.0	<b>CONCLUSION</b>
7.1	The application site is in a countryside location where in principle there is a presumption against new open market residential development according to the Council's settlement strategy as set out in the adopted Core Strategy and SAMDev Plans. In this case the Albert Davies Yard is deemed Previously Developed Land according to the definition as set out in the NPPF, and it is acknowledged that there would be community benefits arising from the cessation of commercial activity at the yard which would provide sufficient weight in favour of development as a

	departure from the Development Plan <u>if</u> the proposed development was confined to that area of land only. However, the application site extends significantly beyond that area onto garden land in this settlement which is subject to countryside Development Plan policies where the presumption against such development still applies. Overall the proposed development is therefore contrary to the NPPF, CS1, CS4, CS5, MD1, MD3, MD7a. The application is therefore recommended for refusal.
8.0	Risk Assessment and Opportunities Appraisal
8.1	Risk Management
	<p>There are two principal risks associated with this recommendation as follows:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <p>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.</p>
8.2	Human Rights
	<p>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.</p> <p>First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.</p> <p>This legislation has been taken into account in arriving at the above</p>

	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

Shropshire Core Strategy and SAMDev Plan Policies:

CS1 Strategic Approach  
CS4 Community Hubs and Clusters  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks

MD1 Scale and Distribution of Development  
MD2 Sustainable Design  
MD3 Delivery of Housing Development  
MD7a Managing Housing Development in the Countryside  
MD9 Protecting Employment Areas  
MD12 Natural Environment  
MD13 Historic Environment

SPD on the Type and Affordability of Housing

**RELEVANT PLANNING HISTORY:**

SA/78/1327 Erection of an extension to existing garage and workshop to provide additional body repair and body building facilities. PERCON 13th February 1979

SA/93/0207 Erection of a two storey extension to provide first floor shower room and enlarged lounge and porch at ground floor and a single storey extension to garage. PERCON 21st April 1993

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

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

Design and Access Statement

Ecology Survey

Property Report

Cabinet Member (Portfolio Holder)

Councillor Gwilym Butler

Local Member

Cllr Dan Morris

**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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Planning Committee – 16 February 2021

Proposed Residential Development Land To  
The East Of Stoneleigh Close Acton Burnell  
Shropshire