

Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 13/03834/OUT	<u>Parish:</u> Caynham
<u>Proposal:</u> Outline application (all matters reserved) for the erection of four dwellings with garages	
<u>Site Address:</u> Former Primary School Site Caynham Shropshire	
<u>Applicant:</u> Messrs Trough & Mrs Bedford	
<u>Case Officer:</u> Julie Preston	<u>email:</u> planningdmsw@shropshire.gov.uk

<u>Grid Ref:</u> 354959 - 273069
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Recommendation:- That Planning Permission is granted subject to a Section 106 Agreement to secure a contribution to affordable housing and the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This is an application for outline planning permission on a former school playing field in Caynham. All matters are reserved for future consideration but a layout has been submitted demonstrating how 4 dwellings could be accommodated on the site with access from a private drive serving Caynham Court and a number of residential properties. The application is accompanied by an affordable housing contribution form indicating that the applicant is willing to make a payment towards off site affordable housing in accordance with Council policies.
- 1.2 Initially the application was submitted for six dwellings on the site and this was amended to four dwellings during the course of considering the application. All parties were reconsulted.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is 0.246 ha in size and located between the private road to Caynham Court and the rear of houses fronting the main road through the village. The site was last used as a playing field for Caynham School which has recently relocated to Ashford Carbonell. The site is level grassland in an over grown condition with a small amount of play equipment in the eastern corner of the site. The former Caynham School adjoined the site to the east and had access to the playing field through the school grounds.
- 2.2 Caynham is located on the Class C road mid-way between Ashford Carbonell and Clee Hill. It has a village hall but no other services. A bus service operates between Ludlow and Cleobury Mortimer on Fridays only.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Caynham Parish Council object to the application and the local member has requested that the application is determined by the South Planning Committee. The Planning Services Manager has agreed to the request because a similar application, determined prior to the 5 year supply of housing land issue, was refused and the application remains locally controversial.

4.0 Community Representations

4.1.0 Consultee Comments

4.1.1 SC Drainage

No objection subject to conditions requiring drainage details, plans and calculations to be submitted for approval at the reserved matters stage.

4.1.2 SC Ecologist

I have read the above application and the supporting documents including the Protected Species Survey Report conducted by John Morgan (8th August 2012).

Great Crested Newt

John Morgan has assessed the proposed development site for its potential to support a population of Great Crested Newts. John Morgan is of the opinion that it is unlikely that great crested newts are to be found within the school playing field and car park. He does not recommend further survey effort to determine the presence or absence of great crested newts.

Reptiles

There is probable evidence of slow-worms being present within the proposed development site. The surveyor recommends that the school playing field grass is kept short to remove the likelihood of slow-worms being present prior to any development commencing on the site.

Bats

The site has the potential to support foraging and commuting bats.

Nesting Wild Birds

There is potential for nesting wild birds to be present.

Recommendation: No objections subject to conditions and informatives

4.1.3 **SC Rights Of Way**

Footpath 12A runs through the proposed development site. If any development is to take place the path must be accommodated within the plans or the path must be legally diverted. The developer should consult the Outdoor Recreation Team.

4.1.4 **SC Highways DC**

The highway authority raises no objections to the granting of outline consent.

Key Issue - Access onto the highway: The proposed four dwellings would access onto a private road that serves a number of other properties and leads to the public highway at a junction within the 30mph speed limit through the village. This junction provides satisfactory visibility in both directions for vehicles emerging onto a highway within such a speed limit and is of adequate width to accommodate multiple vehicle movements. I therefore consider it to be satisfactory to serve both the existing properties and the dwellings proposed by the scheme.

4.1.5 **SC Affordable Houses**

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 Reserved Matters application.

4.1.6 **SC Archeology (Historic Environment)**

I have no comments to make on this application with respect to archaeological matters.

4.1.7 **Sports England**

Sport England does not wish to comment on this particular application.

4.1.8 Shropshire Wildlife Trust

Subject to the recommendations from 'SC Ecology' being implemented, would not object to the development.

4.1.9 Caynham Parish Council

Comments on proposal for six houses:

The Parish Council objects to the application in relation to Core Strategy CS1 - Caynham is classed as countryside and has no allocation for market housing and there are no economic diversification reasons for development to take place on this site.

The Parish Council wishes this site to remain as open Amenity/Recreational Field which the area lacks

Comments on amended proposal for four houses:

Having reviewed the National Planning Framework and the implication of the five year land supply to which this application will make little or no impact on, the Parish Council are of the opinion that this is only one factor to be taken into account and that the application still fails the material planning requirements in respect of sustainability and maintains its objection to the application on the following grounds:

The Parish Council agrees with the grounds of refusal by Shropshire Council when the original application 12/0224/OUT for six dwellings was refused:

- A) Caynham is not a settlement where additional housing for sale on the open market is considered to be appropriate or sustainable.
- B) The village does not have a range of key services, employment opportunities or good public transport links.
- C) The proposed development would be contrary to the settlement strategy and policies contained in the Shropshire Council adopted Core Strategy CS1, CS4 and CS5 (Countryside and Green Belt)
- D) The Parish Council has not opted to be part of a Community Cluster or Community hub.
- E) In addition the development of the site would result in the loss of a playing field which is the only area available for children's play in the village which is contrary to NPPF Part 8 and CS6 and CS8 of the Core Strategy

4.2 Public Comments

- 4.2.1 Twenty one letters of objection were received in response to the original consultation on the proposal for six houses and a further seven letters were received following the amendment to four houses. A number of objectors refer to and endorse a statement submitted on behalf of 37 local residents by Mr P Chester and his objections relating to application 13/03834/OUT are set out below:

1. Core Strategy Development Plan Document

The Core Strategy Development Plan Document (DPD) was adopted by the Shropshire Council on 24 February 2011. A number of policy section requirements would appear *not* to be met by the outline applications, as detailed below.

a) CS1 Strategy

CS1 states that:-

“The rural areas will become more sustainable through a “rural rebalance” approach, accommodating around 35% of Shropshire’s residential development over the plan period. Development and investment will be located predominantly in community hubs and community clusters, and will contribute to social and economic vitality. Outside these settlements, development will primarily be for economic diversification and to meet the needs of the local communities for affordable housing.”

The applications do not meet this requirement on the following criteria:-

- i. The sites are not in a settlement designated as a community hub or cluster under policy CS4 and therefore fall to be considered under policy CS5.
- ii. The proposed development does not meet the needs of local community for affordable housing.
- iii. Open market housing does not constitute “economic diversification”.
- iv. There is no demand for economic diversification within Caynham.
- v. Current policy (saved policy of South Shropshire Local Plan) does not allocate any open-market housing to Caynham.
- vi. Caynham is not proposed as a development cluster in policy MD1 of the current draft Shropshire Site Allocations and Management of Development Plan.
- vii. The site is not identified as a Community Hub, Community Cluster or potential site for open market housing in the Revised Preferred Options (draft July 2013) Shropshire Site Allocations and Management of Development Plan, Ludlow Area preferred options.
- viii. The proposed development does not form one allowed for in policy MD9 of the draft Shropshire Site Allocations and Management of Development Plan.

b) CS4 Community Hubs and Community Clusters

CS4 states that:-

“Ensuring that market housing development makes sufficient contribution to improving local sustainability through a suitable mix of housing that caters for local needs and by delivering community benefits in the form of contributions to affordable housing for local people and contributions to identified requirements for facilities, services and infrastructure. The priorities for community benefit will be identified in partnership with the community”

The applications do not meet this requirement on the following criteria:-

- i. The site is not in a settlement identified under this policy.
- ii. The local community or Parish Council has not proposed that the settlement be considered for development as a community hub or community cluster.
- iii. The proposed playing field development will have negative impact on infrastructure private roads.

CS4 also states that:-

“Ensuring that all development in Community Hubs and Community Clusters is of a scale and design that is sympathetic to the character of the settlement and its environs, and satisfies policy CS6”

The applications do not meet this requirement on the following criteria:-

- i. The proposed playing field development of 4 houses is not in keeping with the scale that is consistent with neighbouring properties.

c) CS5 Countryside and Greenbelt

CS5 states that:-

“New development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt.

Subject to the further controls over development that apply to the Green Belt, development 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, particularly where they relate to:

- Small-scale new economic development diversifying the rural economy, including farm diversification schemes;
- dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need in accordance with national planning policies and Policies CS11 and CS12;

With regard to the above two types of development, applicants will be required to demonstrate the need and benefit for the development proposed. Development will be expected to take place primarily in recognisable named settlements or be linked to other existing development and business activity where this is appropriate.”

The applications do not meet this requirement on the following criteria:-

- i. Under policy CS5 the sites are land which should be considered as open countryside.
- ii. The proposals fall into none of the categories set out in the policy as exceptional to it.
- iii. There is an adequate supply of housing land available for development in the Ludlow area and therefore there is no reason to fall back on the reserve provisions of the NPPF.

d) CS6 Sustainable development

CS6 states that:-

“Requiring all development proposals to achieve applicable national standards, or for water use, evidence based local standards as reflected in the minimum criteria

set out in the sustainability checklist, to ensure that sustainable design and construction principles are incorporated within new development, and that resource and energy efficiency and renewable energy generation are adequately addressed and improved where possible. The checklist will be developed as part of a Sustainable Design SPD.”

In view of the location of the proposed development, a full application should be submitted rather than an outline application.

- e) CS8 Facilities, Services and Infrastructure Provision
- f) Policy CS17 Environmental networks

CS17 states that:-

“Protects and enhances the diversity, high quality and local character of Shropshire’s natural, built and historic environment, and does not adversely affect the visual, ecological, geological, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors.

The playing field development removes the only sports & recreational area used by the village for several decades. Both application sites would continue to be used in their current functional and recreational uses if the development of open market housing did not proceed.

2. Saved Policy & South Shropshire Planning Guidelines

In addition to the Core Strategy DPD, a number of policy documents remain current and relevant to the applications. These are detailed below.

- a) South Shropshire Countryside Design Summary – Supplementary Planning Guidance

Section 6 (Hereford, Worcester Hills & Teme Valley region) of the Supplementary Planning Guidance note that the only settlements identified for development outside Ludlow & Craven Arms (for developments that are not classed as affordable) are Bromfield, Overton and Woofferton.

- b) Shropshire County Council – Residential developments in Shropshire Design Guide

The Design Guide provides a guide for the maximum number of dwellings that should be accessed by a private driveway:-

“A private drive may serve up to a maximum of five dwellings sited along its length. Private drives will not be adopted by the County Council. Whilst private drives are useful in many 'infill' situations their extensive use within new developments is not recommended.”

The proposed development will contravene this guideline because:-

- i. There are already 4 houses on Caynham Wood that are accessed via the development private drive. With the proposed 6 new buildings this would take number of house to 10, well over the guideline maximum of 5. In addition the private drive derives access over another private road which already provides access to a further 10 dwellings on the same access route. See also (j) below.
 - ii. There is increased maintenance liability to the existing occupiers of Caynham Court for the access required over the Caynham Court driveway, for which the no provision for maintenance has been made; associated problems may arise if damage is caused to the Caynham Court private road by third parties.
- c) Road Width. Shropshire County Council Specification for Residential Estate Roads - Section 2.3.6

The proposed development will contravene the guidelines for road widths.

The proposed development is accessed over a shared private drive that is part of the title. This drive is very narrow, being 3.2m wide, and serves the existing 4 houses on Caynham Wood. The driveway is bordered by a historic wall and is already a bottleneck for exiting residents of Caynham Woods and Caynham Court. The development would therefore need to substantially widen the private drive along the length of the development. This would need to be at least extended to a width of 4.1 metres, as recommended for Shared Surface Roads in the Shropshire County Council Specification for Residential Estate Roads - Section 2.3.6.

- d) Turning Head. Shropshire County Council Specification for Residential Estate Roads

Turning head per shared surface roads (Shropshire County Council Specification for Residential Estate Roads - Drawing TS/10/4)

Internal residential estate roads are often used by drivers who are unfamiliar with the estate, such as delivery vehicles and council refuse vehicles. Delivery drivers will need to turn around and in order to allow them the opportunity to carry out such a turn in safety, rather than in a private drive, junctions or turning heads should be provided at a maximum spacing of 200 metres. The proposed development does not allow enough space for turning facilities, particularly in view of the width road width restrictions noted in c) above.

3. NPPF Part 8

The NPPF Part 8: Promoting Healthy Communities states that open space, including playing fields, should not be built on unless:

- i. an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- ii. the loss resulting from the proposed development would be replaced by

- equivalent or better provision in terms of quantity and quality in a suitable location; or
- iii. the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Policies CS6 and CS8 of the Core Strategy also protect the loss of existing amenities and facilities unless provision is made elsewhere or the facility isn't viable in the long term.

No assessment has been undertaken that establishes that the open space is surplus to requirements. Whilst the site is in private ownership, it has been used continuously as a local amenity in conjunction with the former school for both sporting, social and annual village community events.

4. Access & Highway

Access over Caynham Court private roadway

The proposed development 13/03834/OUT will require access across the Caynham Court private road from the development site private drive. This is currently subject to legal clarification. Whilst the lack of a legal right of access is not material to the planning application, the concern is the possibility that, if the application is successful and access is not available, an alternative access will be necessary via the existing main road through Caynham or alternative land not detailed on the applications. This is material to the current application.

4.2.3 In addition, the following points have also been made by other objectors:

- The village have used the field for events and it was an important community area where children could play.
- The application should be refused for the same reasons that the earlier application 12/02244/OUT was refused.
- My pond is filled by a waterway/drain. If this is interfered with the pond will dry up resulting in an environmental disaster.
- I would like to raise concerns over the handling of the planning process arising from the above outline planning applications. Following the meeting of the Caynham Parish Council on the 3rd December, it has emerged that the planning office is 'minded' to grant approval of the application on the basis that they are worried about the cost of any possible appeal.
- The revised application does not differ in any other respect from the original application. The framework for assessing the application has not changed in the interim. The correct stance for the Planners to adopt is that the application must be determined in accordance with the Development Plan.
- The position of the planners, if accurately reported, is a very sad reflection of the state of planning in Shropshire as it would seem that the overarching Policy is the least line of resistance in seemingly accepting the "housing land" argument as trumping all others when the NPPF (National Planning Policy Framework), by which the Planning Officers must now be guided, has plenty else to say about other aspects of sustainable development.

- The adopted Core Strategy allocates open-market housing (in Policy CS4) to housing hubs or clusters to be allocated in the Samdev Plan or in accordance with Policy CS5, which doesn't apply to Caynham. Samdev has yet to be adopted but it has reached an advanced stage of preparation in which case it should be afforded considerable weight (paragraph 216 NPPF).
- The crucial Policy being focused upon is Policy CS4 and the extent to which the Council's Sustainability Strategy (Section 4 of the Core Strategy) is compatible with the NPPF. If it is, then the NPPF can be shown to support the Development Plan rather than undermine it. The simple fact is that the vast majority of Shropshire's Planning Policy is in accordance with the NPPF.
- Clearly what is not, and the Council is seemingly focussing on this, is the statement at paragraph 49 of the NPPF, which says that Policies on the supply of housing land cannot be considered up to date if the 5-year supply is not demonstrated.
- But to allow this to trump all other material considerations is a pretty weak position to take. It surely cannot be the case that only a small percentage shortfall in the housing land supply for the County as a whole means that all other Planning Policy, for the time being, is suspended and that all applications for new dwellings must be approved on this basis.
- The applicants have offered to provide the ex-school car park on a 25 year lease following the submission of the revised application. This is not a material change in circumstances. The offer of the car park (using a s106 instrument, the applicants would lease the car park to the Parish Council in return for the Council dropping its objection to the proposal) is really a bit of a distraction.

5.0 THE MAIN ISSUES

- Land use and planning History
- Principle of development
- Environmental Benefits and Impacts
- Economic Benefits and Impacts
- Social Benefits and Impacts

6.0 OFFICER APPRAISAL

6.1 Land use and planning history

- 6.1.1 The proposed development site is currently overgrown and was previously leased to the Education Authority to provide a playing field and play area for the village school. The school merged with the primary school in Ashford Carbonell and moved to a new site outside Caynham in 2011. An outline planning application (12/02244/OUT) for six dwellings on the site was refused permission on 1 November 2012 for the following reason:

1. *Caynham is not a settlement where additional housing for sale on the open market is considered to be appropriate or sustainable. The village does not have a range of key services, employment opportunities or good public transport links. The proposed development does not accord with the development plan for the area and would be contrary to the settlement strategy and policies for the control of development in rural areas set out in 'saved' policies SDS3 and S1 of the South Shropshire Local Plan and policies CS4 and CS5 of the Council's adopted Core Strategy. The Parish Council has not opted to be part of a Community Cluster or Community Hub and as a result, the village is not a location for new open market housing identified in the emerging Site Allocations and Management of Development Plan Document (SAMDev DPD). In addition, development of the site would result in the loss of a playing field which is the only area available for children's play in the village. No assessment has been submitted to demonstrate that the facility is no longer required. The proposal would not, therefore, be in accordance with policies CS6 and CS8 of the adopted Core Strategy.*

6.1.2 The present use and planning history are material considerations in determining the present application but they have to be considered against the current policy background, in particular, the changes brought about by the National Planning Framework in respect of the supply of housing land. The policy background and housing supply issues are considered in the following section.

6.2 Principle of development

6.2.1 Caynham is in the Ludlow area of the emerging SAMDev and is not identified as a Community Hub or Cluster. The site is outside a settlement where development is envisaged in the 'saved' policies in the South Shropshire Local Plan or Council's adopted Core Strategy. Caynham therefore falls under the policy requirements of Core Strategy Policy CS5: Countryside and Green Belt which restricts new build housing to agricultural, forestry or other essential countryside workers dwellings and affordable housing/accommodation to meet local need. However, housing land supply in Shropshire has recently fallen below the 5 year level required by the National Planning Policy Framework (para. 47). As a consequence, existing policies on housing supply are now considered to be out of date and this has major implications for determining this application.

6.2.2 At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF states (para. 14) that 'where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted'.

Whilst the SAMDev is at a relatively advanced stage, little weight can be accorded to these policies in the context of the current housing supply shortfall. The NPPF therefore provides a temporary 'window of opportunity' for developers to come forward with developments which might not otherwise succeed when the SAMDev is adopted.

6.2.3 The key policy test to apply therefore at this stage is not whether the proposal complies with existing and emerging policy but whether or not the adverse impacts of the proposal outweigh the benefits. These issues are considered below in the context of the three dimensions of sustainable development set out in the NPPF.

6.3 Environmental Benefits and Impacts

6.3.1 The erection of four houses on the site would be in keeping with the density of adjoining housing development. The illustrative layout demonstrates that distances between existing and proposed houses would be generous and no serious loss of residential amenity is likely to result. The site lies within the built form of the village and development of the site would not materially detract from the general character and appearance of the village.

6.3.2 Access to the highway network would be via a private road serving a number of existing dwellings and a poultry business. The road is satisfactory in design and condition. Local residents are concerned about the additional use of the road both in terms of highway safety and future maintenance. The Highways Officer has looked at the situation and confirmed that the additional use of the road and junction to the public highway will not give rise to highway safety issues. Issues of ownership, rights and future maintenance are private matters beyond the remit of this application.

6.3.3 A public right of way crosses through the site providing an important link from the village to the river. The illustrative layout plan of the site does not make provision for the path but there is no reason why the route could not be retained through the development without unacceptably affecting the amenity of the footpath.

6.3.5 The site is overgrown and edged by trees. The application is accompanied by an ecology report considering the impact of the development on protected species. The County Ecologist is satisfied that the proposal will not be harmful to bats, nesting birds, Great Crested Newts and reptiles.

6.3.6 No serious drainage issues have been identified and details could be required by a planning condition, if permission is granted.

6.3.7 It is concluded that the proposals are capable of complying with Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy and there are no overriding environmental impacts.

6.4 Economic Benefits and Impacts

6.4.1 All housing schemes have benefits to the local economy from building employment and investment in local construction services. The occupants of such properties would also spend money in the wider area on local goods and services, thereby supporting the vitality of the local community. In accordance with Policies CS9 and CS11 of the Core Strategy, the proposals would generate a contribution of up to £72,000 towards affordable housing and CIL funding at a rate of £80 per m². The New Homes Bonus paid to local authorities and ongoing community charge revenue would also provide economic benefits.

6.4.2 There would not be any obvious adverse economic impacts and overall the economic effects of the proposals would be positive.

6.5 Social Benefits and Impacts

- 6.5.1 In the context of the NPPF the provision of market housing should be given substantial weight as it is the Government's policy to significantly boost the supply of housing to meet the identified needs of the population.
- 6.5.2 The proposed development site is currently overgrown and was previously leased to the Education Authority to provide a playing field and play area for the village school. The school merged with the primary school in Ashford Carbonell and moved to a new site outside Caynham. The field is the only area of open space suitable for children's play in the village. It is accessed off the public footpath leading from the main road to the river. The location is safe and surrounded by housing.
- 6.5.3 The NPPF Part 8: Promoting Healthy Communities states that open space, including playing fields, should not be built on unless:
- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Policies CS6 and CS8 of the Core Strategy also protect the loss of existing amenities and facilities unless provision is made elsewhere or the facility isn't viable in the long term.

- 6.5.4 Caynham has a population of around 154 and an average population of under-16 year olds. There is no other play area or playing field for children. The application does not include an assessment demonstrating that the open space is surplus to requirements and the proposal does not include any replacement facilities. The site is well located, safe and would be difficult to replace. The loss of the playing field would be contrary to national and local planning policies and weighs against the proposal.
- 6.5.5 There is a problem in that the site is in private ownership and at the present time there are no public funds available to purchase the land for continued recreational use and the ongoing maintenance costs. Sports England has been consulted on the application but has not objected to the proposal.
- 6.5.6 In the context of earlier planning policies on sustainable locations for development, set out at a local level in the South Shropshire Local Plan, Caynham was not considered a suitable settlement for new housing because it has only a village hall and no shops or other services. Since the plan was adopted, the local school has also moved to Ashford Carbonell. Bus services are very limited and the occupants of new housing will have to rely on private vehicles to access services in Ludlow (3 Km away) or Clee Hill (4 Km away). In this respect the proposal is not in accordance with Policy CS 4 which aims to make communities more sustainable by focusing development in identified community hubs and clusters.

6.5.6 In the context of social considerations it should be recorded that the applicant offered the Parish Council a lease on land adjacent to the former school to provide car parking for the village hall and possibly space for a play area to the rear of the school. The offer was subject to the Parish Council making a favourable response to the proposal for 4 houses but the Parish Council declined the offer feeling that it shouldn't be directly related to the present application. This land is subject to a separate planning application for 2 dwellings (13/03835/OUT).

7.0 **CONCLUSION**

- 7.1.1 The site is located in a village where no further residential development is advocated in the current development plan. Local residents have opted not to become part of a cluster or a hub in drawing up proposals for the Site Allocations and Management of Development plan. The proposal would therefore involve development contrary to the development plan for the area. However the Council does not have the minimum 5 year land supply required by the National Planning Policy Framework (NPPF). Consequently under paragraph 49 of the NPPF the policies relating to the supply of housing cannot be considered up-to-date. There is a presumption in favour of sustainable development in situations where housing policies are out of date. Planning permission should be granted unless the adverse impacts demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 7.1.2 The site can be developed without an adverse impact on highway safety or drainage and a layout could be designed to prevent any detrimental impact on neighbouring properties. The use of the land would not result in the impact on any protected species and wildlife. The development would be located in the vicinity of existing residential properties and would not be prominent or out of character with the area.
- 7.1.3 The site will increase market housing in a rural settlement and provide financial benefits to the local community and affordable housing in the wider area.
- 7.1.4 Unfavourable aspects of the proposal are the location in a settlement with few services and the permanent loss of playing fields. No assessment has been provided to demonstrate that the facilities are no longer required by the community but neither does there appear to have been attempts to secure the future of the play area. The fact that it is in private ownership with no resources available to purchase and maintain the site reduces the overall weight that can be given to this factor.
- 7.1.5 Recent housing appeals would suggest that a refusal on the grounds that the proposal is contrary to Development Plan housing policy would be most unlikely to be sustained. The loss of the open space is very regrettable and deprives the village of a community facility. It is, however, in private ownership and is unusable in its present overgrown condition. The 'Community Right to Bid' may provide an opportunity to secure the site for the village outside of the planning process.
- 7.1.8 It is concluded that residential development on this site would be sustainable in accord with the economic, social and economic roles of sustainable development set out in the National Planning Policy Framework and the balance weighs in favour of granting planning permission.

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 three months 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 1970.

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.

10.0 **Background Information**

10.1 Relevant Policies

Central Government Guidance:

National Planning Policy Framework

Part 1: Building a strong, competitive economy

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 8: Promoting Healthy Communities

Part 10. Meeting the challenge of climate change, flooding and coastal change

Part 11. Conserving and enhancing the natural environment

South Shropshire Local Plan:

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CS9 Infrastructure Contributions

CS11 Type and Affordability of Housing

CS17 Environmental Networks

CS18 Sustainable Water Management

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

10.2 Relevant Planning History

12/02244/OUT Outline application (all matters reserved) for the erection of 6no dwellings and associated garages REFUSED 1st November 2012

11.0 **Additional Information**

List of Background Papers

Planning application file 13/03834/OUT

Members

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Richard Huffer

Appendices

Appendix 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. Work shall be carried out strictly in accordance with the recommendations of the Protected Species Survey conducted by John Morgan (August 2012).

Reason: To ensure the protection of Reptiles.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until a scheme of foul drainage and surface water drainage, including plans and calculations, has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure that the proposed foul water drainage system will not result in pollution and for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to minimise flood risk elsewhere as a result of the development.

Informatives

1. Surface Water

In the planning application, it states that the surface water drainage from the proposed development is to be disposed of directly to a watercourse. The applicant should assess the suitability of the ground for soakaways before investigating direct connection to the watercourse.

Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval.

If non permeable surfacing is used on the driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit a drainage system for approval to ensure that no surface water runoff from the new driveway runs onto the highway.

The applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new driveway, parking area/ paved area
- ' Greywater recycling system

Foul Drainage

The proposed method of foul water sewage disposal should be identified and submitted for approval, along with details of any agreements with the local water authority and the foul water drainage system should comply with the Building Regulations H2.

If main foul sewer is not available for connection, full details and sizing of the proposed septic tank/ package sewage treatment plant including percolation tests for the drainage field soakaways should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 3' should be used to determine the number of persons for the proposed development and the sizing of the septic tank/ package sewage treatment plant and drainage fields should be designed to cater for correct number of persons and in accordance with the Building Regulations H2. These documents should also be used if other form of treatment on site is proposed.

If you have any queries about these requirements, please contact the Flood and Water Management Team at floodriskconsultation@shropshire.gov.uk

2. Protected Species

Great Crested Newts

Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended). If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

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

On the site to which this consent applies the storage of all building materials, rubble, bricks and soil must either be on pallets or in skips or other suitable containers to prevent their use as refuges by wildlife.

Nesting Birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

3. The Public Right of way Caynham 12A passes through the site and the route and amenity of the footpath should be taken into account in the layout submitted in the application for Reserved Matters.

4. Statement of Positive and Proactive Working

In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

In determining this application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:

National Planning Policy Framework

Part 1: Building a strong, competitive economy

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 8: Promoting Healthy Communities

Part 10. Meeting the challenge of climate change, flooding and coastal change

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