

Development Management Report

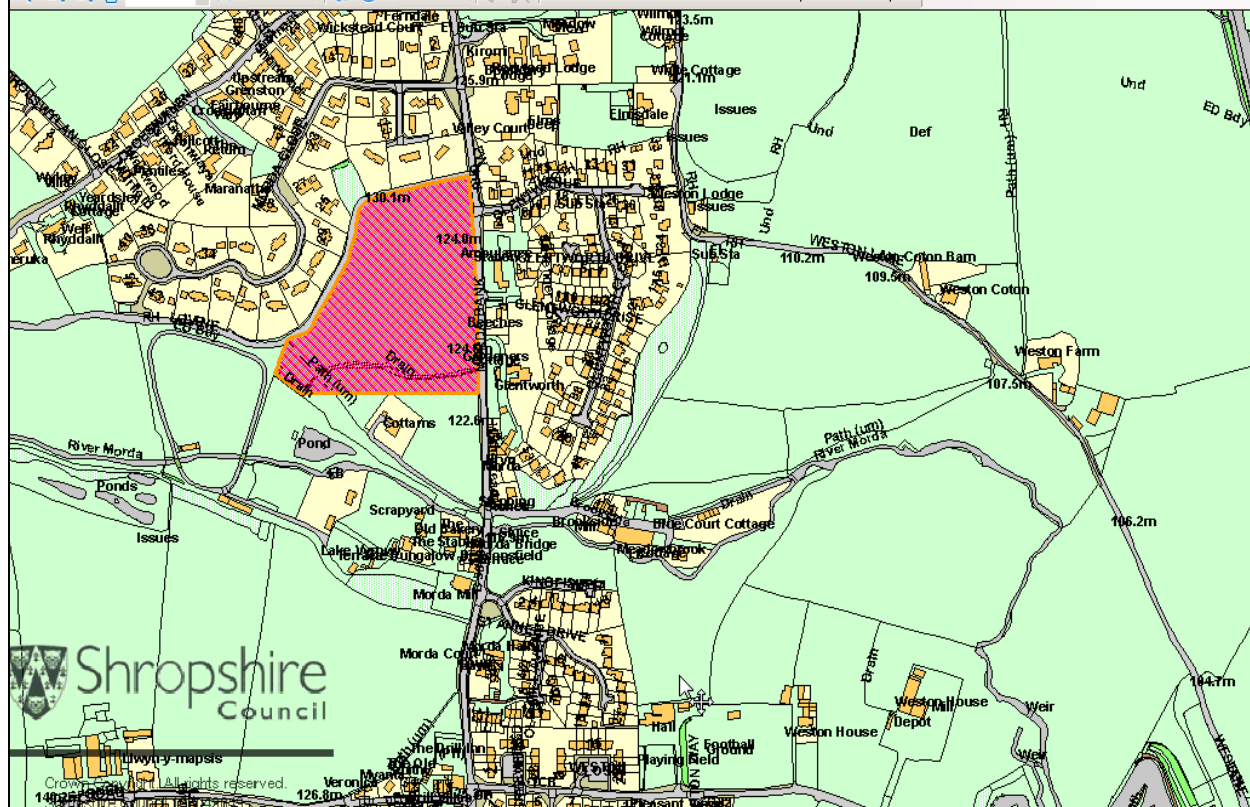
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Summary of Application

Application Number: 13/04845/FUL	Parish:	Oswestry Rural
Proposal: Mixed residential development of 65 dwellings; formation of new vehicular access and estate roads; associated infrastructure; landscaping and formation of public open spaces		
Site Address: Land West Of Morda Bank Morda Shropshire		
Applicant: David Wilson Homes (Mercia) & Jennings Estates Ltd		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

Grid Ref: 328744 - 328318



Recommendation:- Subject to the applicants entering into a S106 agreement to secure the provision of affordable housing; a financial contribution to provide speed visitors on Morda Bank and a management plan for the future maintenance of the areas of public open space and the drainage swales

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the erection of 65 dwellings (initially submitted as 64 but increased by 1 during the consideration of the application). All the details of the proposal are submitted as the application is for full planning permission. A new access is proposed off Morda Road and associated infrastructure, landscaping and public open space.

1.2 In support of the proposal the application has been submitted with a design and access statement, planning statement, statement of community involvement, visual impact assessment, transport assessment, ecological assessment, flood risk assessment, and full detailed plans.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 3.25 hectares in area and is currently in agricultural use, it lies on the edge of Oswestry, but is within the parish of Morda. The houses in Oswestry, on the northern edge of the site are large detached modern houses, on the opposite side of Morda Road is a mix of smaller, detached and semi detached houses and the old ambulance station which also has consent for redevelopment to housing.

2.2 The application site is enclosed with a stone wall along Morda Road and the land gently slopes from west to east. There is an electricity line across the land and the footpath from Love Lane, cuts across the southwest corner of the site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Committee Chair in consultation with the Principal Planning Officer agrees that the application should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Oswestry Rural Parish Council** – This Council **strongly opposes** the planning application and propose that the Cottam's site be removed from the SAMDev Plan.

Oswestry Rural Parish Council is bitterly disappointed that the Oswestry Town Council (OTC) (equivalent to a Parish Council but in the Town) have now removed its original objection to this proposed development. The reasons for this about turn is that they oppose the Hill Fort development which will leave a shortfall of 50 houses and the Council at a stroke has ignored their electorate and offered the Cottam's site as a sacrificial lamb at the altar of the SamDev. This decision is irrational as the development site is NOT within the OTC boundary but in ORPC.

In the “Revised Preferred Options” Adrian Cooper, a non-elected officer for Shropshire Council’s Environment and Economic Policy department criticises the Rural Parish Council, which is an elected body, in that he states “A site promoter noted that Oswestry Rural Parish Council has not chosen to list Morda as a Community Hub or Cluster and challenges the role of Parish Councils in helping to determine planning policy for their area. Instead, Hub or Cluster status should be based on planning criteria which would indicate the need for further development”. This is an outrageous statement and it is unacceptable for an officer to speak on the behalf of a developer and to seek to smear the democratically elected council, seemingly because they do not like the Parish Council’s stance.

Further confusion exists in many individual’s minds with the inclusion of this site, part of the Rural Parish, within the CIL Charging Zone for Oswestry. Is it intended that any potential CIL monies will go to Oswestry Town Council? ORPC believe that as the site is in their rural area the rural rate should be applied and all the funds should be available to the people of Morda for projects in the village. They see no basis on which the urban rate should be applied or that the funds be available to Oswestry Town Council. We suspect that this is being suggested because of the mistaken belief that the site is part of the town of Oswestry. The officials have persistently and completely wrongly assumed this to be the case and we believe this is another example of their muddled thinking.

Oswestry Rural Parish Council makes the following observations to support its opposition to the scheme.

Increase in cars from proposed development will drastically add to an already congested road at the point of exit from the site. The road is too narrow and there are already problems when the Marches School starts and finishes. The sixth form college at the Marches will increase the number of children along the road. The ambulance Station site directly opposite is to be developed, again increasing traffic flow at this ‘pinch point’ The exit from Croeswylan Lane onto Morda Road already causes concern for residents. Narrow pavements along Morda Road create safety concerns for pupils and motorists find this area difficult to negotiate fully. It is clearly not possible to widen the Morda Road for improved safety. A roundabout should be provided by the developer at the proposed new entrance onto Morda road.

We have grave concerns regarding the management of and the issue of flooding which has not been adequately addressed. The drainage swales as outlined are acknowledging a potential flood hazard, where do they drain to? They will be dangerous for children, create obnoxious smells, muddy sludge, untidy rubbish and debris. There is a possibility that excess drainage water will flow down into the Glentworth Estate. Surface water will go down into the River Morda which is already struggling to cope at the present time.

These are proposed family houses. Morda School currently has 147 pupils on roll and there are no unfilled places, the school is full. There are no spaces at other local schools. Where will these children go? The developer has made no provision to help the school by providing additional class rooms.

There will be the loss of a boundary between Morda and Oswestry town. Love

Lane is at risk if residents make an access from their property to ease their exit and access. There is only one way in and one way out on Morda Road this will lead to congestion within the proposed development. The loss of this green pasture field will be a disgrace to planners.

The new public open space the developer is suggesting has no provision for future maintenance. A Section 106 agreement must be arranged to provide for perpetual maintenance of any open space or it will fall to the hard pressed Parish Council to maintain.

The site was used to bury cattle from the 1967 outbreak of foot and mouth. Has a detailed environment study addressed this aspect of the development? The site is in a conservation area and the wildlife will seriously be affected.

There will be extra strain put on the services i.e. police, ambulance, GP surgeries and access to hospitals.

Density of housing is out of all proportion to the site area. The style of houses is not in keeping with the local area. The design is of poor quality and again will not blend with existing adjacent houses.

Oswestry does not provide much employment opportunities as it is a small market town. Where will new residents work? If they have to travel out of the area to work will they use the already congested Weston Road to access the by pass? A possibility of another 100 houses could be built coming onto Weston Road in the future. Will the country lane be able to cope with all this traffic?

Please think again about this development as the local residents opinions must be taken into consideration as over a 180 have voiced their objections at two public meetings held with the Oswestry Rural Parish Council and on the planning web site. Once this site is built on it will be destroyed, there will be no going back.

- 4.1.2 **Policy Officer – No objection.** Morda lies within ORPC which has opted to remain as 'countryside' for the purposes of SAMDev. The local community are particularly sensitive about the need to maintain a strategic gap between Morda and Oswestry. However, the site is not being allocated to meet development needs in Morda, but for the expansion of Oswestry and in making the allocation, we are content that a strategic gap between the two settlements will be maintained. This is not the only example of the future growth of a town expanding beyond its boundary against the wishes of an adjacent PC, but the application is consistent with the development strategy and allocations of the draft SAMDev Plan.
- 4.1.3 **Affordable Housing Officer – No objection.** The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. However confirmation is required on the size and type of the on site affordable houses. The application form refers to 4 x 2 bed and 3 x 3 bed rented houses and the plan and supporting documents refers to 2 x 3 bed shared ownership, 3 x 2 bed rented units and 2 x 3 rented units.

4.1.4 **Conservation Officer – No objections.** Conservation advice was given in relation to a pre application enquiry on the site raising no conservation objections to the principle of development of the site.

The proposal needs to be in accordance with policies CS6 Sustainable Design and Development and CS17 Environmental Networks, and with national policies and guidance, including PPS5 Historic Environment Planning Practice Guide published by English Heritage in March 2010 and National Planning Policy Framework (NPPF) published March 2012.

The application proposes the erection of 64 dwellings of varying sizes, styles and tenures. The site does not lie within a Conservation Area but is a prominent site on the edge of the town. The proposed site plan orientates the properties at the front of the site to face the road providing an active frontage along Morda Bank. However the building line is set back from the road to provide some continuity with the surrounding streetscape which is considered appropriate.

The proposed house designs are varied and there are varying heights and sizes of properties in the development. It is considered that this is appropriate in this area which is relatively mixed in character.

The stone boundary walling along the site's eastern boundary is to be retained as part of the proposals this is welcomed.

Overall it is considered that the proposed development raises no conservation issues.

4.1.5 **Public Protection Officer – No objection.** It has been brought to this services attention that there may have been a foot and mouth burial pit on the land proposed for development. As a result the potential for this to require further attention has been researched and addressed below.

A document on the Health Protection Agency webpages that states no human contraction and therefore no risk to human health from building above. Link to document is http://www.hpa.org.uk/webc/hpawebfile/hpaweb_c/1274089050185

A further document states the materials and recommended amounts of fuel for pyres. Link: http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/fmd/documents/environmental_report.pdf

The above documents state that air pollution is not considered to be a long term issue but short term increases in certain pollutants due to the burning of any carcasses as a method of disposal were likely at the time. It is stated that fall out from the pyres was not expected to cause any human health impact and therefore this element requires no further thought. Potential ground instability from decomposition resulting in voids where animals were buried may present concerns for the developer. Gassing was likely but from 1967 burial pits is not expected to be an issue any more. Leaching from a burial pit would have been likely for around 20years and therefore this will have also ceased to be a likely issue in the locality.

In conclusion we do not have any information to inform us that there was definitely a burial site on the land proposed for development to the north of Morda. It would be unlikely that a soil sampling regime would be able to establish if there was any burial pit on site. Geophysical equipment may be able to show any burial pit however this service does not consider it necessary to go to the expense of carrying out such a survey as no documented evidence from the time of the burial is available to us to suggest that a burial site exists.

Having note of the documents and information above we are not of the opinion that a burial pit for livestock due to contracting foot and mouth or for welfare issues at the time of the outbreak in 1967 pose a threat of harm to human health through microbial activity, leachate to water supplies or from gassing of decomposing material. It has not been suggested that a pyre was located on site however chemical traces as a result of any pyre have been tested and documented in the above linked documents. These report that there is no major threat to health as a result of the ash material left behind after a pyre or from the fall out from a pyre. There may be traces of fuel still existing if a pyre was found on site but we have no knowledge of this taking place. Due to the fact that pyres were generally left to burn out it is unlikely that many fuel sources which could be considered as contaminants would be likely to have remained or still be present in sufficient quantities to find land to be considered likely to be contaminated. Adding to this the substantial amount of time that has passed only adds weight to this line of thought.

The Health Protection Agency website has been consulted in regard to any microbial health affects to humans from foot and mouth and it states that foot and mouth disease is not a public health threat.

Is therefore of the opinion that the land is not likely to be contaminated or require further assessment as such. A large burial site may however be a risk to the structural integrity of any development placed over the top of it. The applicant may wish to seek further information in order to establish if a burial pit is located on the proposed site and if so the position and extent.

With regard to the development as a whole would request a condition in order to make the properties ready for EV charging point installation through the installation of isolation switches to enable a vehicle to be charged in the garage or driveway.

- 4.1.6 **Highways Officer – No objection** to the granting of planning consent subject to conditions to require the engineering details to be submitted; a construction method statement; provision of visibility splays; details of gradients; use of the travel plan and the removal of permitted development rights to prevent accesses being formed from the site onto Love Lane.

Access

The development sites accesses onto the B5069 Morda Bank, which is lit and subject to a 30 mph speed limit. At the point of access, the carriageway width measures some 6.5 metres with a footway along the site road frontage between 15 and 2.0 metres. Access onto Morda Bank is shown as a priority junction with

visibility splays of 2.4 x 68 metres in a northerly direction and 2.4 x 72 metres in a southerly direction, to the nearside edge of carriageway. The splays are in accordance with acknowledged guidance set out in Manual for Streets. The highway authority consider that the proposed access to the site is appropriate in terms of layout and visibility standards.

There have been local representations seeking a mini-roundabout as a preferred junction option. Whilst the highway authority would agree that this would potentially act as a traffic calming scheme to slow down current traffic speeds in the immediate locality of the site, the highway authority would question such provision for an access option which serves 65 dwellings as an isolated scheme along Morda Bank. The highway authority however recognise that measured traffic speeds are higher than the current 30 mph speed limit in the vicinity of the site and therefore would recommend that Section 106 monies are sought to provide speed visors on both approaches to the site, which would offer benefits to other junctions and accesses onto Morda Bank.

In addition to the above, a check on the Personal Injury Accident (PIA) record has been undertaken, which indicates that there have been no recorded PIA's in the vicinity of the site and access. The highway authority concur with the findings of the Transport Assessment (TA) that there are no existing safety issues that would warrant significant mitigation measures as a result of the current proposed scheme, other than those set out above.

Site Layout

The layout of the site is not untypical of the housing sites coming forward in Shropshire. It provides a layout which seeks to control traffic speeds within the site, with the introduction of surfacing road treatments and junction speed tables. The highway authority is satisfied with the design layout with full engineering details to be determined as part of a Section 38 Agreement in respect of future adoption of the roads and footways within the site.

Traffic

As part of the application submission a Transport Assessment (TA) has been carried out in order to consider the current traffic conditions and impact of the development on the local highway network.

In terms of the current situation traffic counts were taken on Morda Bank in March 2013, which reveal a 5 day two way flow of 3,423 vehicles made up of 1,636 vehicles travelling northbound and 1,787 vehicles travelling southbound between 07.00 - 19.00 hours. In the 08.00 - 9.00 morning AM peak the 5 day average indicates a two way flow of 386 vehicles made up of 213 vehicles travelling northbound and 173 vehicles traveling southbound. In the 17.00 - 18.00 peak PM period the 5 day average indicates a two way flow of 416 vehicles made up of 180 vehicles travelling northbound and 236 vehicles traveling southbound. HGV movement traffic flows along Morda Bank were recorded at 1.6% of the total two way traffic flow. This is not unexpected given the nature of employment and industrial make up within Oswestry and the routing to those areas. It is likely that those HGV's routing along Morda Bank have a legitimate need to do so.

The TA then considers the impact of the traffic likely to be generated by the

proposed development and how that traffic is assigned to the local highway network. The routing of traffic along Weston Road has not been assessed based upon measured traffic count information, which would have been helpful. Nevertheless the 20% distribution of traffic movements to Weston Road is not considered unreasonable, although may present an underestimate. The TA focuses more on potential impact upon the Church Street/Upper Brook Street/Lower Brook Street junction.

Notwithstanding the technical conclusions of the TA, which suggest that any traffic impact upon the local highway network would not be significant or material, the highway authority recognises that the scale of the development proposed is limited to 65 dwellings and this gives a degree of comfort and confidence that the traffic likely to be generated by the proposed development and assigned to the highway network can be accommodated without any adverse traffic or highway safety impact.

Accessibility

The TA provides a section which considers accessibility and sustainable travel options other than by car. In terms of walking there is a continuous footway between the site and the town centre, over a 1.5 km length walk. The TA provides destinations and facilities within a 2 km walking distance, which is considered an upper distance for comfortable walking. The site is however well located to provide opportunities to cycle to the town centre and surrounding area, both in terms of the distances and topography.

The TA demonstrates accessibility within reasonable walking and cycling distances to a number of services, shops and schools etc. and therefore the site can be considered a sustainable location

In addition to the above, there are 2 bus stops located in close distance to the site access, which provide bus services between the site and the town centre, in particular Service 71 and 72 providing the most frequent services. It is considered that the site is adequately served by bus services linking to the town centre and therefore providing an alternative to car borne journeys.

The application provides a Travel Plan Framework, which identifies the travel opportunities and commitments to promote sustainable travel. The highway authority consider that this element can be covered within a planning condition requiring the current drafted framework document being developed into a Travel Plan working document.

Other Matters

There are local issues surrounding the current vehicular usage of Love Lane, which borders the northern and western edge of the site. Although Love Lane is a unmetalled track it has full highway status. The layout of the site is such that Plots 1 to 15 have rear boundaries to Love Lane and the highway authority are concerned at any potential for rear access to be gained onto Love Lane. As such the highway authority would, in the strongest terms, request that a planning condition is imposed upon any consent granted which would have the effect of preventing any permitted development rights to have access, pedestrian or vehicular, to Love Lane.

4.1.7 **Rights of Way Officer** – Has **no objection** to the proposal from a rights of way perspective and welcomes the decision to site the public open space in the area crossed by the path. If permission is granted the applicants must consult the Outdoor Recreation Team before any works are undertaken that may affect the path including the erection of fencing, gates, stiles or any changes to the surface.

4.1.8 **Ecology Officer** – **No objection** subject to conditions and informatives.

This site is located 4.5km distance from the closest part of the Midland Meres and Mosses RAMSAR site and is considered to have no significant impact on the European site due to no pathways and not to require a Habitats Regulation Assessment.

An Extended Phase 1 Habitat Assessment and Preliminary Protected Species Survey were undertaken by an FPCR ecologist in February 2012. This survey was updated in September 2013. The main features of ecological value are the boundary hedgerows and trees, which are shown for retention, except for creation of access from Morda Road.

The tree inspection for bats was completed by a Licensed bat worker from FPCR during September 2013. The hedgerows and trees on site provided some limited foraging and commuting opportunities for bats at the site boundaries, in particular along the western boundary which links the residential areas in the north to the River Morda. As such recommends a condition to control lighting.

Five ponds in total were observed within 300m of the site boundary, four of which were present within 250m of the site and one within 280m. The closest pond (P1) was located approximately 100m to the south of the site which appeared to be a fishing pond with steep banks and limited aquatic vegetation. This scored an HSI of 0.47 and therefore poor suitability for great crested newts. The other four ponds lie on the southern side of the River Morda, which is considered a barrier for newt dispersal. No mitigation is therefore deemed necessary.

The grassland field compartment could provide suitable foraging ground for badgers. Several 'snuffle' holes were observed within the field boundary; however, no other evidence of badger was recorded within the site or on accessible land within 30m. As there will be risk of harm to badgers if they were to enter the site during construction recommends an informative.

The hedgerows and trees on site present potential bird nesting habitat. It is recommended that nesting habitat is enhanced by erection of bird boxes and an informative is recommended.

The Shropshire Core Strategy contains in Policy CS17: Environmental Network provision for mapping and subsequently protecting, maintaining, enhancing and restoring Environmental Networks in the county in line with the recommendations of both The Lawton Review and the National Planning Policy Framework.

This proposed development site is within the Environmental Network and as such the proposed scheme must clearly demonstrate how the development will

'promote the preservation, restoration and re-creation of priority habitats and ecological networks' as required by paragraph 117 of the National Planning Policy Framework.

To address this issue, the Landscape Masterplan incorporates public open space and shows additional native tree planting and enhancement of the boundary hedgerows. The development is set back from Morda Road, creating a green buffer zone to include swales and native species planting. It is considered the proposals respect the network function of the site.

4.1.9 **Drainage – No objection.** The details, plans and calculations can be conditioned.

As stated in the FRA, the use of soakaways should be further investigated in those areas of the site which had favourable infiltration rates.

Full details, calculations and location of the percolation tests, should be submitted.

If non permeable surfacing is used on the driveway and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway

A contoured plan of the finished ground levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Surface water collected in the swales will be released to the existing adopted surface water system at an equivalent rate to the existing greenfield run-off as stated in the FRA.

Shropshire Council Flood and Water Management team have requested additional information from the applicant to confirm that exceedance flow from the development is to be contained within the site to ensure that adjacent property is not flooded.

Although not forming part of the comments process for the Flood and Water Management team, the swale/pond could be excavated deeper, below the outlet, to form a permanently wetted pond to reduce the possibility of smell and sludge. The pond could be fenced off for added safety and security.

4.2 **Public Comments**

4.2.1 112 letters of representation have been received raising the following concerns:

- No need for more houses
- Impact on the space between Oswestry and Morda
- Loss of character and community feel of Morda which is designated in the SAMDev as countryside

- Urbanises Morda which is already overdeveloped
- Is not an extension to Oswestry
- The SAMDev report notes the constraints of developing this site
- Does not develop brownfield in accordance with 60% target
- Should be required to start within 6 months and completed within 6 years
- Previous refusal was based on environmental impact and this has not changed
- Insufficient space in Morda Primary School and it has no room for expansion
- Increased pupils at Marches School and potential for more
- Insufficient local services and pressure on existing services such as the local shop, doctors, dentist and no nearby hospital
- Will not increase sense of community
- Potential impact on hedge due to layout being too close to the hedge
- Density and design not related to surrounding area and adjacent design brief led development
- Layout includes road ends which end at the edge of the site and will access future development
- Loss of property value
- No renewable energy proposals
- Designs do not take into account modern lifestyles or those less mobile
- No architectural merit
- No renewable energy proposals
- Insufficient open space
- Loss of light, increased noise, risk of crime, pollution and loss of privacy
- Increase in traffic, congestion and increase in risk of collisions and affect on road safety for pedestrians etc
- Poor access and Morda Road is already highly trafficked, a roundabout should be provided
- The traffic report has been done at the wrong time of year
- Insufficient parking proposed, garages should not be counted and each property should also have a space for visitors
- Impact on Love Lane which is a footpath and proposed properties backing onto Love Lane will be able to gain access
- Insufficient pavement to the town and people do not walk
- Public transport links are poor in the evenings and Sundays and Gobowen Train station is not directly served by public transport from Morda
- Increase in surface water and resultant flooding onto the roads and neighbouring properties
- Does not use rainwater
- The swales will be unpleasant and a safety hazard
- Pressure on mains foul drainage
- Adverse affects on ecology – buzzards, owls, weasels and badgers
- Potential loss of hedge and some plots have buildings within the hedge
- Potential contamination as the site may have been used to bury livestock during the 1967 foot and mouth crisis

5.0 THE MAIN ISSUES

- Policy & principle of development

- Is the site sustainable?
- Economic considerations
- Environmental considerations
- Social considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply. It is only if the Council cannot demonstrate a 5 year housing land supply that the housing supply policies (but not the others) should be considered not to be up-to-date, with consequently greater weight to the NPPF presumption in favour of sustainable development.

6.1.3 In September the calculation was a supply of 4.95 years, however this included counting some of the emerging SAMDev sites and questions have been raised as to whether this is appropriate and also the likely number of houses to be delivered in the five years. Given this position officers advise that it would be difficult to defend a refusal for a site which is sustainable and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The principle issue with the application site is whether it is a sustainable location or not.

6.1.4 It is acknowledged that the site is outside the development boundaries for both Oswestry and Morda as set within the Oswestry Borough Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, given it has been

established that limited weight should be given to this policy framework in light of the current housing supply position, it is appropriate to assess this site within the context of the 'presumption in favour of sustainable development'.

- 6.1.5 Given the above, whether the site is appropriate for development rests on whether it is considered sustainable. Paragraph 14 of the NPPF advises that where policies are out of date permission should be granted for sustainable developments unless any adverse impacts would significantly and demonstrably outweigh the benefits or where specific policies within the NPPF indicate development should be restricted. These restrictions relate to specifically designated sites, heritage assets and locations at risk of flooding and the site does not fall within any of these restrictive criteria. The presumption is in favour of sustainable development as tested against the NPPF as a whole. A site needs to be compliant with all three dimensions of sustainable development; economic, social and environmental.
- 6.1.6 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Furthermore, policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.1.7 The site is being promoted as a recommended allocated site for up to 65 houses in the SAMDev pre-submission draft as an allocated site for Oswestry Town. It is acknowledged within the pre-submission draft that the site lies within the Parish of Oswestry Rural, not within the town, however it is being put forward by the Town Council as an extension to the existing built up area subject to the retention of the land adjacent to the River Morda as open space to maintain the physical gap to Morda Village. It is acknowledged that the Rural Parish Council object to this allocation, however the site is within the pre-submission draft and has progressed through a number of rounds of consultation and currently forms part of the final submission.
- 6.1.8 Within the planning statement the agent has summarised the planning history of the site. This notes that the site was proposed for allocation in the 1994 Oswestry Borough Local Plan but was removed on the grounds of its designation as an area of special landscape and on highway grounds. The planning inspector advised it should be re-instated in 1999 but this was not pursued by the Council at the time. The special land designation was subsequently quashed by the High Court in 2000 and as such this designation no longer applies the issue now raised by the local community relates purely to the closing of the gap between Oswestry and Morda and the highway safety grounds. As noted previously, the site is now being promoted in the SAMDev as a preferred option site.
- 6.1.9 Objectors have commented that the site has previous planning refusals and that there has not been any changes in the circumstances of the site. The most recent

two applications were in 1999 and 2000 and were both refused on the basis that the site was outside the development boundary and an unwarranted extension of the built environment into open countryside between the settlements of Oswestry and Morda. It is therefore not correct to say that there have not been any changes to the circumstances of the site as the site is now being promoted as a preferred option site in the SAMDev. This proposed allocation also deals with the issue of the extension into the open countryside and the site is being allocated on the basis that the Council now consider that this extension is acceptable.

- 6.1.10 The concerns of the rural parish council about allocating the site refer to joining the two settlements together; the payment of the CIL monies to the town council when the site is in the rural parish; the impact on services, facilities and highways. All of these matters are considered later in this report, however members need to assess the proposal against the NPPF and the presumption in favour of sustainable development. Officers advise that whether the site is located within Oswestry Rural Parish or Town does not alter the primary policy against which the proposal needs to be considered. Members may prefer to acknowledge that the site is being put forward in the SAMDev but not give that any weight and assess the sustainability as if the site was not being put forward.

6.2 **Is the site sustainable?**

- 6.2.1 The objections from Morda residents and the Oswestry Rural Parish Council consider that the site is not sustainable due to the limited facilities available in Morda and the limited public transport serving the area, especially in the evenings and weekends. However, whether a site is sustainable is not judged purely on the distance from services, this is one of a number of factors identified within the NPPF. The Core Strategy, under policy CS3, sets the market towns, including Oswestry, as the focus for a balance of housing and employment development to maintain and enhance their roles. The site is within the rural parish of Morda, but physically is on the edge of Oswestry. Future occupants of the site would be able to access the services and facilities within the market town as would any other housing allocation site on the edge of the town.

- 6.2.2 Oswestry is the second largest town in Shropshire and, as noted above, the site is being promoted in the SAMDev as part of the overall housing target for Oswestry of 2,600 dwellings and 45 hectares of employment land. Given this positive promotion of Oswestry as a key sustainable settlement officers consider that it would be difficult to argue against the principle of development on the edge of the town. The final version of the SAMDev, currently out for consultation, acknowledges that the scale of development planned for Oswestry is significantly higher than that in recent years but that this will help to deliver additional investment in infrastructure including waste water, electricity, transport and highways. However, site specific issues can be taken into account in the balancing exercise of determining whether a site is sustainable.

- 6.2.3 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system.

6.3 **Economic considerations?**

- 6.3.1 Within the planning statement the agent comments that the site provides housing

development in the right location at the right time. Weight can also be given to the fact that this is a full planning application and as such, if granted, would need to commence within three years and is under option with a major house builder. As such there is a high likelihood of this site being developed.

- 6.3.2 The development will provide employment for the construction phase; support local businesses in the short and long term as future occupiers will be able to access and use local services and facilities ensuring they remain viable. The provision of more homes will create a stimulus to the economy and help to address the housing shortage.
- 6.3.3 The submission of the application as a full application also enables full consideration of the contribution to be paid under the community infrastructure Levy. The levy is used for infrastructure in the local area and across Shropshire. For this site, which is within the urban area charging boundary the contribution would be at £40 per square metres. The design and access statement provides a total floor space of 71,203sq ft (6,615sqm), the additional property added during the consideration of the scheme would add 151sqm and at £40 per square metre the development would provide a CIL payment of over £300,000.
- 6.3.4 Officers acknowledge that the benefits are not site specific. New housing will provide economic benefits and these should be given weight in the determination of the application.

6.4 **Social considerations?**

- 6.4.1 The development will provide additional housing, including affordable housing and this itself is a material consideration which should be given weight in the determination of the application. For the Oswestry area, including the rural parishes, the requirement is for 10% affordable housing and the applicant has confirmed the developers acceptance of this requirement. For a development of 65 houses this would either be 7 on site (a slight over provision) or 6 on site and a financial contribution towards affordable housing elsewhere in the local area. The proposal is for 6 on site dwellings and a financial contribution and the Council Affordable Housing Officer has confirmed that the affordable housing contribution is the correct level of on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. These units and the contribution will need to be secured as affordable in perpetuity through a S106.
- 6.4.2 The agent has noted that there is a nursery, several primary schools and a secondary school close to the site and that Oswestry also has a college. The local area also has a shop, public house, village hall and social club and the site is close to the centre of Oswestry. Within the design and access statement the agent has provided a plan which shows the facilities and services within 400m, 800m and 1200m which would be approximately 5, 10 and 15 minutes walking distance.
- 6.4.3 Concerns expressed by the Parish Council and objectors highlight the fact that the existing school is at capacity and this has been confirmed by colleagues in the Learning and Skills Team. It is acknowledged that the existing school is not ideal in terms of the types of accommodation on the site and the ability to accommodate extra pupils. Morda has been the subject of and is still the subject

of a number of planning application for housing which potentially could put pressure on the school. All of the developments (with the exception of the affordable housing scheme by Severnside) would be required to make payments through the Community Infrastructure Levy (CIL), as detailed above.

- 6.4.4 The Council's Learning and Skills Team has been consulted on the application and they have confirmed that Morda Primary School is full and is forecast to remain so even without any further dwellings being constructed within its catchment. They have calculated that a development of 69 dwellings would generate 12 new pupils to the school and the cost of providing those primary school places is £144,928.
- 6.4.5 It has been shown that the primary school is at capacity. For further residential development in Morda to be acceptable (among other planning considerations) there would be a need to create additional school places. Currently the Oswestry and Surrounding Area Place Plan does not list improvements to Morda Primary School to increase pupil places as a priority, although the Learning and Skills Team is currently updating its priorities for the Place Plans. To make the proposed housing scheme acceptable and to mitigate the effects of the development in terms of school places, additional education funding is required. This extra funding would need to be identified as a priority infrastructure requirement in the Place Plan and CIL proceeds allocated for that purpose. If planning permission is granted for the development on the basis that it is necessary for the additional education funding to be provided, then this item and the associated financial contribution will be fed into the annual review of the Place Plan as a result of being identified through the development management process, and funding allocated accordingly. This approach was agreed by the Portfolio Holder's decision in the report dated 14th February 2014 (see Section 4 Governance arrangements for projects not included on the CIL List).
- 6.4.6 It is considered that without the necessary improvements being made to the school to accommodate the extra pupils there would, with regards to education, be inadequate infrastructure to support the proposed development. Whilst a number of objectors refer to the school not being able to accommodate extra pupils it is considered that this would not weigh negatively in the planning balance as the effects of the development can be mitigated by achieving funding through CIL.
- 6.4.7 Concerns have also been raised locally about the infrequency of the bus service, especially in the evenings. This is noted, however, the bus stops which are available are within walking distance, there is more than one bus which stops at the stop and they run approximately every hour from 7:25am to 7:20pm and take just over 6 minutes to get to the town centre. It is accepted that the buses do not run late into the evening and currently don't serve the development currently being developed at the Smithfield Livestock Market. However, the town is accessible by bus from the site and the wider area is accessible from the town.
- 6.4.8 Officers have considered all of the concerns raised but do not consider that any of the social issues raise significant and demonstrable harm that would outweigh the benefits of new housing on a site on the edge of the second largest settlement in Shropshire.

6.5 Environmental considerations?

- 6.5.1 The agent suggests that the retention of the existing landscape features and the provision of the public open space are environmental benefits and that the site will also retain a gap between the proposed development and Morda. This has been called into question by the local residents.
- 6.5.2 It is acknowledged that the development will be on agricultural land which is currently on the edge of Oswestry and provides a green gap between Oswestry and Morda. It is accepted that this will be an adverse impact of the development. However this needs to be balanced against the benefits and whether the harm is so substantial as to warrant refusal of the proposal.
- 6.5.3 To enable better understanding of this issue the application has undertaken and submitted a Landscape and Visual Impact Assessment (LVIA) in accordance with national guidelines. The LVIA deals with landscape effect – the changes to the landscape, separately from visual effect – how people are affected by the changes. This report notes that the site lies in the Natural England character area of Oswestry Uplands and the Shropshire Landscape Typology area of Principal Settled Farmlands. These character areas are described in detail in the LVIA but in summary are areas which are a mix of farming with sub-regular fields and hedge boundaries.
- 6.5.4 In assessing the effects the LVIA considers the change or loss of elements, features, aesthetics and perceptual aspects; addition of new elements and the combined effect; it considers all of the areas in and around the site that may be affected and advises whether the landscape is sensitive to change and how much of a change will occur. The report acknowledges that the site is sensitive to change and that the development will result in change but that the layout, design and retention of features will help to reduce the change in the longer term. The report also acknowledges that the nearby footpaths are sensitive to change but that the retention and supplementation of the hedgerows will reduce the effect of this change.
- 6.5.5 In considering visual impact the LVIA has assessed the impact on pedestrians, including walkers on the footpaths, motorists and residents. It acknowledges that the impact on residents of Glentworth Avenue is high but that this impact is on a private view predominately from upper floor windows. The impact on the properties on the opposite side of Love Lane is also high and from both ground and first floor windows due to these properties being elevated above the site. It also acknowledges that Love Lane and the footpath in the southwest corner of the site are highly sensitive but considers that the improvements to the hedge which will result from the development will mitigate against this impact.
- 6.5.6 The LVIA concludes that “there will be an impact on the landscape setting as a grazed field will be replaced with housing. However, the resulting settlement edge will be well defined, with additional planting and footpaths and open spaces being respected and enhanced. This landscape type can be found extensively within the area and its loss will not impact greatly upon the landscape character due to its scale and locality. It is considered that there is limited intervisibility with adjoining Landscape Character Areas minimizing any impact upon their setting.

Visibility is contained to the vicinity of the site with distant views limited by terrain and vegetation. Views from residences and walkers are the most sensitive, and landscape mitigation measures are designed to help lessen the visual impact. The landscape proposals should increase biodiversity and enhance the wildlife corridors.”

6.5.7 Officers have not assessed the proposal against the same guidelines as landscape and visual impact is a technical specialism which there is not anyone in the Council with the skills or experience. However, consideration of the landscape and visual impact can be still be made. Officers accept that the development of this site will alter the appearance of the site from Morda Bank, the footpaths in the immediate area, and from the view from Morda. However, officers also consider that this development will be read in context with the existing development to the north and west and that the retention of the open space around Cottams would provide a visual break between the historic village of Morda and the new development, which itself will appear as an extension to Oswestry. It is acknowledged that this visual break will be reduced, however the break is currently only a larger break on this side of Morda Bank, on the opposite side the Glentworth Avenue housing development has built within the break.

6.6 **Layout, scale and design**

6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character.

6.6.2 Within the design and access statement the agent sets out the aims of the development to design an attractive development which relates to the surrounding area and also take advantage of the surrounding countryside, provide new housing and an active frontage to Morda Bank whilst retaining the existing wall and hedge. The D&A also comments on the layout providing natural surveillance across the site with windows overlooking public spaces and private parking courtyards, defensible private gardens, a single point of access and the provision of street lighting.

6.6.3 The proposed layout is for a single point of access off Morda Bank. Either side of the access it is proposed to provide two drainage swales and two open spaces either side of the swales. These are intended to provide a drainage solution to the surface water for the site and also to set the proposed dwellings back from Morda Road and will be commented on later in the report. Along the back edges of the swales and open space are a mix of three terrace houses and 8 detached houses which will all but one have a frontage facing over the swales, open space and Morda Bank with access to these properties served by private driveways off the main estate road. The estate road leads from the access and then splits into a number of cul-de-sacs of properties with private drives off the cul-de-sacs. The affordable houses are all set together in one small group in the southeast corner of the site. The layout proposed provides the larger detached houses along the outside edges of the site along Morda Road and Love Lane with slightly higher density in the centre of the site and the southeast corner.

6.6.4 The amended plan details the proposed number of houses as 4 two bed, 23 three

bed, 27 four bed and 5 five bed open market dwellings and 4 two bed and 2 three bed affordable dwellings. This would equate to 6 of the 65 dwellings being affordable and as such to meet the requirements of the adopted policy and current prevailing target rate of affordable housing of 10% the developer would also have to provide a financial contribution towards off-site affordable housing. It is acknowledged that all six affordable houses would be social rented and in one area of the site. However this would not be un-expected for a site of this size. The Council policy promotes affordable housing to not be identifiable from open market housing and the proposed development is not, there are affordable and open market houses of the same size and design. The policy promotes small groups of affordable housing, up to 6 properties, to allow for ease of management. As such the proposal to group the 6 affordable houses together is considered to be acceptable.

6.6.5 The application form suggests that the dwellings will be finished in brick, render and horizontal timber boarding with interlocking concrete tiles to the roofs with the details and colour to be agreed. The stone wall to the roadside boundary is to be retained, except where the new access is proposed, for other boundaries around the site the application form proposes timber fences, brick walls and hedges. The design and access statement notes that there is a wide variety of styles and designs of properties in the local area.

6.6.6 Objections from the parish council and local residents have commented that the density and designs of the houses is out of keeping with the local area and that the designs are poor quality in comparison to the adjacent development which was supported by a development brief. It is acknowledged that the proposed development is of a higher density than the houses on the opposite side of Love Lane and off Morda Close, however these are very large houses in large plots, which at the time of development was appropriate for the market. The current proposal provides a mix of densities across the site with lower density along the north eastern boundary and the boundary with Love Lane and a higher density in the south eastern corner and the centre of the site. The number of properties proposed has been reduced since the public consultation and initial submission for the SAMDev and now proposes the number put forward in the final version of the SAMDev ready for submission to the planning inspectorate.

6.6.6 It is officers opinion that there is no set prevailing density in the surrounding area with houses being mixed in size and layout. It is acknowledged that the density of the development will be greater than the density of the adjacent developments. However the property sizes and plot sizes are considered to be acceptable. The layout provides small groups of dwellings off cul-de-sacs and the main estate road and provides every property with a private amenity space and two parking spaces, in addition to garages in most cases. The layout also provides open space along Morda Bank which will help with the feeling of openness whilst also retaining the roadside stone wall except for the access point. Overall the scheme is considered to be acceptable and well designed in terms of layout, scale, density and design and is therefore supported by officers.

6.7 **Impact on residential amenity**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and

local amenity. As a full application it is possible to fully consider the potential impact on the amenities of existing residential properties in the area. Concerns have been raised by objectors that the development will result in loss of light, increased noise, risk of crime, pollution and loss of privacy.

6.7.2 The houses on Morda Close, on the opposite side of Love Lane, are at least 39 metres away from the proposed housing and as such are well above the suggested minimum distance between facing windows of 21 metres. The houses on Glentworth Avenue are also over 40 metres from the proposed housing and on the opposite side of Morda Bank. As such these properties are also over the recommended distance and therefore the development will not result in a loss of light or privacy for any of the existing residents.

6.7.3 It is acknowledged that the development of the site will result in a loss of outlook from the neighbouring properties and that this will alter the appearance of the site from these private dwellings. This is noted but the planning system does not protect private views. The impact on the wider landscape, the character of the area and visual impact have been considered previously in this report with reference to the LVIA.

6.7.4 The issues of pollution and noise are not supported with any evidence. It is recognised that new housing will alter the area and that there will be noise on a site which is currently quiet and increased traffic over the current levels. However, residential related noises and traffic and would not be unacceptable in principle. The traffic matters are considered in the next section and the issue of pollution resulting from the previous use of the site is considered later in the report.

6.8 **Highways, access, parking and rights of way**

6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.8.2 The site is accessed off Morda Bank which at this point is subject to a 30mph speed limit and has street lighting and existing footpaths on both sides of the highway, though the applicant acknowledges that the path on the southbound side varies in width. The submitted transport assessment advises that the site is 2km from the A5 and 1.5km from the town centre. The assessment has considered existing traffic movements, accidents, cycle and walking links, the proximity of bus stops and existing travel to work patterns, trips and potential trips from the development. A travel plan has also been submitted which intends to promote non-car travel through advertisement, home packs, funding, notice boards and marketing.

6.8.3 Local concern has been raised about the increase in traffic on Morda Bank and also on the wider highway network, the roads leading into the town and the roads leading to the A5. Concern has also been raised about road safety; the access being inappropriate; insufficient parking; insufficient pavements; poor public

transport links, especially in the evenings and at weekends; and the impact on Love Lane. The applicant's submission and all of the objectors relevant comments have been considered by the Council Highway Officer, who has assessed the proposal in line with national guidance but also taken into account local circumstances and knowledge.

- 6.8.4 The Highway Officer has confirmed that they have no objection to the development. The visibility splays proposed from the single point of access are acceptable and meet the recommendations in 'Manual for Streets' and would not result in significant highway safety implications. Although a roundabout may be locally preferred and may also result in traffic calming the Highway Officer has advised that it would not be necessary for this scale of development but has recommended the provision of speed visors. These would need to be paid for through a section 106 financial contribution.
- 6.8.5 The Highway Officer has also confirmed that the site layout and parking provision is acceptable. That the predicted level of traffic movements can be accommodated into the existing highway network without any adverse traffic or highway safety implications.
- 6.8.6 Government guidance advises that it is appropriate to consider walking and cycling as alternative means of travel for trips up to 2km and 5km. This would therefore enable trips to the local food store, school and town centre by foot or bicycle. However, officers acknowledge that these are not always practical. A further alternative is the use of buses and the site is within 30m of bus stops on both sides of the road. These stops would enable access to the town during the day times and early evenings and although it does not permit all travel to be undertaken by non-car means there are opportunities to provide for journeys not using the car. As such officers consider that this site complies with the promotion of alternative means of travel.
- 6.8.7 The Highway Officer has also acknowledged the local concerns about the potential impact of the development on Love Lane if the properties are allowed to create accesses onto the lane. Although Love Lane is a unmetalled track it has full highway status. The layout of the site is such that Plots 1 to 15 have rear boundaries to Love Lane and the highway authority are, in agreement with the local community, concerned at any potential for rear access to be gained onto Love Lane. As such the highway authority would, in the strongest terms, request that a planning condition is imposed upon any consent granted which would have the effect of preventing any permitted development rights to have access, pedestrian or vehicular, to Love Lane.
- 6.8.8 The Council Rights of Way Officer has also confirmed that he has no objection and is supportive of the position of the right of way across the site being through the open space. No comments are made on the impact on Love Lane, however this may be as there is no direct impact from the development at this time and the above proposed condition would prevent any future impact.
- 6.9 **Ecology and trees**
- 6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural

environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. An ecological survey and an arboricultural assessment have been undertaken and submitted with the application and these have been considered by the Council's Ecologist and Tree Officer.

- 6.9.2 The applicant has acknowledged the potential for ecology in the immediate area and also identified that the site is currently bounded by established trees and hedges. The proposal is to retain as much of this existing landscaping as possible to retain the features and habitats whilst also providing additional landscaping and habitats. The applicant's consultant has undertaken two surveys of the site and although they acknowledge that the first survey was not done in the optimal survey period the second survey is considered to be sufficient.
- 6.9.3 The surveys conclude that there is no evidence of bats using the trees as roosts; evidence of holes but no other evidence to show that these holes are used by badgers; no suitable amphibian habitats but the hedgerows may be suitable for foraging and commuting; and the hedgerows and trees may also be suitable for nesting birds. With regard to Great Crested Newts the survey notes 5 ponds within 300m but that 4 of these lie on the south of the river and the other is a fishing pond. As such the survey considers that the likelihood of GCN being present is low.
- 6.9.4 Within the recommendations of the report the consultant advises on pollution prevention during development; tree and hedge protection during development; controlling external lighting; checks for bats and nesting birds and enhancements around the public open spaces and swales to improve the existing habitat of the agricultural land after the development. The improvements proposed include planting of species rich grassland and the erection of bat and bird boxes.
- 6.9.5 The comments of the Council Ecology Officer are provided in full at 4.1.8 above and conclude that, subject to conditions and informatives the development will not have a detrimental impact on statutorily protected species. It is acknowledged that the development of the site will alter the habitat but officers consider that the improvements proposed will result in habitat enhancements and not result in a significant impact on the European RAMSAR site. Furthermore the site proposed landscape masterplan, which incorporates public open space, additional native tree planting, enhancement of the boundary hedgerows and the development being set back from Morda Road, thereby creating a green buffer zone to include swales and native species planting will respect the function of the Shropshire Environmental Network as required by Policy CS17.
- 6.9.6 A tree survey has also been carried out and assesses the condition of the 9 existing trees, 3 groups of trees and the hedgerow and recommends tree retention, root protection and monitoring of the condition of the trees. In order to facilitate the development there will be some loss of trees and hedges to form the accesses and layout proposed. 30m of hedge will be removed to form the vehicular access and two sections of 5m length will be removed to form pedestrian accesses, however the removal of these short sections is considered to be acceptable and will be more than mitigated by the additional landscaping proposed. 10m of hedge is required to be removed to accommodate the layout and some crown

reductions may be required to ensure that retained trees do not impact on amenities of future residents. One tree is to be removed due to its condition and public safety, however as with the roadside hedges the proposed landscaping will more than mitigate for these changes.

6.9.7 Full landscaping details are provided which includes planting of new native trees and ornamental species, infilling of existing hedging, planting of new hedging, including low hedges along the frontages of some of the properties and planting of species rich grassland and wildflower meadows. Protection of existing trees and hedges is proposed, including no-dig construction methods in root protection zones. As with ecology it is acknowledged that the development will alter the character of the site in terms of the trees and the hedges, however the proposed landscaping is considered to be appropriate and will more than mitigate any loss of trees and hedges and as such the proposed development complies with policy CS17 in this regard.

6.10 **Drainage**

6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The foul drainage is proposed to be connected to the existing mains sewerage system in the local area and there are foul sewers available in the junction of Glentworth Avenue and on Morda Bank, and the surface water is to be discharged to a sustainable drainage system and on site pond. A flood risk assessment has been submitted with the application and this details the local features including the un-named ditch on the south boundary and the river Morda. The FRA considers that the site has low risk of surface water flooding but that the land to the north and east is at high risk.

6.10.2 The FRA also advises that the site is suitable for infiltration or attenuation drainage as detailed in the Shropshire Council information. The report considers the potential for all types of flood risk and acknowledges that the land adjacent to the site is at high risk of pluvial flooding but that the site itself is not. Tests have been undertaken on site which have shown that not all of the site is suitable for soakaways and as such the proposal includes the 2 swales at the roadside. These swales are intended to store surface water drainage and thereby reduce the rate at which the water discharges to the sewer. It is intended that planting be provided around the swales to increase the attractiveness of the area and to encourage biodiversity. This land and the swales would need to be maintained either by Shropshire Council or by a management company and this can be controlled through the S106.

6.10.3 The Parish and local representations have raised significant concerns about the potential for management of surface water and flooding; the use of swales which may also be dangerous and problematic and the impact on the mains foul system. These concerns are noted and are valid material planning considerations. However, there is no evidence of a lack of capacity in the sewerage system and the developers have a right to be provided with a connection by the sewerage operator. As such this will be a matter for negotiation between the developer and the provider.

6.10.4 With regard to surface water drainage the Council Drainage Engineer has not raised any objection to the proposed development or the intended use of swales. They have advised that the water collected in the swales will be released to the existing adopted surface water system at an equivalent rate to the existing greenfield run-off and have requested additional information to show that the exceedance flows can be contained. The details can be provided at a later date by conditioning the proposal and these details would need to show how the development of the site deals with the surface water from the site without increasing flood risk. The details can also include the requirement to show the ground levels before and after to show the depth of the swales and as advised by the Drainage Engineer a deeper swale would reduce the potential for smell and sludge.

6.11 **Other matters**

6.11.1 The Parish Council and local objectors have also raised concerns that the site was used to bury cattle from the 1967 outbreak of foot and mouth and that this will have contaminated the land. To enable proper consideration of this issue the Council Public Protection Team has been consulted and have provided a very detailed response at 4.1.5 of this report. In summary the advice is that there is no risk to human health from building above carcasses disposed during foot and mouth; that leaching would have been likely for around 20 years and as such ceased some time ago; but that ground stability may be an issue which the developer will need to take into account.

6.11.2 As noted above the application also proposes an area of open space between Morda Bank and the proposed housing. This area of land is sufficient to meet the requirements of the Shropshire Council Supplementary Planning Guidance. The provision of play equipment would be a matter for the Town Council under the CIL regulations and using CIL monies. The maintenance of the open space could either be transferred to the Parish Council or undertaken through a maintenance company paid for by the occupants of the properties on the development site. This matter can be dealt with through the submission of a maintenance agreement which can be controlled by a clause in the S106.

7.0 **CONCLUSION**

7.1 The site is located outside the current development boundaries of both Oswestry development boundary and is therefore classed as a departure from the development plan. However, it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accordance with national planning policy priorities. Furthermore, the development will provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed layout, scale and design are considered to be appropriate providing an appropriate density and layout; respecting the existing road frontage, Love Lane and retaining a gap between the development and Morda and will not result in unacceptable harm to the amenities of the neighbouring residents.

- 7.3 The development can be provided with appropriate vehicular access, internal layout and open space. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements and will not be harmful to local habitats or biodiversity.
- 7.4 Accordingly, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.

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 - written representations, a hearing or inquiry.

The decision is 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 a) promptly and b) in any event not later than three months after the grounds to make the claim first arose 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 give 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

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10.0 BACKGROUND

10.1 Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 - The Market Towns and Other Key Centres
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

10.2 Relevant planning history

OS/00/11182/FUL Residential development and formation of a new access REFUSE
6th September 2000
OS/99/10590/FUL Residential development and formation of a new access REFUSE
1st September 1999
OS/89/6534/FUL Erection of detached dwelling houses and bungalows and associated
external works and landscaping and formation of new access REFUSE 11th December
1989
OS/88/5910/FUL Residential development REFUSE 11th December 1989

11.0 ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Cllr M. Price
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Local Member Cllr Joyce Barrow

Appendices APPENDIX 1 - Conditions

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Conditions

STANDARD CONDITION(S)

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development shall take place until a scheme for the foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied. The drainage scheme shall include details of percolation test results, sizing of soakaways, details of the attenuation scheme proposed, a contoured plan of the finished road level and gulleys and details of the surfacing of driveways and means to prevent water flowing onto the roads.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

4. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

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

5. No development shall take place until full engineering details of the design and construction of the new junction onto Morda Bank, internal access roads, footways, private accesses together with details of the disposal of surface water have been submitted to, and approved by the Local Planning Authority. Visibility Splays of a depth of 2.4 x 70 metres length in a northerly direction and 2.4 x 72 metres length in a southerly direction from the centre point of the junction of the access road with the public highway shall be provided before the first occupation of any of the dwellings hereby approved, and these splays shall thereafter be kept free of any obstacles or obstructions. The gradient of the access(s) from the highway carriageway shall not exceed 1 in 24 for a distance of 2.0 metres and thereafter the gradient of the drive shall not exceed 1 in 10. The agreed details shall be fully implemented before the dwellings(s) are first occupied.

Reason: To ensure a satisfactory access to the site.

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- ' the parking of vehicles of site operatives and visitors
 - ' loading and unloading of plant and materials
 - ' storage of plant and materials used in constructing the development
 - ' the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - ' wheel washing facilities
 - ' measures to control the emission of dust and dirt during construction
 - ' a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

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

7. Prior to any work commencing on the open space a scheme of landscaping shall be submitted to and approved by the local planning authority and these works shall be carried out as approved. The submitted scheme shall include:
- Ground levels existing and proposed
 - Means of enclosure
 - Details of the construction of the swales
 - Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
 - Planting plans
 - Written specifications (including cultivation and other operations associated with plant and grass establishment)
 - Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
 - Implementation timetables

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

8. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

9. Prior to the first occupation of the dwellings details of 10 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

Reason: To ensure the provision of nesting opportunities for wild birds

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

10. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that order with or without modification), no pedestrian or vehicular egress or access to the dwellings within the development site other than that shown on the approved plans shall be formed between the site and Love Lane which extends along the northern and western boundary of the site.

Reason: In the interest of highway safety.