

## Development Management Report

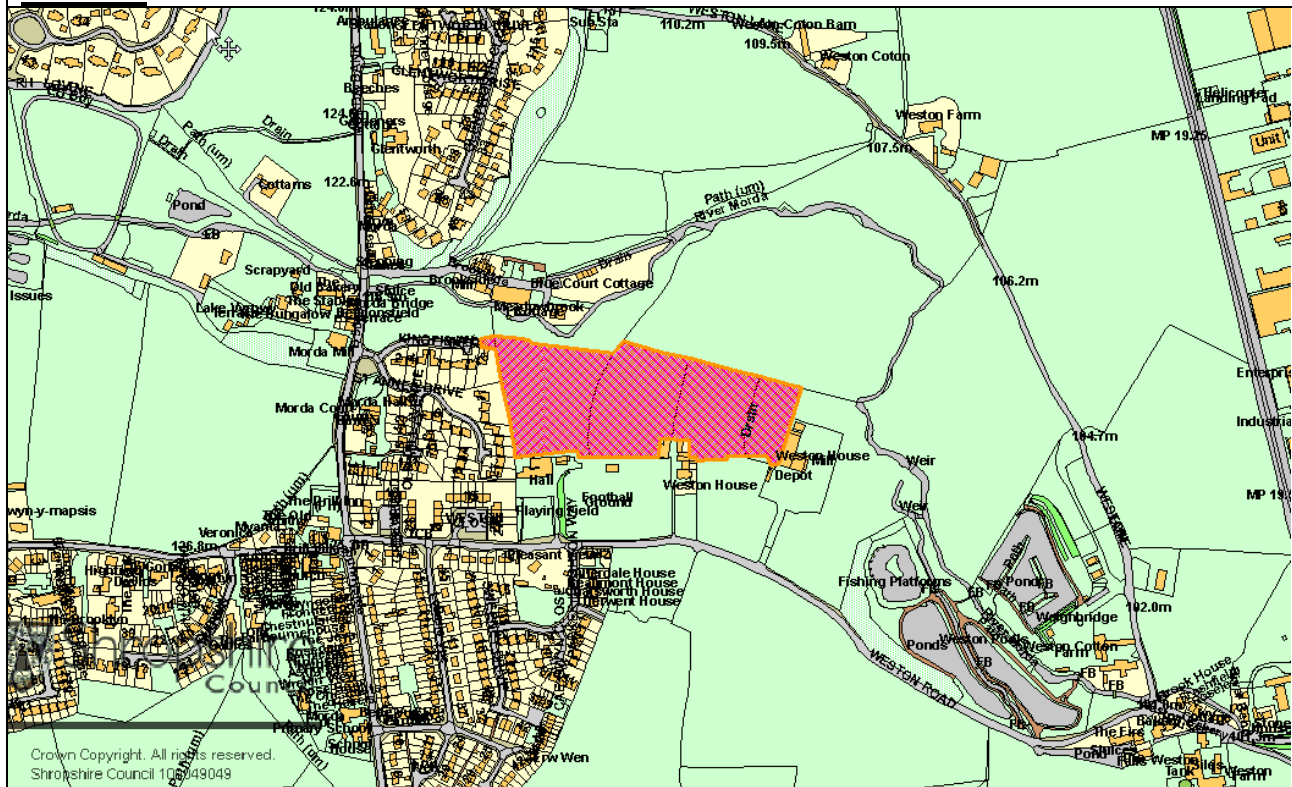
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 13/01393/OUT	<b>Parish:</b> Oswestry Rural
<b>Proposal:</b> Outline application (to include access) for Use of land for residential development	
<b>Site Address:</b> Proposed Residential Development Land East Of Kingfisher Way Morda Shropshire	
<b>Applicant:</b> Mr And Mrs Hughes	
<b>Case Officer:</b> Mark Perry	<b>email:</b> <a href="mailto:planningdmnw@shropshire.gov.uk">planningdmnw@shropshire.gov.uk</a>

### Grid Ref: 329021 - 327959



**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and the applicant entering into a S106 agreement to secure the provision of affordable housing.**

## REPORT

### 1.0 THE PROPOSAL

1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant has indicated that the site would be suitable for accommodating the erection of 69 dwellings.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site covers an area of 3.3 hectares and is located to the eastern side of Morda. To the west there is a modern housing estate, to the north there is the River Morda and to the south there is a football pitch and housing development; both of which are accessed from Weston Road. To the eastern side of the site there is an existing commercial business which has a building and yard where they operate a construction and landscaping business from. The flood plain of the River Morda does extend into the furthest north western corner of the site in the position where it adjoins the end of Kingfisher Way.

2.2 The site is well screened from the east and the north by the mature bands of trees and from the west the view of the site is screened by the adjacent housing development which sits on a slightly higher level. The highest part of the site is just to the north of the village hall, the land then gently falls away in a northerly and easterly direction.

2.2 The entire application site falls outside of Morda's development boundary as defined in the Oswestry Local Plan.

### 3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The chair of the planning committee has requested that the application be determined by the planning committee..

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 - Consultee Comments

4.1.2 **Parish Council** - The Parish Council **strongly object** to this development. The development sits outside the existing village boundary and the Council decided not to support any building developments until after they have consulted with its local community to determine future need and development scale. This Council also objected to the affordable housing of 21 houses on a nearby site but the application was allowed anyway.

Morda has seen large scale development in recent years increasing traffic movement and with Weston Road and Kingfisher Way as the main access routes for this development the situation will become worse.

Weston Road is an unclassified lane with no pavements and is already a busy commuter route to access the Maesbury Road Industrial Estate. Pedestrians, bike riders, walkers and many cars already use it at their peril. Kingfisher Way is at present a very quiet residential area but with the increased traffic from 60 + houses it will become a rat run from Morda Bank to Weston Road.

There is also a safety factor with the suggestion re routing of a footpath through the Village Hall Car Park to St Annes Drive. There is very often a full car park and this will be a danger to pedestrians crossing it.

Morda School is already full to capacity so where will the children from this large estate go to school? The suggestion of this estate in that position is surely not right and the Parish Council would ask that planners look very carefully at the risks that will come with any further development on Weston Lane.

4.1.3 **Highways** - The highway authority raises **no objection** to the granting of outline consent subject to the following Condition(s) being imposed:-

Following discussions both with the Planning and Highway Authority the proposal is to now be accessed via Weston Road and Kingfisher Way. Access from Weston Road is proposed via an extension to the 23 dwelling development site, which is currently under construction. Kingfisher Way forms a short cul-de-sac road which serves 8 large detached properties. Kingfisher Way exist onto St Annes Drive, which forms the priority route and main estate road serving the bulk of the housing development and forms the main road junction onto Morda Bank.

Both Kingfisher Way and current development access off Weston Road are built to a standard to cater for further residential development and the highway authority are satisfied that there are no fundamental issues which would justify a highway objection on safety grounds. Clearly at this outline stage, no layout details have been provided.

Whilst the original submitted development scheme considered access via both Weston Road and Kingfisher Way, the highway authority has always favoured that these would be designed by creating 2 cul-de-sacs with a connection between which allowed the movement of pedestrian and cyclists. This is an aspect which has been picked up and highlighted by local residents. There is concern that such a through route would lead to the 'rat running' of vehicles through the sites or more likely influencing the routing of internal residential traffic through the site in either direction, dependent upon their destination.

Whilst the highway authority would maintain a desire towards a 2 cul-de-sac access arrangement approach, we are not advised to a through route between Kingfisher Way and current development site accessing onto Weston Road. Having said that clearly the current application seeks outline approval and therefore there are no layout details to consider at this stage. As part of a reserved matters application, should permission be granted, the highway authority would be seeking a scheme which considered the housing and road layout in order to influence the routing of internal residential traffic via Kingfisher Way. The road layout therefore would be key to achieving this aim and clearly the devil would be in the detail. The highway

authority would be adverse to a simple 'loop road' layout approach.

Whilst it would be difficult to envisage the linkage between Kingfisher Way and Weston Road being used by those other than requiring access to residential properties, the above approach would achieve this aim.

- 4.1.4 **Drainage - no objection** drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission will to be granted.
- 4.1.5 **Tree Officer – no objection** If planning consent is given it is recommended that it be subject to a full Arboricultural Impact Assessment undertaken to BS5837: 2012 standards being prepared and submitted as part of the reserved matters. As part of this report a Tree Constraints Plan would be prepared. This plan would then instruct site capacity and layout. It would be expected that the layout make provision for the retention of trees and hedgerows.
- 4.1.6 **Ecology** - In the absence of this additional information (detailed below) I **recommend refusal** since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).
- 4.1.7 **Archaeology - no objection** subject to conditions.
- 4.1.8 **Affordable Housing** - The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of the Reserved Matters.
- 4.1.9 **Education** -
- the numbers at the school are around the physical capacity of the building, and this includes an additional classroom we have recently provided, to help cope with pressure of numbers;
  - in addition, generally, the classroom and other core accommodation is not of suitable size, and quality. Much of it is in demountable (non-permanent) build. Additional pupils from new housing will undoubtedly put increased pressure on this situation;
  - whilst the total site has some capacity for increasing the building stock, the layout is not good and any additional accommodation would have to be very carefully planned;
  - should all of the developments in the Morda catchment area be approved there would be a need for developers to contribute to significant investment at the primary school. At least one additional classroom and some core infrastructure improvements would be required.

## 4.2 - Public Comments

Representations made from 20 individual addresses commenting on the following issues:

- Loss of open space
- Too much new development

- Loss of privacy
- Loss of rural feel to village
- Increase traffic
- Impact on highway safety
- School is already at capacity
- Site at risk of flooding
- Estate road would become a ‘rat-run’
- Kingfisher Way is a cul-de-sac not a through route
- Over development of Morda

## **5.0 THE MAIN ISSUES**

Principle of development  
Siting, scale and design of structure  
Visual impact and landscaping

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 The site is located outside of the Morda development boundary as defined by Proposals Map of the Oswestry Borough Local Plan, which remains in effect, although regard should be had to the NPPF provisions relating to policies for the supply of housing being not up-to-date if the Council cannot demonstrate a five year supply of deliverable housing sites. Paragraph 216 of the National Planning Policy Framework explains that weight can be given to relevant policies in emerging plans, with the weight according to the stage of preparation, the extent that there are unresolved objections, and the degree of consistency with the NPPF policies.
- 6.1.2 Morda has not been put forward as either a hub or a cluster and as such the Parish wishes to be considered as countryside for the purposes of SAMDev. In such locations there would typically be a presumption against new residential development. The SAMDev is at the final draft stage but is yet to go through the process of examination in public; as such only limited weight can be awarded to the document at this stage.
- 6.1.3 In September 2013 the Council published an up-dated 5 year housing land supply statement. The statement confirmed that there was only a 4.95 years worth of housing supply land available in Shropshire, this falls below the 5 year requirement set out in paragraph 47 of the NPPF. However it is also acknowledged that this figure included counting some of the SAMDev preferred option sites, which could be challenged at least prior to submission of the Plan for examination, while continuing under-delivery will have added to the shortfall against the County target, reducing the benefits of additional planning permissions granted in the calculation of the 5 years’ supply. As such the policies contained in the current adopted Local Plan, which shows the site outside of the development boundary, cannot be considered to be up-to-date. The effect of this is that any adopted planning policy that restricts the location of development is not currently considered relevant and up-to-date. Instead, a significant amount of weight must now be awarded to the

NPPF and its presumption in favour of sustainable development as set out in paragraphs, 7, 8 and 49. Paragraphs 7 and 8 set out the roles of sustainability as being economic, social and environmental issues. The test that should be applied should not be whether there is “no harm” caused by the proposal but whether any harm caused significantly and demonstrably outweighs the benefits. The effect of this is that sites on the edge of towns and villages which might previously have been unsuitable for development due to being located outside of any development boundary and therefore contrary to policy will be considered acceptable in principle.

6.1.4 Strong objections have been received from the Parish Council on the grounds that the site is outside of the existing development boundary and because Morda has seen significant amounts of recent development. The Parish Council and local residents have also commented that the site is contrary to their SAMDev allocation as open countryside. This is also acknowledged, however at this time the SAMDev still only holds very limited weight as has not yet been submitted for examination by the Planning Inspectorate. Officers are sympathetic with the local community who want to be considered as open countryside. However, this designation can only be given limited weight in light of the lack of a five year land supply. As such the application must be considered in light of the presumption in favour of sustainable development as required by the NPPF.

6.1.5 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. 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.

## **6.2 Is the site sustainable?**

6.2.1 Whether a site is sustainable is not judged purely on the distance from services, facilities or employment. The Council’s adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters. The effect of this is that the Core Strategy encourages rural communities to be more sustainable by allowing development that helps to rebalance rural communities. This can be achieved by providing facilities, economic development or housing for local needs that is of a scale that is appropriate to the settlement. Whilst it is recognised that the Parish Council have not wanted to be either a hub or a cluster it is still a rural community and therefore the principles of the Core Strategy which encourages sustainable development away from the main market towns should apply. Although it has been commented on that Morda has very limited services, the distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance. Alongside issues of impact on highway safety, ecology and development of agricultural land.

6.2.2 The strands of sustainability referred to in paragraph 7 of the NPPF are economic, social and environmental, further consideration of how the proposed development impacts upon these elements is set out below. .

### 6.3 **Economic Consideration**

6.3.1 In economic terms the proposed development will provide employment during the constructions process and support suppliers, Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although these benefits would only be achieved by any new housing development and in any location. The most important economic benefit would be the spending power of new residents who would help to support local services such as the pub and local shop. The site is also well connected to Oswestry, the centre of which is a 20 minute walk or there is a regular bus service. With such close and easy connections it is likely that residents will support the services that Oswestry has to offer.

6.3.2 Concerns have been raised that there are no job opportunities available in Morda, It is however only a short distance from Oswestry which has employment opportunities and through SAMDev further employment opportunities are likely to be available in the future with significant land allocated for employment to the east of the town. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

### 6.4 **Social Considerations**

6.4.1 Socially the scheme will provide affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. More people living in the village would also provide support local services such as the school and sports/ social clubs. It would also provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. The contribution is dealt with outside of the planning process and after development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent. The CIL contribution would provide for the infrastructure enhancements which would include contribution towards school places as referred to later in the report.

6.4.2 It is recognised that increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. It is also recognised that Morda is the subject of a number of other planning applications which should they all be approved would result in a significant expansion, this application is currently the largest of those under consideration and would significantly expand Morda. Some objectors are concerned that the community and residents would be impacted upon as much of Morda's value and character is created by being quiet rural settlement. Residents considered that this would be significantly eroded as a result of the proposed development, this is an issue which must be considered in the overall planning balance.

6.4.3 The layout and form of Morda is one of a series of substantial housing estates which have been built over the years ranging from the former post war local authority housing to modern housing estates; all of which have been built around the small number of Victorian dwellings at Morda's centre. The application site could be described as being semi-rural in its character given the proximity to other existing built development, including the Severnside development which extends away from the road and Kingfisher Way estate. Over time the residents of these housing estates have been absorbed into the community. It is considered that although the proposed development is large, potentially 69 dwellings, it is not considered to be so excessively large to overwhelm the rest of the settlement and significantly impact upon the existing local community. The character and form of Morda would continue to be characterised by its semi-rural character and its built form along the main road through the village. The village nucleus would continue to be seen as the cross roads or Weston Road and the B5069 and the proposed site would only be visible from very limited number of viewpoints away from Morda.

6.4.4 Overall it is not considered that the proposed addition of potentially 69 dwellings on the site would not result in a level of pressure on local infrastructure which would justify refusing the application. The site is within walking distance of a bus stop and walking or cycling to Oswestry is achievable. Oswestry has a good range of service and facilities, shopping and employment opportunities and land being allocated for further employment uses and the development provides new housing, including affordable housing, and a financial contribution towards infrastructure.

## 6.5 **Environmental Considerations**

6.5.1 Environmentally there would be an opportunity to improve the visual transition between the countryside and the village. There is recognition that the proposed development is on a parcel of Grade 3 agricultural land that sits outside of the built environment of Morda. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF which aim to conserve and enhance the natural environment and encouraging the effective use of land by reusing land that has been previously developed. To meet Shropshire's current and future housing need will necessitate the development of agricultural land. The key issue is only to develop agricultural land that is not of significant landscape, ecological or historic importance. In this instance the land is agricultural land which is grade 3 so of good/ moderate quality and has a semi-rural appearance but it would not be considered to be of any significant merit or of ecological or environmental value in this respect. As such, the weight that can be awarded to the loss of agricultural land in this location is only very limited.

6.5.2 There is recognition that the proposed development is on a parcel of agricultural land that sits outside of the built environment of Morda, it however adjoins the adjacent modern housing estate. It is considered that the proposed development of this semi-rural site would be a logical extension off the end of Kingfisher Way as well as link in with the Severnside housing estate currently under construction.

6.5.3 The village of Morda has been significantly expanded over the years with significant residential development. This is in part a reflection of the sustainable location where it is closely associated with Oswestry with one of the main roads leading



from the village into the town centre. The village also has a limited range of its own facilities including a shop, public house, place of worship and junior school. The nearest secondary school which although located on the outskirts of Oswestry is approximately a 15 minute walk away with a roadside pavement running all the way. In addition to the facilities in the village there is also a regular bus service for the short journey into Oswestry.

6.5.4 The agent has also commented that the housing supply figures that Shropshire Council has put forward in the SAMDev Plan fall short of the housing figures that Core Strategy Policy CS1 seeks to achieve and has raised concerns that the Plan will not provide sufficient housing land. The matter has been put to the Planning Policy Team who have commented that the agent has failed to appreciate the full housing supply picture and has not included all of the development which will contribute to achieving the Core Strategy targets. Even if the agent was correct, this would not be a matter which is material to the determination of the current application. Although the Pre-Submission Draft SAMDev Plan has been published for final representations, the weight that can be attached to its proposals remains limited, and the absence of a five years supply of housing land means that the provisions of the NPPF and the presumption in favour of sustainable development remain as significant considerations.

## 6.6 **Siting, scale and design of structure**

6.6.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. Initially, the applicant provided an indicative plan showing that there would be two separate vehicle accesses one off the end of Kingfisher Way which will serve the western portion of the site and an access from the Severnside Housing development to the south which would provide access to the eastern side of the site. However, because of the flooding issue (referred to later in this report) the scheme has been revised so that all dwellings would be able to use either access. The suggested layout which shows the 'blocks' of housing development, does show that the applicant has had regard to the existence of existing trees and hedgerows, which could potentially be incorporated into any proposed formal layout. However, this information is only indicative at this stage and would still be subject to full consideration at the reserved matters stage.

## 6.7 **Visual impact and landscaping**

6.7.1 The area of land slopes down to the River Morda and does provide an attractive outlook from the rear elevations of the existing dwellings that sit adjacent to the site. However, no neighbour has a right to a view and as such only very limited weight can be awarded to this in the consideration of the application. As part of the submission that applicant has provided an independently prepared Landscape Assessment for the site. The site will largely be screened from view from the main highway network as it will be screened by existing built development and the undulations in the land. The nearest public footpath is the one running along the northern side of the River Morda but any views towards the site are almost completely blocked by the effective visual screening along the edge of the river which is provided by the continual belt of native trees.

6.7.2 The existing built development which is to the west of the applications site provides a harsh and unsympathetic edge to the village consisting primarily of walls and

fences of various types. The new development will provide an opportunity to create a softer edge allowing a more natural transition between urban and rural spaces by using an appropriate layout of dwellings and the appropriate use of landscaping and tree/ hedge planting.

6.7.3 As this is only outline permission the layout, scale and form of the development would be subject to reserved matters approval. However, it is considered that the site could be developed without there being any detrimental impact on the character and appearance of the area and an opportunity to improve the appearance of the village when viewed from the surrounding landscape.

## 6.8 **Flood Risk**

6.8.1 The site adjacent is located to the south of the River Morda which at its closest is around 11 metres from its banks. Flood zone 3 is considered to have a 1 in 100 year or greater annual probability of flooding. Flood zone 3 extends into the north western corner of the site, this is where the applicant proposes to extend Kingfisher Way in order to provide one of the two accesses into the residential development.

6.8.2 Paragraph 100 of the NPPF requires local planning authorities to direct development away from areas of land that are at highest risk. Some of the site is located in flood zone 3 and as such is clearly at risk from flooding, the area of the site that falls within flood zone 3 measures approximately 750 square metres. This equates to only a small percentage of the overall site with the rest of the site being classed as flood zone 1 which has a 'low probability' of fluvial flooding.

6.8.3 The NPPF aims to protect people and property from flooding and in paragraph 100 it states that "Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change". This is typically done by applying the sequential test. This approach is designed to ensure that areas at little or no risk of flooding are developed in preference to areas that have a higher risk. The Environment Agency have commented on the applications and they have confirmed that, based on the scale and nature of the proposals which are affected by flood zone 3 they would not make any bespoke comments on the Sequential Test in this instance. Instead it is a matter for the Local Planning Authority to decide whether the scheme triggers the need to apply the sequential test.

6.8.4 In this particular instance it is considered that although a small portion of the site does fall within flood zone 3 there are reasons why the application of the sequential test is not required in this case.

6.8.5 The submitted application is only seeking an outline permission with all matters except access being reserved for later approval. As such any subsequent layout for the site can be designed in such a way so that dwellings and their gardens are positioned on the land that has a low risk of flooding i.e. flood zone 1. It is considered that the site is large enough and the area falling within flood zones 2 and 3 is small enough to make this easily achievable and would ensure that property would not be affected by a flood event.

- 6.8.6 When the application was originally submitted it was the intention that vehicles would be prevented from negotiating the full length of the estate road between Kingfisher Way and Weston Road and only pedestrians would be able to go from one end to the other. The effect of this was that in the event of a flood the Kingfisher Way end of the estate road could be flooded which could potentially effect the safe passage of motorists whose dwellings are only accessible from Kingfisher Way. The applicant has now confirmed that all dwellings on the site would be able to use both the Kingfisher Way route or the access onto Weston Lane. As such, this would always ensure that any occupants would be able to safely access and exit their dwelling during a flood. Paragraph 039 of the Planning Practice Guidance states that, "Access routes should allow occupants to safely access and exit their dwellings in design flood conditions. Vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required". By ensuring that residents and emergency services have two options into/ out of the site it is considered that this requirement has been achieved.
- 6.8.7 In support of the planning application the applicant has provided a Flood Risk Assessment (FRA). The report acknowledges that part of the site falls within flood zone 3 and that flood water could have the potential to affect the access route. To overcome this, the applicant has shown that the levels of the access from Kingfisher Way would be raised to a height that is 600mm above the 'nominal' 100 year flood level, this includes some consideration for climate change. The access road will be artificially elevated above the flood level, this is in the same way that the rest of Kingfisher Way was also elevated when it was constructed as part of the adjacent housing estate. The banking and elevated road would result in the loss of some flood storage capacity. To mitigate against this loss an area of ground would be excavated to provide compensatory volumes of flood storage. The flood compensation volume has been calculated as 210 cu metres which is a 50% betterment over the storage that will be displaced as a result of the development.
- 6.8.8 The FRA has been considered by the Environment Agency who are satisfied that the scheme includes the creation of a safe access even during a flood event and that the compensatory scheme will result greater flood storage capacity which will appropriate for the lifetime of the development and also includes an allowance for climate change.
- 6.8.9 Based on the above assessment although part of the site does fall within flood zone 3 it is possible for the design to avoid placing dwellings at risk from flooding and that the two accesses would ensure that there is always an alternative route of access and egress. As such taking a risk based approach is considered that the site would avoid any flood risk to people and property and as such there is no requirement to apply the sequential test. The scheme of providing flood storage mitigation ensures that the proposal would not exacerbate any flooding problem or move flooding elsewhere.
- 6.9 **Other Matters- Education**
- 6.9.1 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 applications 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), in Morda this equates to payments of £80 per square metre for the open market dwellings. As this is an outline application neither the number of dwellings or their sizes are known meaning that the amount of contribution cannot be calculated at this stage, although it is likely to be a significant CIL contribution given the size of the site and the likely number of dwellings that it could accommodate.

6.9.2 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.

6.9.3 It has been shown that the primary school is at capacity. For further residential development in the village 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).

6.9.4 It is considered that without the necessary improvements being made to the school to accommodate the potential 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.

## 6.10 **Impact on Neighbours**

6.10.1 The introduction of an extension to a housing estate will inevitably increase the number vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The proposed residential scheme would be split between two separate accesses although the revised scheme would mean that both routes would be accessible to all occupants. As such it is very unlikely that all future occupiers would pass the existing properties on Kingfisher Way. Concerns

have been expressed that the estate could become a rat run, increasing vehicle movement and detrimentally affecting the amenities of existing residents because of noise and disturbance from passing cars. The proposed estate road between Weston Road and Kingfisher Way would not provide any direct short cut but it could be seen as saving time if there is traffic at the Weston Road/ Morda Road junction. The layout of the site is a reserved matter but any eventual layout will need to show a route and appropriate traffic calming which discourages the estate road as an alternative to the main highway network. It is considered that the number of likely vehicle movements and the likely speed of vehicles would not generate a level of disturbance that would be detrimental to the living conditions of neighbouring occupiers of the dwelling located along the two access roads.

6.10.2 A full assessment of the development and its impact on the amenities of neighbouring occupiers will be given when the reserved matters application is submitted. At this stage it is considered that it is possible to develop the site without there being any detrimental harm to the amenities of neighbouring occupiers in terms of privacy and loss of light.

#### 6.11 **Highway Safety**

6.11.1 The scheme proposes that the site will be served from both the existing Kingfisher Way and the housing development currently under construction on Weston Lane. Kingfisher Way was constructed to a design specification that exceeded the minimum requirements for the very limited number of dwellings that currently use it. The road is of a significant width which includes pavements on both side, ; presumably this was with the intention of being able to use Kingfisher Way to serve the site the subject of this application. As such, it is considered that Kingfisher Way can safely accommodate the flow of traffic likely to be generated from the proposed development. It is also considered that the use of the access onto Weston Lane would also not result in conditions that are detrimental to highway users. As part of the planning permission for the Severnside development which is under construction, there is a requirement for a new roadside footpath to be provided. This will allow pedestrians to safely walk from either end of the development into the village centre.

#### 6.12 **Affordable Housing**

6.12.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. The number of dwellings is not yet known as this is an outline planning application. Therefore a S106 will secure either on site or financial contributions towards the provision of affordable housing in accordance with the Shropshire Viability Index as set out in the adopted SPD.

#### 6.13 **Open Space Provision**

6.13.1 In accordance with Council's Open Space Interim Planning Guidance (IPG) the developer will be required to provide land for play area and recreational uses, this will need to be provided as part of the overall design which would form part of any subsequent reserved matters application. The applicant's agent has confirmed that they are agreeable to providing the open space in line with the IPG. If it is deemed appropriate to provide play equipment this could then be funded by the associated CIL contributions.

## 6.14 **Ecology**

- 6.14.1 The applicant's Ecologist has identified that two trees on the site have a potential for bats and that if any development is to be close to or involve the removal of these trees are to be removed they should be first surveyed. The Council's Ecologist has recommended that survey work is carried out before permission is granted. As this application is only seeking outline consent it is not yet known whether the trees or any bat habitat would be affected by the proposed development. This will only be known when the reserved matters application is considered. As such it is considered appropriate that a bat survey is conditioned to be submitted with the first reserved matters application.

## 7.0 **CONCLUSION**

- 7.1 The site is located outside of the current Morda development boundary and is therefore classed as a departure from the development plan. However, as it has been demonstrated that the Council does not have the 5 years worth of housing land as required by the NPPF significant weight must be awarded to paragraphs 7 and 8 of the NPPF where is a presumption in favour of sustainable development.
- 7.2 The proposed scheme will create a significant expansion to the village of Morda which may take time to be absorbed in the local community and provide social cohesion, other large estates have been developed in Morda in the past as the village has developed and expanded. The locations of the development is not considered to be out of keeping with the rest of the village as it will follow the form of the immediately adjacent housing development whilst maintaining the character and appearance of the village centre and the longer views towards Morda where the proposed housing would barely be visible. The proposed scheme will provide a natural link between two existing housing estates albeit one is currently under construction. The application site is appropriately located where visually it would have limited visual impact because of the topography of the land and the high levels of mature planting and screening already there. There would be the loss of an open field but it would be possible to retain the mature trees within a well designed development. The layout of the site can easily accommodate the small area that is susceptible to flooding and appropriate mitigation put in place.
- 7.3 The proposal will be of significant benefit in terms of boosting the local housing supply including the provision of affordable housing in what is a sustainable location where there is good access to services and facilities in both the village of Morda and the wider Oswestry area. Oswestry will continue to expand its employment opportunities through the considerable allocations as part of the emerging SAMDev, as such additional dwellings would help to support new businesses both as employees and consumers which will provide economic growth for the area. Accordingly, it is considered on balance that the benefits of the scheme is not demonstrably outweighed by the harm cause and that the proposal complies with policies CS6 and CS11 of the Core Strategy and the requirements of the National Planning Policy Framework.

## 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. BACKGROUND

### 10.1 Relevant Planning Policies

Central Government Guidance:

NPPF

Planning Practice Guidance

Core Strategy and Saved Policies:

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

## 11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Joyce Barrow
Appendices APPENDIX 1 - Conditions



## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Details of the 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 2(1) of the Town and Country Planning (Development Management Procedure) Order 2010 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. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The number of units

The means of enclosure of the site

The levels of the site

The drainage of the site

The finished floor levels

Full arboricultural Impact Assessment to BS5837:2012 standards

Tree survey in accordance with The Bat Conservation Trust's Bat Surveys Good Practice Guidelines

Reason: To ensure the development is of an appropriate standard.

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development approved by this permission shall commence until the applicant, or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Local Planning Authority prior to the commencement of works.

Reason: The development site is known to hold archaeological interest.

6. No development shall take place until details of the design and construction of any new roads, footways, accesses together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

7. 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 ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

8. All of the proposed dwellings and their garden areas shall be located outside of flood zone 2 and 3 as defined on the Strategic Flood Risk maps.

Reason: To ensure that development is located away from areas at risk of flooding and that people and property are protected.

9. The proposed access/ estate road shall be a continuous vehicular route and shall run the full length of the site between Kingfisher Way and Weston Road. All dwellings on the site must be able to access this route and leave the site in either direction for the lifetime of the development.

Reason: To ensure that in a flood event all dwellings are able to have an alternative safe access and egress route.