

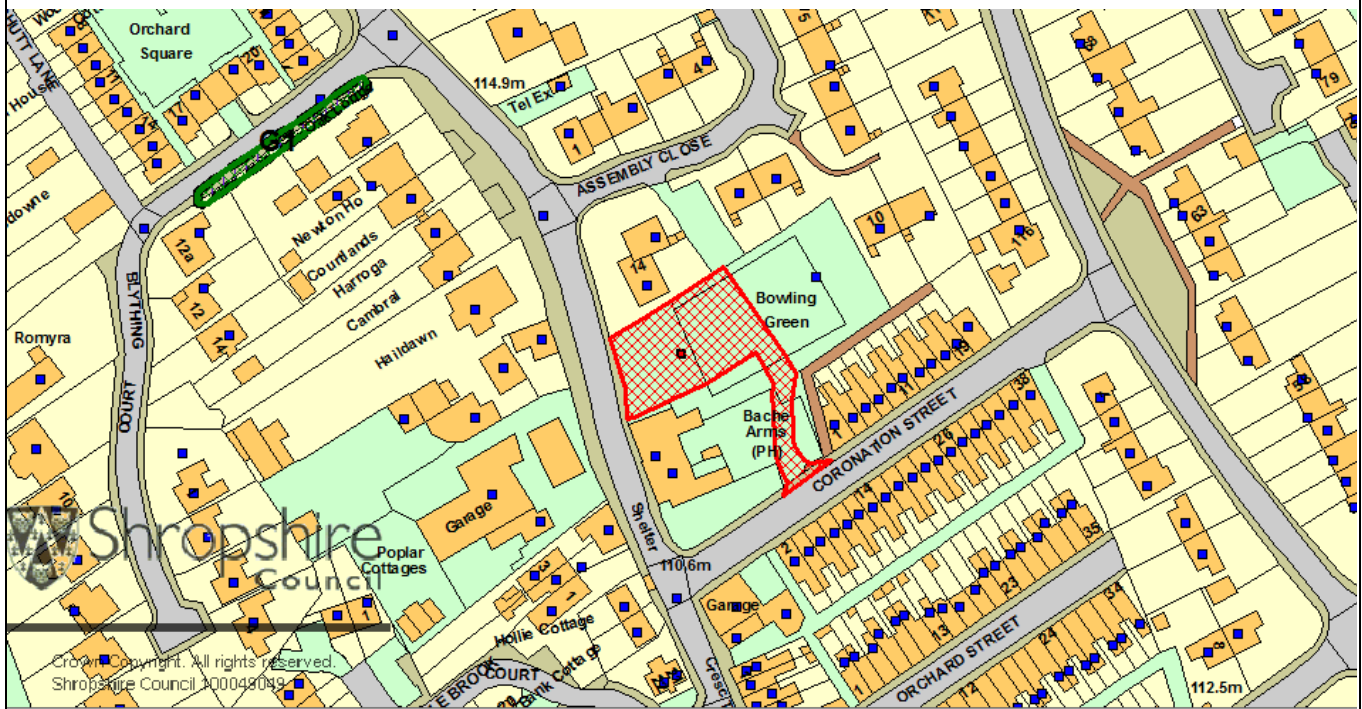
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 21/04561/FUL	Parish:	Highley
Proposal: Erection of 2no detached dwellings		
Site Address: Proposed Residential Development Land North Of Bache Arms Off Coronation Street Highley Shropshire		
Applicant: Simmonds		
Case Officer: Sara Jones	email	: sara.jones@shropshire.gov.uk

Grid Ref: 374088 - 283641



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Recommendation:- Refuse.

Recommended Reason for refusal

1. The loss of the Bache Arms PH garden would result in erosion of this existing community facility, with no equivalent or improved provision secured and it has not been demonstrated sufficiently that this loss would not undermine the viability of the Bache Arms PH. As such the proposal would conflict with the requirements of Policy CS6 and CS8 of the Core Strategy and paragraph 84 of the NPPF with regards to the retention of community facilities as part of a prosperous rural economy, as PH's in rural areas.

2. Whilst it is acknowledged that the development would be constructed under modern construction regulations, insufficient information has been submitted with this application to demonstrate that the proposed dwellings in such proximity to the Bache Arms PH would provide acceptable accommodation and that the development be appropriate for its location. Furthermore, neither has it been demonstrated that the development would not lead to noise complaints which may in turn place unreasonable restrictions on the established PH business which may harm the viability of the PH. As such the proposal would be contrary to the requirements of Policy CS6, and para.185 and 187 of the NPPF.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the erection of two detached four bedroomed two storey dwellings on land which is currently used as a beer garden associated with the adjoining Bache Arms Public House. The dwellings have been designed to have a traditional appearance including decorative motifs on the front gable and traditional fenestration and materials. They would also have a similar design to the terraced dwellings which are currently under construction on the adjacent site (approved under application 20/02493/FUL).

1.2 The dwellings have been positioned opposite the terraced dwellings mentioned above and would face into the new cul-de-sac currently under construction off Coronation Street. Access to the public highway would therefore be via the shared driveway approved under planning permission 20/02493/FUL.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is located within the village of Highley, a hub settlement approximately 10 kilometres to the south of Bridgnorth. The site lies within the conservation area and The Bache Arms public house building to the south. The roadside boundary with the B4555 is delineated by an established hedgerow to the east and likewise the boundary with the neighbouring established residential development of semi-detached bungalows, is delineated to the north by a hedgerow. The site to the west is adjoined by a new residential development

which is currently under construction (20/02493/FUL refers). The existing established residential development to the south takes the form of traditional long narrow fronted terraced dwellings (Coronation Street).

- 2.2 The site is relatively flat, stepping up from the Bache Arms building to the *** and is currently used as the public house garden and contains a number of benches which are utilised by patrons of the PH. The perimeter of the pub garden is delineated by a mature hedgerow

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Parish Council view and Local Ward Members view is contrary to the officer recommendation. The application was reported to the 17th February 2022 Agenda Setting Meeting taken by the Chair and Vice Chair of the Planning Committee where it was determined that: the application raised issues which warrant determination by the Planning Committee.

4.0 Community Representations

Consultee Comment

- 4.1 **Highley Parish Council** – No objections.

- 4.2 **SC Conservation** – No objections, recommend conditions.

Comments:-

It is noted that this proposal follows that of 20/02493/FUL that was granted planning permission. This proposal has been subject to some pre-application discussion as part of the ongoing development of the 2020 scheme in order to create a courtyard mews. This unfortunately would mean that the new dwellings would effectively back onto the principal High Street. However, having considered and consulted the proposed 3D visuals, there shall be a hedgerow that should provide a good degree of screening to that of the rear elevations, where overall it is considered that this would not be overly visually detrimental to both the character and appearance of the conservation area, along with the non-designated heritage asset adjacent, where the buildings should be read as being recessive, being set back within the existing plot.

There is no principle objection to the proposed traditional design of the two dwellings that reflect the architectural language of the 2020 scheme, where it is recommended that conditions are attached with regards to appropriate materials and finishes etc.

- 4.3 **SC Highways** - No Objection – subject to the development being constructed in accordance with the submitted details, accompanying this planning application, and the recommended highway related informatives.

- 4.4 **SC Ecology** – Follow standing advice.
- 4.5 **SC Trees** – No objection, recommend conditions.
- 4.6 **SC Regulatory Services** - Given the very close proximity of the proposed dwellings to a public house which is licensed for the sale of alcohol and the performance of live and amplified music until 1am I have concerns with respect to noise impact upon future residents from activities at the public house, and a possible conflict of use. Recommend that suitable weight is given to these matters in making a decision on the application.
- 4.7 **SC Affordable Housing** – No objection. The proposed development falls below the threshold by which the Local Planning Authority are able to require a contribution towards affordable housing.
- 4.8 **Coal Authority** – The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted or for The Coal Authority to be consulted
- 4.9 **Sport England** – The proposed development does not fall within either our statutory remit or non-statutory remit therefore Sport England has not provided a detailed response in this case – recommends guidance.
- 4.10 **Public Comments**
Advertised and Site Notice displayed. No representations received.

5.0 THE MAIN ISSUES

Principle of development
Loss of the “Beer Garden”/Viability of the Public House
Residential Amenity
Character/Visual Amenity/Historic Environment
Highway Safety
Natural Environment
Drainage

6.0 OFFICER APPRAISAL

- 6.1 Principle of development
- 6.1.1 The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development, and notes that applications for planning permission must be determined in accordance with the Development Plan, unless 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 development plan comprises of the Shropshire Local Development Framework Adopted Core Strategy 2011(Core Strategy) and the Site allocation and Management of Development Plan (SAMDev) adopted 2015.
- 6.1.3 A key objective of both national and local planning policies is to concentrate new residential development in ‘sustainable’ locations which are easily accessible and which offer a range of services and community facilities.
- 6.1.4 Core Strategy Policies CS1, CS3, CS4, and CS11 seek to locate new housing on sites within and adjoining market towns, ‘key centres’ and other settlements (‘Community Hubs and Clusters’) as identified in the Site Allocations and Management of Development (SAMDev) plan. Highley is identified as a key centre and is seen as the focus for the development of services and facilities for the wider hinterland with balanced housing and employment growth. The application site is within the settlements development boundary as identified in Policy S9 of the SAMDev and thus is acceptable in principle.
- 6.2 Loss of the “Beer Garden”/Viability of the Public House
- 6.2.1 The site is currently used as outside space in connection with the Bache Arms Public House (PH). The proposal therefore falls to be assessed against, amongst other things, Policy CS8 of the Shropshire Local Development Framework Core Strategy (adopted 2011) (CS). This seeks, amongst other things, to protect and enhance existing facilities, services and amenities that contribute to the quality of life of residents and visitors. Policy CS6 of the CS is also relevant and stipulates, amongst other things, that the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision or it can be clearly demonstrated that the existing facility is not viable over the long term.
- 6.2.2 During the course of the application the Officer raised concerns that, in the light of the fact that outdoor spaces have been a key benefit to hospitality businesses during the Covid pandemic, the loss of the outside space associated with the PH would impact adversely on the viability of the PH. The applicant was requested to advise why the PH garden was no longer needed to support the business. In response to this concern the applicant advised that the land subject of this application was sold off to ensure its short-term viability and is no longer in the ownership of the PH, and as such should not be used by the Bache Arms moving forwards. Whilst the land ownership may have changed its authorised used, in planning terms, is as amenity space associated with the PH. The proposed development would erode the facilities at the PH site through the permanent loss of the ability to use outdoor space and as such would not offer improved provision at the PH as an existing community facility. The loss of the outside space would reduce the options to operate the community facility and no viability evidence has been provided with this application which would demonstrate that this erosion of facilities would not harm the viability of the PH as a community facility.
- 6.2.3 It is acknowledged that there are two other PH’s in the area, The Ship Inn which

is located outside of Highley, close to the Highley Severn Valley Railway Station, some 1.50 km from the centre of the settlement and the Malt Shovel PH which is located on the edge of the settlement some 1.42 km to the north. The Bache Arms PH is the only PH within the High Street settlement centre.

- 6.2.4 The loss of the PH garden would result in erosion of this existing community facility, with no equivalent or improved provision secured and it has not been demonstrated sufficiently that this loss would not undermine the viability of the PH. As such the proposal would conflict with the requirements of Policy CS6 and CS8 of the Core Strategy. The proposal would also be contrary to the NPPF with regards to the retention of community facilities as part of a prosperous rural economy, as PH's in rural areas.
- 6.3 Residential Amenity
- 6.3.1 CS6 of the Core Strategy and Policy MD2 of the SAMDev Plan indicate that the development should not unacceptably impact on the amenity rightfully expected to be enjoyed by occupiers of neighbouring properties. The Councils policies also require new development to provide acceptable living standards for the occupants of dwellings, in terms of the internal size of living accommodation and the provision of external private amenity space. Developments must not provide cramped accommodation and minimal outside amenity space. It is also important to ensure such developments do not have unacceptable consequences for neighbours, such as overshadowing or loss of privacy.
- 6.3.2 The dwellings have been positioned to the rear of the plot fronting onto the cul-de-sac currently under construction and close to the side elevation of the PH building. As such it is considered that the development would not have an undue impact on the amenities enjoyed by the occupiers of the adjoining bungalows to the north.
- 6.3.3 Officers have assessed the information submitted and consider that the site is sufficient in size to provide adequate outdoor amenity space and parking provision for the size of accommodation proposed. However, concern has been raised by SC Regulatory Services respect to the very close proximity of the proposed dwellings to a public house which is licensed for the sale of alcohol and the performance of live and amplified music until 1am, with respect to noise impact upon future residents from activities at the public house, and a possible conflict of use. Accordingly, this was raised with the applicants who responded that the proposed dwellings would be constructed to modern living standards and as such would benefit from significant sound proofing and that the siting would ensure adequate amenity. In addition, the applicant states that this issue was not raised with respect to the previous planning application for residential development of the land currently under construction. With respect to the development currently under construction the dwellings are not positioned in such close proximity as proposed in this current application. Whilst it is acknowledged that the development would be constructed under modern construction regulations, insufficient information has been submitted at the time of writing this report to demonstrate that the proposed dwellings in such proximity to the PH

would provide acceptable accommodation and that the development be appropriate for its location. Furthermore, neither has it been demonstrated that the development would not lead to noise complaints which may in turn place unreasonable restrictions on the established PH business which may harm the viability of the PH. As such it is considered that the proposal would be contrary to para.185 and 187 of the NPPF

6.4 Character/Visual Amenity/Historic Environment

- 6.4.1 The National Planning Policy Framework (NPPF) at section 12 places an emphasis on achieving good design in development schemes. It cautions at paragraph 130 that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). It adds that developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Furthermore para. 134 states that *Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.*
- 6.4.2 The themes of the NPPF are reflected in Shropshire Core Strategy policy CS6 which seeks to secure development that is appropriate in scale, density, pattern and design taking into account the local context and character. It also seeks to secure adaptable, safe and accessible developments. Policy CS17 requires that developments should not adversely affect the visual, ecological, geological, heritage or recreational values of Shropshire's natural, built and historic environment. SAMDev Plan policies MD2 relating to sustainable design and MD12 in respect of the natural environment give further guidance on meeting these objectives.
- 6.4.3 The themes of the NPPF are reflected in Shropshire Core Strategy policy CS6 seeks to secure development that is appropriate in scale, density, pattern and design taking into account the local context and character. It also seeks to secure adaptable, safe and accessible developments. Policy CS17 requires that developments should not adversely affect the visual, ecological, geological, heritage or recreational values of Shropshire's natural, built and historic environment. SAMDev Plan policies MD2 relating to sustainable design and MD12 in respect of the natural environment give further guidance on meeting these objectives.
- 6.4.4 Paragraph 189 of Part 16 'Conserving and enhancing the historic environment' of the NPPF recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. In accordance with Paragraph 197, Local Planning Authorities should take into account:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to

sustainable communities including their economic vitality; and
c) the desirability of new development making a positive contribution to local character and distinctiveness.

- 6.4.5 NPPF paragraph 194 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. The significance of a heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 6.4.6 In this case the applicant has submitted a Heritage Statement (HIA) which concludes that the development would not harm the significance of the Heritage Asset i.e. the Conservation Area.
- 6.4.7 The SC Conservation Officer has been consulted on the application and had dialog with the applicant prior to the application being submitted. The SC Conservation Officer identifies that the proposal affects a site that lies within the Highley Conservation Area and adjacent Bache Arms which is a non-designated heritage asset as defined under Annex 2 of the NPPF. According to the historic mapping Bache Inn was historically known New Inn, where they seemed to be a degree of separation between the rear curtilage of the public house and the Bowling Green, where this starts to be shown on the 1962 map.
- 6.4.8 It is noted that this proposal follows that of 20/02493/FUL that was granted planning permission and has been the subject to some pre-application discussion with the Conservation Officer as part of the ongoing development of the 2020 scheme in order to create a courtyard mews. This unfortunately means that the new dwellings would effectively back onto the principal High Street. It is considered however that the retention of the hedgerow that should provide a good degree of screening to that of the rear elevations, and overall the SC Conservation Officer advises that the proposed development would not be overly visually detrimental to both the character and appearance of the conservation area, along with the non-designated heritage asset adjacent, where the buildings would be read as being recessive, being set back within the existing plot.
- 6.4.9 Turning to the design of the dwellings. The traditional design of the proposed dwellings would reflect the architectural language of the adjacent development under construction and is considered acceptable in the context of the site.
- 6.5 Highway Safety
- 6.5.1 The NPPF, at section 9, seeks to promote sustainable transport. At paragraph 110 – 111 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 6.5.2 Furthermore, Core Strategy policy CS6 requires all development to be safe and accessible to all and have appropriate parking. It seeks to achieve safe development and that the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated.
- 6.5.3 Shropshire Council has not set local parking standards for residential and non-residential development. At paragraph 3.15 of the SAMDev Plan, which is part of the explanation to policy MD2 (Sustainable Design), it states that developments must be designed so as to not result in an unacceptable adverse impact on local infrastructure and gives as an example that adequate on-site parking should be incorporated within a development site to ensure that cars do not overspill onto surrounding roads and thereby negatively impact on the local road network and residential amenity.
- 6.5.3 The scheme proposes the utilisation of the access arrangements previously approved under application 20/02493/FUL, with the provision of two parking spaces per dwelling currently proposed and indicates that the remaining PH site could accommodate the provision of 11 parking spaces, however it is noted that this land lies outside the application site and is shown on the approved scheme currently under construction (20/02493/FUL) to include in part a small area of soft landscaping (see section 6.6 below). SC Highways team has been consulted on this application and raises no objection.
- 6.5.4 On balance, given the planning history, the scale of the development and its location within the settlement it is considered that adequate on-site parking is proposed.
- 6.6 Natural Environment
- 6.6.1 The development of this site does not raise any significant ecology issues. As such the application can, in relation to ecology considerations, be considered to be compliant with relevant development plan policy set out in Core Strategy Policy CS17, SAMDev Policy MD12 and Part 15 of the NPPF.
- 6.6.2 SAMDev policy MD2 acknowledges that effective landscape design is key to high quality sustainable development and focuses not only on how a development looks but also how it functions including its relationship to the wider area.
- 6.6.3 It is noted that the proposed development would lead to the loss of an area which was identified in the development currently under construction as an area of soft landscape, as this area is shown as becoming part of the car parking provision for the PH. The approved plans for under planning permission 20/02493/FUL show that this area of soft landscape was to be planted with a variety of shrubs and two trees (a *Malus hupehensis* and a *Prunus sargentii*). Should planning permission be granted it is recommended that the area of landscaping to be lost should be replaced within the current proposals, at least so far as the two trees to be planted are concerned. Ideally these trees should be planted in communal space rather than within private gardens. SC Tree Officer recommends that

should insufficient rooting volume be available in soft, open ground to sustain the planted trees to maturity, then special planting pit designs will be required, utilising subterranean soil cells or similar load bearing structure under a porous hard surface dressing .

6.6.4 The SC Tree Officer also supports the retention of the existing hedgerow (and by extension the trees contained within it) along the northern site boundary with neighbouring residential properties and recommends appropriate conditions, should planning permission be granted to ensure that the development, particularly the hammerhead turning area, parking spaces off it and the dwelling identified as Unit 1 does not cause damage to the roots and above ground parts of the hedge and trees.

6.7 Drainage

6.7.1 The application form states that proposed drainage to serve the development is via the mains sewer for foul drainage and via soakaway for the proposed surface water drainage. No details have been submitted with regards to drainage and the Council's Drainage Engineer has requested that a sustainable drainage scheme is designed and constructed for the disposal of surface water, in accordance with the Council's Surface Water Management: Interim Guidance for Developers document. This can be the subject of later approval via a suitable condition should planning permission be granted.

6.8 Other Issues

6.8.1 The Coal Authority have confirmed that the application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area. This means that there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted. In accordance with the agreed approach to assessing coal mining risks as part of the development management process, The Coal Authority's Standing Advice is recommended to be attached to any grant of planning permission as an informative note to the applicant in the interests of public health and safety.

7.0 CONCLUSION

7.1 The proposed housing would provide some social and economic benefits. However, given the scale of the development the benefits and weight that can be afforded to these benefits in this case would be small.

7.2 The loss of the PH garden would result in erosion of this existing community facility, with no equivalent or improved provision secured and it has not been demonstrated sufficiently that this loss would not undermine the viability of the PH. As such the proposal would conflict with the requirements of Policy CS6 and CS8 of the Core Strategy and paragraph 84 of the NPPF with regards to the retention of community facilities as part of a prosperous rural economy, as PH's in rural areas.

- 7.3 Whilst it is acknowledged that the development would be constructed under modern construction regulations, insufficient information has been submitted with this application to demonstrate that the proposed dwellings in such proximity to the PH would provide acceptable accommodation and that the development be appropriate for its location. Furthermore, neither has it been demonstrated that the development would not lead to noise complaints which may in turn place unreasonable restrictions on the established PH business which may harm the viability of the PH. As such the proposal would be contrary to the requirements of Policy CS6, and para.185 and 187 of the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

National Planning Practice Guidance

Core Strategy and Site Allocations and Management of Development (SAMDev) Plan:

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S9 - Highley

SPD Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

12/00853/OUT Application for outline approval (access, appearance, layout and scale not reserved) for the erection of 4 dwellings with associated parking; construction of access; construction of one-metre-high retaining wall and boundary treatments GRANT 18th June 2014

17/02688/REM Approval of reserved matters (landscaping for consideration) pursuant to 12/00853/OUT for the erection of four dwellings GRANT 10th August 2017

17/05453/VRW106 Variation of Section 106 for planning application number 17/02688/REM to reduce the level of affordable housing contribution NOOBJC 25th February 2019

20/02493/FUL Erection of four terraced properties; formation of car parking area and on-site driveway. Granted 28th October 2020.

22/00377/FUL Conversion of existing first-floor apartment and function rooms to form 3No. apartments. Pending consideration.

11. Additional Information

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

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
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Cabinet Member (Portfolio Holder) Councillor Ed Potter

Local Member

Cllr Dave Tremellen

Appendices
