

## Development Management Report

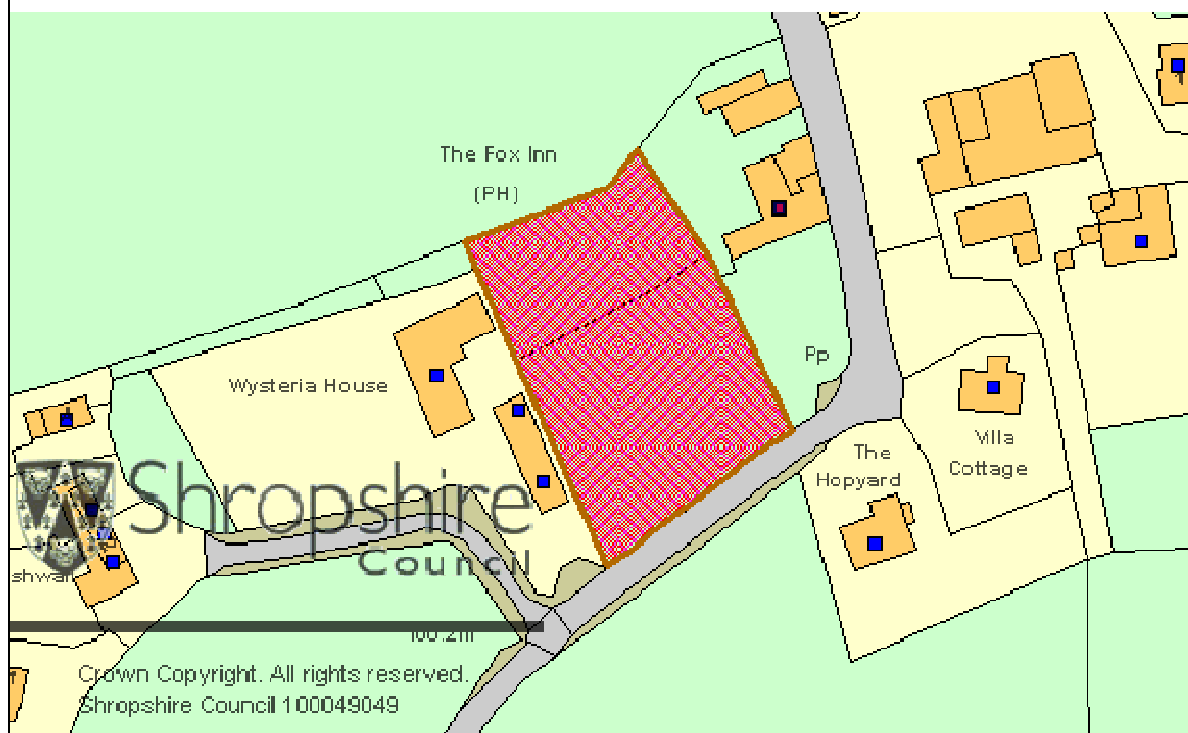
Responsible Officer: Tim Rogers

email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

<b>Application Number:</b> 14/00701/FUL	<b>Parish:</b>	Condover
<b>Proposal:</b> Erection of six residential dwellings		
<b>Site Address:</b> The Fox Inn Ryton Shrewsbury Shropshire SY5 7LS		
<b>Applicant:</b> Mr John Owen		
<b>Case Officer:</b> Steve Drury	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 349000 - 303176



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application seeks permission for the erection of 6 dwellings on land at The Fox Inn, Little Ryton.
- 1.2 The development will consist of 4 no. two bed dwellings and 2 no. three bed dwellings. Each dwelling will have a single parking space and both 3 bed dwellings will also contain attached garages. The site will be accessed via a new vehicular access to be provided through the existing public house car park.
- 1.3 The proposal includes the provision of one affordable dwelling.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is located in the settlement of Little Ryton, approximately 9 km south of Shrewsbury and 1 km east of Dorrington. It is located at the southern edge of the village on land between The Fox Inn Public House and Wysteria House. In total, the site covers an area of approximately 1750 square metres.
- 2.2 The site currently consists of an overspill car park belonging to The Fox Inn. The car park is located immediately to the west of the public house on slightly lower ground and is surfaced in a mixture of gravel and hardcore at the front with a grassed area to the rear. A tall Leylandii hedge runs along the west side of the site, and a smaller hedge runs along the south boundary frontage, separating the site from the road. The rear (North) of the site contains an open drainage running along the inside of the boundary which contains a 1 metre high post and rail fence.
- 2.3 The Fox Inn is an attractive, two storey building of red brick construction which contains its main car park to the front of the premises. The villages of Little Ryton and Great Ryton are historic settlements of considerable charm and character and contain a number of listed buildings. Properties to east and south of the site include Ryton Villa Farm, Villa Cottage and The Hopyard which each occupy fairly raised positions in relation to the development site. Land to the west of the site has recently been developed to provide a new residential dwelling 'Wisteria House' and 2 holiday lets. The holiday lets are contained within a single storey building located in close proximity to the western site boundary. Further to the west, are No's 1 to 4 Marshwall Cottages, which are a cluster of 4 properties located downhill from the development site.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 In accordance with Part 8 of the Shropshire Councils Scheme of Delegation, the application has been requested to be referred to Central Planning Committee by the local member for the Burnell ward, in response to an objection from Condover Parish Council.

**4.0 COMMUNITY REPRESENTATIONS**

## 4.1 Consultee Comments

4.1.1 SC Highways:

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

4.1.2 SC Ecology:

Raise no objection subject to addition of conditions and informatives relating to Great Crested Newts, Bats and Nesting Birds.

4.1.3 SC Affordable Housing:

The current affordable housing contribution rate is 15% which for 6 dwellings would result in a contribution equivalent to 0.9 (6 x 15%). As this level is less than a whole unit, it would be translated into a cash sum paid by the developer as an off-site Affordable Housing Contribution. However, the applicant has indicated his intention to provide one of the dwellings as an affordable dwelling. This intention is welcomed. The intended affordable dwelling should be of an affordable rented tenure which should be reflected in the S106 if this proposal is deemed to be acceptable.

4.1.4 Condover Parich Council: Object

In principle the Parish Council cannot support the application as it contravenes the Parish Council's SAMDev submission; which classed Ryton as Countryside as per the CS5 policy.

The Parish Council and Community trust that Shropshire Council will give significant weight to the Parish Council's SAMDev submission. The submission was arrived at through extensive public consultation which began in 2010 and has involved many public meetings since. These have been well attended by its Community; and supported by SC planning officers; SC councillors and parish councillors. This represents a belief in "Localism"; planning from the bottom up and a huge investment in people's time, and resource which should not be overlooked. The Parish Council trusts these comments will be considered before a planning decision is made. Should the Planning Officer be minded to recommend approval of this application the Parish Council would like to recommend that the application be referred to the Central Planning Committee and that the Parish Council is given the opportunity to address the Committee.

Please note that these comments have been made subject to an appropriate drainage report being deposited with Shropshire Council by the applicant, as the Parish Council is aware that there are significant local drainage concerns

4.1.5 Environment Agency:

Confirm that the application does not appear to require direct consultation with the EA as it does not fall within their 'consultation filter'. They recommend consultation with the Lead Local Flood Authority (LLFA) i.e. the Council's Flood and Water Management Team in relation to surface water flood risk matters. With regards to any foul drainage matters, it is advised that you seek the completion of the 'Foul Drainage Assessment Form' for your consideration (as enclosed).

In addition, the following comments have been received:

We understand that the underground strata has a high water table and is therefore unsuitable for foul treatment via septic tank to soakaway. The proposal is to treat the foul via package treatment plant discharging to a watercourse. We would raise concern that the nearest watercourse has very little flow and would offer little dilution for the effluent.

This watercourse also receives treated sewage effluent at grid reference SJ 48913 03158 at a volume of 1.3 m<sup>3</sup>/d, which should be taken into account when assessing the available dilution.

It is not clear, from our files, how the foul drainage from the Fox Inn is treated. My colleagues here, understood that the foul from the pub was treated via soakaway in the car park area (the area proposed for development).

Please can you ensure that the foul drainage system is given consideration and meets satisfactory standards so that there is no pollution of the watercourse.

#### 4.1.6 SC Drainage:

On the ground water flooding map, the site is in the moderate to high risk of groundwater flooding. During the percolation tests, the depth of the groundwater level should be recorded.

If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system.

Full details, plan and sizing of the proposed package sewage treatment plant including percolation tests for the drainage fields should be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form).

Consent or an exemption certificate is required as appropriate from the Environment Agency for discharging treated foul effluent into a ditch/ watercourse. However, if the ditch/ watercourse is occasionally dry, the treated foul effluent should discharge into a drainage field.

Following the submission of a detailed drainage scheme, which included provisions for both surface water and foul drainage, the Councils Drainage team confirmed that the submitted details were considered acceptable.

## 4.2 Public Comments

4.2.1 A total of 79 comments (44 support, 35 objections) have been received from mixture of local residents and some from further afield. All comments received are available in full on the planning file, however, the key comments have been summarised as follows: -

### 4.2.2 Support

- There is a need for this type of development in Ryton
- No affordable dwellings at present in Ryton
- The building of permanent housing will also help support the new Ryton village hall, bus service, local schools and post office not forgetting The Fox Inn

- Unobtrusive location close to an existing holiday let and house
- Site is shielded from view by a high hedge
- Lower car park rarely has vehicles on it
- Will include an affordable dwelling which will lower the average age of villagers
- Pleasing to see homes rather than holiday lets
- Will also provide the opportunity for older people to downsize from their current homes in order to stay in the village.

#### 4.2.3 Objections:

- will undermine the viability of the pub through lack of parking
- road network cannot accommodate additional traffic
- little in way of infrastructure within the village to support the extra homes
- Conover Parish Council expressed a desire for Ryton to remain as open countryside within SAMDev submission.
- Expansion must be commensurate with infrastructure
- Impact upon properties at Marshwall from surface water and foul drainage
- Extra traffic will put pressure on narrow lanes
- Will place additional pressure on existing drainage system
- Too much development at one time
- Any further surface water or clean water from a foul treatment plant will significantly increase the potential for flood risk and flooding to the existing properties downstream
- Will overlook holiday lets at Wisteria Cottage
- Boundary hedge already prevents light getting to cottage
- Pub has enormous potential and needs both car parks
- Pub is an important community facility
- Style of houses is more suited for an urban location
- Will restrict opportunities for pub to utilise outdoor space to provide marquees for functions, childrens play areas, etc.
- Lack of public transport within the village
- Any proposed benefit at construction stage would be very short term

#### 4.2.4 Comments have also been received from Woodsyde Developments Limited on behalf of residents in Marshwall in respect of drainage matters on the site. The letter is available in full on the file but the contents have been summarised as follows: -

- Soakaways do not work on site – ground has insufficient porosity
- Surface water and foul drainage currently flow unrestricted into an open drainage ditch
- The ditch drains to a small tributary of Cound Brook via a 100mm diameter pipe running under farmland at a gradient of 1 in 150 and has a capacity of no more than 14 litres per second
- In all likelihood, this drain is over capacity as it is served by No's 1-4 Marshwall, Wisteria Holiday Cottage and The Fox Inn, together with surface water from land/fields either side,
- The existing system is significantly overloaded and not capable of receiving any further surface water run off or discharge from any further proposed development.
- Any further contributions to the ditch will increase the potential for flood risk at existing properties downstream.

- The EA require foul drainage to discharge into a watercourse not a ditch which is likely to be dry in summer months and could lead to odour issues.

4.2.5 Following the submission of a detailed drainage scheme, further comments have been received from Woodsyde Developments Ltd which are available in full on the file but summarised as follows:-

- Querying maximum rainfall rates used
- Querying surface water discharge rates and betterment levels for brownfield land
- Drawings are confusing and inaccurate – reference to stream and watercourse along north boundary are incorrect.
- Ditch has now been excavated without relevant consent
- Plan suggests use of permeable paving but no details of ability of subsoil to accommodate water has been provided
- Porosity tests were carried out in 2009 are not up to date
- No details of the proposed sewage treatment plan have been submitted,
- STP should discharge to a watercourse but one is not available in the vicinity,
- A number of items appear inaccurately reported and/or calculated.
- Unclear whether the site has the ability to use soakaways and permeable surfaces.
- An alternative arrangement should therefore be sought and accurate details and proposals should be submitted by the applicant to the Council's Drainage Engineer for further consideration.

## 5.0 THE MAIN ISSUES

Principle of Development  
Siting, Scale and Design  
Impact Upon Residential Amenity  
Flooding and Drainage  
Highways and Parking  
Viability of Public House  
Biodiversity Issues  
Affordable Housing

## 6.0 OFFICER APPRAISAL

6.1 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 Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight.

6.1.2 At paragraph 12 the National Planning Policy Framework (NPPF) states that proposed development that accords with an up-to-date Local Plan should be approved, and development that conflicts should be refused unless other material considerations indicate otherwise. There is a presumption in favour of sustainable development and at paragraph 14 the NPPF it explains that for decision taking this means that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted for development unless

1) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or

2) specific policies in the NPPF indicate that development should be restricted.

6.1.3 With regards to housing development paragraph 49 of the NPPF is relevant and states that:

‘Housing applications should be considered in the context of the presumption in favour of sustainable development’.

and that

‘Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’

6.1.4 The five year housing land supply statement (amended version 20/09/2013) sets out Shropshire Council’s assessment of its supply of housing land over the next five years. On this basis, the Statement shows a supply of only 4.95 years for Shropshire. Whilst this is the case the starting point for consideration of housing proposals will remain with the Development Plan but these current applications should still be determined in the context of the NPPF’s presumption in favour of sustainable development and its aim of boosting housing supply.

6.1.5 The application site in this case is located in the settlement of Little Ryton which has not come forward as a ‘Community Hub’ or ‘Community Cluster’ within SAMDev and is therefore classed as ‘open countryside in planning policy terms, with Policy CS5 of the Core Strategy applying.

6.1.6 Notwithstanding the above, in the absence of a five year land supply, proposals must be assessed in the context of the NPPF as outlined above. As such the key factor in determining this application is the assessment of whether the proposal would represent sustainable development and whether the adverse impacts of granting permission would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

6.1.7 The village of Ryton (comprising the settlements of Little Ryton and Great Ryton but which are effectively one settlement for the purposes of planning policy) is a close knit community comprising a mixture of traditional rural properties including a number of listed buildings, interspersed with pockets of more recent development. In terms of local services and facilities, the village contains The Fox Inn public house, a church and a village hall, and is also served by public transport, being located on the bus route between Shrewsbury, Church Stretton and Ludlow. The village is, however, within fairly close proximity (1km) to the village of Dorrington which has a greater range of services available including a primary school, village shop/post office, pub/restaurant, Persian restaurant, business park, butchers, bowling green and football pitch.

6.1.8 Although Ryton only has very limited service provision itself, the village of Dorrington, which is only a short distance away, can be seen to contain a wide range of services. Paragraph 55 of the NPPF advises that

‘housing should be located where it will enhance and maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby’.

6.1.9 In this instance, whilst the services available within Dorrington may not necessarily be within walking distance, they are nevertheless considered to be easily accessible to residents within Ryton. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance on long journeys by private motor car.

6.1.10 However ‘sustainable development’ isn’t solely about accessibility and proximity to essential services but the NPPF states that it is ‘about positive growth – making economic, environmental and social progress for this and future generations’. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and
- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

6.1.11 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide opportunity for local employment for the construction phase of the development supporting local builders and building suppliers. The provision of six additional houses will also support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

6.1.12 Social role – Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in



smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. Additional housing will provide opportunity for increased support and use of existing village services and may even provide an increased demand for further service provision. It is not considered that the number of dwellings proposed would be detrimental to the existing community of the village and Parish. The CIL payable on such a scheme will provide some contribution towards community facilities which may include school place provision.

6.1.13 Environmental role – The site consists of an overflow car park at The Fox Inn and has no official heritage, cultural or ecological designation. The proposal would have no adverse impact on wildlife and the ecological value of the site could potentially be improved by conditions requiring the provision of artificial bird nests. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport.

6.1.14 Any adverse impacts of the proposed housing development that might significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole will be discussed in the following paragraphs below. The proposal will also need to accord with Policies CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy.

## 6.2 Siting, Scale and Design

### 6.2.1 Siting:

The proposed development will be sited on land forming an overflow car park at The Fox Inn public house. The site is located on the southern fringe of the village but is effectively an infill site between the pub and Wisteria House, a recent residential development including a holiday let to the west of the site. As such, the proposal will not result in encroachment into the open countryside.

### 6.2.2 Layout:

The development will be laid out in two blocks of 3 terraced dwellings, one running parallel with the west side boundary and one running parallel with the north boundary. Each dwelling will have an allocated parking space and small gardens to the front and rear. The two end properties in the north terrace will also contain attached garages. It is considered that the site is of a size capable of accommodating the number of dwellings proposed without appearing cramped or overdeveloped. The proposal indicates a acceptable amount of amenity space for each dwelling and landscaping to the front of the dwellings will ensure that the development has a sensitive appearance which respects the character of the village.

### 6.2.3 Scale and Design:

The proposed dwellings will be two storey, but will contain a low-lying roof structure, with low eaves and dormer windows at first floor level, in order to replicate the scale and appearance of more traditional rural cottages, a number of which are found in the Ryton area. The lower roof structure also helps to reduce the of the dwellings, thus reducing their profile and scale, which will also help to

minimise any potential impact upon the adjacent holiday let at Wisteria Cottage (see next section).

6.2.4 The proposed dwellings will be of a high quality design, containing features such as chimneys, detailed brick headers above the windows, exposed eaves, overhanging porch roofs and dormer windows. Such features will ensure that the development respects the character and appearance of the surrounding area in accordance with Policy CS6. Whilst officers note concerns have been raised by local residents regarding the 'urban' style design of the dwellings, officers consider that the design is suitable for a rural location. Materials can be conditioned as part of any planning approval.

6.2.5 Visual Impact:

The site is separated from the highway by a post and rail fence and hedge which is not within the applicants ownership. This boundary hedge along the front of the site will therefore remain in place, providing an appropriate rural site frontage which will help to soften the appearance of the development when viewed from the highway. The site will also be screened by a large, 3 metre high Leylandi hedge which runs along the west site boundary and will help to screen the site from views on approach to the village from the south west and also from nearby properties including Marshwall Cottages and Wisteria Cottage.

6.2.6 As a result of the fact that the site is considered to be infill and is enclosed by on either side by buildings, and a substantial hedge along the west side boundary, it is considered that any visual impact the surrounding landscape is likely to be negligible. The development will clearly be visible from the adjacent public house and upon passing the front of the site, however as noted above, the dwellings have been sensitively designed and will constitute a sympathetic addition to the site which will respect the context of the site and character of the surrounding area.

6.3 Impact Upon Residential Amenity

6.3.1 In terms of the impact upon neighbours, it is considered that the greatest impact is likely to be experienced by the owner of Wisteria Cottage located on land to the west of the site. Wisteria Cottage is a recent development comprising a residential dwelling situated to the rear of the plot and two holiday lets contained within a single storey building, situated 1 metre from the side boundary with the application site. Wisteria Cottage itself will be separated from the proposal by a minimum distance of 7.8m (garage to garage) although it is noted that the main part of that dwelling (which faces east and will overlook the development site) is separated by a distance of 17.2m to the side elevation of the proposed rear terrace. Whilst one first floor window is to be inserted in the side of the terraces, a condition can be added requiring this window to be obscure glazed. In terms of relationship between the buildings, the 17.2 metre distance is considered sufficient separation to ensure that residential amenities of the occupants of Wisteria Cottage are not adversely affected.

6.3.2 With regard to the potential impact upon the holiday lets, officers note the concerns and objections raised by the owner of this building. It is noted that each unit contains 2 windows in the rear elevation facing the development site. Officers note that the building has been erected only 1 metre from the boundary which contains a substantial Leylandii hedge and therefore is likely to receive only limited light

through the rear windows. Whilst it is understood that the neighbour is looking to pursue the cutting back of this hedge through separate high hedge legislation, the hedge would help to screen the proposed development and would also help to maintain the privacy of occupants of the holiday lets. The hedge is, however, within the ownership of the applicant, therefore officers do have an element of control with regard to its retention and inclusion within any landscaping scheme for the site (although its height may be a matter for later discussion). Nevertheless, the proposed front terrace will be located a minimum back to back distance of 8.5 metres from the rear of the holiday lets, and whilst the boundary hedge should maintain privacy between ground floor windows, officers have requested that all first floor windows within the rear of the terrace are obscure glazed. Having regard to the design of the dwellings, officers consider that the proposal would not have an overbearing impact upon the holiday lets as the low eaves and relatively low profile will mean that the upper floor slopes away from the boundary as it rises. In addition, given the position of the boundary hedge, it is not considered that the proposal would result in a material reduction in light levels to the rear of the holiday lets, particularly in relation to the present situation.

- 6.3.3 Taking the above points into consideration, whilst the concerns of the neighbour are noted, it is not considered that the proposal would result in material or demonstrable harm to the amenities of the neighbour or occupants of the holiday let. As a result, it is also not considered that the proposal would materially affect viability of the holiday let business.
- 6.3.4 Concerns raised by neighbours at Marshwall Cottages with regard to drainage issues will be addressed in Section 6.4 below.
- 6.4 Flooding and Drainage
- 6.4.1 One of the key constraints of the site would appear to be the poor ground conditions on site together with drainage provisions both at the public house and neighbouring properties, particularly Wisteria Cottage and Marshwall Cottages to the west of the site.
- 6.4.2 At present, surface water drainage from the site flows unrestricted into an open ditch at the rear of the site, which then flows along the rear of Wisteria Cottage before outfalling to a 100mm diameter drain at No. 4 Marshwall which then flows underneath an extension erected at that property. It would also appear that surface water and outfall from the sewage treatment plant at Wisteria Cottage and the 2 holiday cottages at that property also flows into this ditch. Beyond No. 4 Marshwall, the pipe is thought to continue at a diameter of 100mm across the adjoining field before eventually discharging into the Cound Brook. The pipe is thought to have a nominal gradient of 1 in 150 and therefore is likely to have a capacity of around 14 litres per second.
- 6.4.3 Neighbours at Marshwall Cottages have raised concerns that the present drainage system is overloaded and would be unable to cope with further development. They comment that during periods of heavy rain, the drain is unable to cope and regularly backs up, filling the ditch to the rear of Wisteria Cottage. The neighbours are therefore concerned that any further development could result in the ditch overflowing and flooding their properties. The area also has an unusually high water table and poor soil porosity which further exacerbates problems.

- 6.4.4 A drainage consultant instructed on behalf of the neighbours has commented that the existing drainage system appears to be operating beyond its realistic capacity and is not of a size capable of receiving any further surface water run-of or discharge from any further development.
- 6.4.5 Concerns have also been raised that the drainage ditch concerned is not a watercourse and as such, tends to be dry in summer months. Environment Agency regulations require sewage treatment plants to discharge into a running watercourse and not a ditch.
- 6.4.6 In response to the above concerns, the applicant has instructed a drainage consultant to prepare a detailed drainage scheme capable of accommodating the proposed development. The consultant carried out percolation tests at the site in 2009 and again in March 2014 and has found the ground to have good porosity at medium and shallow depths. The resulting scheme which has been submitted claims to be able to reduce surface water run-off by up to 83% through the use of permeable materials across the site for driveways, patios and parking areas and controlling flows discharged into the ditch. It is proposed to use French drains along the north and west boundaries, which will direct surface water into an attenuation storage area which will discharge into the drainage ditch via a Hydrobrake set at 5 litres per second. At present the site is thought to discharge at 29 litres per second therefore the applicant suggests a betterment of 83% will be achieved. The scheme therefore achieves the required 50% betterment figure for surface water drainage as required by Policy CS18.
- 6.4.7 Officers have, however, raised concern that all surface water at the site, including water from the top car park will all discharge, via an attenuation tank, into the drainage ditch along the north boundary. Officers have therefore requested revisions to the scheme which will see surface water from the top car park discharge into a highway drain to the front of the site, thus reducing the pressure on the drainage ditch.
- 6.4.8 Rainwater from the roofs of the proposed dwellings will be utilised for rainwater harvesting, both for grey water and irrigation and each property will have its own Tricell 2500 litre rainwater harvesting system.
- 6.4.9 With regard to foul drainage, the pub presently drains to a sealed cesspit located within the development site and this will be relocated to a new position within its new curtilage. In the absence of a public sewer, the proposed development will incorporate a package treatment plant (Tricell 30 STP) which will discharge biologically treated clean water direct to the ditch along the northern boundary.
- 6.4.10 There does, however, appear to be some doubt as to whether the ditch at the rear of the site can be classed as a watercourse and therefore whether it is suitable to receive the discharge from a package treatment plant. It is alleged by neighbours that the ditch is not fed by a watercourse and is dry for most of the year. Further concerns have also been raised in this regard by the Environment Agency, who would normally issue consent for such activity. They are concerned that the watercourse/ditch contains very little flow and would offer little dilution for the treated effluent. The applicant has, however, confirmed he has an exemption to discharge up to 5000 litres of treated foul water per day to the watercourse.

- 6.4.11 With regard to the status of the ditch/watercourse, the applicant and drainage consultant claim to be able to provide evidence that the ditch is in fact a historic watercourse fed by several springs including one within the new curtilage of The Fox Inn. The applicant has also contacted a previous owner of No. 4 Marshwall who claims that during his time as a resident at Marshwall a wide open watercourse with running water ran all the way along the northern boundary of No 4, the field now containing Wisteria developments and The Fox Inns' lower piece of land. Furthermore, the applicant has contacted the building contractor who constructed Wisteria Cottages who has confirmed he cleaned out the watercourse on the properties northern boundary, laid a black plastic membrane in the watercourse and filled the entire length of the watercourses with stone, thus giving the appearance of a dry ditch. Whilst on site this contractor also carried out works on land at the pub. The applicant also notes that a drainage statement submitted as part of the planning application form Wisteria Cottage makes reference to a 'watercourse' along the north boundary on 4 occasions. Whilst this applicant does appear to provide fairly compelling evidence, this is clearly a grey area and would appear to be an issue ultimately to be agreed with the Environment Agency and the Councils Flood and Water Management team.
- 6.4.12 Officers also note the claims made by neighbours regarding on-going drainage works at the site which have included the clearing out of the ditch/watercourse. An inspection has been carried out by a member of the Councils Flood and Water Management team and any further issues in this respect fall outside of the scope of the planning system and are not material to the consideration of this application.
- 6.4.13 Taking the above points into account, the two key issues appear to be whether the watercourse/ditch is suitable to take foul drainage and whether the watercourse/ditch can accommodate all drainage from the site, given that it passes across the rear of Wisteria Cottage and No. 4 Marshwall, where it is restricted to a 100mm diameter pipe. Given that the system is believed to be operating at capacity and backs up at Wisteria Cottage during times of heavy rain, it is essential that any scheme provided at the site does not significantly increase the flow into ditch.
- 6.4.13 The applicant alleges that unauthorised culverting and works carried out to drains on land at Marshwall over the years is causing the flooding issues reported by local residents. It is claimed that without such works, the drainage system in the area would be more than capable of accommodating the development proposed, therefore these works are now potentially limiting the applicants ability to develop his own land.
- 6.4.14 The Council's Flood and Water Management Team are of the opinion that a satisfactory scheme can be provided which achieves suitable drainage standards whilst protecting the amenities of nearby residents, however, at the time of writing they were not satisfied with the scheme as submitted. It is therefore suggested that a condition is attached to any approval requiring drainage details to be agreed with the local planning authority prior the commencement of any development works on site.

## 6.5 Highways and Parking

### 6.5.1 Proposed Housing Development:

The proposed development will incorporate one allocated space for each dwelling together with attached garages for the two 3-bed dwellings. Officers consider that the proposal contains adequate off street parking to accommodate the number and size of dwellings proposed. Whilst the surrounding highway network comprises relatively narrow lanes, the Councils Highways team have considered the proposal and are satisfied that the additional traffic movements generated by the development can be accommodated by the local network without detriment to highway safety.

### 6.5.2 Loss of customer parking:

The area of car park remaining for use by customers to the public house under normal conditions would appear adequate, however, there is clearly an issue with regard to arrangements for larger events. Given the width of lanes surrounding the site, on street parking would not be possible. The applicant has now confirmed that agreements are in place to utilise parking at the local village hall and a neighbouring field should additional parking be required for functions or events at the pub. In this respect, officers are satisfied that the loss of the overflow car park would not result in on-street parking and as such, it is considered that the proposal will not adversely affect highway safety.

## 6.6 Viability of Public House

6.6.1 It is noted that the majority of objections received raise concerns regarding the potential impact the loss of the overflow car park could have upon the viability of the public house going forward. Such concerns suggest that without the overflow car park, the pub will have nowhere to erect marquees to host functions, weddings, parties, etc and would also not have sufficient parking on site to accommodate such events. A further planning application has also been submitted (but is yet to be determined at the time of writing) under 14/00392/FUL for the conversion of a barn to the rear of public house to a residential dwelling. Concerns have also been raised that this proposal will result in the loss of a barn which has previously been used as a function room at the pub, thus further reducing the floorspace available and further compromising the viability of the pub.

6.6.2 It is also noted that a number of residents have joined together to submit an application to register the public house as a community asset. This application has yet to be determined at the time of writing. The group, known as Ryton Supporters of Community Assets (RSCA) have also submitted objections to the application, noting that local and national policy supports the retention of community facilities and advising that development resulting in the loss of such facilities should be refused. The group quote other cases where applications have been refused on the basis of a loss of an important community facility.

6.6.3 In response to the above objections, a statement has been received from the applicant and licensee confirming that there is no intention for the public house to cease trading. The proposed development is simply intended to financially underpin the business, securing its future in what are increasingly difficult times to run a rural pub.

- 6.6.4 The applicant advises that the pub has a regular and on-going programme of functions and special events which it has offered for the past 14 years. An extensive list of typical events has been provided and is available in full on the file but includes a weekly crossword and tapas bar, fortnightly quiz, cheese and wine tasting, race nights, themed food evenings and barbeques. The applicant advises that it is still the intention to offer such functions going forward. Clearly the loss of the overflow car park would reduce the outdoor space available but the applicant advises that sufficient space is available within the pub to accommodate such events.
- 6.6.5 The pub has a capacity of 54 covers within a trading area of 32 square metres but the applicant advises that trade can vary and is influenced by factors such as weather conditions, time of year and there is no such thing as a typical day. Officers do consider, however, that the 26 parking spaces available to the front of the pub would be sufficient to accommodate the level of trade likely be generated by the use of the pub. Evidence has also been provided by the applicant of parking provisions available at similar rural pubs within the area. From this information, it can be seen that The Fox actually compares favourably, in relation to the number of covers offered. The applicant has also confirmed that an arrangement is in place with the village hall and a local land owner to provide overspill parking for up to 80 cars if required.
- 6.6.6 The pub is clearly a community asset, located at the heart of the community and provides a meeting place and focal point for village life. Officers note the concerns raised by local residents but in this instance, are satisfied that the proposal will not result in the loss of a community facility, either at the outset, or through compromising the ability of the pub to operate successfully in the future. The provision of 6 dwellings together with a barn conversion will underpin the business and provide a degree of financial stability which will help with the viability of the pub going forward. The proposal will ensure the protection and retention of an existing community facility in accordance with Policy CS8.
- 6.7 Ecology Issues
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the potential impact of a development on the natural environment. The Council's Planning Ecologist has assessed the application as follows: -
- 6.7.2 Great Crested Newts:  
There is a newly dug shallow field pool (or scrape) present 130m south-east of the application site. This appears to be the only pond within 250m of the site. Churton Ecology (2012) considered this pond for application 13/00803/FUL. They considered that since the pool is modern and regularly dries up Great Crested Newts were unlikely to breed there. In addition, the small scale of development/potential habitat loss would be low given the ponds considerable distance from the site with abundant suitable terrestrial habitats present between. No survey is considered necessary.
- 6.7.3 Bats:  
There is little vegetation on the application site apart from hedgerows which are shown for retention. It is therefore considered that any impact upon bats will be unlikely and no further action in this respect will be necessary.

6.7.4 The Council's Planning Ecologist is satisfied that the proposal can be provided without harm to any statutorily protected species or habitats, however, do request that an informative be attached to any planning permission granted which notifies the applicants of their duties with regard to protecting the wild birds.

#### 6.8 Affordable Housing

The proposal is to provide 6 dwellings which at the current prevailing rate requires a provision of 0.9 affordable units. The developer has indicated a desire to provide one affordable unit which is an overprovision of affordable housing and the development in this respect complies with the requirements of Policy CS11 of the Core Strategy.

### 7.0 CONCLUSION

7.1 It is appreciated that approving this development would be contrary to the Parish Council's aspirations in terms of remaining open countryside and only receiving small scale residential development, however, the NPPF is clear that where there is a lack of a 5 year land supply local policies relating to housing are considered to be out of date and that the priority is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development within the village. The proposal would have no adverse environmental or ecological implications and would not impact detrimentally upon the character of the village. The proposal will not have an adverse impact upon the amenities of nearby residents and can be accommodated by the existing road network and will not be detrimental to highway safety.

7.2 The proposal will provide local needs affordable housing and will be liable for the required CIL payment which can be used to boost local infrastructure. It is considered that Ryton is a sustainable location for a limited number of new houses due to the range of services and facilities both in the village itself and in the nearby village of Dorrington. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'.

7.3 Officers are satisfied that the proposed development will not involve the closure of the public house which is considered to be a community asset. Furthermore, the applicant has demonstrated that the proposal should not compromise the viability of the pub going forward. The proposal will ensure the protection and retention of an existing community facility in accordance with Policy CS8.

7.4 Whilst the scheme will incorporate a detailed drainage scheme designed to safeguard the amenities of nearby residents, this could not be agreed at the time of writing this report. Officers are therefore seeking a recommendation to delegate approval following approval of a satisfactory scheme by the Councils Flood Management Team.

7.5 It is therefore recommended that members support this application and grant planning permission in line with clear guidance within the NPPF. Permission, if



granted, should be subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with the Councils adopted policy.

## **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

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework (NPPF)

Core Strategy and Saved Policies:  
CS5: Countryside and Green Belt  
CS9: Infrastructure Contributions  
CS11: Type and Affordability of Housing  
CS17: Environmental Networks  
CS18: Sustainable Water Management

### RELEVANT PLANNING HISTORY:

09/00974/REM Reserved matters pursuant to outline planning permission ref: 08/1491/O for the erection of a dwelling and two holiday let units to include appearance, landscaping, layout and scale GRANT 22nd July 2009

14/00392/FUL Conversion of dis-used sandstone barn to dwelling with erection of single storey extension and creation of vehicular access PDE

14/00701/FUL Erection of six residential dwellings PDE

SA/90/0985 Change of use of coach house to residential accommodation. REFUSE 19th December 1990

SA/86/0553 Alterations to provide a flat roof bay window. PERCON 22nd July 1986

SA/79/1226 Erection of a single storey extension comprising of men's toilet and pool room, also alterations and incorporating new windows. PERCON 15th January 1980

SA/77/0868 Alterations and extensions to provide new lounge and toilets, erection of toilet for existing bar and alterations to private living accommodation. PERCON 11th October 1977

SA/99/0693 Change of use of public house to four bedroom dwelling. REFUSE 25th August 1999

SA/95/0923 Erection of 2 floodlights (retrospective). PERCON 27th October 1995

SA/08/1491/O Outline application for the erection of a dwelling and two holiday let units to include access and layout PERCON 10th February 2009

SA/07/0962/F Conversion of a redundant storage building into a single 3 bedroom dwelling, erection of a single storey extension to rear and side and alterations to existing vehicular access REFUSE 15th August 2007

SA/07/0245/F Conversion of a redundant storage building into single, 3 bedroom dwelling, erection of a single storey extension to rear and side and construction of new vehicular access WDN 16th April 2007

#### Appeal

99/00608/REF Change of use of public house to four bedroom dwelling. DISMIS 18th February 2000

#### Appeal

90/00829/REF Change of use of coach house to residential accommodation. DISMIS 12th December 1991

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

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Tim Barker

**Appendices**

APPENDIX 1 - Conditions

**APPENDIX 1****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 built development shall commence until details 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.

4. No development shall take place until a scheme of 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.

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

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

5. Prior to first occupation of any of the dwellings hereby approved, the vehicular access shall be set out and surfaced in accordance with the approved plans. The access shall thereafter permanently be maintained as agreed.

Reason: In the interests of highway and pedestrian safety

6. Prior to first occupation of the dwellings hereby approved, the parking and turning areas shall be set out in accordance with the details shown in the approved plans and shall thereafter permanently be retained as shown unless otherwise agreed in writing with the Local Planning Authority. Parking areas shall at all times remain free from obstruction.

Reason: In the interests of highway safety to ensure that sufficient parking space is available on site and to prevent the occurrence of on-street parking or the requirement to park in the adjacent public house car park where space is limited.

7. Prior to first occupation of the dwellings hereby approved, a scheme of landscaping shall be submitted to and agreed in writing by the local planning authority. The submitted scheme shall include:
- Means of enclosure
  - Hard surfacing materials
  - 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
  - A timetable for the implementation of the agreed scheme.

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

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

8. All first floor windows in the south west facing (rear) elevation of the three properties located in the south west corner of the site (nearest the highway), and the first floor window in the south west facing (side) elevation of the block of properties located at the rear of the site shall also be fitted with obscure glazing and shall permanently be retained as such.

Reason: To protect the privacy of occupants of Wisteria Cottage and holiday lets.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class A, B and C, (or any Order amending or revoking and re-enacting that Order), the enlargement, improvement or other alteration of the dwelling shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Schedule 2, Part 1, Class E, (or any Order amending or revoking and re-enacting that Order), the erection of any freestanding structure within the curtilage of the property shall not be carried out without the express written consent of the Local Planning Authority.

Reason: To maintain the appearance and character of the development.

### **Informative(s)**

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

2. Your application is viewable online <http://planningpa.shropshire.gov.uk/online-applications/> where you can also see any comments made.
3. 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.
4. Great Crested Newts are protected under the European Council Directive of 12 May 1992 on the conservation of natural habitats and of wild fauna and flora (known as the Habitats Directive 1992), the Conservation of Habitats and Species Regulations 2010 and under the Wildlife & Countryside Act 1981 (as amended).

If a Great Crested Newt is discovered on the site at any time then all work must halt and Natural England should be contacted for advice.

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

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

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

6. Consent or an exemption certificate is required as appropriate from the Environment Agency for discharging treated foul effluent into the watercourse. However, if the ditch/ watercourse is occasionally dry, the treated foul effluent should discharge into a drainage field.