

Development Management Report

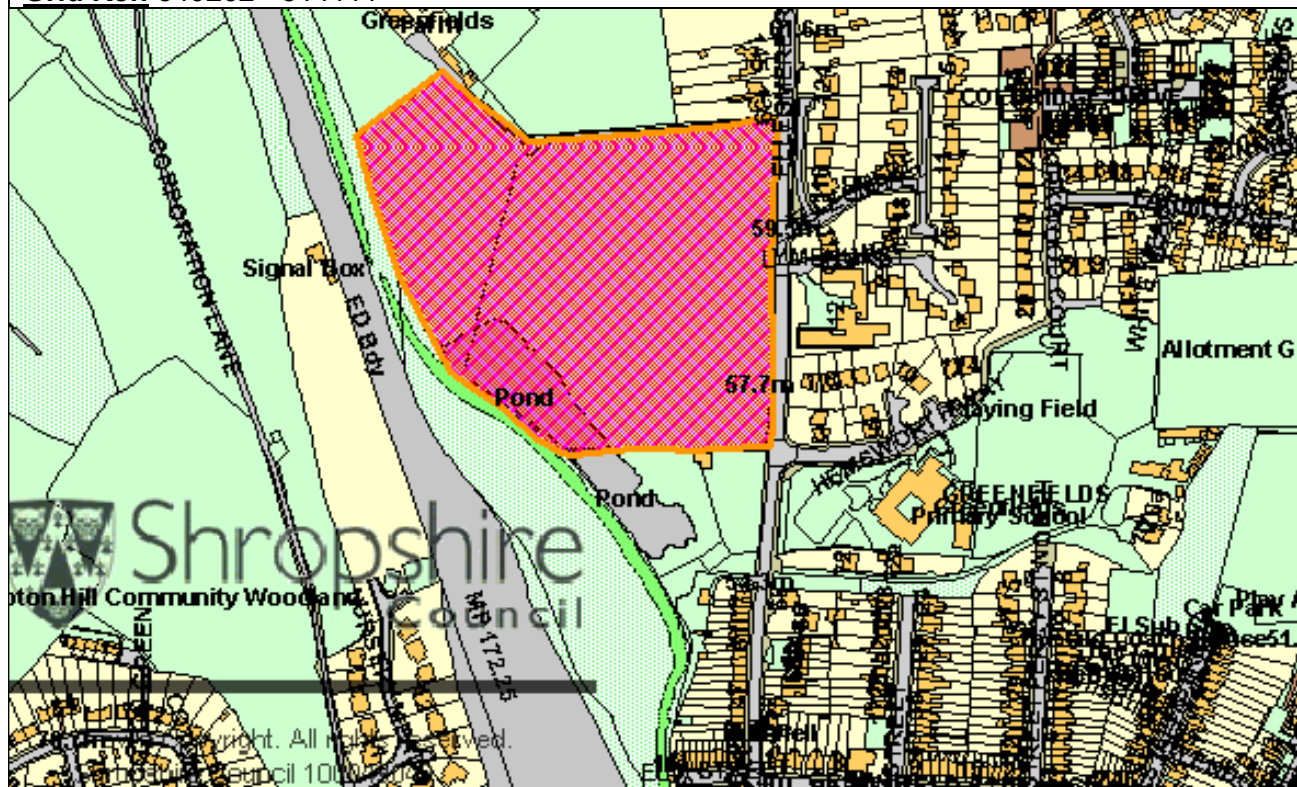
Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 13/05124/FUL	Parish:	Shrewsbury Town Council
Proposal: Mixed residential development of 75 dwellings (including 8 affordable units), formation of vehicular access; provision of open space and associated landscape and infrastructure improvements		
Site Address: Land Opposite Ellesmere Drive Ellesmere Road Shrewsbury Shropshire		
Applicant: Crest Nicholson South West		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 349262 - 314111



© 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 and a s106 agreement to secure the developer contributions and provisions outlined in paragraph 6.9 of this report.

REPORT

This application was deferred at the 29 May 2014 of the Central Planning Committee to enable the applicant to provide information on the reason for the gas monitoring on site together with any information they have with regard to the nature and extent of any contamination on the site. At the meeting and in response to questions and comments of Members, the Area Planning and Building Control Manager drew Members' attention to paragraph 4.1.6 of the report which indicated that no issues of land contamination had been identified. He further explained that the pond and provision of open space accorded with the Interim Planning Guidance. Shrewsbury Town Council had been consulted and shown a willingness to adopt the public open space and play area and any concerns with regard to the proximity of the pond would have been raised during discussions and that the provision, maintenance and management of the on-site play area would be covered via the S106 Agreement. In response to the matters raised by members the applicant has confirmed the following:

1. Standpipe / Ground Investigations

The Committee queried why there were standpipes located on the site and that this raised suspicions as to the ground conditions and the potential presence of gas. Crest Nicholson can confirm that the temporary standpipes relate to the developer's own ground investigation works which it will carry out as a matter of course for any potential development site. In December 2011 Crest Nicholson commissioned a geotechnical desk study and ground investigation works at the site. The purpose of these works was to properly assess the land conditions and provide an adequate level of detail to regulators as part of the development proposals. The desk study which included environmental searches concluded the land to be of agriculture use, dating back to at least 1884 and remaining the same to the present day. Investigation works included the installation of standpipes to monitor groundwater and gases, as well as trial pitting to assess ground conditions and the presence of contamination.

The assessment of the existing soils and groundwater confirmed that contaminants are limited to fertilisers associated with the current use of the land and do not pose a risk for residential development. Results of the gas monitoring also confirmed that there were no elevated gases present and as such no mitigation measures are necessary. The temporary standpipes on the land have remained in place which is common practice should regulators require updated groundwater or gas monitoring results. The standpipes will be removed as part of any site clearance works when development commences. A Desk Study and Ground Investigation Report (Hydrock, February 2012) and Site Gas Assessment (Hydrock, March 2012) confirms there are no contamination or gas issues with the site and that no special precautions are required with respect to ground gases.

2. Protection of Proposed Open Space

The Committee queried the mechanism for securing the proposed area of public open space and a Member asked what was to stop the developer coming back with a future planning application for further housing on this area. The provision and future maintenance of the public open space area will be secured via the S106 Agreement and Crest Nicholson has an agreement in principle from Shrewsbury Town Council to take adoption of the play area and the public open space. As the public open space area contains the development's proposed underground drainage system it would not be possible to develop the open space land for additional housing.

3. Safety arrangements for children's play area and pond

The Committee asked how the developer intends to ensure the safety of children with regards to the proposed play area and its proximity to the existing pond. The play area will be surrounded by 1.2m high railing which will safely contain children and ensure they cannot run out into the highway. The play area is shown at least a 50m distance from the pond and its location has been agreed in discussions with the Town Council. The landscaping proposals show the existing wide scrub vegetation to the north and north-west of the pond being retained, which would deter users of the open space having direct access to the water's edge. In order to further reduce the likelihood of people, in particular children, reaching the water's edge the applicant would be prepared to agree to a condition requiring details of safety measures for the pond to be submitted and agreed.

Crest Nicholson suggest that a 1.2m high timber post and rail fence could be erected along all publically accessible sides to the pond to the northern edge of the retained scrub/vegetation. ROSPA (the Royal Society for the Prevention of Accidents) advises suitable fencing should be a minimum of 1.1m high with vertical bars no more than 100mm apart. Any gates to allow for maintenance access will need to be lockable. In addition safety risk warning signage could be erected to inform people of the dangers of deep water and also provide a safety ring in the unlikely event a person falls into the pond.

Officers advise that a condition could be imposed regarding safety fencing if members consider that it is necessary. Officers are also satisfied that there are no contaminated land issues with this site and the comments received from Public Protection are updated within paragraph 4.1.6 of the previous report on the application set out below.

1.0 THE PROPOSAL

- 1.1 This application relates to the erection of 75 two, three, four and five bedroom dwellings (including 8 affordable units), the formation of one primary vehicular access and two additional accesses off Ellesmere Road, the provision of open space and associated landscaping.

2.0 **SITE LOCATION/DESCRIPTION**

2.1 The site is a greenfield site extending to approximately 4 hectares to the North of Shrewsbury on the West side of Ellesmere Road opposite Ellesmere Drive and Lymehurst Nursing Home. To the North of the site is the access lane to Greenfields Farm, there is a hedge along the Eastern boundary with Ellesmere road and an area of mature trees and vegetation forms the boundary to the railway line to the West. There is a large pond in the South West corner of the site.

3.0 **REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as although the Town Council does not object to the application it has been requested to be referred by the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

4.0 **Community Representations**

4.1 **- Consultee Comments**

4.1.1 **SC Planning Policy**

The site is located outside of the Shrewsbury Urban Area as defined by the development boundary on the Proposals Map of the SABC Local Plan, although regard should be had to the NPPF provisions relating to housing policies being not up-to-date if the Council cannot demonstrate a five year supply of deliverable housing sites. As at September 2013, the Council considered that it could demonstrate a 5.28 years supply of land for housing in Shrewsbury (4.95 years in Shropshire as a whole), but recognises the marginality of this position, which is constantly changing and open to challenge. Core Strategy Policy CS2 Shrewsbury Development Strategy is particularly relevant as it sets out a range of policy considerations including, as a priority for the allocation/release of land for development, 'other sustainable housing land releases on the edges of Shrewsbury, identified in the SAMDev DPD, to provide the balance of the housing land required'. Paragraph 216 of the National Planning Policy Framework then 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.

The site is not proposed to be allocated for housing in the Pre-Submission Draft SAMDev Plan. The site was promoted for inclusion in the Plan but, whilst the site was assessed by planning policy officers as being in a sustainable location in principle, being relatively close to the town centre and facilities, it was considered to be subject to significant constraints, including the large pool on the southern part of the site. However, the primary reason for not proposing to allocate land for further development in this part of the town was the issue of the potential impact of additional traffic on Ellesmere Road/Chester Street and planning policy officers judged that the land opposite Ellesmere Drive was only a 'realistic' site (in terms of the SAMDev Plan) if traffic impacts could be satisfactorily accommodated/mitigated.

The options for allocation, and then the issues arising from the Preferred Options and Revised Preferred Options consultations were considered by officers, local Councillors, and a Shrewsbury Joint Members SAMDev Plan Working Group, with the Group not seeking to include the site as an allocation or within the town development boundary.

A consideration in assessing the potential for increased highways impacts is the presence of an adjoining brownfield site (former railway land west of Ellesmere Road) which has outstanding consent for approximately 150 dwellings and which is proposed to be included as an allocation in the Plan, so there will be additional development and associated traffic generation in the area in the coming years. That site includes provision of a footpath and cycleway link underneath the Ellesmere Road railway bridge to link with the footpath/cycleway through the residential development to the south of Ellesmere Road. In my view, it is important that any development of the application site allows for a continuation of this planned development of the footpath/cycleway network in order to provide sustainable transport opportunities which could help to reduce traffic impacts and increase sustainability.

If, following consideration of the traffic and highways issues and any associated mitigation measures, the view is that the development is acceptable in principle then, for it to be sustainable development, it would be important that the development was contributing adequately to infrastructure provision. Therefore, and without prejudice to the consideration of the other material planning issues, overall infrastructure costs and contributions required to address impacts arising from development have been identified in accordance with the approach agreed by Cabinet on 24th July 2013 (in the report on Place Plans Review), linked to Core Strategy Policies CS2 and CS9, and the Council's Developer Contributions SPD. The package of total costs for the delivery of infrastructure for the site has been identified to be £507,251, with the overall contribution being £591,355 (subject to finalisation) when the CIL Neighbourhood Fund at 15% and administration at 5% are added. The infrastructure costs package is made up of:

Contribution to Strategic Road Network:	£100,100
Contribution to town-wide highways network and sustainable transport:	£82,500
Contribution to local highways network (including Section 278 works):	£50,000
Education contribution:	£149,651
On site play facilities and maintenance:	£125,000
Total:	£507,251

The infrastructure contributions would be provided through a combination of CIL and S106 Agreement payments. The costs of the provision and management / maintenance of amenity open space and natural/semi-natural open space provided as part of the development's 'on-site design' requirements are separate and additional. Policy Officers confirm that this contributions package is in accordance with the Council's agreed approach to ensuring that adequate funding is secured for infrastructure provision from major housing developments in Shrewsbury, and as agreed to be necessary to address identified impacts of the development and to meet the tests set out in Regulation 122 of the CIL Regulations.

If agreed to be provided, the contributions form part of the benefits from the development to which regard should be had in assessing the proposals in line with the NPPF presumption in favour of sustainable development. The Council should also have regard to the aims of the NPPF in terms of boosting housing supply, with the degree that the proposed development would contribute to housing supply in Shrewsbury, and evidence provided by the applicant regarding planned delivery, material considerations.

4.1.2 **SC Highways DC**

The highway authority raises no objection to the granting of consent subject to a planning condition regarding the access road and works to the highway and a S106 to provide a pedestrian crossing and to ensure adequate arrangements are made for the ongoing management and maintenance of the on-site surface water drainage system.

Although this is not a SAMDev preferred options site, this application is being considered under the current lack of demonstrable five-year land supply and therefore must be weighed up against current national planning policy. The key consideration for the local highway authority when reviewing this application has been the impact of additional traffic from this and the adjacent committed site on the surrounding road network, particularly at the recently improved Chester Street/Castle Street gyratory junction in the town centre.

We have therefore deliberated over the potential traffic impacts on Ellesmere Road, weighted against the sustainability credentials of the site. The Transport Statement provided with the application (note that for a development of this size a full Transport Assessment report is not required in accordance with Department for Transport guidelines) contains a trip rate assessment for the site, which details the expected vehicle movements. Whilst in our opinion the trip rates provided are considered to be robust, the report excludes vehicle movements from the dwellings accessed from the secondary private drives off the Ellesmere Road. Therefore at our request additional information detailing the expected vehicle movements onto and from the Ellesmere Road for the entire site has been provided by the applicant.

This development by itself would increase traffic flows on Ellesmere Road during the peak periods by approximately 3.5%, which is likely to only have a marginal impact on the surrounding network. However, if we consider also the additional traffic from the neighbouring committed site at the disused railway siding site, traffic flows could increase on Ellesmere Road in the region of 7-10% and we consider that this is likely

to have a noticeable, but not severe impact on the network.

The National Planning Policy States the following with regards to traffic impact and congestion:

“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

As the main point of impact of this and the adjacent committed site is likely to be at the Chester Street Gyratory, it would be normal practice for us to look to mitigate any impacts through an improvement scheme as a s106 contribution. However, the local highway authority has recently completed a comprehensive improvement scheme at this junction which has provided high quality walking and cycle facilities and has maximised capacity for traffic movements. Also, all of the traffic signal controlled junctions along the Smithfield Road are now linked to a central Urban Traffic Control system which works to maximise the throughput of traffic along this corridor. These improvements have improved traffic flows through the junction as far as is feasible with current available technology and have improved walking and cycle links between the town centre and Ellesmere Road. Therefore further mitigation works here are not achievable and we are of the opinion that the junction can accommodate the additional traffic from this and the adjacent development with causing excessive delays. Any resultant delays from these two developments aren't likely to result in 'severe' congestion, although this is not a defined term.

There is a fine line to be balanced at the Chester Street gyratory, as this junction serves a critical function to provide access to the north of Shrewsbury town centre and Smithfield Road; any further large developments off the Ellesmere Road corridor (over and above this site and the adjacent committed site) are likely to result in traffic issues at this location which we are unable to manage. Therefore the local highway authority maintains the opinion that any further major developments off the Ellesmere Road (over and above this site and the adjacent committed site) would not be acceptable without a north-west relief road scheme to manage the flow of traffic between the west and northern areas of Shrewsbury.

We have also considered the impact of additional traffic at the junctions located to the north of Ellesmere Road and along Mount Pleasant Road; inevitably the proposed development and adjacent committed development will lead to some additional traffic using these junctions/routes, but any increases should be minor as the traffic will dissipate across the network.

As an infill site (albeit a green-field site outside the current development boundary) within the urban area of Greenfields, the locality is well served for people to chose to make sustainable trips; with the requested signal controlled crossing point people will be able to safely access the nearby school, bus stops, shop and wider walking and cycle network accessed off Hemsworth Way. The site also provides good opportunities for accessing employment in the north of the town, in the town centre and beyond via the railway station.

Questions have been raised to us over the suitability of the three points of vehicular access to the site off the Ellesmere Road, so the following response has been provided: If the development is permitted we are keen to see some active frontage introduced in order to reinforce the urban nature of Ellesmere Road as this should influence driver behaviour, encouraging sensible travelled speeds in-line with the existing 30mph limit. However, it would not be desirable to introduce new properties directly fronting the Ellesmere Road as this would create many points of conflict and would also likely to result in an increase in people parking on the main road. Therefore the proposed layout to provide two 'secondary' parallel roads provides a good compromise in delivering some visible frontage to integrate the development with Ellesmere Road, yet this arrangement minimises the points of access on to the main road. We understand that the existing hedge is to be removed so the residents of these dwellings will be able to access Ellesmere Road on foot with ease. The appropriate visibility splays for all three accesses have been proposed by the developer.

We understand that in the morning leading up to the school opening and in the afternoon around closing time some people park on Ellesmere Road to drop off and collect their children. There should not be a conflict between vehicles parked here and the proposed access arrangements for the development, however a signalled controlled crossing provided here would introduce parking restrictions on Ellesmere Road in the form of zig-zag markings. A controlled pedestrian crossing is required secured by a s106 contribution on Ellesmere Road to provide a suitable link to the surrounding walking network and nearby bus stops, to ensure the site provides suitable options for sustainable travel in accordance with the NPPF.

A number of discussions have taken place with the applicant regarding the proposed site drainage design and how this relates to the disposal of surface water from the highway; as the proposed combined Surface Water Sewer (SWS) system discharges to a pond and not a watercourse, we understand that Severn Trent won't adopt this. Also as the proposed SWS combines private water from the dwellings and highway run off, we are unable to adopt the system as a highway drain and we are only prepared to adopt the gullies and connections/SUDS source control features. But as we have a statutory duty to drain the highway (if the roads are adopted), we need to insure that the site SWS is properly maintained for the life of the development. Therefore an obligation is required under s106 of the Town and Country Planning Act requiring the applicant to make arrangements for an on-site SWS management company to maintain the system. Therefore any residents of the site are likely to pay the management company a fee for the disposal of the surface water, instead of paying Severn Trent for this service (although a charge will still be made for the water supply and foul disposal).

- 4.1.3 **SC Drainage** - No objection to the surface water drainage design in principle subject to planning conditions.
- 4.1.4 **SC Trees** - Notes the loss of two mature trees on site but accepts the semi mature replacements for them in the open space area. Recommends a condition regarding tree protection measures.

4.1.5 **SC Ecologist**

Badgers - Precautionary measures for badgers have been recommended by FPCR.

Nesting Birds - The site has the potential to support nesting birds.

Bats - Bat activity surveys were conducted on site. No evidence of roosting bats was identified during the survey. The ecologist recommends that trees that have been identified as having bat potential, but having no evidence of roosting bats in the 2013 report, should be re-surveyed before removal. The recommendation in the report should be conditioned on the planning decision. As the site is used by foraging and commuting bats it is important that the site design maintains natural, linear, connecting features for bats.

Great Crested Newts - The pond on site was assessed for its potential to support breeding great crested newts. It scored 0.8 on its HSI and further presence/absence surveys were conducted in line with Natural England's guidelines. No great crested newts were recorded. In order to enhance and protect the site for herptiles, the pond should be retained and protected during the development.

Reptiles - A population of common lizards was identified during the Ecological Appraisal report. In order to enhance the site for herptiles FPCR has recommended that three reptile hibernaculas and four log piles are installed. Details of which should be included in the landscape plan. A method statement, including a destructive search will be adhered to in order to reduce the impact the development may have on herptiles.

Recommends conditions and informatives to be on the decision notice regarding all of the above.

4.1.6 **SC Public Protection** – The noise assessment submitted with the application concludes that noise has the potential to affect future residents where houses face the main road. As a result a glazing specification map is found in the appendix which details the minimum glazing specification required to ensure that proposed habitable rooms are safeguarded from noise. The glazing map is considered to be satisfactory and therefore it is recommended that this is conditioned to ensure that this glazing is installed should this application be granted approval.

With respect to air quality the houses shown on the plan are a suitable distance from the main road. As a result has no air quality concerns and requires no assessment.

No contaminated land issues have been highlighted and no details of any past contamination on the site are held by this service at this moment in time. As a result no contaminated land conditions are necessary on the land proposed for development.

In order to make the properties ready for EV charging point installation isolation switches must be connected so that a vehicle may be charged in the garage or driveway and recommends a condition regarding this.

16th June 2014: Having looked at the results of information gathered from on site boreholes the data provided suggests that no specific measures are

necessary to protect the proposed development from levels of in-soil gases. As a result we are still of the opinion that no contaminated land conditions are required for this site and this service is in agreement with this view.

- 4.1.7 **SC Conservation (Historic Environment)** - The lands subject of this application are not within or adjacent to a designated Conservation Area. Our electronic mapping records also indicate that there are no designated heritage assets within or adjacent to the site area although the 1900 Ordnance Survey mapping layer indicates there may be some non-designated traditional buildings remaining adjacent to the site area, one group known as 'Upper Greenfields' and the other group known as 'Greenfields Farm'. While there are generally no comments on this proposal in terms of its effect on designated or non-designated built heritage assets, my colleagues in the archaeology half of the Historic Environment Team should be consulted in terms of potential archaeological matters within or in the vicinity of this site.
- 4.1.8 **SC Archaeology (Historic Environment)** - No comments to make on this application with respect to archaeological matters.
- 4.1.9 **SC Affordable Houses** - The affordable housing contribution pro-forma accompanying the application indicates the correct level of onsite affordable housing provision, we can confirm that the size and tenure proposed at this time meets the demand in the local area and therefore satisfies the provisions of the SPD Type and Affordability of Housing.
- 4.1.10 **Shropshire Wildlife Trust** - The ecological credentials of the development would be improved if a broader ecological corridor could be retained along the western boundary adjacent to the railway track. This would help connect the area around the pond with wider countryside and County Wildlife Site to the north. While the current ecological value of the site may be limited planning guidance also seeks enhancements. Also believes that hedgerows have recently been removed from the site. A biodiversity management plan (part of GI management plan?) is required to show how the ecological elements of GI will be maintained.
- 4.1.11 **Network Rail** - Whilst there is no objection in principle to this proposal, is aware of the proximity of the pumping station, pond and attenuation/soakaway design and would suggest these are situated at least 30m from the boundary. Notwithstanding the above, provides comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land and in order to mitigate the risks recommends that the Developer contacts Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is assetprotectionwales@networkrail.co.uk. The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

4.2 - Public Comments

- 4.2.1 Shrewsbury Town Council - Supports - Whilst the Council is generally supportive of this development, we would ask that the approval is conditional upon the following:

- 1 There are a number of mature trees on site. They should be retained as part

of the development and appropriate measures put in place to safeguard them,

- 2 Surface water run-off should be equal to or less than currently exists,
- 3 Sprinklers should be fitted to all new build as a matter of routine

4.2.2 Cllr Dean Carroll: Objects to this application for the reasons summarised below.

- 1 Ellesmere Road and the junctions at Coton Hill and Chester Street are already at or beyond full capacity. The recent junction improvement work carried out at Chester Street was intended to tackle an existing recognised issue of over use of the junction. The extra capacity added was thus not to enable more vehicular movements from the Ellesmere Road but to alleviate the existing issue, it is not therefore sensible to make the acknowledged issue worse again by increasing vehicular movements.
- 2 There are existing drainage issues with the site that this application would not alleviate.
- 3 The land to the West of Ellesmere Road is recognised to be of a more rural character, with linear development and breathing spaces in between, the sole exception being Cedar Close, a cup-de-sac with little more than a dozen mostly bungalows. This development would be out of character with this pattern.
- 4 Ellesmere Road is an important point of entry to Shrewsbury from the north, as is evidenced by the high volume of vehicular movements. The green spaces to the West of Ellesmere Road form important public amenity views of the open countryside beyond.

As the site is outside the development boundary and has only reached this stage due to the lack of a five year land supply, I would expect this application to go to the Central Area Planning Committee for determination and not to be resolved under delegated powers.

4.2.3 24 letters of objection have been received raising the following concerns:

- ☐ The resident of Greenfields Farm considers that the privacy and seclusion that he has enjoyed for over 40 years would be destroyed and that his house would effectively become part of a housing estate and impact on the quiet and peaceful enjoyment of his property. Would like to see a fence or wall erected along his boundary to protect his privacy.
- ☐ Inappropriate development of open countryside and land which is not included as a preferred site allocation
- ☐ The potential loss of significant swathes of Green Space around the Town and the surrounding rural areas and impact on the environment and loss of visual amenity for the clients of the Nursing home opposite

- ❑ Accepts that development is essential for the survival of Shrewsbury but the loss of large and significant areas of Green Space will seriously devalue all aspects of the environment to the detriment of the Town and surroundings
- ❑ The provision of 'new Green Space' accessible to the Public must be regarded as reduced re-provision of Green Space rather than 'new Green Space' as indicated in the Submission
- ❑ The street vista currently proposed for Ellesmere Road will change the current Green Space visible to those using Ellesmere Road on foot and in vehicles. The proposed Public Green Space will have limited visual impact from the existing road as it will be screened by the proposed new houses.
- ❑ This development would occupy a greenfield site spreading a considerable distance from the road and developing upon and preventing public amenity views.
- ❑ This development would be out of character with the existing developments along Ellesmere road that follow the line of the road, with open space between and behind.
- ❑ Inadequate primary and secondary school provision as Greenfields primary school is already heavily over subscribed and future pressures have already been identified on the Secondary Schools throughout Shrewsbury
- ❑ Greenfields Primary School already has large pupil numbers with average class sizes of 30 pupils and would be unable to accommodate the extra children that the proposed development would inevitably bring to the area.
- ❑ The nearest Secondary School is approximately a 30 minute walk away, along one narrow path running alongside the busy Ellesmere Road. There is no path at all on one side of the road for a good long stretch. There are no cycle paths anywhere along the Ellesmere Road including on the route to the nearest Secondary School or into the Town Centre. A large number of children currently travel approximately 3 miles to Secondary School from this area and the bus service is already oversubscribed with no other bus service operators interested in expanding the service.
- ❑ Parking at school times is horrendous as cars are now parking half on the foot path and half on the Ellesmere road / Hemsworth Way (photos provided). This is a dangerous situation that would be compounded by additional vehicles and needs to be urgently addressed before a serious accident happens.
- ❑ Increased volumes of traffic on Ellesmere Road adding to the existing congestion, traffic flows and traffic problems on Ellesmere Road particularly at busy times
- ❑ The current traffic lights at Coton Hill and the ones on the junction with

Chester Street and Cross Street cause major tailbacks of traffic along the Ellesmere Road all the way back to the Greenfields school, and additional housing will obviously add to this already unacceptable situation.

- ❑ The County Showground on the Berwick Road host events throughout the year and on these dates residents sometimes have to queue for up to two miles from the northbound direction.
- ❑ The detailed Transport Assessment attached to the Application, based on the Traffic Survey carried out for only a single week in December last year, appears to focus on the design of the new traffic junction serving the development (primarily between the hours of 08:00-09:00 and 17:00-18:00) and not the overall affect on the traffic flows on Ellesmere Road
- ❑ Does not agree that the main access junction onto Ellesmere Road has sufficient capacity to accommodate the traffic that will be generated by the proposal
- ❑ The introduction of the new junction and the private driveways in close proximity to the School entrance will add further pressure on this section of Ellesmere Road and increase the potential dangers associated with school entrances particularly on this major route.
- ❑ The stretch of road where the three additional junctions to serve 75 homes and a crossing will be located already has a road junction to homes and school on Hemsworth way, a road junction to homes and dentist on Ellesmere road, a road junction to homes and Rest home on Lymehurst court and bus stops on either side of the road and there will be too many potential hazards in a very short stretch of already busy road.
- ❑ Does not consider that the proposed 'active frontage' referred to by highways will slow speeding traffic.
- ❑ The provision of a crossing is essential and is supported, but again this is going to affect the traffic flows and possible further congestion on Ellesmere Road.
- ❑ There are no traffic calming measures along Ellesmere Road
- ❑ Additional dwellings should not be allowed on Ellesmere road until the NW relief road is built
- ❑ It is inappropriate to develop land with drainage issues and adjacent to land which already floods and is concerned that building work will compound this problem
- ❑ There is a large amount of un-sold houses in Herongate and fails to understand the need for new estates to be created where there is sufficient housing available in the surrounding area.

- ☐ There is plenty of housing in this area and with new builds already in progress in Shrewsbury that should satisfy the demand for housing
- ☐ Greenfields Dentist is full and cannot accept any more patients
- ☐ The proposed development site is currently productive agricultural land and does not form part of the local plan. The brownfield site at the bottom of Ellesmere Road is part of the plan but questions whether the local infrastructure could support either of these development sites and certainly not both.
- ☐ The north of our town has been dominated by the development of residential and employment and recent housing development includes Coton Hill/Corporation Lane, Greenfield Gardens and Benbow Quay. Further development is unnecessary and needs to be re-balanced by development at other geographical locations. The infilling of all land within the existing residential area is not beneficial to the community.
- ☐ Just because the council can't demonstrate a five year land supply, this development should not be allowed to slip through the loophole that gives speculative developers the opportunity to build on open countryside.
- ☐ Suspects that the only reason this application is recommended for approval is the 'significant financial contribution (over £500,000)' rather than any considered evaluation.

5.0 THE MAIN ISSUES

Principle of development
Sustainable development
Layout, scale, design, character and appearance
Highways/access
Drainage
Impact on residents
Ecology
Trees and landscape, open space and play area
Developer contributions

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 Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that *'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations*

indicate otherwise'

6.1.2 With regards to housing development paragraph 49 of the NPPF 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.'

Paragraph 14 of the NPPF is also relevant and highlights that for decision taking this means:

'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'

6.1.3 The site is currently outside of the development boundary for Shrewsbury and is not proposed to be allocated for housing in the Pre-Submission Draft SAMDev Plan. The site was promoted for inclusion in the Plan but whilst the site was assessed by planning policy officers as being in a sustainable location it was considered to be subject to significant constraints including the large pool on the southern part of the site and the potential impact of additional traffic on Ellesmere Road/Chester Street. Planning policy officers judged that the land opposite Ellesmere Drive was only a 'realistic' site (in terms of the SAMDev Plan) if traffic impacts could be satisfactorily accommodated/mitigated.

6.1.4 In the absence of a five year land supply a 'presumption in favour of sustainable development' and the need to boost the housing supply (a government priority) is now the most significant material consideration when determining planning applications for housing and takes precedence over adopted and emerging local planning policy in relation to the supply of housing due to those policies not being considered up to date. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.

6.2 **Sustainable development**

6.2.1 The site is situated on the edge of the urban development boundary for Shrewsbury and is in close proximity to the Town Centre, railway station and bus station and is serviced by a regular bus service into town. The site is therefore considered to be in a sustainable location with regards to accessibility and proximity to essential services and facilities within the Town Centre. However the NPPF considers that sustainable development' isn't solely about this but 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:

- ② *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;*
- ② *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*
- ② *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.*

- 6.2.2 Economic role – The proposal will help boost the supply of housing in Shrewsbury and will provide employment for the construction phase of the development supporting the building, construction and associated industries. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a significant financial contribution (over £500,000) towards infrastructure provision (including the strategic road network, town-wide and local highways network, pedestrian crossing, sustainable transport, education, and on site public open space and play facilities) both through a combination of CIL and S106 Agreement payments.
- 6.2.3 Social role – The proposal will help boost the supply of market housing and also provide 8 affordable houses on site. The proposal also includes the provision of a large area of public open space and on site play provision for the benefit of present and future generations.
- 6.2.4 Environmental role – The site is a field with no heritage, cultural or ecological designation. The proposal would have no adverse impact on protected wildlife as the pond (which is the main feature of ecological value) and the majority of the mature trees will be retained. The proposal will provide landscape and ecological enhancements including future maintenance of the pond and open space, additional tree planting the creation of species rich grassland, additional native species planting throughout the site and along the western boundary and the installation of reptile hibernacula, log piles, bat boxes and bird boxes. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to all essential services and facilities on foot or by cycle or by public transport.
- 6.2.5 It is therefore considered that the proposal represents sustainable development in

a sustainable location having regard to the three dimensions of sustainable development and that it is an appropriate site for residential development subject to a satisfactory layout, scale and design and that there would be no adverse impacts as a result of the proposal.

6.3 Layout, scale, design, character and appearance and visual impact

- 6.3.1 The site is an agricultural field currently classed as open countryside and the proposal will obviously result in the loss of part of this green field to built development. The majority of the objections to the proposal, in addition to highways issues, have been to the loss of this field and that the development of large areas of green space will be detrimental to the environment and public amenity views of the site. Environmental and ecological issues will be considered in 6.7 and 6.1.0 below. There is no right to a view from private properties but public views are a material consideration. A landscape and visual assessment has been submitted to determine the likely effects of the proposed development on the existing landscape and the views and visual amenity experienced by residents, recreational users, pedestrians and road users.
- 6.3.2 The site is enclosed by the railway and embankment to the West, an access lane and housing to the North, Ellesmere road and built development to the East and a field and residential development to the South. The proposed site is not publically accessible, has no heritage, cultural, ecological or landscape planning designation and with no rare or distinctive features and limited levels of tranquillity it is considered to be of low landscape and visual amenity value. Public views of the site are limited and views from vehicles using Ellesmere Road and views of the site for pedestrians are restricted by the existing boundary hedge. This is proposed to be removed and replaced with a hedge managed at a height of one metre with the proposed houses set behind a private drive fronting the road. The proposed dwellings that will face Ellesmere Road are large detached dwellings of a traditional design set within individual plots which is characteristic of the dwellings facing the site and facing Ellesmere road on both sides to the North of the site. It is therefore considered that the scale design and appearance of the dwellings fronting Ellesmere Road is appropriate and will provide an attractive street frontage.
- 6.3.3 The proposal includes the provision of a large area of public open space which will provide a green link to the areas of existing tree and woodland planting on the South West boundary and a green corridor link to the wider countryside to the North West. Although the proposal will result in the loss of a green field it is considered that this field does not provide important amenity views of the countryside when approaching Shrewsbury along Ellesmere Road as a sense of being within the urban area of Shrewsbury has already been established by the large areas of residential development to the East and residential development to the West immediately North of the site. The visual amenity of the site is mainly restricted to private views by residents, and as a large proportion of the site will remain as managed publicly accessible green space available to the public to access and enjoy it is considered that the benefit of the proposal far outweighs the loss of this agricultural field and green space on the edge of the urban boundary of Shrewsbury.

6.3.4 Some comments have been received from local residents concerned that the proposal would be out of keeping with the character and pattern of existing development which they consider to be predominantly linear and facing Ellesmere Road. As outlined in 6.3.2 above the proposed dwellings that will face Ellesmere Road are large detached dwellings of a traditional design set within individual plots that will provide an attractive street frontage that would compliment the existing development. The design and layout of the remainder of the site has been informed by the topography of the site and the pond in the South West corner. The houses within the site are of a higher density houses and comprise a mix of size and design of houses that reflect the local architectural vernacular. Apart from the houses facing Ellesmere Road the site will be accessed via a single estate access road and all internal roads will have front facing elevations and the open space will also be overlooked by the fronts of dwellings providing natural surveillance. The proposal provides easy pedestrian access to the proposed open space and provision for potential links to the adjacent site and the town centre. It is considered that the layout, scale and design of the proposed development is acceptable and would have no adverse impact on the character and appearance of the locality.

6.4 **Highways/access**

6.4.1 Access to the site will be via a main access of Ellesmere road and two additional accesses either side to serve the houses that will front Ellesmere Road. Highways has no objection to the proposal subject to a planning condition regarding the access road and works to the highway and a S106 to provide a pedestrian crossing and to ensure adequate arrangements are made for the ongoing management and maintenance of the on-site surface water drainage system. (Drainage will be considered in 6.5 below). A controlled pedestrian crossing will provide a suitable link to the surrounding walking network and nearby bus stops, to ensure the site provides suitable options for sustainable travel in accordance with the NPPF. The site is well served for people to choose to make sustainable trips as people will be able to safely access the nearby school, bus stops, shop and wider walking and cycle network accessed off Hemsworth Way. The site also provides good opportunities for accessing employment in the north of the town, in the town centre and beyond via the railway station.

6.4.2 The proposed accesses will provide adequate visibility splays in both directions so that vehicles will be able to enter and leave the site safely. Concern has been raised that the two additional accesses in addition to the main access so close to existing accesses on the other side of the road will result in highway safety issues in this area. However as visibility is good and the addition of housing and accesses fronting the highway has the effect of slowing traffic the proposal is considered beneficial by Highway Officers and amendments to have them omitted and the layout revised have not been sought.

6.4.3 Local residents are also concerned that parked vehicles on Ellesmere Road near to the junction with Hemsworth Way during school drop off and pick up times would conflict with the proposed access arrangements. However the proposal includes the provision of a signalled controlled crossing which would also have the

added benefit of introducing parking restrictions on part of Ellesmere Road in the form of zig-zag markings. It is therefore considered that the proposal would not result in any highway safety issues in the proximity of existing junctions onto Ellesmere Road.

6.4.3 Significant objection received from residents relates to the additional vehicles and increased congestion as a result of the proposal on an already congested road and the junctions at Coton Hill and the Chester Street/Castle Street gyratory. Additional information has been received regarding the expected vehicle movements onto and from the Ellesmere Road for the entire site and have confirmed that the development by itself would increase traffic flows on Ellesmere Road during the peak periods by approximately 3.5% and consider that this is likely to have only a marginal impact on the surrounding network. However when combined with the additional traffic from the neighbouring committed site at the disused railway siding site Highways consider that traffic flows could increase on Ellesmere Road in the region of 7-10% and although this is likely to have a noticeable effect it would not have a severe impact on the network. In addition the Highways Officer considers that although the proposed development (combined with the committed adjacent development) would also lead to additional traffic at the junctions located to the north of Ellesmere Road and along Mount Pleasant Road any increases would be minor as the traffic will dissipate across the network.

6.4.4 The NPPF advises that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*" Recent improvements at the Chester Street gyratory have improved traffic flows through the junction as far as is feasible and have improved walking and cycle links between the town centre and Ellesmere Road. Therefore further mitigation works are not achievable but Highways consider that the junction can accommodate the additional traffic from this and the adjacent development without causing excessive delays and that any resultant delays from these two developments aren't likely to result in 'severe' congestion. Although planning officers are aware of the local concern and acknowledge that this proposal will result in some additional traffic and congestion it is not considered that this will be severe and members are strongly advised that additional traffic and congestion is not a sound reason for refusal as this could not be defended at appeal. However any further large developments off the Ellesmere Road corridor (over and above this site and the adjacent committed site) are likely to result in traffic issues at this location which the Highway Authority would be unable to manage. Therefore Highways maintains the opinion that any further major developments off the Ellesmere Road (over and above this site and the adjacent committed site) would not be acceptable without a North-West relief road scheme to manage the flow of traffic between the west and northern areas of Shrewsbury.

6.5 Drainage

6.5.1 Foul drainage will be to the main sewer and the combined surface water sewer (SWS) system will be discharged to an infiltration soakaway trench with an overflow to the existing pond. As this is not to a watercourse Severn Trent Water won't adopt this and as the proposed SWS also combines private water from the dwellings and highway run off Highways are unable to adopt the system as a

highway drain and are only prepared to adopt the gullies and connections / SUDS source control features. However as Highways have a statutory duty to drain the highway (if the roads are adopted), and in order to insure that the site SWS is properly maintained for the life of the development a S106 obligation is required to secure an on-site SWS management company to maintain the system. Therefore any residents of the site are likely to pay the management company a fee for the disposal of the surface water, instead of paying Severn Trent for this service.

- 6.5.2 Drainage previously requested that the adjacent land owner (Network Rail) is consulted regarding the potential increased fluctuation in the existing pond level (which is adjacent to the railway embankment) due to its use as an overflow. Network Rail have been consulted by both the applicant and Shropshire Council and they have no objection to the proposed surface water drainage system but suggest that the pond, pumping station and attenuation / soakaway design to be at least thirty metres from the boundary. The pond is an existing feature but the infiltration trench (soakaway) will be more than thirty metres from the boundary. The pumping station will be ten metres from the site boundary but the applicant has confirmed that it is positioned so that it will not compromise Network rail land in anyway. The submitted FRA and proposed drainage details confirms that the landowner to the South will not be affected by the proposal and that only events greater than the 30 year return rainfall event will feed into the pond.
- 6.5.3 Shropshire Councils drainage engineers have now agreed that the surface water drainage strategy and layout are acceptable in principle subject to conditions to demonstrate that the new surface water drainage, including highway gullies are capable of receiving 30 year return rainfall events and to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers.

6.6 **Impact on residents**

- 6.6.1 The only properties that this proposal will be in close proximity to are 139 Ellesmere Road to the North and Greenfields Farm that is accessed via a private lane running along the Northern Boundary of the site. The resident of Greenfields Farm considers that the privacy and seclusion that he has enjoyed for over 40 years would be destroyed and that his house would effectively become part of a housing estate and impact on the quiet and peaceful enjoyment of his property. However it is considered that the proposed houses in the North West corner of the site are far enough away not to appear obtrusive or result in overlooking and a loss of privacy. The occupier has requested that he would like to see a fence or wall erected along his boundary to protect his privacy and amended layout plans have been received that reflect this. 139 Ellesmere Road is a large semi-detached house situated to the North of the proposed dwelling on plot number one in the far North East corner of the site. The only first floor window in the side elevation of this proposed house will be an obscure glazed bathroom window. The proposal would therefore not result in overlooking of this property and due to the distance between the existing and proposed, separated by the access lane, the development would not appear overbearing or obtrusive to this property. A letter had been received on behalf of the clients of the nursing home opposite the site about the loss of visual amenity due to the built development in place of the

existing view of an open field that the residents currently enjoy. However there is no right to a view and it is considered that the design of the dwellings fronting Ellesmere Road provide an attractive street frontage.

6.7 Ecology

6.7.1 An Ecological Appraisal produced by FPCR indicates that no protected species were identified during the survey (including badgers, bats and great crested newts) and that the site predominantly consists of managed arable land offering limited diversity and ecological value. The hedgerow along the eastern boundary is to be removed and reinstated with mixed native species planting. FPCR consider that following re-planting of hedgerows that in time there will be no net loss of this habitat and in the long term will provide a higher quality resource for local wildlife along these corridors through the inclusion of complementary ground flora planting and a wider variety of native species within the hedgerow. Additional enhancement for biodiversity will therefore be provided within the proposed development with the creation of species rich grassland, additional native species planting throughout the site and along the western boundary and the installation of reptile hibernacula, log piles, bat boxes and bird boxes. The green corridor along the Western boundary with the railway will therefore be maintained and enhanced. FPCR also recommend precautionary measures of working for badgers, that the two trees to be removed should be surveyed for bats prior to their removal and that the pond should be retained and protected during the development, in order to reduce the impact the development may have on herptiles. The conditions and informative(s) suggested by the Councils Ecologist in relation to the above should be included on any approval. Subject to these conditions the proposal will not cause an offence under the Conservation of Habitats and Species Regulations and it is considered that the proposal will provide positive ecological enhancements of the site.

6.8 Trees and landscaping, open space and play area

6.8.1 The proposal includes the removal of the hedgerow along the Eastern boundary with Ellesmere Road and the removal of two trees (T4 and T5, situated to the far West of the site). The Tree Officer was initially concerned about the loss of two mature trees as a result of the proposal, but now accepts the semi-mature replacements to be planted in the open space area and recommends a tree protection condition for the trees to be retained. The two trees to be removed are not obviously noticeable from publically accessible land and the more prominent trees on the site (those to the east and closest to the main road) are to be retained. The loss of two trees and the hedgerow at the front of the site will be more than compensated for by proposed new planting including over sixty new trees as part of the landscaping of the proposed development and a replacement hedgerow comprising a mix of native species hedging plants and five trees fronting Ellesmere Road. It is considered that the proposed landscaping and tree planting and the provision of a large area of open space will provide positive enhancements to the site. The landscape design also includes a two metre high boundary fence with Network Rail land to the West and perimeter boundary fencing to the North adjacent to the private access lane to Greenfields Farm to include a close boarded fence erected inside the existing boundary treatments to address the concerns of

the residents of Greenfields Farm.

6.8.2 The amount of Public Open Space (POS) proposed, including amenity open space and natural/semi-natural open space, is in accordance with the Interim Planning Guidance and also includes an equipped play area. The Town Council have indicated they would be willing to adopt the POS and play area and would be a signatory to the S106 Agreement for future maintenance. The applicants have met with the Town Council and following discussions the landscape and play area drawings have been updated in order to address the following requirements of the Town Council:

- ☐ Two surfaced footpaths in the play area (entrance location to the North East revised)
- ☐ Simplified play area design removing play logs and boulders
- ☐ All play equipment to be metal based
- ☐ Trees moved away from play area boundary to avoid leaf fall
- ☐ Trees within POS areas ringed with bulb planting
- ☐ Removal of 1 bench within the play area
- ☐ Removal of all benches within POS areas
- ☐ Provision of drop kerb to allow maintenance access to the POS

It is considered that the proposed landscape design including open space and play provision is acceptable and its long term management and maintenance can be secured.

6.9 Developer contributions / S106 and CIL

6.9.1 The contributions package is in accordance with the Council's agreed approach to ensuring that adequate funding is secured for infrastructure provision from major housing developments in Shrewsbury, and as agreed to be necessary to address identified impacts of the development and to meet the tests set out in Regulation 122 of the CIL Regulations. The package of total costs for the delivery of infrastructure for the site has been identified to be £507,251, with the overall contribution being £591,355 (subject to finalisation) when the CIL Neighbourhood Fund at 15% and administration at 5% are added. The infrastructure costs package is made up of:

Contribution to Strategic Road Network:	£100,100
Contribution to town-wide highways network and sustainable transport:	£82,500
Contribution to local highways network (including Section 278 works):	£50,000
Education contribution:	£149,651

On site play facilities and maintenance:	£125,000
Total:	£507,251

The infrastructure contributions would be provided through a combination of CIL and S106 Agreement payments. The costs of the provision and future management and maintenance of the on site open space are separate and additional but the Town Council have confirmed that they are willing to adopt and be responsible for the future maintenance of both the play area and open space and this will also be secured by the S106 agreement. The on site affordable housing provision of eight houses (the size and tenure of which meets the demand in the local area) satisfies the provisions of the Type and Affordability of Housing SPD and will also be secured via the S106 agreement. In addition in order to ensure that the sites surface water drainage system is properly maintained for the life of the development the S106 will also require the applicant to make arrangements for an on-site management company to maintain the system.

6.10 Other Matters

- 6.10.1 Local residents are concerned that the School does not have capacity to accommodate additional children as a result of this proposal. However the education authority has to provide school places for all children and the applicant is providing a financial contribution of almost £150,000 towards education.
- 6.10.2 Public Protection have confirmed that the site has no contamination land issues, that there are no air quality concerns and that the proposed glazing to safeguard habitable rooms from noise from the road is acceptable and a condition will be imposed regarding this. A condition will also be imposed to ensure the properties are ready for EV charging points.

7.0 CONCLUSION

- 7.1 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 proposal represents sustainable development due to its proximity to Shrewsbury and excellent Public Transport links and opportunity for cycling and walking. The development will therefore not result in over reliance on the private motor car and it would help significantly in boosting the housing supply for Shrewsbury. It is acknowledged that this proposal will result in some additional traffic and congestion but it is considered that this will not be severe and is not a justifiable reason to refuse this application. It is considered that the scale, design and appearance of the development is acceptable and would not adversely impact on the character and appearance of the locality, would not impact on highway safety and would have no adverse environmental or ecological implications. The proposal will result in the loss of a green field but this is not protected and the proposal will provide a significant amount of managed landscaped open space and

additional tree planting which will be available to the public to access and enjoy. The proposal also includes 8 affordable houses on site and will also provide a significant financial contribution (over £500,000) towards infrastructure provision (including the strategic road network, town-wide and local highways network, pedestrian crossing, sustainable transport, education, and on site public open space and play facilities) both through a combination of CIL and S106 Agreement payments.

7.2 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 on site affordable housing and additional developer contributions outlined in 6.9 above.

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 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: NPPF

Core Strategy and Saved Policies: CS2, CS6, CS11, CS17

11. Additional Information

List of Background Papers: File 13/05124/FUL
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member : Cllr Dean Carroll
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 development shall take place until detailed surface water drainage details (to include drainage layouts, sections, construction details and micro drainage calculations) have been submitted to and approved in writing by the LPA. The submitted details must demonstrate that the new surface water drainage, including highway gullies are capable of receiving 30 year return rainfall events. The approved details shall be implemented prior to the first occupation of the development

Reason: To ensure adequate surface water drainage is achieved from the development.

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

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

5. Prior to the commencement of the development full engineering details of the new access road, existing highway/road works, traffic calming scheme, structures, foot/cycleways, surface water drainage, street lighting and carriageway markings/signs, shall be submitted to and approved by the planning authority; the works shall be fully implemented in accordance with the approved details prior to the development hereby permitted being first brought into use.

Reason: To ensure the construction is to an adequate standard in the interests of road safety.

6. All trees and hedges which are to be retained in accordance with the approved plans shall be protected in accordance with the BS 5837: 2012 'Trees in relation to Design, Demolition and Construction recommendations for tree protection'. This shall include establishing a Root Protection Area (RPA) around each tree enclosed by suitable fencing, as specified by BS 5837: 2012 or as agreed in writing with the local authority or, where specifically approved, protected using ground protection measures to the satisfaction of the local planning authority. No works or alterations to existing ground levels or surfaces shall be undertaken within the RPAs without the prior written approval of the local planning authority. No materials, equipment or vehicles are to enter or be stored within the RPAs. No materials that are likely to have an adverse effect on tree health such as oil, bitumen or cement will be stored or discharged within the RPAs. No fires will be lit within 20 metres of the trunk of any tree that is to be retained. All tree protection measures shall be agreed in writing with the local planning authority and their installation undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important in the appearance of the development.

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

7. All hard and soft landscape works shall be carried out and maintained in accordance with the Landscape Management Plan (Apr 14 REV B) and approved landscape plans (BIR.4379-11D, 12B, 13D and 14D) and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standard 4428:1989. The approved landscape works shall be carried out prior to the occupation of any part of the development or in accordance with a timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape and the provision of amenity and biodiversity afforded by appropriate landscape design.

8. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Appraisal conducted by FPCR (December 2013).

Reason: To ensure the protection of Herptiles.

9. Any external lighting on the site shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK

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

10. The bat boxes and tubes, bird boxes, hibernacula and log piles as indicated on the Management & Enhancement Strategy (Figure 13) shall be erected on site prior to the first occupation of the dwellings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To provide ecological enhancement of the site and to ensure the provision of nesting opportunities for wild birds and provision of roosting opportunities for bats which are European Protected Species.

11. Prior to the first occupation of the dwellings on plots 1 to 7 and 65 to 71 glazing shall be installed in accordance with the recommendations and glazing map within the 'Environmental Noise Assessment and vibration analysis (Dec 13).

Reason: To safeguard habitable rooms from noise from the road

13. If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway. The approved details shall be implemented prior to the first occupation of the development.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

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

14. The first floor bathroom window in the North facing elevation of Plot 1 shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation.

Reason: To preserve the amenity and privacy of adjoining properties.