

Development Management Report

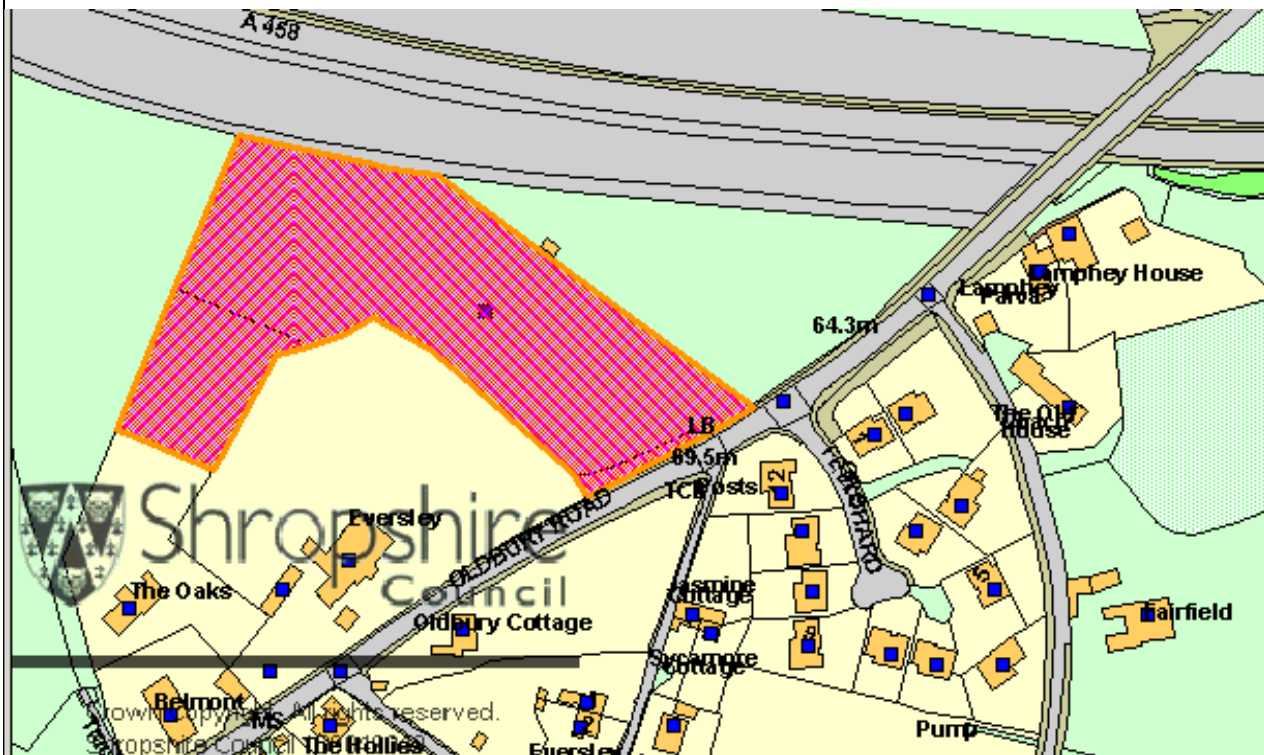
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/01016/OUT	Parish:	Bridgnorth Town Council
Proposal: Outline application (access for approval) for mixed residential development		
Site Address: Land Off Oldbury Road Bridgnorth Shropshire		
Applicant: P Woodall & I Bissell		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 371317 - 292207



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Recommendation:- That members Grant Permission as a departure and subject to the conditions set out in Appendix 1 of this report and a S106 agreement to secure the relevant on site affordable housing provision and/or the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise members on the potential reason for refusal of this application and to set out the associated risks with this decision for consideration by members.
- 1.2 This report is written in accordance with paragraph 16.4 (part 5) of the Council's Constitution. The original report to the June meeting, updated to include the comments on the additional representations sheet presented at that meeting, may be found at Appendix 2.

2.0 BACKGROUND

- 2.1 At the 24th June 2014 meeting of the South Planning Committee Members resolved to refuse planning application reference 14/01016/OUT relating to Outline application (access for approval) for mixed residential development at Land Off Oldbury Road Bridgnorth Shropshire, contrary to the officer recommendation.
- 2.2 Where any proposed refusal reason may not be defensible if challenged, and may result in a costs claim by the applicant at appeal, the Constitution requires the Committee to review the refusal reasons with officer advice on their potential wording and risks associated with the decisions. The final decision on the application still rests with the South Planning Committee. The refusal reason put forward by the Committee is as follows:
- 2.3 *The proposed development would have a detrimental impact upon the character and appearance of the Oldbury Conservation Area and its setting through the erosion of the rural character of the north eastern approach to the village by built development on this site, and the loss of a visually prominent section of roadside hedgerow and trees. The proposed development would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17 and paragraphs 131, 135 and 138 of the National Planning Policy Framework (NPPF) and these adverse impacts would significantly and demonstrably outweigh the benefits in terms of the site contributing to the supply of housing land in Shropshire.*
- 2.4 At the time the Committee made a decision on this application the press advertisement advertising the application as a departure still had 14 days to run, preventing the decision notice from being issued straight after the meeting. A Heritage Impact Assessment has subsequently been submitted by the agent in the period prior to the expiry of the press advertisement. This information has a material bearing on the refusal reason put forward by the Committee at the previous meeting. In order to minimise the potential risk to the Council of a successful challenge to a decision it is therefore considered that the Committee

should have regard to this information prior to a decision being issued on this application.

2.5 In addition to the information submitted by the agent the occupier of the adjacent property 'Eversley House' has subsequently submitted the following comments:

1. There is a Sycamore tree with an individual TPO (tree 24) which lies within the visibility splay to the extent that the stem is very close to edge of the road side hedge. We own this tree and the hedge and thus these cannot be removed to create a visibility splay.

2. If the visibility splay cannot be or is not intended to be created then the Highways Agency will need to reassess the site for safety. The proposed access to the site is on a blind bend and traffic approaches at speed down the hill from the west/ south-west. This may pose a serious risk to life of the public in the village and of the proposed development.

3. The Heritage Impact Assessment appears to have been produced in a rush as there are several inaccuracies and I have to mention the appalling spelling of Eversley House as "Eversleigh" and the factually incorrect assumption that Eversley House is composed of three flats. We have worked tirelessly to restore it to its previous grandeur as an individual house of designation and it will soon receive a plaque commemorating the outstanding work of the Aviation Design Pioneer, John Dudley North who lived at the house from 1936 - 1968. Will the local authority/council be fulfilling its obligation to reassess the Conservation area as detailed in Section 69 (2) of the 1990 Planning Act to re-establish/assess the importance of the Oldbury Conservation area?

2.5 The proposed refusal reason and the additional information submitted are considered below with an officer commentary.

3.0 OFFICER COMMENTARY

3.1 A Heritage Assessment has been submitted by the applicant and the Conservation Officer has provided the following response:

SC Conservation comments (04.07.14): Previous comments were made on the 03/04/14. It was suggested that any reserved matters application should address the impact of the development on the Conservation Area and designated and non designated heritage assets. A Heritage Impact Assessment has now been provided and concludes that '*The obvious benefits that would accrue from the development in terms of housing provision – especially given the local authority's failure to meet the five year building stock quota – more than outweigh any of the minor impact the proposed development would have on any designated or non-designated heritage assets, their character, or setting, or significance.*'

As noted previously as the application is only in outline only the principle of development can be considered, with no details of layout, size or design no detailed comments can be provided on those aspects of the development and comments can only be made on the information provided.

As previous comments outlined, the rural nature of this site at the north eastern entrance to the village contributes to the character of the village and the Conservation Area. Any development within or adjacent to the Conservation Area has the potential to impact upon its setting therefore layout, size, design and the use of green space will be key to ensure any new development proposals fit within their setting. Development proposals should aim to protect and enhance the Conservation Area.

The planning officer's previous appraisal of the proposal considered the impacts of the development as follows:

'Whilst it is acknowledged that the proposal would result in the loss of an agricultural field and the semi-rural nature of the edge of Oldbury it is considered that this would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the benefits. Full details of the layout, scale, appearance and landscaping of the scheme are reserved for later approval and it is considered that an appropriately designed scheme that would reflect the local vernacular in terms of scale, design, details and materials could be achieved that would provide an attractive and interesting frontage to Oldbury Road that would compliment the existing street scene.'

It is considered that this is an accurate appraisal and therefore proposals should be supported.

- 3.2 It is clear that the Conservation officer agrees with the officer recommendation and supports this application and at the same time concurs with the conclusion within the Heritage Impact Assessment submitted. This assessment confirms that there is no Conservation Area Appraisal for the Oldbury Conservation Area and there has been no official review of the conservation area or its boundary since it was first established in 1981. Since its designation the Conservation area has been significantly altered by the construction of the by-pass and modern developments including the recent suburban 'Fells Orchard' development opposite the application site. Limited weight can therefore be given to the Conservation status and as no Conservation Area Appraisal has ever been prepared there is no description of the special architectural or historic interest that contributes to the character and appearance of the Conservation Area to assist in the assessment of the impact of the proposal on the Conservation area and its setting.
- 3.3 The Conservation Officer has suggested that the rural nature of this site at the north eastern entrance to the village contributes to the character of the village. However the approach to Oldbury from the Bridgnorth direction has already been altered by the construction of the by-pass and the new development in the vicinity of the site, and when travelling in the opposite direction the site is screened from view by Eversleigh House and its surrounds. Officers consider (and the Conservation Officer agrees) that the loss of an agricultural field, and a short length of hedgerow and trees that contribute to the semi-rural nature of the edge of Oldbury would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the

benefits. Furthermore in the absence of an appraisal when it was designated in 1981 and with no subsequent review since its designation little weight can be given to the Conservation area status. In view of the recent developments near to the site it would also be difficult to support the view that the *'proposed development would have a detrimental impact upon the character and appearance of the Oldbury Conservation Area and its setting'*.

- 3.4 With regards to the matters raised by the neighbour about the impact on the hedgerow and trees in front of Eversley House it should be noted that the Councils Arboriculturalist considered (and was reported to Members in the committee report) that:

'the existing belt of trees and hedgerow within the visibility splay are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds'.

Members reason for refusal refers to *'the loss of a visually prominent section of roadside hedgerow and trees'*. In view of the Tree officer comments it would be difficult to defend this aspect of the reason for refusal. Furthermore officers are concerned that Members (and the public) may have misinterpreted the proposed plans, including the tree protection plan, when reaching their decision regarding the length of hedgerow proposed to be removed. These plans indicate that the *'hedgerow vegetation within the visibility splays'* will be removed. Highways confirmed within their consultation response that the proposed visibility splays as shown on the submitted Proposed Block Plan (Drawing no. 3907/03) are acceptable. The visibility splays or sight lines indicated on this plan are also on the Root Protection plan as a red dotted line and the existing hedgerow and trees in front of Eversley House are situated behind this line. The hedgerows, and trees, either side of the development frontage (including those in front of Eversley House) are therefore not required to be removed to create the visibility splays and the *'removal of hedgerow vegetation'* only refers to the removal of any vegetation on the highway verge and footpath and growth of the hedge forward of this part of the visibility splay. Only the hedgerow directly in front of the application site in the ownership of the applicant is required to be removed. An email from the applicant received 18.06.14 confirms this and was part of the correspondence reported to members at committee. A second email has also been received from the agent in response to the neighbours comments that confirms that tree 24 is located behind the neighbours hedge which abuts the public footpath and that appendix 5 in Thomas Consulting Ltd's Highway, Drainage and Flood Risk Assessment confirms that the visibility splays do not cross third party land save for the adopted highway (footpaths). The trees and hedgerow in front of Eversley House are not indicated to be removed and are not required to be removed as part of this proposal and in any case consent would need to be obtained from the landowner to do so.

4.0 **CONCLUSION**

- 4.1 Officers respectively request that members reconsider whether they wish to refuse this application for the refusal reason given as it would be difficult to defend at appeal in light of the Heritage Impact Assessment submitted, the lack of a Conservation area appraisal or any review since 1981 and Conservation Officer

support for the Officer recommendation and no objection from the Councils Arboriculturalist.

4.2 In addition the applicant wishes to offer the following alternative planning conditions and this was reported verbally to members at the June committee:

2. *Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of 12 months from the date of this permission.*

3. *The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission or before the expiration of 12 months from the date of approval from the date of approval of the last of the reserved matters to be approved, whichever is the later.*

This clearly indicates that this is not merely speculative development but that the applicant intends to commence development soon which demonstrates deliverability of the site within 5 years complying with the NPPF requirements

4.2 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle in the context of the guidance set out in the National Planning Policy Framework. In order to refuse the application there would need to be serious demonstrable harm that would outweigh the benefit of boosting the housing supply. Whilst it is acknowledged that the proposal would result in the loss of an agricultural field and short length of hedgerow and trees that contribute to the semi-rural nature of the edge of Oldbury it is considered that this would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the benefits. Full details of the layout, scale, appearance and landscaping of the scheme are reserved for later approval and it is considered that an appropriately designed scheme that would reflect the local vernacular in terms of scale, design, details and materials could be achieved that would provide an attractive and interesting frontage to Oldbury Road that would compliment the existing street scene. The proposal would have no adverse highway or ecological implications subject to the imposition of the recommended conditions. Although the proposal would result in the loss of some of the roadside hedge and some trees the Councils Arboriculturalist considers that the existing belt of trees and hedgerow within the visibility splay are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds and that the proposed method of removal would not damage adjacent protected and other retained trees and hedgerow. Replacement planting and full tree protection measures will be secured at the Reserved Matters stage. Any open space provision and on site affordable housing will also be decided at the reserved matters stage and will be secured by a S106 agreement. It is considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF and it is recommended that members support this application and grant planning permission in line with clear guidance within the NPPF.

5.0 Risk Assessment and Opportunities Appraisal

5.1 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.

5.2 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.

5.3 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.

6.0 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.

7.0. Additional Information

List of Background Papers:

Planning File 14/01016/OUT
Report to 22 June 2014 South Committee
Minutes of 22 June 2014 South Committee
Heritage assessment

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member(s)

Cllr John Hurst-Knight
Cllr Les Winwood

Appendices

APPENDIX 1 – Conditions
APPENDIX 2 - Officer report to 24 June 2014 Committee

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the scale, appearance, layout and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 2(1) of the Town and Country Planning (Development Management Procedure) Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission or before the expiration of 12 months from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. 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.

5. The application for reserved matters should be accompanied by a full design rationale for the development of the site, taking into consideration the setting of the Conservation Area.

Reason: To ensure that the development would have no adverse impact on the setting of the adjacent conservation area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. As part of the first application for reserved matters and prior to the commencement of development full details of the means of access, including the layout, construction and sightlines shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To ensure a satisfactory means of access to the highway.

7. As part of the first application for reserved matters a contoured plan of the finished road levels shall be provided together with confirmation 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.

8. On the Pluvial Flood Map, the site is at risk of surface water flooding. As part of the first application for Reserved matters full details on how the surface water runoff will be managed and how the flow of the flood water will be routed away from properties and will not cause flooding of any property either within the proposed development or any other in the vicinity and to ensure that the finished floor levels are set above any known flood level, shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To minimise the risk of surface water flooding.

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

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

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

10. If non permeable surfacing is used on the new access road, driveway and parking areas and/or the access road slopes toward the highway, full details of a drainage system to intercept water prior to flowing on to the public highway shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

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

11. Notwithstanding the provisions of the Town and Country General Development Order 1995 (or any order revoking or re-enacting that order with or without modification), fences or other means of enclosure at the road junction shall be set back to the sight lines shown on the approved plan and those areas shall thereafter be kept free of any obstruction at all times.

Reason: In the interest of highway safety.

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

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

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

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

14. Demolition or construction works shall not take place outside the following times:
 - Monday to Friday 07:30hrs to 18.00hrs
 - Saturday 08:00hrs to 13.00hrs
 - Not at any time on Sundays, bank or public holidays.

Reason: In the interest of amenity of the occupants of surrounding residential properties.

Informatives

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. To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner, as part of the SuDS, the applicant should consider employing measures such as the following:
 - Water Butts
 - Rainwater harvesting system
 - Permeable surfacing on any new access road, driveway, parking area/ paved area
 - Attenuation
 - Greywater recycling system
 - Green roofs

3. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
4. 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 bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
5. 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.

APPENDIX 2



Committee and date

South Planning Committee

24 June 2014

Development Management Report

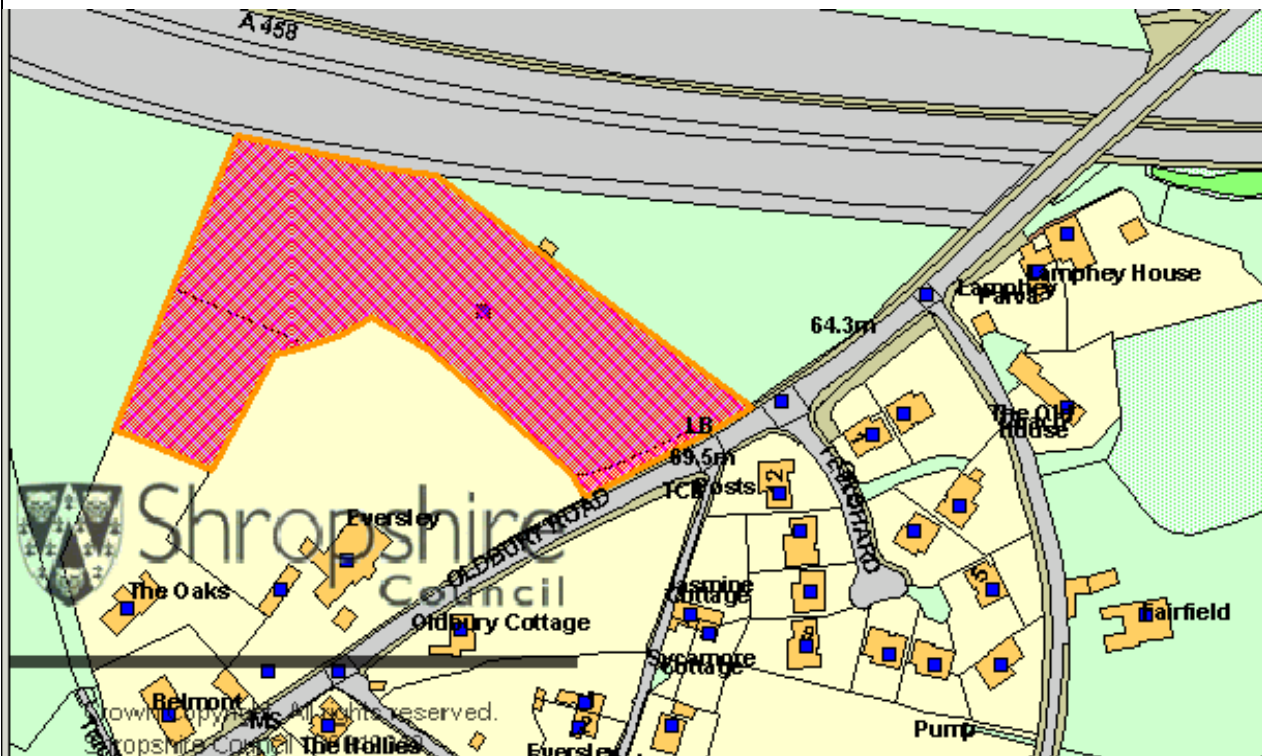
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Recommendation:- Grant Permission as a departure and subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant on site affordable housing provision and/or the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to outline consent for residential development of the site to include means of access off Oldbury Road. A single access point is proposed off Oldbury Road, from which the drawing in the Transport Assessment shows a 2.4 x 60m visibility splay in a south westerly direction and a 2.4 x 64m visibility splay in a north easterly direction. No illustrative site layout has been provided to support this outline application and the proposed number of dwelling units is not specified in the description of development. The application form suggests the site could be suitable for seven open market houses, which would be a low density development. However the actual number of units in this case would be a matter for consideration at the reserved matters stage in the event of outline planning permission being granted.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is approximately 1 hectare of rough grazing land situated to the South of Bridgnorth and on the edge of the village of Oldbury. The site is separated from Bridgnorth by the A458 bypass to the North. The site is 'L' shaped with the southern boundary wrapping around the northern side of the grounds to a property known as 'Eversley'.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 **Bridgnorth Town Council** – OBJECTS: Members discussed the application at length and also took into account the comments already uploaded to the Shropshire Council planning portal. Two Members had attended a community meeting the previous Friday where they heard many residents raise objections to the plans. Members were told that this application had been put forward on the basis of the National Planning Policy Framework's presumption in favour of Sustainable Development and also in light of the fact that Shropshire has less than a 5 year supply of available housing land. It was however stated to be contrary to

Shropshire's adopted Core Policy CS5 in that it is building in the countryside. Therefore, apart from site specific issues there is a general issue about whether or not this is a sustainable place to build. It was also stated that the SAMDev process undertaken by Shropshire Council did look at the site and got part way through the process before they reached a conclusion that the overall sustainability of this site was poor and it therefore did not go through to the final short list of sites to be selected for development. Shropshire Council had apparently also reached the same conclusion for other sites around Oldbury and residents at the meeting last Friday had expressed concern that if development should be allowed on this site, it could potentially be allowed on others too. Other issues raised by Members relating to sustainability were access to public transport and schools, effect on landscape, wildlife, heritage assets and the conservation area. Members in conclusion resolved to recommend refusal on the grounds that this is a greenfield site and is on the edge of a conservation area.

4.1.2 **SC Archeology (Historic Environment):** No comments to make on this application with respect to archaeological matters.

4.1.3 **SC Conservation (Historic Environment):**

Background to recommendation:

The application site lies to the edge of Oldbury within open countryside. The site lies predominantly adjacent to the Oldbury Conservation Area, with a small portion along Oldbury Road lying just within the Conservation Area. When travelling through Oldbury from the south the village is characterised by large houses in large plots, interspersed with open views over the surrounding countryside, giving it a semi-rural character. Towards the north eastern end of the village, development becomes slightly more tightly spaced to the south east of Oldbury Road but still with parcels of open land. To the north east of Oldbury Road development remains sparse with houses on large plots and parcels of undeveloped agricultural land. The application site is bounded by mature hedging and trees which contribute to the character of this part of the conservation area.

Principles of Scheme:

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

Details:

The application proposes a mixed residential development on this site to the edge of the village of Oldbury. The application is in outline so consideration is only given to the principle of development on this site. It is considered that the rural nature of this site at the north eastern entrance to the village contributes to the character of the village and the conservation area, as do the mature trees and hedgerow that run along the boundary with Oldbury Road. It is considered that the loss of this rural character would have some detrimental impact on the character of the Conservation Area and would alter the character of this part of the village.

Recommendation:

The application is not wholly supported from a conservation perspective.

Suggested Conditions:

If the application is deemed acceptable any reserved matters application should address the impact of the development on the conservation area and designated and non designated heritage assets.

- 4.1.4 **SC Highways DC:** No objection in principle to the residential development at the proposed location. It is considered that the proposed development is located within reasonable close proximity to Bridgnorth Town Centre, with direct access on to the B4363. The submitted Highway, Drainage and Flood Risk Assessment, makes reference to the required visibility splay, in accordance with Manual for Streets, it is considered that the proposed visibility splays as shown on the submitted Proposed Block Plan (Drawing no. 3907/03) are acceptable in view of the posted speed limit and surrounding conditions.
- 4.1.5 **SC Drainage:** Suggests drainage details, plan and calculations to be conditioned and submitted for approval at the reserved matters stage.
- 4.1.6 **SC Affordable Houses:** Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.
- 4.1.7 **SC Ecologist:** Has read the supporting documents including the Phase 1 Environmental Survey by Greenscape Environment dated February 2014 and the update dated May 2014.

Badgers

Greenscape Environmental (May 2014) report now that there is no evidence of a badger sett or activity on the site or near the site. No mitigation is needed for badgers.

Bats

The trees and hedgerows on site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour.

Nesting birds

The trees and hedgerows on the site are likely to be used by nesting birds and recommends a condition and informative.

4.1.8 SC Trees:

11.0414: Notes that it is stated on the application form that there are no trees or hedges on the site or adjacent the site that could influence the proposed development, or that might be important as part of the local landscape character. However, the reality is that several of the boundaries are composed of, or near to, established and mature trees and / or hedges. The trees and hedge forming the road front boundary of the site with Oldbury Road are protected by virtue of being located within a conservation area, the north-eastern site boundary forms the edge of an area Tree Preservation Order (ref: BR/TPO/05) and trees close to other parts of the site are protected by TPO ref: SC/00059/11.

The Amended Planning Statement (registered 17th March 2014) states in Section 5.6.1 that the proposal 'seeks to retain existing boundary trees and hedges and to provide additional planting along the boundaries within the site.' However, the submitted proposed block plan (WDW project 3907, drawing 3) suggests that a substantial visibility splay totalling some 124m is required either side of the proposed access off Oldbury Road. No arboricultural information has been submitted with the application, but the implication is that tree and hedge clearance will be required to create the visibility splay.

There thus appears to be a contradiction in the applicant's stated desire to retain existing trees and hedges and the need to create a visibility splay. Given that the application includes access for approval considers that insufficient information has been provided regarding the arboricultural constraints upon the proposed development and the arboricultural implications of it. In order to allow a proper assessment of the impact on trees and hedges, which are a material consideration and important component in the character of the conservation area, recommends the following information should be provided prior to determination of this application:

1. A survey including all trees and hedges in and adjacent the site that could potentially be affected by, or affect, the proposed development.
2. A tree constraints plan to show the restrictions posed by retained trees and hedges, bearing in mind their ultimate height, spread and requirements for suitable rooting area (accounting for existing and proposed site levels and other potential impediments to rooting).
3. An arboricultural impact assessment, outlining the impact of the proposed development on trees and hedges within and adjacent the site (including any new planting that may be associated with the development).

Items 1 to 3 above should be prepared by a competent arborist, in accordance with British Standard 5837: 2012 'Trees in Relation to Design, Demolition and Construction.

If this information is not provided recommends refusal of the application as it currently stands, on the grounds of insufficient information.

21.05.14: There are several boundary hedgerows and trees, some of which are protected under a Tree Preservation Order and some by virtue of being located within a conservation area. Considers that the majority of these trees and hedges, being located around the periphery of the site, could be retained and afforded appropriate protection so as to avoid damage during any future development. Care would be required in site layout and design with regard to the numerous offsite trees and tall hedges, to take account of their ultimate, mature height and spread and the affect this could have on liveability issues such as shading and overbearing presence for future occupants. Such considerations are vital in ultimately achieving a successful, sustainable development.

The main arboricultural issue in deciding the outline principle of development at the site is the belt of trees and hedgerow that forms the frontage with Oldbury Road. In this respect notes that the Amended Planning Statement (registered 17th March 2014) states in Section 5.6.1 that the proposal seeks to retain existing boundary trees and hedges and to provide additional planting along the boundaries within the site. However, contrary to this statement, the submitted proposed block plan (WDW project 3907, drawing 3) suggests that a substantial visibility splay totalling some 124m is required either side of the proposed access off Oldbury Road. Further, the recommended condition E15 in the consultation response from Shropshire Councils Highways team, dated 19th May 2014, states that the sightlines shall be kept free of obstruction at all times. The implication is that tree and hedge clearance will be required to create the visibility splay and that no existing trees or hedge will be permitted to remain within it.

This contradicts the findings of the arboricultural report (Sylvan Resources Ltd, May 2014) that has been provided following my previous consultation response. The arboricultural impact assessment (Section 6.1) provides details of the trees to be felled to accommodate the visibility splay. It suggests that the following trees are to be retained: T26 (4-stemmed yew, 6m high), which is on the south-west side of the proposed access; T38 (larch, 10m high), T39 (pine, 13m high) and T40 (sycamore, 10m high) all of which are to the north-east of the proposed access. The question arises are all the trees and hedge to be removed for the visibility splay, or can some of them be retained as suggested in the arboricultural report? Given that this outline application includes access for approval, considers that this discrepancy should be clarified, in order that the aboricultural implications for this road front strip of trees and hedgerow can be clearly understood and evaluated, prior to determination.

22.05.14: Within the revised tree report section 6.1, below the table of trees to be removed, has been amended to more clearly state that the hedge, specifically 'the remnants of a holly and hawthorn hedge' within the visibility splay is to be removed, with post-development replanting and additional planting of native trees and shrubs. However, the schedule of trees to be removed and the plans have not been altered in respect of trees to remain along the road frontage. Therefore it is clearly the intention to retain trees T26 (4-stemmed yew, 6m high), which is on the south-west side of the proposed access; T38 (larch, 10m high), T39 (pine, 13m high) and T40 (sycamore, 10m high) all of which are to the north-east of the proposed access. Considers that in time the hedgerow could be relatively easily

recreated by suitable replacement planting and enhanced with appropriate standard sized trees. This design detail could be conditioned to any approval for the current application. There remains, however, a question as to feasibility of achieving the visibility splay, where it passes in front of the property named 'Eversley' to the south-west of the proposed access and also in front of the adjoining land beyond the site boundary to the north-east. Aside from the question of ownership of the vegetation in these parts of the visibility splay, there are offsite, mature, protected trees in the vicinity of both these locations and would want assurance that any clearance of the vegetation in the vicinity (specifically within the Root Protection Area) of these protected trees would be undertaken in such a way as not to cause damage or harm to the trees or their roots. (Damage may arise, for example, through the inappropriate use of systemic herbicides or excavations or alterations of ground levels). Subject to satisfactory assurance on the above point and on balance, considers that the existing belt of trees and hedgerow within the visibility splay are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds.

23.05.14: Confirms that the amended version of the tree report satisfactorily addresses previous concern as to the method of removal of the roadside hedge, so as not to damage adjacent protected and other retained trees. Leaves the question of ownership of the hedge to be removed where it passes in front of adjacent land and property (ie outside the site boundary) to others in a position to address this issue.

- Public Comments

4.1.9 40 letters of objection received from local residents and a letter from the Civic Society with the concerns summarised as follows:

- The village and rural aspect will be changed.as the development would impact on the heritage of the village, the conservation area and the adjacent house (Eversley)
- The village would lose its identity and become part of Bridgnorth.
- It would impact on tourism to Bridgnorth which is a major source of income to many within the town.
- The site would be prominent in the landscape and blight the views from High Town
- The site is a lovely field with a gently sloping hill and the enjoyment of the view from the road and from the field/well used public footpath to the rear will be affected.
- Many protected species including badgers and bats live within the field and the wooden horse shelter and sheds and is a potential site for newts due to a natural pond within 250 metres of the site - development would cause destruction of this habitat.

- The area offers an enormous variety of habitats, and Jays, Buzzards, Owls, Bats and Foxes are seen in the area, which are all indicative of a huge diversity of other small mammals, amphibians and wildlife.
- Part of the site, including hedgerow and trees falls within the Conservation area, and the proposed visibility splay for access to the site will require cutting back established mature hedges and trees which are not part of the site and not owned by the proposers.
- The applicant does not own the proposed access and visibility splays so the Certificate of Ownership is partly untrue and it therefore follows that the Q.26 Declaration is also untrue and inaccurate.
- The access from this site onto Oldbury Road would be very dangerous as traffic currently travelling on the road generally exceeds the speed limit and by positioning the access on a blind bend there would obviously be an increase in the potential for accidents at this point.
- The roads and lack of pavements through the village are unsuitable for an increase in traffic and additional traffic will result in congestion and affect pedestrian safety.
- Does not consider that the pedestrian pathway along the road a safe route for pedestrians including children walking to school, as it is barely wide enough in places for 1 person.
- The nearest schools are well over 500 metres from the site and there is no easy access to them by car or on foot.
- The highways agency have not been consulted
- There are no bus routes through Oldbury which is not serviced by public transport and the nearest bus stops for the 125 and 297 bus routes are more than 500 metres from the site.
- The site is c.1 mile from the town centre.
- The footpaths identified on the proposed site plan are not correct and the "existing well-used footpath" shown adjacent to the site is not a legal right of way.
- The site would be reliant on private vehicles for transport, which is not sustainable.
- Numerous businesses sighted as employment opportunities have closed.
- It would set a precedent for other developments.
- The ground is 'made ground' from the construction of the bypass and not

suitable for construction - clay, siltstone and mudstone excavated from the nearby cutting for the bypass when it was built were dumped on the site to a depth of around 5 metres.

- The site was not identified as a housing development site in the local plan due to not scoring high enough on sustainability criteria.
- The site is not included for housing in the SAMdev list of sites and the site lies outside the development boundary for Bridgnorth.
- SAMDev shows a surplus of land for some 400 new homes beyond that identified as needed for the Bridgnorth area. SAMDev also shows the biggest proportional increase in land allocated for new housing for Bridgnorth compared to the rest of the county.
- There are numerous houses for sale in Oldbury Village so questions the need for further development in the area.
- This site (BRID027) was considered at an early stage of developing SAMDev and overall sustainability of the site was judged to be poor. More detailed assessment in Stage 2b highlighted the fact that the site is not considered well related to town and suffers from a poor quality access and difficult topography and that development has the potential to generate adverse impacts on the setting of the Conservation Area and protected trees. Allocation was considered inappropriate given that better alternative sites are available.
- CS5 prevents development on sites situated within open countryside and labelling this location as sustainable does not override the findings of the policy.
- The proposal states the indicative density of the development is considered sympathetic to the locality, however no details on the density are given and in the conclusion the allowance to serve adjacent residential land is discussed.
- There is a concern about the potential for a large development on this site and adjacent sites rather than the 7 houses mentioned in the statement.
- Request deferral so can seek professional advice on Officer recommendation.
- The issue here, taking account of the undue weight given to sections of the NPPF by the Planning Officer, is whether the site for which access is applied is a sustainable location. In our previous comments (Bridgnorth Civic Society) clearly set out the reasons why this is demonstrably not so, looking at the three sustainability dimensions for sustainability in the NPPF. Consider the applicants flimsy arguments count for little. The application would remove a long stretch of hedgrows, including mature trees and seriously

damage the character and setting of the Conservation Area. Approval would undermine the Policy whereby Oldbury has not been considered a suitable location for development since the Conservation Area was established. It is not a sustainable application and urge the Planning Committee to turn it down.

5.0 THE MAIN ISSUES

Principle of development

Assessment of sustainability

Impact on character of conservation area and landscape/ visual impact

Highways

Others material considerations

- Trees

- Ecology

- Impact on residential amenity

- Drainage

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 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.'

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 adopted planning policy for the area is the Bridgnorth District Local Plan (1996 – 2011) but the site is outside the development boundary on the proposals inset map and is therefore classed as countryside. Shropshire Council has an adopted Core Strategy and Bridgnorth is identified as a market town within policy CS3 (Market Towns and Other Key Centres) which outlines that balanced housing and employment development, of an appropriate scale and design that respects each town's distinctive character and is supported by improvements in infrastructure, will take place within the towns' development boundaries and on sites allocated for development. CS3 also states that the detailed scale of development in each market town will be determined through the process of preparing the SAMDev DPD. SAMDev is at the 'Pre-Submission Draft Plan (or Final Plan) stage' and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.1.4 The SAMDev pre-submission draft plan indicates a development boundary for Bridgnorth and allocated housing sites and as the proposed site is not included as an allocated site and is outside the suggested development boundary, allowing this proposal would be contrary to the emerging SAMDev DPD. However 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 **Assessment of sustainability**

6.2.1 The site is approximately half a mile from Bridgnorth which has a wealth of facilities, services and employment opportunities as would be expected in any large market town. Bridgnorth is accessible by foot or by cycle and there is a regular bus service including the 125 which provides an hourly service to Stourbridge and Bridgnorth (bus stop adjacent Kings Loade Junction) and the 297 that provides an hourly service to High Town. 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 and a range of facilities and employment opportunities without over reliance on the private motor car.

6.2.2 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.*

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

6.2.4 Social role - The proposal will help boost the supply of open market housing and will provide affordable housing at the prevailing rate at the time of the reserved matters application. The provision of additional housing will help support and maintain existing facilities and services and will benefit both the existing and future residents and help meet the needs of present and future generations

6.2.5 Environmental role – The site is agricultural land with no heritage, cultural or ecological designation. The application site has been assessed for its heritage, cultural and ecological value by the Council's Historic Environment Officers and Ecology and Tree officers and these matters are considered in greater detail below. In principle it has been determined that the proposal would have no significant adverse impacts on these values. Officers consider that the impact of the proposal on the landscape and adjacent Conservation area would not be significant and as such would not outweigh the benefits of the proposal. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Bridgnorth.

6.2.6 The site was not progressed as an allocated site within SAMDev partly because it was considered inappropriate given that better alternative sites were available. However due to the lack of a 5 year land supply and the need to boost housing numbers just because there may be sites that score higher on sustainability grounds does not mean that the site should be rejected at the planning application stage. Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development and that the development of this site outside the proposed development boundary identified within the Draft SAMDev is acceptable in principle subject to a satisfactory scale and design, and should be supported provided there are no adverse impacts that would outweigh the benefits.

6.3 **Impact on character of conservation area and landscape / visual impact**

6.3.1 The site is approximately 1 hectare of rough agricultural grazing land situated to the South of Bridgnorth and on the edge of the village of Oldbury within open countryside. It is adjacent to the Oldbury Conservation Area, with a small portion along Oldbury Road lying just within the Conservation Area. The Conservation Officer considers that the mature trees and hedgerow that run along the boundary with Oldbury Road and the rural nature of this site at the north eastern entrance to Oldbury contributes to the character of the village and the conservation area, and that the loss of this rural character would have some detrimental impact on the appearance of the Conservation Area. Although the proposal would result in the loss of some hedgerow and trees the Councils Arboriculturalist considers that the existing belt of trees and hedgerow within the access and visibility splay are not of any individual or collective merit and that the hedgerow could easily be recreated by suitable replacement planting and enhanced with appropriate standard sized trees. Whilst it is acknowledged that the proposal would result in the loss of an agricultural field and the semi-rural nature of the edge of Oldbury it is considered that this would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape. The majority of the site frontage is opposite the modern development of 'Fells Orchard' that does not contribute to the character and appearance of the Conservation area and it is considered that an appropriately designed scheme could be achieved (to be considered at the Reserved Matters stage) that would reflect the local vernacular in terms of scale, details and materials and provide an attractive and interesting frontage to Oldbury Road that would compliment the existing street scene. It is not considered that the loss of this field and the provision of housing would have a significant adverse impact on the character and appearance of the landscape and adjacent conservation area that would outweigh the benefits of the proposal.

6.4 **Highways**

6.4.1 The application is outline only but includes means of access. Highways have no objection to the proposed access and consider that the proposed visibility splays indicated on the submitted plan are acceptable in view of the posted speed limit and surrounding conditions. The planning conditions suggested regarding full details being submitted for approval and the sight lines being kept free of any obstruction can be imposed. Subject to these conditions it is considered that the proposal would not result in any adverse highway safety implications.

6.4.2 Letter submitted with land registry documents as proof of ownership of the whole application site by the applicants. The agent comments that all the land in their client's ownership can accommodate all of the development proposals including visibility splays as required by the Shropshire Council Highways department.

6.5 Others material considerations

6.5.1 **Trees** – The Councils Arboricultuarlist confirms that there are several boundary hedgerows and trees, some of which are protected under a Tree Preservation Order and some by virtue of being located within a conservation area and requested additional information regarding their protection and retention. On receipt of updated arboricultural reports considers that the majority of these trees and hedges, being located around the periphery of the site, could be retained and afforded appropriate protection so as to avoid damage during any future development. At the Reserved Matters stage care will be required in the site layout and design to take account of the ultimate, mature height and spread of the numerous offsite trees and tall hedges and the affect they could have on liveability issues such as shading and overbearing presence for future occupants. Full landscaping details, site layout and tree protection measures will be further considered at the Reserved Matters stage. Access to the site has however been included as part of this outline application and initially it was unclear which trees or hedges would be required to be removed to enable adequate visibility splays to be provided for the proposed new access onto Oldbury Road. The revised tree report now clarifies this and although the proposal would result in the loss of some of the roadside hedge and trees the Councils Arboriculturalist considers that the existing belt of trees and hedgerow within the visibility splay are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds. The revised report also includes details of the proposed method of removal and the Councils Arboricultuarlist has confirmed that this would not damage adjacent protected and other trees to be retained. He also considers that in time the hedgerow could be relatively easily recreated by suitable replacement planting and enhanced with appropriate standard sized trees. Replacement hedge and tree planting and full tree protection measures will be secured at the Reserved Matters stage.

6.5.2 **Ecology** – A Phase 1 Environmental Survey by Greenscape Environment dated February 2014 and updated May 2014 has been submitted with the application. This confirms that there is no evidence of protected species on the site such as badgers, bats or newts and that the site is considered to be of low ecological value with no BAP species present. The surrounding trees and hedgerows on site are however likely to be used for bat foraging and commuting, and by nesting birds and the conditions and informatives suggested by the Ecologist can be imposed. The proposal will therefore not cause an offence under the Conservation of Habitats and Species Regulations.

6.5.3 **Impact on residential amenity** – Core strategy Policy CS6 (Sustainable Design and Development Principles) indicates that development should safeguard residential amenity. The nearest property to the site boundary is number 12 'Fells Orchard' to the South East and on the opposite side of Oldbury Road. The only

property that shares a boundary with the site is 'Eversley' to the South West. Due to the distance from these and other properties it is unlikely that the proposal would have any adverse impact and this will be fully considered at the Reserved Matters stage. Some residents have raised concern about land ownership at the access point but the agent has provided a registered title plan which shows no third party land ownership and that the applicant has an unencumbered interest in the application site. However land ownership is a civil matter and not relevant to the determination of a planning application.

- 6.5.4 **Drainage** – The submitted drainage report and FRA indicates that the site is not at risk of flooding and that surface water can be dealt with via soakaways and foul drainage to the Public Sewer or a foul treatment plant could be considered with discharge to soakaway. The Councils drainage engineer has no objection to the proposal and has commented that the detailed drainage proposals can be submitted at the reserved Matters stage and conditions and informatives can be imposed regarding this.

7.0 **CONCLUSION**

- 7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle in the context of the guidance set out in the National Planning Policy Framework. In order to refuse the application there would need to be serious demonstrable harm that would outweigh the benefit of boosting the housing supply. Whilst it is acknowledged that the proposal would result in the loss of an agricultural field and the semi-rural nature of the edge of Oldbury it is considered that this would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the benefits. Full details of the layout, scale, appearance and landscaping of the scheme are reserved for later approval and it is considered that an appropriately designed scheme that would reflect the local vernacular in terms of scale, design, details and materials could be achieved that would provide an attractive and interesting frontage to Oldbury Road that would compliment the existing street scene. The proposal would have no adverse highway or ecological implications subject to the imposition of the recommended conditions. Although the proposal would result in the loss of some of the roadside hedge the Councils Arboriculturalist considers that the existing belt of trees and hedgerow within the visibility splay are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds and that the proposed method of removal would not damage adjacent protected and other retained trees. Replacement planting and full tree protection measures will be secured at the Reserved Matters stage. Any open space provision and on site affordable housing will also be decided at the reserved matters stage and will be secured by a S106 agreement. It is considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF and it is recommended that members support this application and grant planning permission in line with clear guidance within the NPPF.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

Shropshire Core Strategy and saved Bridgnorth District Local Plan policies:

CS3 The Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
D6 Access and Parking
S1 Development Boundaries

SPD on the Type and Affordability of Housing

11. Additional Information

<p>List of Background Papers: File 14/01016/OUT Planning Statement/Design and Access Statement Highways, Drainage and Flood Risk Assessment Ecology Reports Tree Reports</p>
<p>Cabinet Member (Portfolio Holder) Cllr M. Price</p>
<p>Local Member Cllr John Hurst-Knight Cllr Les Winwood</p>
<p>Appendices APPENDIX 1 - Conditions</p>

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the scale, appearance, layout and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 2(1) of the Town and Country Planning (Development Management Procedure) Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. 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.

5. The application for reserved matters should be accompanied by a full design rationale for the development of the site, taking into consideration the setting of the Conservation Area.

Reason: To ensure that the development would have no adverse impact on the setting of the adjacent conservation area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. As part of the first application for reserved matters and prior to the commencement of development full details of the means of access, including the layout, construction and sightlines shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To ensure a satisfactory means of access to the highway.

7. As part of the first application for reserved matters a contoured plan of the finished road levels shall be provided together with confirmation 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.

8. On the Pluvial Flood Map, the site is at risk of surface water flooding. As part of the first application for Reserved matters full details on how the surface water runoff will be managed and how the flow of the flood water will be routed away from properties and will not cause flooding of any property either within the proposed development or any other in the vicinity and to ensure that the finished floor levels are set above any known flood level, shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To minimise the risk of surface water flooding.

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

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

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

10. If non permeable surfacing is used on the new access road, driveway and parking areas and/or the access road slopes toward the highway, full details of a drainage system to intercept water prior to flowing on to the public highway shall be submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

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

11. Notwithstanding the provisions of the Town and Country General Development Order 1995 (or any order revoking or re-enacting that order with or without modification), fences or other means of enclosure at the road junction shall be set back to the sight lines shown on the approved plan and those areas shall thereafter be kept free of any obstruction at all times.

Reason: In the interest of highway safety.

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

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

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

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

14. Demolition or construction works shall not take place outside the following times:
 - Monday to Friday 07:30hrs to 18.00hrs
 - Saturday 08:00hrs to 13.00hrs
 - Not at any time on Sundays, bank or public holidays.

Reason: In the interest of amenity of the occupants of surrounding residential properties.

Informatives

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. To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner, as part of the SuDS, the applicant should consider employing measures such as the following:
 - Water Butts
 - Rainwater harvesting system
 - Permeable surfacing on any new access road, driveway, parking area/ paved area
 - Attenuation
 - Greywater recycling system
 - Green roofs

3. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
4. 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 bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.
5. 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.