

Development Management Report

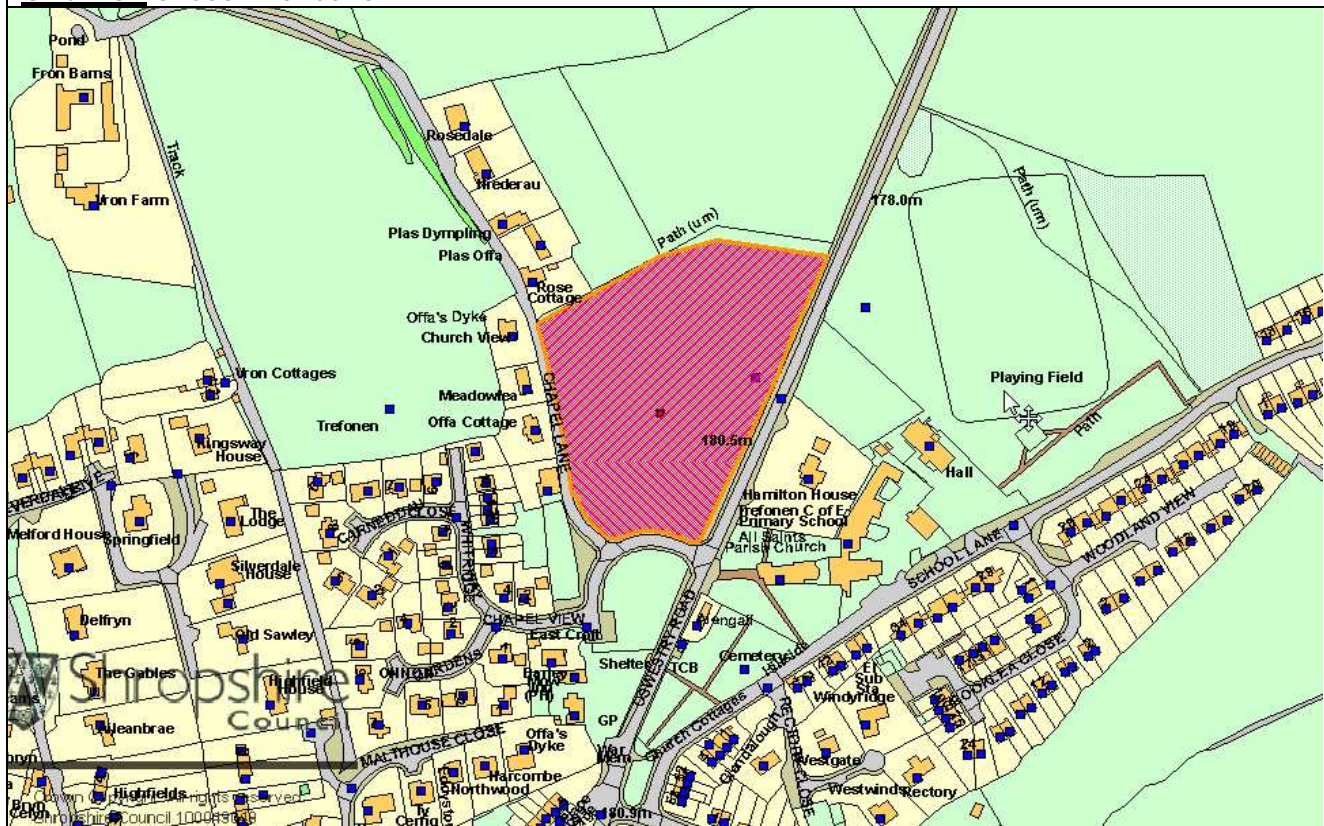
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Summary of Application

Application Number: 14/00426/OUT	Parish: Oswestry Rural
Proposal: Outline application (access for approval) for mixed residential development; alterations to existing vehicular access; works to existing highway	
Site Address: Development Land Off Chapel Lane Trefonen Oswestry Shropshire	
Applicant: Mr H Martin	
Case Officer: Mark Perry	email: planningdmnw@shropshire.gov.uk

Grid Ref: 326034 - 326948



Recommendation:- subject to the *conditions* set out in Appendix 1 and the applicant entering into a S106 to secure an affordable housing contribution.

REPORT

1.0 THE PROPOSAL

1.1 The submitted application seeks outline planning for a residential development. The appearance, landscaping, layout and scale are all reserved for later approval. The applicant has indicated that the site would be suitable for accommodating the erection of 22 dwellings.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site covers an area of 1.4 hectares and is located in between Oswestry Road which runs along the eastern boundary and Chapel Lane along its west. To the south of the site there is a public house and church yard and to the east there is the primary school and village hall and to the north east there are the playing fields.

2.2 The site is currently well screened along its eastern boundary and along its western side there is a stone wall which is in need of repair at various points. The site is mainly level and contains one mature tree within the site close to the eastern boundary.

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

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The chair of the planning committee is of the opinion that the application raises issues that need to be considered by the planning committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 - Consultee Comments

4.1.2 Parish Council-

Meeting on 2nd June 2014 (following the submission of further supporting/ background information)

After discussion and a vote at the last Parish Council meeting the Council **supports** this application.

Meeting on 25th March 2014

Oswestry Rural Parish Council do not support either of these applications [14/00536/OUT and 14/00426/OUT]. The two applications should be considered in tandem as they potentially will have a major impact on Trefonen village. ORPC held a public meeting on 1st March 2014 with nearly 200 people attending. Trefonen is a small rural village but the response from the community against these applications for 34 houses has been extraordinary and the planners should take

into consideration the total of 191 objections and 3 with no objections, lodged with ORPC and numerous other respondents who registered their objections directly with Shropshire Councils planning portal. With the emerging SAMDev and ORPC Parish Plan Survey at an advanced stage of production would it not be sensible to delay any planning decisions where the local community are so against them until the SAMDev and Parish Plan are completed. Both of these will help identify areas for development which the local community would support. Highlighted are some of the concerns raised by local people, in italics are the relevant paragraphs of the National Planning Policy Framework.

Local affordable housing, to allow young people to remain in the village Paragraph 7 a social role in supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations. Paragraph 14 sustainable development.

Paragraph 54 plan housing development to reflect local needs, particularly for affordable housing, including through rural exception sites where appropriate. Negative impact on open aspect of the village Paragraph 7 an environmental role contributing to protecting and enhancing our natural environment.

Development and style of houses not in keeping with the already established rural character. Paragraph 86 the character of the village needs to be protected.

There is no demand for this type of housing in the village. Currently there are Paragraph 24 houses for sale in the Trefonen area, last year 9 were sold. There are P 82 , 3 or 4 bed roomed houses within a 3 mile radius of Trefonen. Paragraph 14 there is a presumption in favour of sustainable development , which should be seen as a golden thread running through both plan making and decision-taking. High unemployment in the Oswestry area and no jobs in Trefonen. People will need to travel away to work and the village will become a dormitory with very few of the residents contributing to the local community. Paragraph 37 people should be encouraged to minimise journey lengths for employment There will be a pinch point at the proposed new roundabout where 4 roads will meet and the cars generated by the proposals will exceed 68. Heavy construction traffic will be a hazard and as there is no mains gas delivery of bottled gas, oil, refuse collection and deliveries from internet purchases will all add to this congestion. A narrow country lane will be the access, there are already problems with parking at the Church for funerals and farms further up Chapel Lane report problems with access for farm machinery and milk tankers etc. Paragraph 32 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:

The opportunities for sustainable transport modes have been taken up Safe and suitable access to the site can be achieved for all people; and Improvements can be undertaken within the transport network that cost effectively limit the impacts of the development Offas Dyke a very important tourist attraction will be compromised Paragraph 109. The planning system should contribute to and enhance the natural and local environment by:

Protecting and enhancing valued landscapes. Paragraph 130 where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated

state of the heritage asset should not be taken into account. Paragraph 133 Where a proposed development will lead to substantial harm to or total loss of significance, local planning authorities should refuse consent.

There is no shop or post office, necessitating a 3 mile drive to Oswestry for shopping. This will increase the potential for added pollution. Paragraph 28 promote the retention and developments of local services and community facilities in villages, such as local shops .

The developments go against the Village Design Statement. Paragraph 47 local planning authorities should set out their own approach to housing density to reflect local circumstances.

There is a very poor bus service with 1 bus into Oswestry at 10.26am returning at 1.35pm to Trefonen. Paragraphs 29 , 30, 31, 32, 34 Plans and decision should ensure developments that generate significant travel will be minimised and the use of sustainable transport modes can be maximised.

Childrens safety is a risk. There has already been an accident on the zebra crossing where a child at the primary school sustained fractured zygoma. The increase in traffic on the main road will increase the potential for road safety incidents.

Trefonen is already overdeveloped.

There is a flooding risk especially with 14/00426/OUT. This field is flooded now and results in the flooding progressing to the main road. Paragraph 100 Inappropriate development in areas at risk from flooding should be avoided.

Both sites are on Greenfield. There will be loss of countryside and loss of agricultural land.

Paragraph 77 The Local Green Space designation will not be appropriate for most green areas or open spaces. 80 Green Belt serves five purposes:

To check the unrestricted sprawl of large built up areas;

To prevent neighbouring towns merging into one another;

To assist in safeguarding the countryside from encroachment; to preserve the setting and character of historic sites;

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The Primary School Governors are worried about the increased pressure on the School. Over 1/3 of pre-school and school children are out of the catchment area which will leave a large shortfall for the actual village. Paragraph 72 The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

4.1.3 **Highways – no objection** subject to conditions.

The application seeks outline consent for residential development with all matters reserved other than access. In this regard the Illustrative layout plan shows access via a mini-roundabout arrangement encompassing Chapel Lane and Chapel View. This clearly therefore would alter the current road layout where changes were previously affected by the relatively new residential development served via

Chapel View. From a highway aspect the principle of a new mini-roundabout is acceptable subject to the further submission of a detailed design including alterations to the initial length of Chapel Lane and street lighting. The highway authority is satisfied that the proposed junction works could be incorporated into a Grampian style planning condition. The implementation of such works would be via a Section 278 highways agreement which would include Safety Auditing of a scheme.

This application has raised a significant number of representations of objection from local residents regarding highway safety and access matters. It is noted however that Oswestry Rural Parish Council raise no objection to the current planning application.

Representations have cited the current speed limit of Chapel Lane and 'Design Manual for Roads and Bridges' (DMRB) guidance regarding mini-roundabout junctions being located outside of 30mph speed limits. This guidance however primarily relates to Trunk Roads but can equally be applied to county roads. The strict guidance in DMRB however would normally be applied to major traffic routes but would not be applied slavishly on lower status roads. Where it is appropriate, the local highway authority would generally apply guidance contained in DfT document 'Mini-roundabout – Good Practice Guidance'. In this particular location traffic speeds are likely to be low and within 30 mph levels. In addition whilst the signing at the Class III/Chapel Lane junction signifies Chapel Lane as the national speed limit, the presence of highway standard street lighting should define Chapel Lane and including Chapel View as a 30 mph zone area. It appears therefore that when the junction alterations were carried out the correct speed limit changes were not implemented.

It is considered therefore that a mini-roundabout junction would be appropriate in terms of providing access into the site. The highway authority however recognise the rural character and context of the site location and therefore would be seeking an appropriate design and use of materials as opposed to the more harsher mini-roundabout designs implemented in urban locations.

Further representations have been made regarding the parking of vehicles within Chapel Lane associated with the activities at the Church opposite the Church Lane junction. Whilst the highway authority acknowledge this concern it should be noted that the parking of vehicles on the highway is a privilege and not a right. The fundamental function of any highway is to allow the passage of traffic and parking within the highway is therefore an obstruction. Clearly parking takes place on many highways and is tolerated by the highway authority and Police providing it does not cause an unwarranted interference or raise highway safety implications. Parking enforcement measures can be introduced where parking problems persist. In short, the highway authority would not be able to sustain a highway objection due to parking issues associated with activities of the Church

Whilst the current application does not provide for scale or layout, the illustrative plan indicates a scale and potential adoptable housing layout with the inevitability that parking from the Church activities would migrate to additional and available road space. The applicant/developer should consider this aspect as part of an reserved matters application, should outline permission be granted. This could

include specific parking being made available for the benefit of the Church within the site, which is not developable due to land issue and constraints.

Representations have cited also the traffic impact of this and other housing development granted consent on the surrounding highway network. In this regard the highway authority does acknowledge the issues raised and the local constraints. Nevertheless the highway authority area required to balance the impact of new development and traffic impact set against the NPPF and other guidance. In this regard the highway authority is satisfied that this development and consented schemes can be adequately catered for within the local highway network. Moreover, and objection to this application on highway grounds in respect of the wider highway traffic impact would neither be warranted or sustainable.

4.1.4 **Drainage – no objection** subject to conditions

4.1.5 **Tree Officer – no objection** subject to condition requiring an arboricultural method statement and impact assessment

4.1.6 **English Heritage-** The proposed development site is located on the northern edge of Trefonen, between Chapel Lane and Oswestry Road. It is located c.100m south-east of the Scheduled Monument of Offa's Dyke: sections 100yds (90m) and 350yds (320m) long, NE of Fron (National Heritage List Ref. 1006262). To the west of the proposed development site the Dyke previously ran to the west of Chapel Lane but was built over in the 19th and 20th centuries (the properties south of Church View), although below ground remains may survive beneath. The Shropshire Historic Environment Record contains a record for coal workings and Howell's brickworks (HER PRN 28315) which covers the whole of the proposed development. The Heritage Assessment indicates that archaeological earthwork remains, including probable coal shafts, are present on the proposed development site. The proposed development site is therefore deemed to have high archaeological potential. does not consider the impact upon the setting of Offa's Dyke to be a significant concern.

4.1.7 **Ecology –** No comments received at the time of writing report following the submission of additional Ecological information.

6.1.8 **Public Protection-** No evidence is held of any historic land use on the parcel of land specified for development that is likely to have contaminated the land. We are aware that there may be features off site but do not consider them likely to have any impact on the site specified for development. However, on the evidence presented by local residents there may be the possibility that the land is contaminated by past historical use. As a result contaminated land conditions are recommended.

6.1.9 **Coal Authority- no objection subject to conditions**

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works should be undertaken prior to development to establish ground conditions and identify the location and condition of the mine entry.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to the commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the mine entry or any shallow mine workings; to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that the details of any proposed remedial works identified by the site investigation are undertaken prior to commencement of development.

The Coal Authority considers that the content and conclusions of Coal Mining Risk Assessment Report are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development

4.1.10 **Archaeology - no objection** subject to conditions requiring a phased programme of archaeological work comprising and initial field evaluation followed by further mitigation as necessary. The stone wall adjacent to Chapel Lane on the western boundary of the proposed development does make a contribution to the character of this part of the village and, on balance, as much as possible should be retained and, ideally, sympathetically repaired as part of any development scheme for this site.

4.1.11 **Affordable Housing** - The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of the Reserved Matters.

4.2 - Public Comments

A large number of representations have been received. However, an exact figure cannot be given as it has become apparent some objection letters have been written and signed in the name of individuals unaware of the planning application. Objections received relate to the following:

Objections

- The proposal contradicts SAMDev
- Increase in traffic which will cause congestion
- Inadequate access / highway safety
- Impact on Offa's Dyke footpath a national amenity
- Over development for the site which will affect the character of the village
- Drainage / flooding concerns / surface water
- Visual impact on the village – 'urbanise' the countryside
- Effects residential amenity
- No proven need for housing in the village, properties are up for sale and have been for some time
- Lack of public amenities (infrastructure) to support such a development
- School children safety at risk due to the narrow junction and increase of traffic at pedestrian crossing
- Public rights of way will be affected

- Loss of rural land and character of the village. Approach into Trefonen will be destroyed
- Poor bus service currently in place (3 busses a day) to local amenities
- Lack on employment opportunities / High unemployment rate
- Previous refusals should be taken into account
- No sustainable gain from the proposed
- Primary school is unable to expand to cope with the potential increase in population
- Unsustainable expansion to the village
- Traffic, light and CO2 pollution
- Historical mine shafts under the field
- Maintenance of the proposed pool.
- Endanger great crested newts and other wildlife
- Deter tourists from visiting the village
- Loss of oak trees on the site
- Over looking of existing properties resulting in loss of privacy
- Cause potential sink holes
- Lack of affordable housing
- Will turn a village into a town
- Increase financial strain on local school
- Land is needed for agricultural purposes
- Contradicts village design statement
- No gas supply all properties are heated by oil – new development will increase carbon emissions
- Proposal will create a dormitory estate
- 3/4/5 bed dwelling to large wont sell, locals cannot afford them low wage and job opportunities
- Inward facing plots will destroy the view when approaching the village
- Not enough affordable housing proposed
- Broadband service is none existent to cater for all the possible new tenants to the village
- Ecology survey not up to date
- Roundabout would be dangerous
- Stone wall should be retained
- A full contamination assessment should be undertaken prior to a decision being taken on the application and it should not be carried over as a condition of a possible consent.
- Once outline is approved there is a chance the development will increase in size
- There is a village shop and post office
- States no ROW will be affect, there are two within the site
- Position of public right of way is not accurately shown
- The information about buses is misleading; some are term-time only and the T82 service runs just once a week, on Wednesdays. Is it not disingenuous to mention what is in fact very limited bus provision while submitting an application which assumes 44 vehicles for 22 properties?

Support

- New homes should be affordable allowing young families to live in the village

5.0 THE MAIN ISSUES

Principle of development
Siting, scale and design of structure
Visual impact and landscaping
Impact on Neighbours
Highway Safety
Impact on Ecology
Impact on archaeology

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing' therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.

6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF. As such it remains officer's advice that it would be

difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.

6.1.5 It is acknowledged that the site is outside the development boundary previously set within the Oswestry Borough Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. However, these policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’.

6.1.6 Trefonen has not been put forward as either a hub or a cluster and as such the Parish wishes to be considered as countryside for the purposes of SAMDev. In such locations there would typically be a presumption against new residential development. It is acknowledged that local residents feel that proposal is contrary to their SAMDev allocation as open countryside. However at this time the SAMDev still only holds limited weight until its formal adoption. Officers are sympathetic with the local community who want to be considered as open countryside. As such the application must still be considered in light of the presumption in favour of sustainable development as required by the NPPF.

6.1.7 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.2 Is the site sustainable?

6.2.1 Whether a site is sustainable is not judged purely on the distance from services, facilities or employment. The Council’s adopted Core Strategy sets out the principle that new housing development will be supported in designated Hubs and Clusters. The effect of this is that the Core Strategy encourages rural communities to be more sustainable by allowing development that helps to rebalance rural communities. This can be achieved by providing facilities, economic development or housing for local needs that is of a scale that is appropriate to the settlement. Whilst it is recognised that the Parish Council have not wanted Trefonen to be either a hub or a cluster it is still a rural community and therefore the principles of the Core Strategy which encourages sustainable development away from the main

market towns should apply. Trefonen does have a quantity of services that are typical of a medium sized village which includes a public house, primary school, church, village hall, sports pitch and play ground and until fairly recently it did have a village shop. The village also benefits from a bus service to Oswestry.

6.2.2 It has been raised in representations received that Trefonen is an unsustainable location because it has very limited services. The distance from services, facilities and employment is one of a number of factors to be taken into account when undertaking the planning balance. Alongside issues of impact on highway safety, ecology and development of agricultural land.

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

6.3 **Economic Consideration**

6.3.1 In economic terms the proposed development will provide employment during the constructions process and support suppliers, Community Infrastructure Levy contributions, New Homes Bonus and additional community charge receipts; although it is acknowledged that these benefits would be achieved by any new housing development and in any location. The most important economic benefit would be the spending power of new residents who would have the potential to support local services such as the pub and possibly increase the likelihood of the village shop reopening (although the precise reasons for its original closure are not known). The site is also well connected to Oswestry, the centre of which is 2.6 miles away and there is a bus service, although it recognised that it is an infrequent service with two buses a day. As the site is close to Oswestry and there is a public transport link it is likely that residents will also help to support the services that Oswestry has to offer as well as those in Trefonen itself.

6.3.2 Concerns have been raised that there are no job opportunities available in Trefonen and that residents would need to travel out of the village to work. It is however a relatively short distance to Oswestry by a good quality and well used road, where there are employment opportunities and through SAMDev further employment opportunities are likely to be available in the future with significant land allocated for employment to the east of the town. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

6.4 **Social Considerations**

6.4.1 Socially the scheme will provide both affordable and open market housing of which there is a proven need across Shropshire as set out in policy CS11 of the Core Strategy. More people living in the village would also provide support local services such as the school and sports/ social clubs. Currently, the school is only around 75-80% full, as of January 2014 there were 77 children of primary school age living in the Trefonen catchment with a capacity of 157 at the school. The school had 120 pupils on roll for the last academic year which was heavily supplemented by out-of-catchment children. The proposed development would also provide infrastructure improvements through the payment of the Community Infrastructure Levy under policy CS9. The contribution is dealt with outside of the planning process and after

development commences and is used to pay for infrastructure identified as local priorities. However, it is a material consideration in the determination of the application and the acknowledgement of the requirement to pay the CIL ensures that this matter will be dealt with after the consent. The CIL contribution would provide for the infrastructure enhancements which would include contribution towards school places as referred to later in the report.

- 6.4.2 It is recognised that increasing the number of residences in a settlement without proportionate increases in the provision of local shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. It is also recognised that Trefonen is currently the subject of a number of other planning applications (12 dwellings at Whitridge Way 14/00536/OUT, 6 dwelling off Little London Lane 14/01510/OUT) which should they all be approved would result in a reasonable expansion of the village, this application is currently the largest of those under consideration and it would be in the most prominent and most central part of the village. The site is recognised as being of value to the community in Trefonen, Treflach & Nantmawr Village Design Statement 2007 where it says that should it ever become available it should be considered for development as a public open space for community use. However whilst the document was formally recognised by Oswestry Borough Council as a material planning consideration the document is now 7 years old and can only be awarded limited weight in the planning balance with a greater weight to the more up to date planning policy framework.
- 6.4.3 The layout of Trefonen is varied with a wide mix of dwelling types and sizes. The development to the east of Oswestry Road and adjacent to the School and Church has the densest form of development and consisting primarily of semi detached properties. Further to the west of Oswestry Road the lower the density as the typical modern housing estate of Whitridge Way and Onnen Close gives way to large detached properties on large plots as the village gradually spreads up the hillside. Over a significant period of time in-fill development has occurred around the scattering of traditional hillside cottages. A significant percentage of the built development in the village is relatively modern with the occasional stone or brick cottage. The village does not have much in the way of a historic core other than the area around the public house and the former village shop. It is considered that the proposed development of 22 dwellings would not be of such a scale to overwhelm the rest of the settlement where it would significantly impact upon the existing local community. The appearance of Trefonen would change, especially when viewed from Oswestry Road. This would be because of the partial loss of an agricultural field close to the village centre. The village has already experienced the loss of part of the same field as the southern section of the field was needed to provide the access to the Whitridge Way/ Onnan Gardens estate. It is considered that by ensuring an appropriate form of development the village would continue to be characterised by its semi-rural character.
- 6.4.4 Overall it is considered that the proposed addition of 22 dwellings would not result in such a large amount of pressure being placed on local infrastructure to justify refusing the application. The site is within walking distance of a bus stop, school, and community facilities and there is quick access to Oswestry by either bus or car. Oswestry has a good range of service and facilities, shopping and employment opportunities and land being allocated for further employment uses and the development provides new housing, including affordable housing, and a financial

contribution towards infrastructure.

6.5 **Environmental Considerations**

- 6.5.1 Environmentally it is recognised that the scheme would result in the loss of an agricultural field which is clearly valued locally as it contributes towards the rural feel and the setting of the village. The field also provides an outlook across the rolling agricultural land to the north. It is acknowledged that in 1990 as part of the Local Plan Inquiry the Planning Inspector recommended the deletion of the site from the development boundary. This is likely to have been because there were other more appropriate and less locally sensitive areas of land available for development at that time. The more favourable land has since been developed. The planning application must be considered against current planning policy and although the site was not considered suitable for development 24 years ago this is not a valid planning reason to dismiss the current policies contained within the NPPF.
- 6.5.2 There is recognition that the proposed development is on a parcel of Grade 3 agricultural land that sits outside of the built environment of Trefonen. Building houses on undeveloped parts of the countryside would conflict with the core planning principles, set out in paragraph 17 of the NPPF which aims to conserve and enhance the natural environment and encouraging the effective use of land by reusing land that has been previously developed. To meet Shropshire's current and future housing needs it will necessitate the development of agricultural land. The key issue is only to develop agricultural land that is not of significant landscape, ecological or historic importance. In this instance the land is agricultural land which is grade 3 so of good/ moderate quality and has a semi-rural appearance.
- 6.5.3 There is recognition that the proposed development is on a parcel of agricultural land that sits outside of the built environment of Trefonen, it however sits adjacent to the dwellings on Chapel Lane and a short distance from the modern properties on Whitridge Way. It is considered that the proposed development would represent a logical expansion to the village.
- ## 6.6 **Siting, scale and design of structure**
- 6.6.1 The appearance, landscaping, layout and scale of the site are all reserved for later approval. Initially, the applicant provided an indicative plan showing the 22 dwellings in positions where they would face into the site, the result being that along the existing roadsides there would be a typical arrangement of boundary treatments and visible garden paraphernalia which would be very likely to have a detrimental impact on the visual amenity of the area. The applicant has since provided a revised indicative layout which creates a more active street scene onto both Chapel Lane and Oswestry Road. The indicative layout also tries to show how the views towards the existing village and the pub would still be available for people travelling south along Oswestry Road. The indicative layout also shows how the presence of a mature tree is respected, public right of way maintained and the existence of a former mineshaft avoided. It also shows how areas of public open space could be provided within the development. Further thought does need to be given to the proposed layout as by ensuring that the development addresses the existing roads there is a risk that the new estate road becomes dominated by boundary fences; a balance will need to be struck between the development contributing towards the character of existing streets and ensuring that the is also

attractive from the new estate road and creates a sense of place. However, the submitted plans are only indicative at this stage and the layout of the development would still be subject to full consideration at the reserved matters stage.

6.7 **Visual impact and landscaping**

6.7.1 The area of land is predominantly level although it does slope slightly down towards its southern corner where according to residents it can be wet and boggy. The existing field is well screened from view from Oswestry Road although it is recognised that this is because of the tall hedgerow. The hedgerow would inevitably be reduced in height or removed in parts to provide a reasonable standard of residential amenity to the occupants of the proposed dwellings. The indicative layout has shown a commitment to retain the hedges other than where it is necessary to remove sections to provide pedestrian accesses.

6.7.2 When the hedgerow is thin during the winter months or where it is reduced in height it does currently provide views across the open field towards the Chapel with the modern housing development and the rest of the hillside village beyond. Whilst the Oswestry Road provides a good view of the village, the view is not of any significant merit and it does not include views towards any listed building or any area of special designation. As such limited weight can be attached to the value of the view.

6.7.3 The views of the site from the south are already very open as only a post and wire fence separates the field from the pavement. The views beyond the site are of the gently rolling hills and the scattered trees and dwellings. The applicant has indicated that the view could be maintained through the development although the indicative layout shows the view would be greatly narrowed as it would be in between dwellings. In any case the views are not considered to be of any significant merit and it is not a landscape that would be sensitive to new development. It is acknowledged that the area around the application site is valued by local people but it does not have any designation and is not any greater than of local importance. The exception to this is the schedule section of Offa's Dyke which is 73 metres from the north western corner of the site which is of national importance. However, the application site and the scheduled ancient monument would not be seen within the same context because of the intervening dwellings, hedges and boundary walls and the distance of separation. It is acknowledged that the Offa's Dyke trail which approximately 140 metres to the west of the site would provide views of the Dyke with the proposed dwellings in the back ground. This is no different to the current situation where the existing dwellings on Chapel Lane sit directly adjacent to the Dyke. English Heritage have not raised any objection to the proposal with regards to the impact on the ancient monument.

6.7.4 The view from Chapel Lane and the dwellings that front onto it face across the application site and towards the church. The church is already heavily screened by trees causing it not to be a prominent feature in the backdrop to the site. The boundary of the site to Chapel Lane is bound by a stone wall in various states of disrepair. It is considered that the wall is an historic feature of Trefonen and should be an integral part of the development and retained wherever possible. The revised indicative layout has shown this feature retained with a roadside footpath positioned behind it.

6.7.5 As this application is only seeking an outline permission the layout, scale and form of the development would be subject to reserved matters approval. However, it is considered that subject to an appropriate design and layout there is an opportunity to create an attractive approach into Trefonen and a development that integrates with the existing fabric and character of the settlement without detrimentally harming the surrounding landscape.

6.8 **Impact on Neighbours**

6.8.1 The introduction of an extension to a housing estate will inevitably increase the number of vehicle movements and increase the amount of activity on a site that is currently used for agricultural purposes. The proposed residential scheme would effectively be self-contained with vehicles accessing the site by the access created as part of the modern housing estate to the west. As such neighbouring occupiers would be unlikely to experience additional vehicle movements past their properties which could ordinarily lead to increased disturbance. The properties most affected by the proposed development are those on Chapel Lane directly to the west of the application site and the property to the north which is positioned perpendicular to Chapel Lane with its front windows facing directly at the site. It is considered that given the number of dwellings proposed and the size of the site it would allow the site to be developed whilst still allowing adequate distances of separation between properties to avoid any detrimental loss of privacy.

6.8.2 The existing properties on Chapel Lane currently have an outlook across an open agricultural field which would be lost by the development of the site for dwellings. Whilst the outlook would change it is considered that the site could be developed without resulting in the proposed dwellings being harmfully dominant or overbearing on neighbours. This will be fully considered at the reserved matters stage where the distance and relationship between existing and proposed dwellings would be fully considered.

6.8.3 At this outline stage it is considered that it is possible to develop the site without there being any detrimental harm to the amenities of neighbouring occupiers in terms of privacy and loss of light.

6.9 **Highway Safety**

6.9.1 The means of access to the site is not one of the reserved matters and therefore needs to be fully considered as part of the outline planning application. The applicant is proposing that a new mini-roundabout would be created which would have 4 arms leading to Whitridge Way, Chapel Lane, the development proposed and towards Oswestry Road. Representations have been made regarding the appropriateness of a mini-roundabout in this particular location. The Council's Highways section have considered the proposal and are satisfied that a mini-roundabout junction would be appropriate for providing access into the development as traffic speeds are typically low.

6.9.2 The village is rural in its character and it is acknowledged by the Highways Section that a mini-roundabout design typically found in urban areas may not be appropriate as it could appear harsh. As such an appropriate design would be sought that is more in keeping with its surroundings.

6.9.3 Representations received have highlighted the fact that Chapel Lane is often used

to provide on-street parking normally in connection with events at the church opposite. As the highway network's primary role is to allow the passage of traffic the loss of on-street parking could not be sustained as a reason to refuse the development. In the event that on street parking and the proposed junction arrangements combine to impact upon the safe passage of vehicles parking enforcement measures could be introduced.

6.9.4 Objections have been received about how the proposed development in conjunction with other proposed schemes could have an impact upon traffic flows and the wider highway network. The proposed development will inevitably result in more vehicle movements to and from Trefonen and towards Oswestry. It is acknowledged that on some of the approach roads there are constraints such as narrow sections of road and one way priority traffic junctions. However, the planning process is required to balance all of the material planning considerations against current planning policies. In this instance the limited harm that may be caused to the highway network as a result of extra traffic from the proposed development is not considered sufficient to outweigh the wider benefits of the scheme.

6.10 **Affordable Housing**

6.10.1 In accordance with the adopted Core Strategy all new open market development must make a contribution towards the provision of affordable housing, unless there are other material planning considerations. Based on the number of dwellings shown on the indicative layout and the current target rate for the area this would equate to two on site affordable dwellings and a small financial contribution. However, the exact amount will depend upon the target rate at the time the reserved matters application is submitted. The affordable housing contribution would be secured by a S106 in accordance with the Shropshire Viability Index as set out in the adopted SPD.

6.11 **Open Space Provision**

6.11.1 In accordance with Council's Open Space Interim Planning Guidance (IPG) the developer will be required to provide land for play area and recreational uses, this will need to be provided as part of the overall design which would form part of any subsequent reserved matters application. The indicative plans show that the applicant is prepared to provide the open space at this would need to be in line with the adopted IPG. The indicative layout has shown that open space could be provided around to the one mature tree on the site and also at the front of the site adjacent to the public right of way and adjacent to the access into the site.

6.12 **Ecology**

6.12.1 In support of the application the applicant has provided a Phase 1 habitat survey. The report has identified that there may be an impact on great crested newts because of a known breeding pond which is 110m outside of the application site. The submitted report has stated that it will be necessary to obtain a license from Natural England in order for the development to progress

6.12.2 The submitted ecological report has identified that the Oak tress on the site has the potential to be used by bats. The applicant has detailed in the submitted indicative plan that it is currently the intention that this tree will be retained on the site. #

6.13 Public Right of Way

6.13.1 The site has two public rights of way which have the potential to be affected by the development. A footpath to the north of the site provides a route between Chapel Lane and Oswestry Road. This path would pass outside of the application site and therefore access to it would not be affected by the proposed development. The second public right of way is a short length of path which runs diagonally across the front of the site. The applicant has acknowledged the presence of the path and is shown that on the indicative layout demonstrating that there would not be any development along its route. Representations from neighbours have commented on the accuracy of the position that the path is shown on the submitted plans. It is considered that it has been adequately demonstrated that the site can be developed without impacting on the access to the public rights of way. The precise position of the right of way will need to be established prior to the determination of any subsequent reserved matters application to ensure that the layout does not affect the rights of way.

6.14 Drainage

6.14.1 To accompany the application the applicant has provided a drainage and flood risk assessment. The reports suggests that all surface water would be collected and stored in an attenuation and balancing pond before being discharged by a controlled flow mechanism at 5 litres per second, equivalent to greenfield run-off, to a watercourse that is culveted below Oswestry Road.

6.14.2 Residents have commented that the existing field is already wet and boggy at certain time of the year. The applicant will be required to provide drainage details to ensure that the proposed development does not exacerbate any existing problem and that surface water is suitably managed on the site by the use of appropriate infiltration and attenuation.

6.14.3 Foul water would be directed from the development to a public sewer and Severn Trent Water have confirmed that a connection would be acceptable.

6.15 Contamination

6.15.1 It has been brought to the attention of the Planning Authority that the site has been historically used as a brick works and that the site may suffer from contamination. The Council's Public Protection team do not hold any specific evidence of any historic land uses which may have led it to becoming contaminated. However, because of the information provided by local residents it is deemed appropriate to impose planning conditions which require a site investigation report to be submitted and details of any remediation where appropriate.

6.16 Impact on Former Mine

6.16.1 The application site falls within an area that is defined as a 'Development High Risk Area' because both within and surrounding the site there are coal mining features and hazards. The applicant has provided a Coal Mining Risk Assessment Report which states that there are indications of a shallow coal mine and mine entry within the site. The submitted report has been considered by the Coal Authority and have recommended that a planning condition should be imposed requiring further investigations and the details of any remedial work to treat the mine entry and workings to ensure the safety and stability of the proposed development.

7.0 CONCLUSION

7.1 The site is located outside of the current Trefonen development boundary and is therefore classed as a departure from the development plan. Significant weight must be awarded to paragraphs 7 and 8 of the NPPF where there is a presumption in favour of sustainable development.

7.2 It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development adjacent to the village. The proposal would have no adverse environmental or ecological implications, affect any designated areas, buildings or monuments and would not impact upon the safety of highway users. The detailed, appearance, landscaping, and scale designs would be considered at the reserved matters stage.

7.3 Whilst Trefonen does not have a large number of services and facilities it is a sizeable settlement and has a number of facilities which help meet the day to day needs of residents such as the school, church, village hall and a public house. The existing infrastructure is sufficient to support the proposed development and the proposal will provide affordable housing and will be liable for the required CIL payment. It is considered that Trefonen is a sustainable location for new dwellings with good access to all essential services such as the school which is currently occupied significantly below full capacity. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote 'strong, vibrant and healthy communities'. It is therefore recommended that members approve the application in line with guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure the provision of affordable housing in accordance with the Councils adopted policy.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to

determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

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

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

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

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework
Planning Practice Guidance

Core Strategy and Saved Policies:
CS3- Market Towns and Other Key Centres
CS5- Countryside and Greenbelt
CS6- Sustainable Design and Development Principles
CS9- Infrastructure Contributions
CS11- Type and Affordability of Housing

11. Additional Information

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

Appendices APPENDIX 1 - Conditions

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

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

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

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

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

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

4. The 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. This permission does not purport to grant consent for the layout shown on the deposited plan Number 03 Rev B submitted with this application.

Reason: To enable the Local Planning Authority to consider the siting of the development when the reserved matters are submitted.

6. The reserved matters submission shall provide details showing the retention of the stone walling along the boundary of the site with Chapel Lane as practicably possible and repaired/ rebuilt where appropriate.

Reason: The wall is considered to be a heritage asset which makes a positive contribution to the character of the area