

Development Management Report

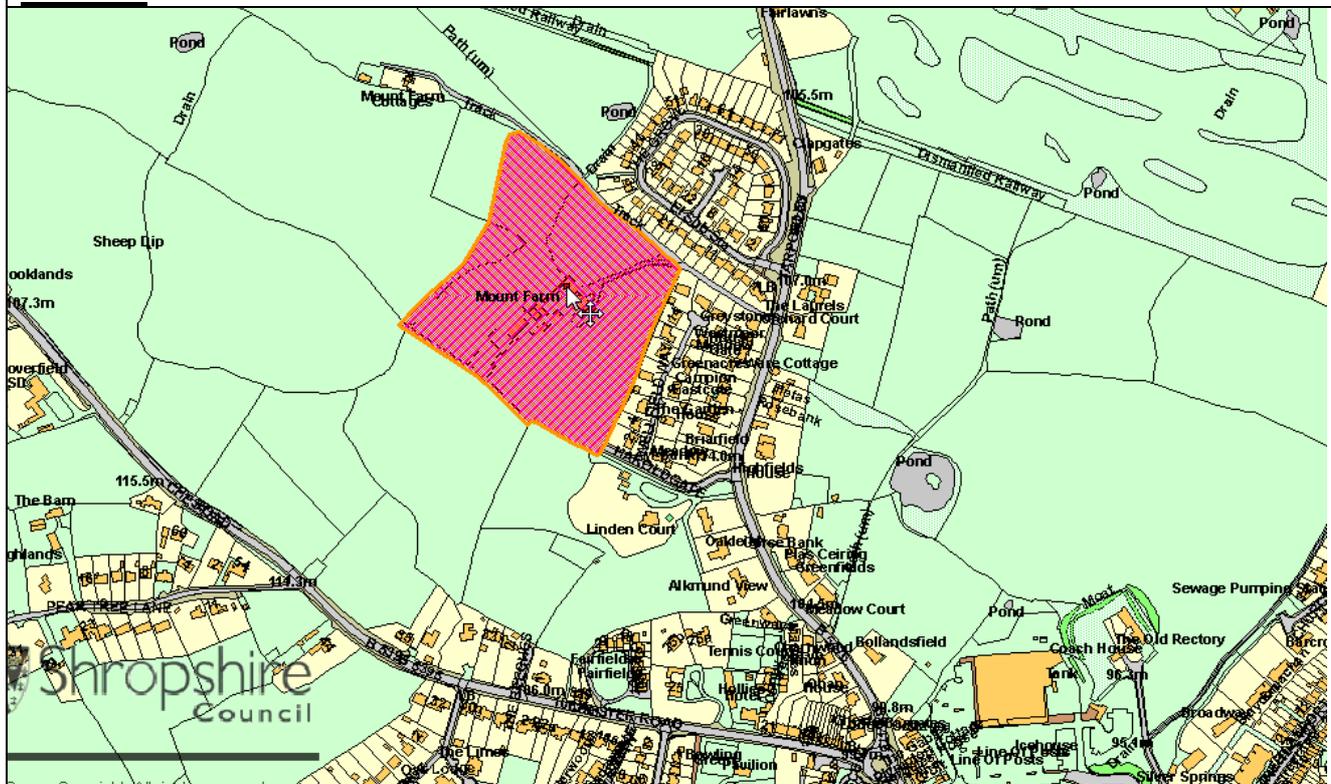
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Summary of Application

Application Number: 14/01264/FUL	Parish: Whitchurch Urban
Proposal: Residential development of 100 dwellings; formation of vehicular access and estate roads; creation of public open space, wildflower area and balancing pond; associated landscaping; demolition of all existing agricultural buildings	
Site Address: Mount Farm Tarporley Road Whitchurch Shropshire SY13 1LS	
Applicant: David Wilson Homes And Landowners	
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk

Grid Ref: 353610 - 342382



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Recommendation:- That planning permission be granted subject to the conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the erection of 100 dwellings; formation of vehicular access and estate roads; creation of public open space, wildflower area and balancing pond; associated landscaping; demolition of all existing agricultural buildings on land at Mount Farm, Whitchurch. The housing proposed is a mix of 10 five bed, 59 four bed, 25 three bed and 7 two bed properties with 39 of these provided in two and a half storey properties.

1.2 In addition to the full detailed plans and design and access statement the application is supported by a statement of community involvement, planning and affordable housing statement, building for life assessment archaeological desk based assessment, geo-environmental assessment, transport assessment, ecology survey, arboricultural survey and flood risk assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site area totals 4.92 hectares and is currently in agricultural use with Mount Farm, a detached farmhouse and outbuildings, set within the centre of the site surrounded by agricultural land enclosed with field hedge boundaries. It lies between Tarporley Road and Chester Road and is currently accessed from a track leading off Tarporley Road. The site is bounded on the north and east by the housing on Wellfield Way and The Grove and agricultural land on the other two sides.

2.2 Within the planning statement the agent notes that the land is undulating with few trees and no water bodies or ponds. The site is approximately 640 metres from the edge of the town centre shopping area. It is closer to the recently completed Sainsbury store and with good links to the A49.

3.0 REASON FOR DELEGATED DETERMINATION OF APPLICATION

3.1 The scheme complies with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution. Although the local member had requested that the application be determined by the Planning Committee this matter was discussed with the Committee Chair and Vice Chair who both agreed that there were not material planning reasons to determine this application at committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** – Retracted previous comments with regards to this application on the grounds of the infrastructure report from Welsh Water. The existing drainage on the site is not sufficient to cope with the number of proposed new houses for this site and Welsh Water have condemned the system on these grounds. Whitchurch Town Council **objects** to this application.

4.1.2 **Affordable housing – No objection** The number, type, size and tenure of the

affordable dwellings has been agreed with the Housing Enabling team and the units provided will meet the identified need in the area.

- 4.1.3 **Archaeology – No objection.** The proposed development site comprises 4.92ha area over four agricultural fields adjacent to Mount Farm, on the north-western edge of Whitchurch. The Shropshire Historic Environment Record indicates that there are currently no known heritage assets with archaeological interest within the site or its immediate environs.

The Archaeological Desk Based Assessment by CGMS Consulting dated January 2014 that has been submitted as part of the application provides a satisfactory level of information about the archaeological interest of the site in relation to Paragraph 128 of the NPPF.

The Assessment concludes that the proposed development will have no impact on the settings or significance of any designated heritage assets. Further, the proposed development site is assessed as having "low potential for archaeological evidence from all other periods."

As such agrees with the conclusions of the Archaeological Desk Based Assessment and no further comments to make on this application.

- 4.1.4 **Policy Architectural Liaison Officer** – Does not wish to formally object to the proposal at this time. However there are opportunities to design out crime and /or the fear of crime and to promote community safety.

Therefore should this proposal gain planning approval, request that the following planning condition be placed upon the said approval.

The applicant should aim to achieve the Secured by Design (SBD) award status for this development. SBD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment, the scheme has a proven track record in crime prevention and reduction. The opportunity for crime to occur can be reduced by up to 75% if Secured By Design is implemented.

The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be at www.securedbydesign.com

Finally may I draw your attention to Section 17 of the Crime and Disorder Act 1998 which clearly states.

"It shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions of, and the need to do all that it reasonably can to prevent crime and disorder in its area".

Please do not hesitate to contact me if you would like clarification of any of my comments.

4.1.5 **Highways – No objection.** The highway authority does not wish to raise a highway objection to the granting of outline consent subject to the following conditions being imposed:-

No development shall take place until full engineering details of the means of access, construction and sight lines have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented before the dwellings are occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

Access:

The proposal seeks planning permission for residential development of some 100 units to be served via an extension of Haroldgate, which currently serves 15 large detached residential dwellings. The existing dwellings however access directly onto Wellfield Way which is a block paved shared surface access road which exits onto Haroldgate. It would appear therefore that the road layout was implemented in a manner to develop land to the rear of properties fronting onto Tarporley Road but with a view also to Haroldgate potentially serving further development. This is supported by the fact that Haroldgate measures approximately 5.5 metres in width bounded by footways on either side with 7.5 metre radii at its junction with Tarporley Road.

The highway authority is aware that representations have been submitted in objection to the development on highway grounds which include issues surrounding the width, horizontal and vertical alignment of Haroldgate. With specific regard to the vertical alignment i.e. the slope gradient of Haroldgate, the offer of anti-skid surfacing has been put forward within the Transport Statement. This is a matter that could be dealt within a Section 38 (road adoption agreement) submission. In other respects, the highway authority consider that Haroldgate is suitable to cater for the scale of development proposed.

Layout:

In general the highway authority consider the road layout satisfactory, however, there are a few issues to raise in respect of some of the individual drives to properties. Although not in themselves highway safety issues I would question some of the layout planning rationale:-

- Length of driveways requiring excess reversing at plots 47 and 53 – these are the larger housing types.
- Whilst plot 27's drive is located adjacent to the likely adoptable road it would necessitate reversing either in or out over an excessive length – again this is one of the larger house types.

The above are the particular ones highlighted. There are other plots in which we would highlight in terms of drive length however they potentially provide benefit in terms of additional parking space within the plots 30, 31, 32 and 33 as examples.

Sustainability:

The site is within reasonable walking and cycling distance of the town centre and Sainsbury's supermarket located on London Road. The Transport Statement further highlights the accessibility to various education, food retail, doctor's

surgery which set out walking and cycling distances and times of travel.

Bus services potentially serving the development are limited to the 205 which provides 5 services a day on Tuesdays and Fridays only, to the centre of Whitchurch. There is no real prospect of extending this service and therefore bus travel as an alternative transport mode, particularly in accessing the town centre is limited.

Based upon the above, there are short comings of the site in terms of public transport provision. However overall it would be difficult to argue that the site is not sustainable when considering accessibility via walking and cycling.

- 4.1.6 **Rights of Way** – Footpath 62 Whitchurch runs along the northern boundary of the development site but does not appear to be affected by the proposal.

The access statement seems to indicate the route will have reduced vehicular traffic as it will only serve some existing cottages rather than Mount Farm as well. This is a benefit to pedestrian users, therefore we have no objection. Could not find mention of emergency vehicle access but assumes it is physically capable of being used for this purpose therefore don't feel there is any reason to object.

- 4.1.7 **Ecology** – Following submission of additional information recommends that additional hedgerows are retained; a finalised great crested newt mitigation strategy be submitted and conditioned; EPS 3 test matrices must be completed for bats and great crested newts; a HRA must be available and conditions and infomatives are recommended.

Bats

Middlemarch (July 2014) have carried out inspections of buildings and trees for bats and activity surveys. Two emergence and one re-entry bat surveys were carried out on the 11th June, 26th June and 2nd July 2014.

The findings were

- Day roost locations for common pipistrelle bats (< 5 individuals) in Buildings 1, 2/3 (at the join of Buildings 2 and 3), 3/4 (within the walkway between Buildings 3 and 4). Individual pipistrelles were also noted entering and exiting Building 5 for foraging.
- Day roost location for brown long-eared bats (< 5 individuals) in Building 3/4.
- Day roost location for Natterer's bats (< 5 individuals) in Building 5.
- Day roost for common pipistrelle in tree T1 (a mature sycamore tree on the southern boundary)

Building 1 (the farmhouse) is to be retained. Works proposed to building 1 are unknown at this stage. Tree 1 is shown for retention on the Proposed Site Layout (Rev E).

Without mitigation, any bats using roosting features associated with Buildings 2, 3, 4 and 5 will come to harm if they are not safely excluded before works commence or subject to appropriate timing of the works. Middlemarch (2014) advise that a

European Protected Species licence is required for the operations described in the planning application i.e. demolition of buildings except for farmhouse.

Middlemarch (2014) set out mitigation and compensation measures. These include the method for exclusion of bats from buildings 2 – 5. New roost creation is proposed prior to the bat exclusion works (12 Schwegler bat boxes). As part of the construction phase six roof crevice units will be installed in the roof area of three properties.

Due to Building 2 being linked to Building 1 there will be short-term disturbance to the roost location when demolition activities occur. Middlemarch (2014) state that demolition of building 2 will have to be undertaken without creating vibrations to avoid effects on bats roosting in building 1.

Site clearance has potential to modify connectivity between this roost and adjacent habitats. Middlemarch (2014) recommend that a protection strategy for bat commuting features (mainly hedgerows) is provided.

In order to retain the long term value of building 1 for roosting bats, it is recommended that there is retention or replanting of hedgerows linking the retained farmhouse to other open space/hedgerows. Recommends that the layout is amended to retain hedgerow 6 between the farmhouse and the proposed open space to the west. In addition it would be desirable to retain or replant hedgerow 4 along to proposed footpath link to the north east.

I have provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/ minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Recommends conditions requiring an EPS licence, works in accordance with the survey, lighting details and bat boxes and informatives.

Great crested newt

Middlemarch (June 2014) have now carried out GCN surveys of two ponds of eight within 500m radius of the site. Pond 4, sited 70m from the site was surveyed on six occasions between April and June 2014. This was found to contain a medium population of great crested newts (GCN), with a peak count of 16 adults. Pond 2 sited 430m distance had no GCN recorded during two survey visits. Other ponds (all over 250m from the site) were either unsuitable for GCN or permission to survey was denied.

A survey carried out for TEP in 2013 found a small GCN population at Pond 6. This is sited 325m to the east of the site on the far side of Tarporley Road. Due to the distance and barriers to newt movement, this information would not affect the conclusions drawn but demonstrates that there are GCN in the wider area.

Middlemarch (June 2014) advise that a European Protected Species (EPS)

licence will be necessary before the development can proceed. Middlemarch have submitted Outline Mitigation Procedures which set out the principles of fencing, trapping and relocating GCN to a suitable receptor area. The area surrounding Pond 4 is suggested for a receptor area however this has yet to be agreed with the landowner.

Long term mitigation suggested by Middlemarch includes:

- Creation of tussocky grassland and areas of wildlife planting (possibly within the area to the west of the public open space area, or around balancing pond);
- The installation of artificial hibernacula; and,
- The retention of hedgerows, trees and vegetation.

Other measures are likely to be necessary, such as installing 'newt-friendly' highway drainage features.

It is considered that sufficient survey work has been carried out for GCN. The mitigation strategy will need to be finalised before it can be conditioned.

Has provided a European Protected Species 3 tests matrix. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

Recommends conditions to require an EPS licence and newt mitigation strategy.

Water vole

Records of water voles have been recorded 130m from the site. Middlemarch (by email 5th June 2014) have assessed the watercourses/bodies on site for water voles. They consider these present low suitability for water voles for the following reasons:

- There were several ditches on site however these were dry for the exception of heavy periods of rain. These were also colonised with scattered scrub and vegetation. These contained no aquatic vegetation.
- The Brook which flows towards the north east is highly vegetated and no holes or evidence of water voles were noted during investigations of this brook. Furthermore, this Brook contains little max 20-30 cm to no water for the exception of heavy periods of rain. Furthermore, there is limited connectivity with other channels within the surrounding landscape and the Brook contain no aquatic vegetation for water voles.

In the Extended Phase 1 Habitat Survey Middlemarch (2014) conclude that water vole are not a notable consideration in relation to the proposed development and as such recommends an informative.

Badger

Middlemarch (June 214) carried a survey for badgers but no signs were found. An

informative is recommended and it is also recommended that the site is resurveyed immediately prior to development.

Reptiles

Middlemarch (2014) carried out a reptile presence/absence survey in April and May. No reptiles were found during the survey. No further survey or recommendations are made in relation to reptiles.

Barn owl

Middlemarch (2014) carried out a barn owl survey of buildings and trees in January 2014. No evidence of barn owls was found in the buildings or a mature sycamore and during the evening GCN and bat surveys no barn owls were recorded.

Nesting birds

During the bat surveys, it was noted that several pairs of swallows were nesting within a number of buildings on site. Due to this Middlemarch (2014) recommend that building demolition or alteration is conducted outside of the bird nesting season. Recommends provision of artificial nests and an informative.

Designated sites

Due to the presence of internationally designated sites forming part of the Midland Meres and Mosses Ramsar Sites and SAC's the Council has carried out a Habitats Regulation Assessment (HRA) for this planning application.

The following European sites have been considered:

- Oss Mere SSSI and Ramsar site, which is 2.6km away and closed to general public access.
- Quoisley Mere SSSI and Ramsar is 3km to the north and closed to general public access
- Brown Moss Ramsar site is 3.4km distance from the application site
- Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses SAC and Ramsar is 6km away.

The application site is well outside of the surface water catchment for any Ramsar site. There are no pathways for an impact on the hydrology or water quality of any European site.

The Proposed Site Layout shows 1.35 hectare area of public open space, including a balancing pond. In addition a 0.5 hectare wildflower belt is proposed. This is above the 30 square metres per person open space standard, which would require 0.7 hectares. The Council considers the on-site provision of usable informal open space to be sufficient not to result in a significant increase in recreational visit to Brown Moss or Fenn's, Whixall, Bettisfields, Wem and Cadney Mosses.

Is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the European sites have been notified.

A Habitat Regulation Assessment matrix is attached with this response. The HRA matrix must be included in the Planning Officer's report for the application and must be discussed and minuted at any committee at which the planning application is presented. Natural England has been formally consulted on this planning application has responded 'no objection'. Planning permission can only legally be granted where it can be concluded that the application will not have any likely significant effects on the integrity of any European Designated site.

- 4.1.8 **Welsh Water** – The proposed development would overload the existing public sewerage system. No improvements are planned within Dwr Cymru Welsh Water's (DCWW) capital investment programme. Consider any development prior to improvements being undertaken to be premature and therefore **object** to the development. Object to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

The development will be served by an existing pumping station (The Grove asset ref 1249), a 75mm rising main and 150mm soul only sewer prior to discharging in to the main combined network which serves Whitchurch at approximately 750m away from the development site.

GIS indicates there may be a pollution incidence linked to the pumping station. Additionally there is historical evidence of external flooding within the housing estate draining to the pumping station and downstream of the rising main discharge location, however the cause of this flooding is unknown. Downstream of the pumping station are 2 no. Combined Sewer Overflows (CSO's).

The applicant has recently commissioned DCWW to undertake a Hydraulic Modelling Assessment to assess network capacity and to investigate potential solutions in order to remove the objection. The modelling is required to determine the impact that the development will have on the existing network, in the form of a detriment on level of service our customers receive, level of flooding expected, and detriment that may be seen in the local watercourses as a result of increase discharges into discharges into the watercourse through the CSO's.

However, this modelling assessment will not be finished until October 2014 and the assessment and upgrade works (should they be identified) need to be conditioned to be undertaken by the developer prior to occupation of the development. In order for the objection to be removed either the report needs to be completed and solutions determined, or a suitably worded Grampian condition imposed on the decision.

Also recommended other conditions regarding controlling land drainage, surface water and separate discharges for foul and surface water and no problems are envisaged with the waste water treatment works for the treatment of domestic discharges from this site.

- 4.1.10 **Drainage – No objection** the drainage details, plan and calculations could be conditioned if planning permission were to be granted.

The FRA and drainage strategy is acceptable in principle. A detail drainage design

should be submitted once the development layout has been confirmed to ensure that the proposed surface water drainage systems for the site are fully compliant with regulations, is to a robust design and undertaken in a sustainable manner.

If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway to ensure that no surface water runoff from the new driveway runs onto the highway.

A contoured plan of the finished ground and carriageway levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site to ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

Recommended informatives to advise regarding consent from the service provider to connect into the foul main sewer, as the service provider is Welsh Water, a Section 104 agreement has to be in place before any physical work on the drainage system can start on site; and measures to reduce surface water.

4.2 **Public Comments**

4.2.1 25 letters of representation have been received raising the following concerns:

- Contrary to the Planning Inspectors advice for the 2000-2011 NSLP
- Existing site is open and greenfield
- Should develop brownfield sites first
- Density too high, tightly packed and not related to surrounding area
- Three storey (although labelled as 2 ½ storey) are not acceptable
- Lack of bungalows contrary to recent advice from Nick Boles for Councils to plan homes for the elderly
- Elevated site viewed from wider area and concerns over potential for altering the ground levels
- Will alter the character of Whitchurch detrimentally and current numbers applied for will swamp the town
- Layout of site with pond adjacent to play area is not safe
- Insufficient primary school places and space at the doctors
- Lack of employment opportunities or facilities for youth in Whitchurch
- Too close to existing dwellings
- Will result in overlooking and loss of light
- Access is dangerous and Haroldgate is steep and dangerous when icy
- Would not want to see agricultural access remaining off Haroldgate
- Agricultural access off Chester Road would be dangerous
- Should be provided with a mini roundabout at the junction
- Construction traffic will affect amenity
- Impact on ecology
- Increase in surface water and sewerage

- Welsh Water have advised connection to the foul drainage can not be made until the system is upgraded at the developers cost
- Pressure on electricity and gas supply
- Neighbouring properties suffered from subsidence which could be worsened by the proposed development
- No information on whether piling will be required

4.2.2 7 letters of support have also been received on the following grounds:

- Whitchurch needs more houses
- Best site for development
- Good mix of house sizes and designs
- Site has good access to the town and amenities by car and foot
- Safe access and limited traffic on Tarporley Road

4.2.3 Following submission of amended plans and additional information from the agent a further 9 letters of representation were received repeating many of the above issues and adding the following comments:

- Whitchurch Town Plan advises infrastructure needs to be available for new homes
- The Town plan also seeks to retain open green space and wildlife habitats by retaining green space between housing and bypass
- The SAMDev does not comply with Whitchurch Town Plan and therefore does not comply with the Localism Act
- The site may be deleted from the SAMDev
- The site should be moved so access and drainage can be from Chester Road
- Developer has not taken any action regarding the placement of the 2.5 storey properties

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Environmental considerations
- Social considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & 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 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', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. 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 for Whitchurch as shown in the North Shropshire Local Plan and as this remains the adopted policy the application has been advertised as a departure from the adopted local plan. However, the site being promoted as a recommended allocated site for up to 100 dwellings in the SAMDev pre-submission final version. Whitchurch is proposed to be a focus for significant development to deliver around 1,200 dwellings and 26 hectares of employment land. The background information notes that around 300 dwellings have either been built or have consent and as such the remaining 900 dwellings are proposed over 5 allocated sites, including the application site, and windfall sites. Development of this site is, as detailed in the SAMDev, subject to a primary vehicular access off Haroldgate,

secondary cycle and pedestrian access onto Tarporley Road, on-site environmental mitigation and enhancements and landscape mitigation. In principle the current proposals comply with these guidelines.

- 6.1.7 Local objections have been received questioning the need for the development and also the allocation in the SAMDev. These are matters for the plan led process and as the application site has made it through a number of stages of public consultation and consideration it can be considered to be likely to remain in the SAMDev following examination in public. Notwithstanding that issue the presumption in favour of sustainable development should be given significant weight along with the ability for a site to boost housing supply. With regard to the comment about developing brownfield land first, this is a Government aim but not an adopted policy requirement. Neither the NPPF or local policy require a sequential test to development of housing land and it is also noted that there is limited brownfield land within Whitchurch that is not still in active commercial use.
- 6.1.8 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 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.
- 6.1.9 Given the above, whether the site is appropriate for development rests on whether it is considered sustainable. Paragraph 14 of the NPPF advises that where policies are out of date permission should be granted for sustainable developments unless any adverse impacts would significantly and demonstrably outweigh the benefits or where specific policies within the NPPF indicate development should be restricted. These restrictions relate to specifically designated sites, heritage assets and locations at risk of flooding. The presumption is in favour of sustainable development as tested against the NPPF as a whole. A site needs to be compliant with all three dimensions of sustainable development; economic, social and environmental.
- 6.2 **Is the site sustainable?**
- 6.2.1 Local objections have questioned the capacity of local services and facilities such as the schools and doctors and the lack of employment opportunities and facilities for youth. However, letters of support have also been received commenting that Whitchurch needs more housing. All of these matters are considered below but members should also take into account the basic principle that Whitchurch is one of the key market towns and is being promoted for around 1,200 houses. It would not be appropriate to object to the principle of new housing in Whitchurch, however technical matters of access, drainage, impact on neighbours or subjective matters such as impact on character can be considered.
- 6.2.2 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic,

social and environmental roles of the planning system. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

- 6.2.3 The assessment of the site undertaken by Shropshire Council Policy Officers in determining whether to promote the site within the SAMDev scores the site positively for access to bus service and open space but negatively for access to primary school and being on grade 3 agricultural land. It was considered to be of low landscape sensitivity and capable of providing new housing and the conclusion of the assessment was that the site has average sustainability. It was also noted in the stage 2 assessment that the land was being promoted by a developer and planning agent and is considered to be available and deliverable. As with other similar recent full applications there is an element of certainty as the application has been submitted by the housing developer. As such it is considered likely that this site would come forward and the development commence within 5 years if permission were to be granted.
- 6.2.4 The stage 2 assessment also notes that the current promoted development of 100 dwellings is significantly reduced from the scale of the development previously promoted. It is acknowledged by officers that the layout includes an access up to the edge of the site, which the agent has confirmed would allow for future development. However, at this time the application is for 100 houses on the proposed allocated site. Any future development would need to be considered against the policies in force at the time and be considered against all material considerations including highway safety and capacity and capacity of infrastructure.
- 6.3 **Economic considerations?**
- 6.3.1 It is acknowledged that the site is not adjoining the town centre, employment area or the train station, however it does adjoin existing residential areas, is within the Whitchurch by-pass and is within walking distance of the above facilities. The construction of new housing in, or on the edge of, Whitchurch would support the businesses within the town and residential areas. The new residents would also be likely to support community and leisure facilities in and around the town and furthermore the construction of the housing provides employment for the construction period and potential new employees into the town.
- 6.3.2 The agent's planning statement comments that new housing will encourage greater activity and support the local economy. They have also noted the services and facilities within walking distance, which they consider are the town centre, Sainsbury store and primary school that there is a bus service within a short walk and the town railway station is 1.8km from the site.
- 6.3.3 Concerns have been raised about the lack of jobs available in the town however this is not a site specific objection to the development proposed and if the availability of jobs was a determinative factor this would apply to all housing proposals in the town, including the large allocated site off Tilstock Road. Officers

do not have any evidence that there are not job opportunities in the town and new opportunities being made available. The new Sainsbury store has provided new jobs; there are employment sites being developed around the town and additional land being put forward for employment use allocation in the SAMDev. Officers do not consider that this matter is one which results in significant and demonstrable harm which would outweigh the benefits of new housing.

6.3.4 However, officers also acknowledge that neither the benefits or the harm is site specific. New housing will provide economic benefits and these are given weight in the determination of the application and the concerns raised by residents is not specifically a harm resulting from the development. Officers consider that the economic benefits of new housing needs to be part of the balance of determining the application.

6.4 **Social considerations?**

6.4.1 Policy CS11 of the Shropshire Core Strategy requires all new housing to contribute towards affordable housing. The development includes 10% affordable housing in a mix of 3 three bed units and 7 two bed units. At 10% of 100 this equates to a rounded number of dwellings on site and as such there is no financial contribution required. The provision of affordable housing is a social benefit in addition to the general benefit of boosting housing supply. The Council Affordable Housing Officer has confirmed that the affordable housing contribution is the correct level of on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing. These units will need to be secured as affordable in perpetuity through a S106.

6.4.2 The agent's planning statement suggests that new housing can assist in encouraging social inclusion by ensuring that there is provision to meet the varied needs of the community; a choice of house types, sizes and affordability and within reach of local amenities, facilities and transport links. This is accepted as a fact but could be said of any development of a scale appropriate to the settlement in which it is to be provided. The number of dwellings proposed for the application site is considered to be acceptable scale of development for the town taking into account the SAMDev proposed housing figure for Whitchurch. Whether the scale and density is appropriate for the site and surroundings is considered later in this report.

6.4.3 Policy CS9 also requires all new housing to financially contribute to the provision of infrastructure. This is done through the Community Infrastructure Levy which is a levy charged on new housing and in the case of the application site would be £40 per square metre of new housing. 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 could provide for the infrastructure enhancements identified as missing by the local objectors and could also be used to contribute towards school places.

6.5 **Environmental considerations?**

6.5.1 It is acknowledged that the development of the site from agricultural land to built

development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. The development includes the provision of a wildflower belt as required in the SAMDev allocation to enhance environmental network and an area of open space. The site is currently private land and the proposal will provide public access to the new open space and as such provide additional recreation land for residents of the proposed and existing developments. This is an environmental gain which should be taken into consideration in the balance of harm against benefit.

- 6.5.2 It is acknowledged within the SAMDev assessment and also by the agent that the land proposed for development is grade 3 agricultural land. As such it is not the best and most versatile land but it also is not one of the lower grades. However, it has also been accepted in considering the site for allocation, and in determining other applications around Whitchurch, that development of agricultural land around Whitchurch is unavoidable to deliver the housing required. The loss of grade 3 best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the 100 houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing.
- 6.5.3 Objectors have commented that the development of this site is contrary to the planning inspector's previous determination on allocation of the site for the North Shropshire Local Plan. At that time the inspector noted that it was prominent in the landscape. This has been questioned by the agent for the current application who has commented that the site is relatively low lying in relation to the surrounding landscape and is therefore not visually prominent. The case officer would agree with this conclusion and has checked during the site visit and other recent visits to Whitchurch. This is a matter of opinion but officers do not agree that the site is highly visible or prominent from any public vantage points and furthermore the development of the site will be read with the backdrop of other housing and not isolated or intrusive.
- 6.5.4 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections.
- 6.6 **Layout, scale and design**
- 6.6.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity and ensure sustainable design and construction principles are incorporated within the new development. Local concerns have been raised about the number of dwellings proposed, the density, layout, design and scale of the development, the proposed use of two and a half storey properties and that there is a lack of bungalows in the proposal.
- 6.6.2 The proposed layout provides 100 houses within 3.38 hectares and a 1.18 hectare area of public open space, including a wildflower belt. The agent notes that this

provides a density of 30 dwellings per hectare which he considers responds to the context of the adjacent developments. The planning statement submitted in support of the application suggests that the proposed development seeks to meet the current demands in terms of housing mix whilst providing high quality traditional architectural development responding to local context. Some adjustments were made to the layout and house types following the public consultation exercise undertaken by the applicant before submitting the application and a further amendment has been submitted during the consideration of the application.

- 6.6.3 The agent notes that the existing dwellings are predominantly two storey with single storey elements. Although the proposal has a number of houses with rooms in the roof the applicant has suggested that the height of these properties is not substantially greater than the height of the two storey dwellings proposed and as such the scale of the development proposed is considered to relate to the surrounding context. A set of cross sections showing the proposed housing in relation to the existing housing has been provided in support of this argument.
- 6.6.4 A single point of access is proposed for vehicular access to the site, served off Haroldgate. Whether this is an appropriate access in terms of highway safety and capacity is dealt with later in the report. The layout shows an extension to the existing road extending into the application site and leading to a main circular route around the site with smaller roads leading off the main route including a new access to the farmhouse, which is to be retained. The proposed layout provides houses facing the new estate roads, facing south and west over the agricultural land, houses backing onto the houses to the north and east and also side on to the existing housing. The impact on the neighbouring properties is considered later in the report.
- 6.6.5 It is acknowledged that the density and layout is greater than the properties along Wellfield Way, however officers consider that it is close to the character of the residential development to the north, The Grove, and would not be significantly detrimental to the character of the wider area. The proposal for 100 dwellings is in line with the guideline housing numbers for the site in the SAMDev. The layout provides groups of houses within the estate roads and the area of open space to the west of the housing, on the opposite side of the drain. Officers have considered this layout as appropriate as it enables an appropriate level of open space and an appropriate density of housing.
- 6.6.6 In terms of scale, as noted above, concern has been raised about the lack of bungalows and the number and position of the houses with rooms in the roof. These properties are not fully three storey, where the third floor windows would be in the walls, the windows for these properties are wholly within the roof space with the eaves of the roof being at the top of the first floor windows. As such the houses with rooms in the roof are no higher than the houses without rooms in the roof. The provision of rooms in the roof is not altering the scale of the development or making these units are more prominent. Accordingly, although the concerns of the local residents are noted, and were initially also concerns raised by officers, these concerns have been overcome by the submission of the additional information regarding heights. The off-set will be that the properties with habitable rooms in the roof will not have any loft storage space. The

developer has confirmed that this does not affect the sales of these properties and neither does the cost of construction.

- 6.6.7 The objectors are correct in noting that there are not any bungalows proposed on the development, however this is not a requirement of any local or national planning policy. The proposal provides a mix of house sizes, types and tenures which will provide for a range of housing needs and complies with adopted policy requirements.
- 6.6.8 With regard to design the proposed house types show features such as eaves dentiling, porches, bay windows, header and cill features across the range of house types proposed on the site. The development will provide variety across the site but with some elements of consistency. The application form and a materials schedule detail the proposed finished building materials for the houses as a range of three Ibstock bricks (Mercia Antique, Karisma Multi and Oakham Blend), a white rough cast render, interlocking concrete tiles (Russell Lothian Slate Grey, Rustic Peat and Cottage Red and Forticrete Gemini Jacobean and Autumn) and Cottage Red hanging tiles and white Upvc windows and doors and a range of fence types including close boarded fences, brick screen walls and iron posts and railings. All of these materials will need to be checked on site to ensure that they relate well to the surrounding area.
- 6.6.9 The proposal has also been considered against the 12 questions set in Building for Life 2012 with the aim of making the development attractive, functional and sustainable. The agent considers that the development will integrate with the surroundings, reinforce existing connections and create new ones whilst also respecting existing buildings and boundaries. Furthermore the agent considers that the site is close to services, facilities and public transport; will provide a mix of house types and tenures; makes use of the topography and landscape features; respects local design; is accessible and easy to use, designed for low speeds with sufficient parking, external storage space and clearly defined public and private spaces.
- 6.6.10 Overall, the agent considers that the proposed development scores well against all 12 questions and therefore should be eligible for Building for Life Diamond status. This isn't a material consideration in itself but does seek to show that the development has been well thought out and the aim of the developers to work towards diamond status should be commended. However, it is also noted that these matters are all subjective. It is officers opinion that the site is well designed and is of an appropriate scale and density.
- 6.6.11 The area of open space proposed exceeds the requirements of the Shropshire Council Open Space Interim Guidance. The open space includes the wildflower buffer around part of the perimeter of the site and the balancing pond. With the exception of these two areas the remaining open space is to be grassed and provided with paths. Under the Shropshire Council CIL policy it is thereafter a matter for the town council to determine whether the site should be equipped with any play equipment and use CIL funding for this provision. Local objectors have requested the wildflower buffer to be provided on all sides of the development, however this is not necessary and would not serve any useful purpose. The stage 2 assessment for the SAMDev suggest a wildflower belt on the western edge to

enhance environmental networks and providing the same around all four sides of the site would not provide the same benefit. The issue of whether this would benefit neighbouring amenity is considered in the following section.

6.7 **Impact on residential amenity**

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Objectors have raised concern that the development is too close to existing properties and will result in overlooking and loss of light. Concerns have been raised about the scale of the properties and that these will have a greater impact than two storey dwellings or bungalows would. This is a fact which can not be argued against, however, the issue is not whether there is any impact on the neighbouring properties but whether the impact results in significant harm. To assess whether the harm is significant Officers take into account the distance between existing and proposed dwellings, the orientation of the proposed dwellings, the scale of the development and the layout.
- 6.7.2 Within a letter responding to the concerns raised by the objectors the agent notes that the layout has been designed so that there is at least 21 metres between windows of existing properties and windows in new properties. The agent has also noted that the ground level of the site is lower than the dwellings on Wellfield Way. Both of these are factors in the consideration of the impact. 21 metres is used as an industry standard as the minimum distance which should be provided between facing windows to ensure that the possibility of viewing occupants through windows is reduced. This is not to say that neighbours will not be able to see windows and into gardens, or will not notice if there is something in a window, but the distance is accepted as protecting privacy.
- 6.7.3 To the south and west of the application site is agricultural land, as such the houses that are proposed along the southern and western edges of the site will face over agricultural land and as such not impact on any existing properties. The proposed properties in the northwest corner will also face over the proposed public open space.
- 6.7.4 The Grove lies to the north of the application site and is an existing housing estate made up of detached and semi detached houses and bungalows laid out around and within one circular estate road. The houses which back onto the application site are on the opposite side of a public footpath which serves the existing farmhouse in the centre of the application site and two cottages further along the track. The Grove is accessed off Tarporley Road. The houses are red brick with cladding on the ground floor and concrete tile pitched roofs and the estate drops away from Tarporley Road to a lower point along the western edge. At the closest point the rear elevations of the proposed new dwellings will be over 29 metres from the rear elevations of the existing dwellings and although there will be some with rooms in the roof, as noted above, this separation distance will ensure that the loss of privacy between properties is not unacceptable.
- 6.7.5 Wellfield Way lies to the east of the proposed application site and is modern housing development, made up of large detached houses, with integral or detached garages, of orange/red brick and concrete tile roofs, some of which are hipped. Wellfield Way is a shared surface road of brick pavements with grassed

verges and no pavements but does have street lighting. It is served off Haroldgate which is a surfaced estate road with footways either side, street lighting and a grit bin and ends abruptly at the edge of the application site. The houses on Wellfield Way which adjoin the application site are also at a higher level with gabion supporting walls along the rear of the gardens. There are 6 dwellings on Wellfield Way backing onto the application site with rear elevations facing towards the site and two dwellings which sit with a side elevation facing over the site.

- 6.7.6 Plot 1 of the proposed site is 19 metres from the existing property on Wellfield Way but is laid out so that it has a gable elevation facing the existing house with only WC and landing windows in this elevation. Plot 3 is approximately 25 metres from the existing dwelling and plots 4 and 5 are further apart. Plot 7 is only 7 metres from the existing dwelling, however both plot 7 and the existing dwelling will be gable to gable and the proposed dwelling has only WC and landing windows in this elevation. Plot 11 is 24 metres from the existing dwelling and plots 14 and 15 are set further into the site. The closest proposed dwellings to existing dwellings are the proposed pair of semi detached units with rooms in the roof on plots 12 and 13. Plot 18 is just over 11 metres from the existing dwelling and is also laid out gable to gable. These are 21 metres from the original dwelling built on Wellfield Way. As such the agent is correct in that the site has been laid out so that there is the recommended 21 metres between facing windows.
- 6.7.7 A couple of objections have noted that their properties have conservatories on the rear elevations which they consider reduces this distance. However, the ground floor and conservatories on the existing dwellings will be protected from significant adverse impact by the existing fencing on top of the gabion walls which lies along the boundary of the site. Due to change in ground level the existing boundary treatments will also ensure that the existing properties are protected where the proposed properties have living rooms at the first floor.
- 6.7.8 This is indicated on the cross section submitted by the agent, which was submitted with the aim of reducing the concern of the existing residents. It is acknowledged that these properties currently have an outlook over an agricultural field, which with their higher position also includes views of the wider landscape. However, the private view of a property is not a right to be protected under planning. The impact on the privacy of these properties has been assessed and it would be difficult to argue that the existing privacy is affected to an unacceptable level, it will alter and there will also be a perception of loss of privacy, however this would not be a matter which could be defended on appeal.
- 6.7.9 Some of the objectors have also suggested that the site should provide bungalows along the boundary with the existing properties or include a wildlife buffer or strip of land to provide access to the gabion walls. Given the above assessment that the impact on amenity would not be unacceptable it would not be reasonable to insist on a change to the layout or scale of the properties proposed. This is also the officers view on removing the rooms in the roof. The cross sections have clearly shown that the properties proposed on the application site will be no higher than the existing properties on Wellfield Way and that the development has therefore been designed to take full advantage of the site levels. The proposal by objectors to provide a gap between the existing properties and the proposed

dwelling would also not be reasonable for the same reasons but also would result in an area of land which would be difficult to manage and maintain and would likely, in the long term, to be taken into the gardens of the adjoining properties. The issue of future maintenance of the gabion walls is a civil matter between property owners.

6.8 Highways, access, parking and rights of way

- 6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should 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.
- 6.8.2 A single point of access is proposed off Haroldgate and the existing track which serves the farm will not be used as vehicular access to any of the proposed houses or the farmhouse. It will continue to be available to other properties that currently have an access onto the track, retain its public footpath status and also be available for emergency vehicle access. Haroldgate is accessed off Tarporley Road (the B5476) and is 5.5m wide with a footway on one side. It currently serves approximately 15 dwellings.
- 6.8.3 The Haroldgate junction is within the 30mph speed limit on Tarporley Road which itself connects to the A49 at a roundabout north of the site, the town centre lies to the south of the site. The report submitted with the application details the results of traffic surveys undertaken and the potential trip generation from the proposed development. The report concludes that the local road network would operate well within capacity after the development.
- 6.8.4 The concerns raised by local residents about the safety of Haroldgate and the use of this road in icy conditions are noted within the applicants statement of community involvement and the highway report. However, the report also notes that the gradient of Haroldgate is 1:17 and therefore within the acceptable design standard of 1:10. Furthermore there are no record of incidents on Haroldgate or the junction with Tarporley Road.
- 6.8.5 The response from the Council Highway Officer, detailed at 4.1.5 above, notes that the local concerns have been taken into consideration prior to reporting on the proposal. The Highway Officer has confirmed that he has no objection to the development subject to the submission of engineering details. Haroldgate is of an appropriate width to deal with the potential traffic from the development and the applicant has offered anti-skid surfacing on the existing highway. As such, although the concerns of the residents are noted the road layout is acceptable and a refusal on this matter would not be defensible. The Highway Officer has raised some comments on the length of some of the driveways off the estate roads but does not consider that this is a significant issue and could be resolved through minor amendments.
- 6.8.6 The application form notes that the proposal includes 208 parking spaces, therefore providing at least two spaces per dwelling. The existing footway on

Haroldgate joins with footways and on-road cycle lanes on Tarporley Road providing opportunities for walking and cycling to access services and facilities. The transport report submitted with the application calculates the walking and cycling times to services as 19mins walk to the primary school, 30min walk to the high school, 9min to the supermarket and 19min to the doctors.

- 6.8.7 It is noted that the nearest bus stop is on The Grove but the bus only provides 5 services a day on a Tuesday and Friday only and the Highway Officer has commented that there is no prospect of extending this service. As such bus travel as an alternative to the private car is not considered to be reasonable for access from the site to the town centre. However, the town centre is within walking distance and there are opportunities for the use of bus travel or train travel to access towns in the wider area.
- 6.8.8 With regard to the public right of way the Council Rights of Way Officer has noted the existing vehicular access to the farmhouse, and other properties, is a designated footpath, but does not appear to be affected by the proposal. The officer has noted that the removal of the access to the farmhouse is a benefit to pedestrian users and has no objection to the use of this footpath for emergency vehicles given that the route is capable of accommodating vehicles.
- 6.9 **Ecology and trees**
- 6.9.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. An ecological survey and an arboricultural assessment have been undertaken and submitted with the application and these have been considered by the Council's Ecologist.
- 6.9.2 The ecology survey has identified the presence of bats and day roosts and the presence of Great Crested Newts (GCN) within 500m of the site. Water voles and badgers are noted within the wider area but are not considered to be affected by the development and can be protected by other legislation. Nesting birds may also be present depending on the time of the works and as such conditions are recommended to protect nesting period and provide artificial nests.
- 6.9.3 The Council Ecologist has recommended that some of the existing hedges are retained during the construction to provide linkages to the bat roosts though accepts that these hedges will be replaced by gardens once the dwellings have been built. The ecologist also recommends a European Protected Species licence in relation to the bat roosts, mitigation and compensation in the form of new roosts and bat boxes and the need for the EPS 3 test matrix. With regard to GCN the Ecologist has confirmed the applicants recommendations for habitat enhancements and hibernacula are acceptable but also recommended newt friendly highway drainage features and a further EPS 3 test matrix and licence.
- 6.9.4 As noted above the proposal includes an area designated as a wildflower belt and an area of open space with the surface water attenuation basin. The wildflower belt is approximately 10m wide and will be planted with species rich mix of wildflowers and it is intended that a maintenance company will be set up to maintain this area under a management agreement and levy on owners of the

properties. The Council Ecologist has noted that both of these features will provide a good level of usable open space which will reduce the pressure on the nearby protected sites of Brown Moss, Fenn's. Whiall, Bettisfield, Wem and Cadney Mosses.

- 6.9.5 The applicant has acknowledged that there are trees and hedges on the proposed site and that there may be some impact on this landscaping. An arboricultural survey has been undertaken and submitted with the application. This survey assessed the quality, condition and value of trees within and adjacent to the site. There are no trees with Tree Protection Orders (TPO's), 18 trees, 2 groups of trees and 8 hedges. 2 trees were considered to be of high quality and value, 7 moderate and 4 of low quality and value. Both groups and 5 of the hedges were considered to be low quality and value and 4 of the trees were assessed as unsuitable for retention due to structural defects.
- 6.9.6 The arboricultural survey recommends the retention of all except those 5 unsuitable trees; tree protection fencing; works outside of root protection areas or undertaken by specific methods; planting of new native and wildlife attracting species and works to trees either outside of nesting season or following further checks for active nests.
- 6.9.7 Overall the proposed development will not adversely affect statutorily protected species or the interest of the European protected sites in the area and as such the development is considered to comply with policy CS17 in this regard.
- 6.10 **Drainage**
- 6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Foul drainage is proposed to be connected to the existing mains sewer system and surface water disposed of via a sustainable drainage system.
- 6.10.2 Foul drainage has been raised as one of the main concerns of the local community and the Town Council. Concerns have been raised about the capacity of the foul drainage system in the locality. There are existing surface water and foul water drainage passing under the site on the northern boundary leading to the pumping station in The Grove. It is proposed to divert these drains and connect the foul drainage from the site to the mains system. However Welsh Water have also raised concerns, initially objecting to the development being premature before the upgrading of the system.
- 6.10.3 This matter has been the subject of negotiation between the case officer, with advice from the Area Planning Manager, and the agent, developer and Welsh Water. It is advised that it is unlikely that the objection could be sustained at an appeal. Although Welsh Water have objected this objection requires upgrading of an existing foul drainage system to be undertaken by the developer which without the certainty of a planning application which officers consider would be unreasonable for the developer to be expected to undertake. Furthermore the condition initially proposed by Welsh Water to overcome their objection required the same, that the works to upgrade the foul drainage system was completed before any work commenced on the development.

6.10.4 Welsh Water did not provide any detail of when this upgrade work would be likely to be undertaken and as such the condition was considered by officers to be too open and not within the control of the applicant or local authority. As such the condition initially recommended by Welsh Water may not have met the tests which conditions must meet. Following exchange of information and advice from Welsh Water and the applicant's legal advisor officers have recommended the following condition to both parties:

"No dwelling hereby approved shall be occupied until:

- 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and
- 2) The appropriate permanent or temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area."

6.10.5 The above condition is considered by officers to be necessary due to the issues raised by Welsh Water and the potential that a connection to the existing system without an upgrade may result in environmental consequences. Relevant to planning and the development proposed in that the environmental consequences would be as a result of the additional housing connecting to the system. Enforceable as the wording of the condition requires the details to be approved by the Council and occupation of the dwellings would not be possible until either the upgrade is undertaken and a connection made to the network or a temporary system is installed. Precise in that the wording details what is required of the developer at what stage of the development and also the condition is considered to be reasonable. As such officers consider that the condition meets the six tests set out in paragraph 206 of the NPPF and also that the condition will provide the protection to Welsh Water, the local community and wider environment whilst not preventing the commencement of the development or the occupation of the properties at an appropriate stage.

6.10.6 The agent has confirmed that they and the developer are happy with the proposed wording of the condition. Officers consider that the condition is in accordance with the recent advice from Welsh Water which notes that the upgrade should be done before occupation of the dwellings but also allows for a temporary system to be provided if the works are not completed. However, at the time of writing the report formal confirmation from Welsh Water of their opinion of the condition has not been received. An update will be provided to members at the meeting and the condition may be amended further to take into account any comments received.

6.10.7 With regard to the surface water drainage the application has been submitted with a Flood Risk Assessment (FRA) which notes that the site is within flood zone 1 and identifies the watercourse on the western boundary of the site which is at a lower level to the site so is not considered to be a flood risk. The report accepts that the northern and eastern corners of the site are at risk from surface water flooding but proposes mitigation measures and the installation of land drainage to

deal with ground water. The report notes that the site is not suitable for soakaways due to the ground conditions and as such the surface water is proposed to be discharged to a attenuation basin in the public open space. Calculations have been submitted to show that the attenuation basin would have a water depth of up to 1.082m during the 1 in 100 flood event and this feature is to be maintained by a management company paid for by the residents of the future development.

6.10.7 The FRA concludes that the site and future development will not be at risk of flooding, rainwater butts are recommended to reduce surface water and the attenuation basin is considered to be an appropriate method of controlling the outflow and ensure no increase in run-off. The Council Drainage Engineer has commented on the surface water proposals and advised that, in principle, the proposals are acceptable and that the details can be dealt with by condition. As such it is considered that the surface water drainage of the site can be provided in compliance with the requirements of policy CS18.

6.11 Other matters

6.11.1 The application has also been submitted with a Geo-environmental Assessment which has identified a water well and filled in fuel tank in the grounds of the farm. The report also comments that the majority of the site is suitable for traditional spread footings for most of the site but that there are small areas that may need to use piling, this is around plots 42-45, 80-82 and 90-93. Though this may cause some concern locally these plots are in the western corner and around the existing farmhouse, as such the use of piling on these plots should not adversely affect the stability of any of the existing properties. The report concludes that there is a short term risk to human health from dust during the construction period but no long term risk to human health.

6.11.2 The Council Archaeologist has also noted that the submitted Archaeological Desk Based Assessment by CGMS Consulting dated January 2014 provides a satisfactory level of information about the archaeological interest of the site in relation to Paragraph 128 of the NPPF and concludes that the proposed development will have no impact on the settings or significance of any designated heritage assets and low potential for archaeological evidence.

7.0 CONCLUSION

7.1 The site is located outside the current Whitchurch development boundary and is therefore classed as a departure from the development plan. However, it is accepted that the site is in a sustainable location, on the edge of the existing built development, where it benefits from transport links and the facilities, services and infrastructure offered by the market town and will provide additional housing supply in accord with national planning policy priorities. Furthermore, the development is being promoted in the forthcoming Site Allocations and Management of Development Plan (SAMDev) and will provide for open market and affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9 and will not result in significant loss of agricultural land.

7.2 The proposed layout, scale and design are considered to be appropriate and take into account the differences in the site level and layout of the surrounding housing

and will not result in unacceptable harm to the amenities of the neighbouring residents.

7.3 The development can be provided with appropriate vehicular accesses, internal layout and pedestrian access and will provide connections to the existing public transport, footways and cycle lanes. Furthermore, the site can be provided with satisfactory foul and surface water drainage arrangements, will not be harmful to local habitats or biodiversity and public open space will be provided.

7.4 Accordingly, it is considered that the proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. 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.

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 - written representations, a hearing or inquiry.

The decision is 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 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 give 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

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

10. BACKGROUNDRelevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS3 - The 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
CS17 - Environmental Networks
CS18 - Sustainable Water Management

11. ADDITIONAL INFORMATION

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Thomas Biggins Cllr Peggy Mullock
Appendices APPENDIX 1 - Conditions

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plans detailed below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. Work shall be carried out strictly in accordance with the Nocturnal Emergence and Dawn Re-entry bat surveys RT-MME-116498 dated July 2014 by Middlemarch Environmental and the Great Crested Newt Mitigation Strategy dated *** and as shown on plan ***.

Reason: To ensure the protection of bats and great crested newts European Protected Species.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. No dwelling hereby approved shall be occupied until:
 - 1) A detailed and permanent scheme for the disposal of foul drainage (together with details of any temporary foul drainage solution and phasing of occupation as required) has been agreed in writing with the local planning authority: and
 - 2) The appropriate permanent or temporary foul drainage scheme approved under part 1 above for the relevant phase of the development has been completed strictly in accordance with the approved details

Reason: To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.

5. No demolition or renovation work shall commence on building containing bat roosts until a European Protected Species (EPS) Mitigation Licence with respect to bats has been obtained and submitted to the local planning authority for the proposed work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of bats, a European Protected Species

6. No development, demolition or site clearance procedures shall commence until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained and submitted to the local planning authority for the proposed

work prior to the commencement of works on the site. Work shall be carried out strictly in accordance with the granted EPS Mitigation Licence.

Reason: To ensure the protection of great crested newts, a European Protected Species

7. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The samples required shall include the erection of a sample panel of brickwork, including mortar, of at least 1 metre square, on site for the approval of the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

8. 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.

9. No development shall take place until full construction details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved buildings occupied.

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

10. No development shall take place until details of the design and construction of any new roads, footways, accesses together with details of the disposal of surface water have been submitted to, and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is occupied.

Reason: To ensure a satisfactory access to the site.

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

11. Prior to the first occupation of the dwellings details of 10 either internal or external artificial nests for swifts 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 dwellings.

Reason: To ensure the provision of nesting opportunities for swifts

12. A total of 12 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to demolition of existing farm buildings hereby permitted as described in the Nocturnal Emergence and Dawn Re-entry bat surveys RT-MME-116498 dated July 2014 by Middlemarch Environmental. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

Reason: To ensure the provision of roosting opportunities for bats which are European Protected Species

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

13. 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.

14. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system.

Reason: to prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

15. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment.