

## APPENDIX 2



### Committee and date

South Planning Committee

19 August 2014

## Development Management Report

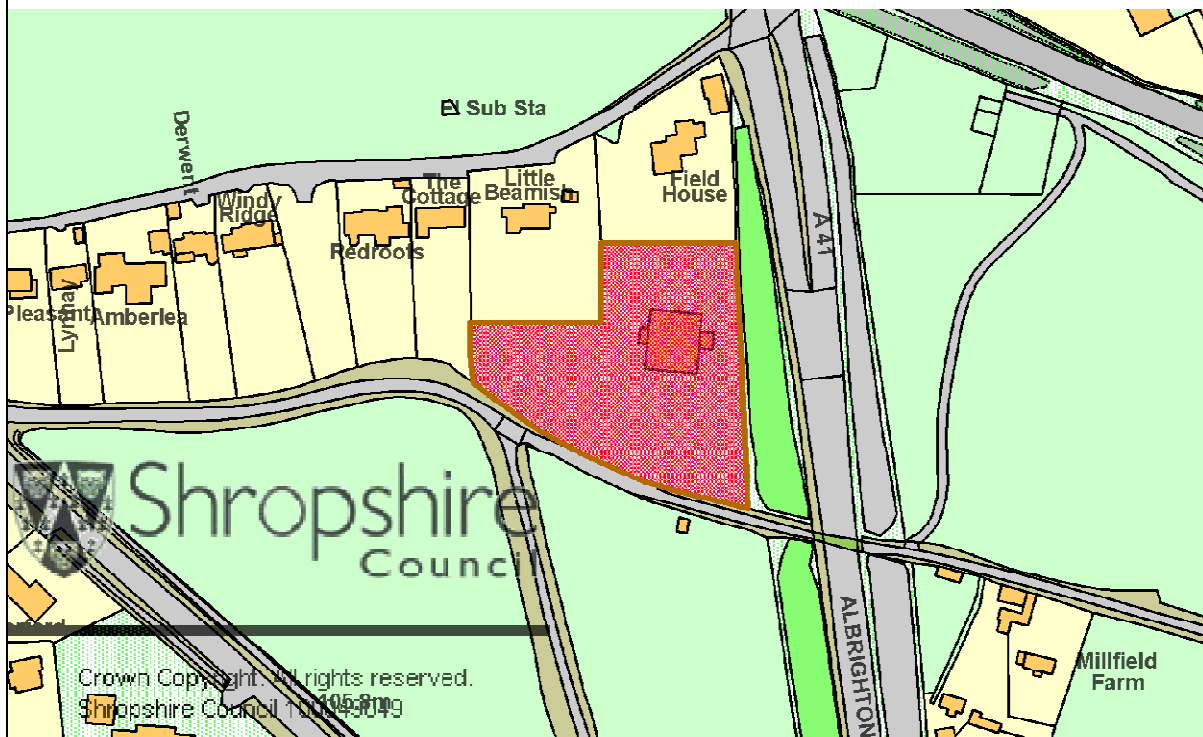
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/00622/FUL	<b>Parish:</b> Albrighton
<b>Proposal:</b> Change of use of existing detached swimming pool building within the grounds to Field House into 1no. dwelling to include extension over existing roofed patio to create additional internal habitable space	
<b>Site Address:</b> Field House Beamish Lane Albrighton Wolverhampton WV7 3JJ	
<b>Applicant:</b> Mr & Mrs M L Sahni	
<b>Case Officer:</b> Lynn Parker	<b>email:</b> <a href="mailto:planningdmse@shropshire.gov.uk">planningdmse@shropshire.gov.uk</a>

**Grid Ref:** 382490 - 304038



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Contact: Tim Rogers (01743) 258773

**Recommendation:- Permit, subject to a Section 106 Agreement relating to an affordable housing contribution and to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application is for the change of use of a detached, 2 storey swimming pool building ancillary to Field House, Beamish Lane, Albrighton to form an open market dwelling and to include the enclosure of an existing patio on the north facing elevation of the dwelling. The 'filling in' of the patio will replicate the appearance of the existing north facing elevation. Accommodation is proposed to remain as existing at ground floor level i.e. to comprise the swimming pool and gym. At first floor level a kitchen, living room, dining room, master bedroom with walk-in wardrobe and ensuite, bedroom 2 with walk-in wardrobe and ensuite, and bedroom 3 with ensuite are proposed. The dining room and bedroom 3 will be located within the enclosed patio section.

1.2 All materials are proposed to match those of the existing dwelling including brick, tiles and double glazed windows/doors. Foul sewage is proposed to the existing package treatment plant and surface water to soakaway/SUDs. The applicant intends to improve the 'green' credentials of the building by introducing a number of solutions such as solar panels and rainwater harvesting. No alterations are proposed to the access which is to the south side of the site off High House Lane and was altered under Planning Ref: 11/03904/FUL granted on 1<sup>st</sup> February 2012. No trees or hedges are affected by the development.

1.3 In addition to the Planning Statement dated February 2014, a Transport Assessment dated October 2013 has been submitted in support of this application and is summarised as follows:

#### Transport Assessment dated October 2013

Concludes that both the existing use of the building, and the proposed change of use to a single residential property only generates low use of the access. Implementing the suggested amended access arrangement would minimise the impact of the protected Oak tree on visibility for drivers leaving the site. The proposal is acceptable in highway safety terms.

1.4 The existing building was constructed under permitted development rights and granted a Lawful Development Certificate under Planning Ref: BR/APP/LDCE/04/0728 on 31<sup>st</sup> August 2004 for 'the erection of a detached outbuilding to provide a swimming pool and changing facilities for purposes solely incidental to the enjoyment of the adjacent dwelling'. The building has been primarily used by the applicant's children who will shortly leave for university and there is no longer a requirement for such a large home. The division between the plots has been selected to follow a natural line between Field House and the outbuilding where there is a change in ground level. The existing tennis courts to the west of the outbuilding will be allocated to the new dwelling.

- 1.5 An Affordable Housing Contribution Proforma has been submitted agreeing to pay a contribution of £13,500 as the internal floorspace is identified as being over 100m<sup>2</sup> (0.15 x 100m<sup>2</sup> x 900 = £13,500) and the current prevailing target for this area is 15%.

## **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site falls within open Green Belt countryside on the eastern side of the Market Town of Albrighton but in proximity to the village development boundary. The area is characterised by large detached properties, the majority of which are 2 storey, in generous plots which span the distance between Beamish Lane to the north and High House Lane to the south, on average approximately 65m, although the Field House plot is 135m in depth. Field House is the most easterly of these plots flanked by the A41 along its eastern boundary although access cannot be gained from this road. The land slopes downwards from the north where more level ground allows for the siting of the dwellings, to the south.

- 2.2 The outbuilding proposed for change of use is positioned directly and approximately 45m to the south of the dwelling and is a split level building due to slope of the land. Whilst its appearance is of a two storey property when viewed from the south, it is single storey from the north with access being straight into the first floor from the patio. The patio to be enclosed already benefits from being underneath the main roof and is currently supported by pillars. The existing plot is has established vehicular accessed from both Beamish Lane and High House Lane. Both side boundaries are defined by mature landscaping, to the eastern side there is a wooded area which forms a barrier separating the plot from the A41. The southern boundary comprises timber fencing extending into mature native hedging containing some trees.

- 2.3 Other than Field House, the closest neighbouring property is to the north west of the outbuilding. This dwelling is 2 storey, approximately 45m away and set at a higher level adjacent to Beamish Lane.

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

- 3.1 Applications requested to be referred, but the Local Member to the relevant Planning Committee within 21 days of electronic notification of the application and agreed by the Service Manager with responsibility for Development Management in consultation with the Committee Chairman or Vice Chairman to be based on material planning reasons.

## **4.0 Community Representations**

### **4.1 - Consultee Comments**

- 4.1.1 Albrighton Parish Council – At its meeting on 6<sup>th</sup> March 2014 objected to planning application 14/00622/FUL on the grounds that it was development within the Green Belt. There were also access problems to the proposed property despite recent alterations.

- 4.1.2 SC Drainage - Standard advice supplied in relation to the encouragement of measures listed to minimise the risk of surface water flooding.

4.1.3 SC Affordable Homes - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing.

4.2 - Public Comments

4.2.1 One letter of representation has been received from the neighbour adjacent to the north west which is available to view in full on file, but précised as follows:

- o The proposed development is within the Green Belt.
- o The Council has for many years resisted the development of land in Beamish Lane on Green Belt grounds.
- o The need for further housing in Albrighton is already being met within the village.
- o The applicants children leaving home could not have been unexpected and was relevant when the outbuilding was originally constructed.
- o This proposal amounts to development by the back door.
- o If the Council were to allow this proposal it would open the floodgates to similar proposals throughout the County.

## 5.0 THE MAIN ISSUES

- o Principle of development
- o Visual appearance
- o Impact on the surrounding Green Belt countryside
- o Impact on neighbours/residential amenity.
- o Access

## 6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 The site is positioned in open countryside outside of any development boundaries designated under existing or 'saved' planning policies where open market housing would not normally be permitted. Under LDF Core Strategy Policy CS5 – Countryside and Green Belt, new open market residential development is not considered acceptable within the countryside unless for affordable, an essential worker's dwelling or conversion of a building of historic merit, on appropriate sites which maintain and enhance countryside vitality. Whilst the building is existing and proposed as an open market dwelling, it cannot be regarded as a heritage asset, nor would it be suitable as an affordable dwelling due to its large size. However, the agent presents the case that housing plays an important role in creating a sustainable community in rural areas and that the use of a building already in situ and already in domestic use, a scenario not covered by Policy CS5, can contribute towards the essential housing stock without requirement for any additional built environment or giving rise to perceivable harm, albeit not a heritage asset. He also considers that a high level of sustainability is achieved in this case as no new built environment or significantly different use is being instigated. Additionally, he states the alternative uses which are considered acceptable under Policy CS5 are not felt to be viable due to the nature of the building and its location: The building is not situated such that it would be suitable as an agricultural dwelling, nor could it sensibly serve any other agricultural related purpose, nor would a commercial use

be appropriate in this domestic garden context. Similarly it is his view that neither a community use nor a tourism use would be appropriate in such a location.

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

- 1) Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole;
- 2) Specific policies in the NPPF indicate that development should be restricted.

Paragraph 47 sets out a number of steps that Local Planning Authorities should take to boost significantly the supply of housing. It continues at paragraph 49 that:-

*'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.'*

6.1.3 These paragraphs are highly significant as at the time of submission of this planning application because Shropshire Council had published an updated Five Year Housing Land Supply Statement for Shropshire and Shrewsbury (20-09-13). The update was based on changes to the methodology used, having regard to the requirements of the NPPF and appeal decisions across the country relating to five year land supply issues since the publication of the NPPF. The assessment showed that as of 1<sup>st</sup> April 2013, there was less than a 5 year supply of housing land. Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any 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 the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

- 6.1.4 It is clear from recent parliamentary debate and a review of recent appeal decisions across the country, that an emerging Local Plan is afforded minimal weight by the Planning Inspectorate or Secretary of State until submission stage (for non-contentious proposals) or publication of the Inspector's report (for contentious proposals) respectively. Therefore full weight cannot be given to the emerging SAMDev Plan housing policies in the decision on this planning application at this time. This factor also affects the weight which can be given to the policies relating to housing in the Albrighton Neighbourhood Plan 'Light' (June 2013): Consideration must be focused on the sustainability of the site and proposal, and whether there is any significant and demonstrable harm to outweigh the benefits of the development contributing to housing land supply.
- 6.1.5 The outbuilding itself is felt to be in a sustainable location adjacent to existing dwellings and approximately 415m from the current eastern extent of the Albrighton Development Boundary. While the age of the building means that it does not constitute a 'heritage asset', it is considered that the supporting comments made by the agent, set out in paragraph 6.1.1 above are pertinent and would point to independent residential use as an appropriate re-use of the building. Therefore it is felt that on balance and in this specific case, where full weight cannot yet be attributed to the SAMDev Final Plan housing policies, the proposed change of use to an open market dwelling of this existing building located in proximity to the village development boundary of Albrighton, is acceptable.
- 6.1.6 Green Belt policies within the NPPF, LDF Core Strategy Policy CS5 and Bridgnorth and District Local Plan 'Saved' Policy S3 require that the openness, permanence and visual amenity of the land within its boundaries are preserved. Inappropriate development is, by definition, harmful to the Green Belt and support is not given to such proposals except in very special circumstances. Certain forms of development which are not inappropriate include the re-use of buildings provided that the buildings are permanent and substantial construction. Therefore the re-use of this existing outbuilding where the footprint is not being increased is not considered to be inappropriate development within the Green Belt as no greater impact on its attributes will occur from the proposed change of use to an open market dwelling.
- 6.1.7 In order to meet the diverse housing needs of Shropshire residents now and in the future and to create mixed, balanced and inclusive communities, Policy CS11 seeks to ensure that all new open market housing makes appropriate contributions to the provision of local needs affordable housing having regard to the current prevailing target. On sites where 5 dwellings or more are proposed, the affordable housing provision is expected to be on site, below 5, the contribution is expected to be financial. As the proposal is for a single open market dwelling, an affordable housing contribution proforma has been submitted during the course of the application indicating that a financial contribution in respect of affordable housing will be secured via the completion of a Section 106 Legal Agreement.

## 6.2 Visual appearance

6.2.1 Policy CS6 of the Shropshire Council Local Development Framework Core Strategy states that development should conserve and enhance the built environment and be appropriate in its scale and design taking account of local character and context. It further states that development should safeguard residential and local amenity. LDF Core Strategy Policy CS17 is also concerned with design in relation to its environment, but places the context of the site at the forefront of consideration i.e. that any development should protect and enhance the diversity, high quality and local character of Shropshire's built, historic and natural environment and does not adversely affect the values and function of these assets.

6.2.2 There is no significant change to the scale of the outbuilding for its new use, as the patio area to be infilled is already located underneath the main roof, nor to its appearance as the new north elevation will replicate that of the existing. Therefore the visual appearance of the building within its environment will remain neutral.

## 6.3 Impact on the surrounding Green Belt countryside

6.3.1 As discussed above in paragraph 6.1.6 it is considered that the proposed development will have no greater impact on the openness of the surrounding Green Belt Countryside as the building already exists and there is no increase to its footprint or size outside the confines of the existing elevations.

## 6.4 Impact on neighbours/residential amenity

6.4.1 The outbuilding is located to the south and at a lower level than the line of dwellings along Beamish Lane, however the parcel of land inbetween Beamish Lane in the north and High House Lane in the south is roughly triangular with the wider end adjacent to the A41. The outbuilding is therefore positioned in the wider part of this section of land where it does not adversely impact on the existing pattern of residential development because it relates to and compliments the triangular shape.

6.4.2 The space between the building proposed for residential and the neighbouring properties is sufficient for any impact either from overbearing or overlooking to be minimal and certainly no greater than the existing potential. Additionally, all of the neighbouring dwellings including Field House are set at a higher level and are therefore more likely to have views into the new plot than there could be from it.

## 6.5 Access

6.5.1 Improvements to the existing access to the site from High House Lane, which will serve the proposed dwelling, were agreed under Planning Permission Ref: 11/03904/FUL. SC Highways commented during the consideration process of that application that they raised '*no highway objections in principle to the revision of the access arrangement to serve its existing use, but for any intensified vehicle movements through it an improvement to visibility would be required*'. Essentially, the access is deemed unsuitable for a further dwelling or development of the land. This proposal does not intensify or develop the land further than already exists. The access currently serves a single dwelling at Field House and on change of use of the existing outbuilding to a dwelling, the access will continue to serve a single dwelling, albeit a different dwelling, any access through to Field House being

prevented by the separation of the new plot. The existing access is therefore suitable to serve the proposed dwelling.

## 7.0 CONCLUSION

7.1 The site is a sustainable location for the conversion of a building to a dwelling in the context of housing supply. While the age of the building means that it does not meet the normal 'heritage asset' requirement for the conversion of buildings to independent permanent residential use, it is regarded as unsuitable for alternative uses listed in Core Strategy policy CS5. Additionally, the re-use of the existing building would not be inappropriate development in the Green Belt and would have no greater impact on the attributes of the surrounding Green Belt countryside than the current use of the building. The conversion of this existing swimming pool building to a single residential property set in a generous sized plot with existing suitable vehicular access, would not detract from the visual amenity or character of the surrounding environment, nor unduly harm the amenities of neighbouring residential properties.

## 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

Core Strategy and Saved Policies:  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
S3 Green Belt  
D6 Access and parking

SPD on Type and Affordability of Housing  
Shropshire Five Year Housing Land Supply Statement - 1st September 2013 (Amended Version 20th September 2013)

RELEVANT PLANNING HISTORY:

11/03904/FUL – Alterations to existing vehicular access (onto High House Lane) to include erection of 2m high gates/piers and 1m boundary wall. Granted 1<sup>st</sup> February 2012.

BR/APP/LDCE/04/0728 – Erection of a detached outbuilding to provide a swimming pool and changing facilities for purposes solely incidental to the enjoyment of the adjacent dwelling. Permitted Development 31<sup>st</sup> August 2004.

BR/99/0474 – Erection of extensions. Granted 11<sup>th</sup> August 1999.

BR/98/0594 – Erection of a front porch, single storey side extension with pitched roof, single storey rear extension and conservatory. Granted 6<sup>th</sup> October 1998.

BR/98/0265 – Erection of a detached four car garage to replace existing garage buildings. Granted 1<sup>st</sup> June 1998.

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

Planning Statement dated February 2014

Transport Assessment dated October 2013

FBC Manby (Agent) Letter dated 4<sup>th</sup> April 2014

FBC Manby (Agent) Letter dated 7<sup>th</sup> May 2014

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Malcolm Pate

**Appendices**

APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITIONS

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

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

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

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

#### CONDITION THAT REQUIRES APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No development approved by this permission shall commence until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

- Means of enclosure
- Hard surfacing materials

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

#### CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

4. The external materials shall match those of the existing building and there shall be no variation.

Reason: To ensure that the works harmonise with the existing development.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:-

- extension to the dwelling
- free standing building within the curtilage of the dwelling
- addition or alteration to the roof
- erection of a porch
- hard surfacing
- container for the storage of oil

- any windows or dormer windows

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building.

### **Informatives**

1. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
2. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

3. If your application has been submitted electronically to the Council you can view the relevant plans online at [www.shropshire.gov.uk](http://www.shropshire.gov.uk). Paper copies can be provided, subject to copying charges, from Planning Services on 01743 252621.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. In determining the application the Local Planning Authority gave consideration to the following policies:

Central Government Guidance:  
National Planning Policy Framework

Shropshire Core Strategy and 'Saved' policies  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS11 Type and Affordability of Housing  
CS17 Environmental Networks  
S3 Green Belt  
D6 Access and parking

SPD on Type and Affordability of Housing  
Shropshire Five Year Housing Land Supply Statement - 1st September 2013 (Amended Version 20th September 2013)

6. 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.