



Committee and Date

North Planning Committee

23 September 2014

Item

14

Public

Development Management Report

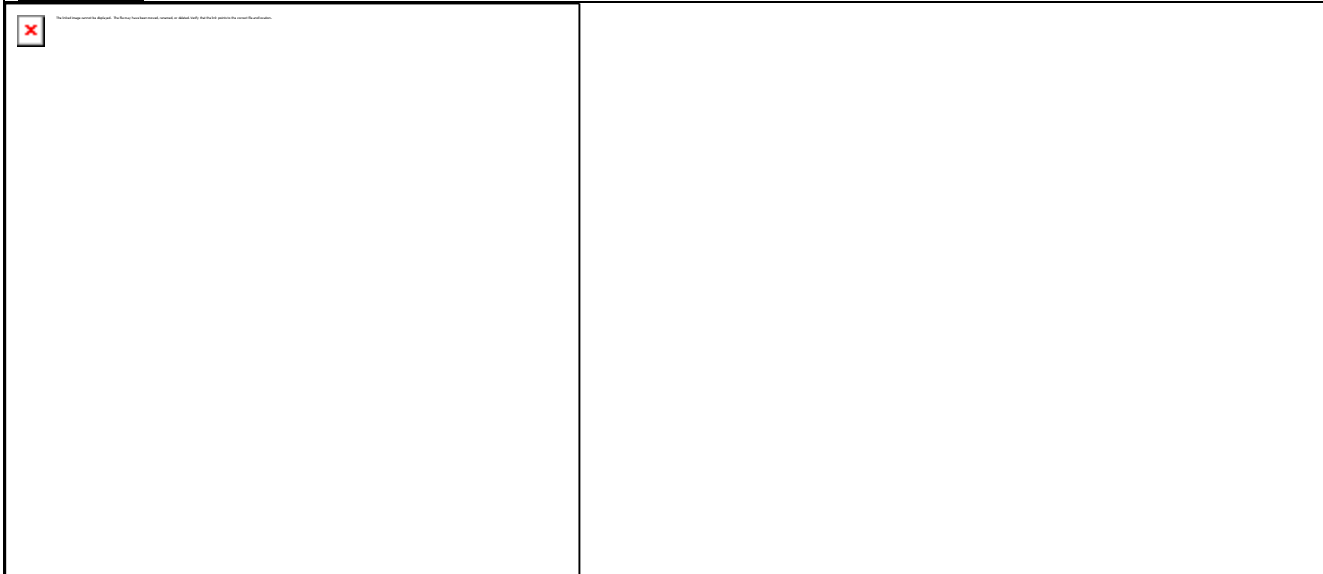
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Summary of Application

<u>Application Number:</u> 14/01721/OUT	<u>Parish:</u>	Welshampton And Lyneal
<u>Proposal:</u> Outline application for the erection of a single detached dwelling to include access, layout and scale		
<u>Site Address:</u> Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG		
<u>Applicant:</u> Mr & Mrs R K & M A Mainwaring		
<u>Case Officer:</u> Janet Davies	<u>email:</u> planningdmnw@shropshire.gov.uk	

Grid Ref: 343161 - 334954



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Recommendation:- Grant Permission subject to the applicants entering into a S106 to provide an affordable housing contribution and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This report is an addendum to the report presented to members on the 1st July 2014 which detailed the proposal for outline planning permission for residential development on land adjacent to Oakleigh Farm within the village of Welshampton. The application included details of access, layout and scale with all other matters reserved for later approval and as such the application seeks consent for the principle of developing the site for a new dwelling. An indicative layout plan was submitted with the original application showing a single, detached dwelling and detached garage with access provided via the existing private drive to the north off Stocks Lane.
- 1.2 The following report seeks to advise members on their resolution that Committee were minded to defer the application until all aspects of the drainage and its potential impact on ecological sites had been considered. The minutes of the meeting record the following:
- 1.3 -‘The Principal Planning Officer introduced the application drawing Members attention to the schedule of additional letters and confirming that the Committee had undertaken a site visit that morning to view the site and assess the impact of the proposal on the surrounding area. The Principal Planning Officer provided an update on ecology issues, explaining that following the submission of an updated information request from Natural England, the Council’s ecologist had recommended that further drainage percolation tests were required to assess the impact on the Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site which were adjacent to the site. The Principal Planning Officer therefore explained that the recommendation would be to grant delegated powers to the Planning Service Manager to grant planning permission subject to the resolution of outstanding ecology issues.
- 1.4 Members of the Committee felt that the implications of a potential failure in drainage systems were so significant that consideration of the application should be deferred until further information was obtained in relation to drainage and the impact on the adjoining SSSI and Ramsar Site.
- 1.5 It was resolved that consideration of the application be deferred until further information was obtained on the means and location of waste water disposal to enable the Local Planning Authority to carry out a Habitats Regulation Appraisal (HRA) of the project under the Conservation of Habitats and Species Regulations 2010 (as amended).’

2.0 **MATTERS FOR CONSIDERATION**

- Impact on Ecology
- Update on 5 year land supply

2.1 **Impact on Ecology**

- 2.2 Further to consultation with the Council’s Ecology team the application was judged to fall within Natural England’s new Impact Risk Zones (IRZ) for Natural England consultations. The Local Planning Authority is required to consider drainage proposals and determine whether pathways exist between proposed developments and designated sites. If there are, or it is unclear in these cases Natural England is consulted.

- 2.3 Clarepool Moss Site of Special Scientific Interest (SSSI) and Ramsar Site lies less than 400m to the south at its nearest point and the application site lies within the Natural England consultation zone for this SSSI.
- 2.4 The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off. Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.
- 2.5 From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity.
- 2.6 The proposed single dwelling was intended to either drain foul waste to septic tank and drainage field or to septic tank and the stream which flows northwards. In view of the site's location in relation to Clarepool Moss and the fact that the stream flows northwards to the River Dee Special Area of Conservation (SAC), some 17km or more downstream, it was determined that a Habitat Regulation Assessment should be undertaken for Clarepool Moss, and potentially for the River Dee.
- 2.7 As a result details of the type and volume of the septic tank and the drainage fields, together with a plan to scale of their location were requested and were subsequently submitted.
- 2.8 The foul drainage for the proposed dwelling is proposed to flow to a bio-disc sewage treatment plant and drainage field as shown within the submitted details. An appropriate percolation test is deemed to have been submitted.
- 2.9 It was judged that as the development sites lies at just above 90m and the surface of Clarepool moss at around 100m the proposed septic tanks with drainage fields would not have an adverse impact, particularly given the distances involved. Natural England are therefore of the view that Clarepool Moss is at the top of the water table and subsequently a septic tank with drainage field would not have any likely significant effect on Clarepool Moss.
- 2.10 A small stream/ditch to the north east of the development site flows eventually to the River Dee over 17km downstream. However, it was also deemed unlikely that the proposed dwelling would have a significant impact on the River Dee especially given that the site is considered to sit on lower ground than the designated site or to discharge into a stream flowing away from the site. The submitted percolation test indicates that a drainage field will function in this location and consequently no impact is expected on the River Dee Special Area of Conservation.
- 2.11 Further to the above views received from Natural England the Council's Ecology team have undertaken a Habitat Regulation Assessment, which is attached to this report, and have provided updated comments, also based on the submitted Ecological Appraisal by Churton Ecology (March 2014).
- 2.12 It is concluded that providing a condition ensuring that foul drainage water details are carried out as approved is attached to any planning consent there is no risk of an impact on any European site.

2.13 **Other wildlife issues**

2.14 Churton Ecology (2014) state :

2.15 Potential ecological issues associated with the proposed development, on or near the site include

- i) the disturbance of nesting birds within the breeding season if there is any hedgerow removal
- ii) the disturbance of bat foraging and commuting habitats caused by artificial lighting situated close to hedgerows
- iii) damage to the root systems of hedgerows if work encroaches on their root protection zones. (This could negatively affect breeding bird habitat as well as bat foraging and commuting habitat in the longer term.)

2.16 Churton Ecology state that there will be no (significant) direct loss of bat foraging or commuting habitats since the hedgerows will be largely retained, and any negative impact on bats is likely to be temporary and of very minor/negligible significance. However, excessive, poorly located and/or inappropriate sources of external lighting could cause disturbance to bats, potentially resulting in the severance of flyways and deterioration of favoured foraging areas. In view of this it is particularly important that lighting recommendations in their report are implemented.

2.17 Great Crested Newt has been recorded 300m to the south-east and there are several pools in the wider surrounds. However, any pools to the south are fragmented from the development site by a busy main road; a pool to the north (at 225m distance) is again isolated from the site by a stream. In addition, the terrestrial habitats present on and around the site can be described as poor and there is altogether no potential for trans-site migrations associated with the meta-population system.

2.18 Additional conditions and informatives are recommended requiring that any development work is carried out in accordance with the submitted Ecological Appraisal by Churton Ecology (March 2014) in order to ensure the protection of wildlife including bats and birds.

3.0 **Update on 5 Year Land Supply**

3.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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.

3.2 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy and in particular policies CS4, CS5, CS6, CS11 and CS17. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.

- 3.3 There are currently three major policy considerations in the assessment of planning applications for housing:
- Five year housing land supply/housing supply.
 - Weight to relevant policies in emerging Plan
 - NPPF presumption in favour of sustainable development/boosting housing supply
- 3.4 1. Five year housing land supply/housing supply
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 will address 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 paragraph 49 and these provide the starting point for considering planning application.
- 3.5 2. Weight to relevant policies in emerging Plan
The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.
- 3.6 The Shropshire Core Strategy was adopted on the 31st March 2011 and is in this context considered up-to-date.
- 3.7 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people.
- 3.8 The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen.
- 3.9 The SAMDev Plan sets out proposals for the use of land and policies to guide future development in Shropshire up to 2026 and covers the whole of the administrative area of Shropshire Council (excluding Telford & Wrekin). The Plan and all the representations made on the Plan has recently been submitted to the Secretary of State for examination by an Independent Planning Inspector.
- 3.10 The Draft document identifies Welshampton and Lyneal as being a Community Cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. The Parish Council have given their agreement to the designation of a boundary around the main built up

area of the village although it is stated that all new development is subject to establishing adequate foul drainage and water supply. No allocated sites have been identified within the area of the village.

- 3.11 The “saved” policies of the North Shropshire Local Plan include Policy H6 which relates to infilling, groups of houses and conversions within identified settlements within development boundaries. Welshampton was identified as a Main Service Village under that policy and a settlement boundary was provided within which appropriate new housing development would normally be permitted. At that time the whole of Oakleigh Farm and its outbuildings, which have since been converted to residential use, lay outside of the settlement boundary which instead followed the western boundary of Sycamore House to the east. The proposed settlement boundary shown within the SAMDev pre submission draft also shows the proposed settlement boundary as following the western boundary of Sycamore House and therefore excludes the application site.
- 3.12 The Council’s view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan has not been through the examination stage), the weight has to be considered with care alongside the other material considerations and having regard to specific circumstances of particular planning applications.
- 3.13 Sites that are not within development boundaries or, in the case of some emerging hubs and clusters, within settlements, should be considered as being in the ‘countryside’ in policy terms, where Policy CS5 (Countryside and Green Belt) applies, having regard to any other material considerations. This requires new development to be strictly controlled in accordance with national planning policies protecting these areas. In the case of new dwellings these are generally required to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need in accordance with national planning policies.
- 3.14 On the basis of Policy CS5 and the site’s location outside of the settlement boundary planning permission for a new dwelling would not normally be permitted.
- 3.15 3. NPPF presumption in favour of sustainable development/boosting housing Supply - The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to ‘boost significantly the supply of housing’, with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 3.16 Although the site is currently classed as falling within open countryside under the existing North Shropshire Local Plan it is included within the wider cluster area identified under the emerging SAMDev plan as such identified in principle as being suitable for small scale infill development. The proposal is for a single dwelling only and its general scale and density is deemed to be commensurate with the density and

pattern of development within Welshampton.

- 3.17 Accordingly, taking into account the update to the 5 year land supply the application is still considered by officers to represent sustainable development within its location.

4.0 CONCLUSION

- 4.1 Officers have sought to advise members within this report of the issues raised at the 1st July 2014 meeting. Additional information submitted in relation to the proposed drainage arrangements and further research carried out into the affected protected sites entail that the ecology queries raised are deemed to have been satisfactorily addressed. As such, the officers recommendation remains the same as that presented at the 1st July meeting, which is that, subject to the applicants entering into a S106 legal agreement to secure affordable housing, and subject to conditions, planning permission be granted.
- 4.2 Taking into account the update to the 5 year land supply issue officers are of the view that the application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and that the NPPF “presumption in favour of sustainable development” applies.
- 4.3 The proposal is therefore considered to accord with the relevant policy provisions set down within the NPPF and Core Strategy Policies CS4, CS5, CS6, CS11 and CS17 and is recommended for approval subject to a section 106 agreement requiring the affordable housing contribution required by Policy CS11.

5.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

5.1 Risk Management

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

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

5.2 Human Rights

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

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

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

5.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

6.0 FINANCIAL IMPLICATIONS

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

7.0 Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Core Strategy and Saved Policies:

CS1 - Strategic Approach

CS4 - Community Hubs and Community Clusters

CS5 - Countryside and Greenbelt

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS8 - Facilities, Services and Infrastructure Provision

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS17 - Environmental Networks

CS18 - Sustainable Water Management

D7 - Parking Standards

SPD Type and Affordability of Housing

8.0 ADDITIONAL INFORMATION

Cabinet Member (Portfolio Holder)

Cllr M Price

Local Member

Cllr Brian Williams

Appendices

APPENDIX 1 – Conditions

APPENDIX 2 – Habitats Regulations Assessment

APPENDIX 3 – 1st July Report

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before

any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
 - The means of enclosure of the site
 - The levels of the site
 - The means of foul and surface water drainage of the site
 - The finished floor levels

Reason: To ensure the development is of an appropriate standard.

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

5. Prior to any above ground works a visibility splay shall be provided at the access point onto Stocks Lane at a point measured 2.4 metres back from the adjoining carriageway edge along the centreline of the access extending 43.0 metres in a north westerly direction along Stocks Lane. All growths and structures in front of this line shall be lowered to and maintained at a height not exceeding 0.9 metre above the level of the adjoining highway carriageway.

Reason: To provide a measure of visibility from the access in a north westerly direction along the highway in the interests of highway safety.

6. The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/06C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.

7. Work shall be carried out strictly in accordance with the Ecological Appraisal of land proposed for residential development at Welshampton, Shropshire (SJ431349) by

Churton Ecology (March 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of wildlife including bats and birds.

APPENDIX 2

Habitat Regulation Assessment (HRA) Screening Matrix & Appropriate Assessment Statement

Application name and reference number:

14/01721/OUT

Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG

Date of completion for the HRA screening matrix:

9th August 2014

HRA screening matrix completed by:

Dr Sue Swales
County Ecologist
Shropshire Council
01743 252567
sue.swales@Shropshire.gov.uk

Table 1: Details of project or plan

Name of plan or project	Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG
Name and description of Natura 2000 sites	<p>Part of the West Midlands Mosses Special Area of Conservation (SAC) and Midland Meres and Mosses Phase 1 Ramsar series of sites and notified at a national level as Clarepool Moss Site of Special Scientific Interest (SSSI).</p> <p>Qualifying Features of West Midland Mosses SAC: H3160. Natural dystrophic lakes and ponds; Acid peat-stained lakes and ponds H7140. Transition mires and quaking bogs; Very wet mires often identified by an unstable `quaking` surface</p> <p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> <input type="checkbox"/> The extent and distribution of qualifying natural habitats <input type="checkbox"/> The structure and function (including typical species) of qualifying natural habitats, and <input type="checkbox"/> The supporting processes on which qualifying natural habitats rely. <p>Ramsar site criterion: Criterion 1a. A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog. Ramsar criteria: Criterion 2a. Supports a number of rare species of plants associated with wetlands. The site contains the nationally scarce six stamened waterwort <i>Elatine hexandra</i>, needle spike-rush <i>Eleocharis acicularis</i>, cowbane <i>Cicuta virosa</i>, marsh fern <i>Thelypteris palustris</i> and elongated sedge <i>Carex elongate</i>. Criterion 2a. Contains an assemblage of invertebrates, including the following rare wetland species. 3 species considered to be</p>

	<p>endangered in Britain, the caddis fly <i>Hagenella clathrata</i>, the fly <i>Limnophila fasciata</i> and the spider <i>Cararita limnaea</i>. Other wetland Red Data Book species are; the beetles <i>Lathrobium rufipenne</i> and <i>Donacia aquatica</i>, the flies <i>Prionocera pubescens</i> and <i>Gonomyia abbreviata</i> and the spider <i>Sitticus floricola</i>.</p> <p>River Dee SAC</p> <p>River Dee and Bala Lake (Wales) SAC The source of the River Dee lies within the Snowdonia National Park and its catchment contains a wide spectrum of landscapes. Annex I Habitats that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> •Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation. <p>Annex II Species that are a primary reason for selection of site:</p> <ul style="list-style-type: none"> •Atlantic salmon <i>Salmo salar</i>, •Floating Water Plantain <i>Luronium natans</i>. <p>Annex II Species present as a qualifying feature but not a primary reason for selection of site:</p> <ul style="list-style-type: none"> •Sea lamprey <i>Petromyzon marinus</i> •Brook lamprey <i>Lampetra planeri</i> •River lamprey <i>Lampetra fluviatilis</i> •Bullhead <i>Cottus gobio</i> •Otter <i>Lutra lutra</i>
Description of the plan or project	<p>Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG</p> <p>The drainage proposed for the dwelling development is to a bio-disc sewage treatment plant and drainage field.</p>
Is the project or plan directly connected with or necessary to the management of the site (provide details)?	No
Are there any other projects or plans that together with the project or plan being assessed could affect the site (provide details)?	No

Statement

The designated features of the European site at Clarepool Moss SSSI are sensitive to reductions in water quality (for example through eutrophication and sediment), specifically through urban run-off. Nitrogen and phosphorus levels at the moss should not be increased in order to demonstrate no impact on the integrity of the site.

From the latest version of the Shropshire Water Cycle Study (2014) it is known that the Welshampton sewage treatment works has no current capacity. The foul drainage for this dwelling will flow to a bio-disc sewage treatment plant and drainage field as shown on plan 1753/06C. An appropriate percolation test has been submitted.

Natural England provided advice by email dated 10th July 2014 for this and another application nearby:

‘it is unlikely that these dwellings will have a significant impact on the River Dee and that is a reasonable assumption to make about the three new dwellings in Welshampton

especially if they are sat on lower ground than the designated site or discharging into a stream flowing away from the site. My feeling from looking at the map was that Clarepool Moss was at the top of the water table which is a feeling Robert Duff also expressed.'

The dwelling would be just under 400m north of Clarepool Moss (Phase 1 Ramsar) at its nearest point. Contour information shows the development site lies at just above 90m and the surface of Clarepool Moss is higher, at around 100m. In view of this, a septic tank with drainage field would not have likely significant effect on Clarepool Moss.

A small stream/ditch to the north east of the development site flows eventually to the River Dee over 17km downstream. The percolation test indicates that a drainage field will function in this location and so no impact is expected on the River Dee SAC.

Providing the condition below is attached to any planning permission , there is no risk of an impact on any European site.

Condition

The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/06C, attached to this decision notice, unless otherwise agreed in writing by the planning authority.

Reason: To ensure appropriate sewage treatment and ensure the protection of the European protected sites.

The Significance test

The proposed works in the Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG will not have a likely significant effect on the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC.

The Integrity test

The proposed works in the Outline application for the erection of a single detached dwelling to include access, layout and scale, Land Adjacent To Oakleigh Farm Welshampton Ellesmere SY12 0PG will not have an impact on the integrity of the Midland Meres and Mosses Phase 1 Ramsar site or River Dee SAC. An Appropriate Assessment is not required.

Conclusions

There is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

Guidance on completing the HRA Screening Matrix

The Habitat Regulation Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 61 of the Habitats Regulations, one known as the 'significance test' and the other known as the 'integrity test' which must both be satisfied before a competent

authority (such as a Local Planning Authority) may legally grant a permission.

The first test (the significance test) is addressed by Regulation 61, part 1:

61. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –
 (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
 (b) is not directly connected with or necessary to the management of that site,
 must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 61, part 5:

61. (5) In light of the conclusions of the assessment, and subject to regulation 62 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "probably", or "it well might happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009).

Habitat Regulation Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulation Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

APPENDIX 3 – 1st JULY REPORT

1.0 THE PROPOSAL

- 1.1 The application seeks outline approval for the erection of a single detached dwelling on land adjacent to Oakleigh Farmhouse, to the west of the village of Welshampton, with all matters reserved apart from access.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal site is an level agricultural field located to the north of the A495 at the western edge of the village of Welshampton which measures approximately 0.420 acres.

2.2 Boundaries to the site are provided by mature mixed species hedges to the west, east and south with some open post and wire fencing to the north. Access is proposed to be gained from Stocks Lane via the private road which serves the existing barn conversions adjacent to Oakleigh Farm.

2.3 To the east of the site is garden area belonging to Oakleigh Farmhouse and 3 no. converted farm buildings whilst there are open fields to the west and north.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has objected to the application contrary to the officer recommendation and the local ward member has requested that the application be referred for determination by planning committee in accordance with the Council's 'Scheme of Delegation'.

4.0 COMMUNITY REPRESENTATIONS**4.1 Consultee Comments****4.1.1 Welshampton and Lyneal Parish Council –**

The Parish Council's input into the SAMDev consultation included the following statements:

- All development to be in line with the Village Design Statement
- To keep in line with statements in the Parish Plan.
- The Village Design Statement (VDS) includes the following:
- If future development is to take place the following should be considered:-
- Any such schemes must carefully consider the method of disposing of surface and foul water, not only within the curtilage of the scheme but the effect the scheme will have on existing properties.
- It was resolved to object to the application for the following reasons:
- The application is outside the current and proposed development boundary.
- Drainage concerns as in particular there is often flooding on the north side of the access road.
- The suitability of the private access road to support the number of vehicles now proposed to use it.
- Sustainability and local infrastructure which is expanded on below.

Traffic - The proposed development will use an access next to the Community Car Park which is used by the Primary School and Pre-School. This area is very congested at certain times of the day and this has been raised with the Police. The Council would request that all risks associated with additional development in the area are explored.

Sustainability and local Infrastructure - The Parish Council would draw the attention of Shropshire Council to the fact that at the current time applications amounting to 29 houses, in addition to this application, have been submitted for determination. The Parish Council is concerned about over development for what is essentially a small village. If all submitted applications are granted in such a

short time frame, the village would potentially increase its housing stock by approximately 30%. This large increase cannot be considered sustainable. If planning applications amounting to the same percentage were submitted in Shrewsbury or Oswestry would Shropshire Council not take an holistic approach?

Shropshire Council Housing Enabling Team has also confirmed that there are currently only 2 households on the housing register already resident within the Parish. The need for 30 houses must be questioned.

Although it is acknowledged that Welshampton has the benefit of some services, primary school, pub, hairdresser and garage (no petrol), the Parish Council has serious concerns that such a large increase in dwellings overall will negatively impact the sustainability of the village as a whole and cause major concerns to the local infrastructure.

Sustainability as outlined in NPPF paragraph 7

Economic benefits - apart from providing an economic gain from the actual developments, such large scale development will not enhance the local employment economy as there are no local businesses which could support such an increase in population.

Social benefits - the local primary school has a limit on expansion due to physical restraints and access to all other services (eg shopping, medical facilities etc) will need transport to access them as there is inadequate public transport.

Environmental benefits – the size of development that is currently being proposed for Welshampton as a whole does not contribute to protecting and enhancing the natural environment. The need to use transport to access all local services does not minimise waste and pollution. It will not contribute to a low carbon economy.

Local Infrastructure - As outlined above, Welshampton does not have the benefit of a mains sewage system. Other elements of infrastructure should be investigated to assess whether such a large increase of dwellings is capable of being sustained. For example, water pressure, electricity, pavements to access village service, the cumulative impact on already busy A and B roads, and most significantly, the village primary school.

It is not the intention of the NPPF to facilitate unsustainable, random, highly speculative, unnecessary development which results in a small community of 100 houses being extended by 30%. It is not the intention of the NPPF to build houses where children have to be driven to school, where all employment has to be accessed by private transport.

It is not the intention of the NPPF to cause social upheaval by the building of too many houses for the local need, arising in a massive increase in the number of new residents from outside the region.

The Parish Council is seriously concerned that to determine each application in isolation will result in a dysfunctional village. To develop a large number of houses on isolated sites without the proof of housing need, when each application will be "claiming" the same demand, will lead to properties not being sold, bankrupt

developers and eyesores of empty half-built sites.

The Parish Council does not want this to happen, and nor should Shropshire Council.

4.1.2 **SC Affordable Housing: no objection.** Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.1.3 **SC Highways** – The Highway Authority **raises no objection** to the granting of outline consent subject to conditions.

The application proposes to gain access to the adopted highway via the private drive and access junction onto Stocks Lane to the north of the access to the school car park. As submitted however the access route has been not included in the red line of the respective application sites; though qualified within the supporting statements.

The private drive already serves a number of properties and is considered satisfactory in layout to cater for the likely increase in traffic generated by the proposed three dwellings. Whilst it is acknowledged that the site access is located close to the school and experiences the associated traffic movements at the start and finish of the school day, it is not considered that a highway objection solely on the increase in traffic from the proposed properties potentially causing an unacceptable impact on the use of Stocks Lane at these times is a sustainable highway objection and the Highway Authority raises no objection to the proposals.

Visibility from the private drive junction along Stocks Lane in a north westerly direction is however restricted by the boundary hedge. This is shown to be in the applicant's ownership and a visibility splay of 2.4 metres by 43 metres should be provided in connection with the developments.

The visibility splay and private drive between the respective application sites and Stocks Lane should be included in the red line of the application site

4.1.4 **SC Ecology** – Shropshire Councils ecology team has been consulted and their comments will be reported to members by means of late representations.

4.1.5 **SC Drainage - No objection.** Drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

4.2 **Public Comments**

4.2.1 Local ward member - wish to object for the reasons which are set out in the Parish Council's letter of objection and which I support.

- 4.2.2 Neighbour objector comments have also been received from 3 households –
- Proposal would cause severe invasion of privacy to property by way of overlooking.
 - Natural light to property would be blocked.
 - Traffic would be nuisance during winter months with vehicle lights shining straight into living areas.
 - Entrance to property is off an unadopted road of which entrance is at back of school running along the school parking area.
 - Entrance is currently blocked at either end of school day by traffic.
 - Proposed site is green belt area.

5.0 THE MAIN ISSUES

- Principle of development
- Details of Proposal
- Impact on Amenity
- Ecology
- Drainage
- Highways

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. 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 In this instance the principle of the proposed development is judged in the light of the National Planning Policy Framework (2012) and the Council's adopted Core Strategy and in particular policies CS4, CS5, CS6, CS11 and CS17. The Council's emerging Site Allocations and Management of Development – Development Plan Document (SAMDev) is also accorded some weight in this case.

6.1.3 There are currently three major policy considerations in the assessment of planning applications for housing:

- Five year housing land supply/housing supply.
- Weight to relevant policies in emerging Plan
- NPPF presumption in favour of sustainable development/boosting housing supply

6.1.4 Five year housing land supply/housing supply

A supply statement produced in September 2013 indicated a 4.95 years housing land supply for Shropshire and a 5.28 years supply for Shrewsbury. However questions remain over whether emerging SAMDev Plan sites can be counted in these figures and, if so, which sites and how many of these dwellings on each site are likely to be delivered within the five year period. Given these circumstances, it is considered prudent that NPPF paragraph 49 and the presumption in favour of sustainable development (paragraph 14) should apply to the consideration of

applications.

6.1.5 Weight to relevant policies in emerging Plan

The weight that can be attached to relevant policies in emerging plans depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF.

6.1.6 Policy CS4 (Community Hubs and Clusters) of the Core Strategy allows for sensitively designed development that reflects the needs of the local community, and contributes towards much needed infrastructure and affordable homes for local people. The policy allows for the identification of 'Community Hubs and Clusters' within the rural area where further housing development can happen. Such designations are being made via the SAMDev Plan, currently being prepared by the Council.

6.1.7 The SAMDev Plan sets out proposals for the use of land and policies to guide future development in Shropshire up to 2026 and covers the whole of the administrative area of Shropshire Council (excluding Telford & Wrekin). The Council has recently completed the latest consultation state on its Pre-Submission Draft Version which follows on from several stages of consultation over the past four years. The next stage is that the Plan and all the representations made on the Plan will be submitted to the Secretary of State for examination by an Independent Planning Inspector by the end of July 2014.

6.1.8 The Draft document identifies Welshampton and Lyneal as being a Community Cluster where development by infilling, small groups of up to 5 houses and conversions may be acceptable on suitable sites within the development boundaries identified on the Policies Map, with housing guidelines of around 20 additional dwellings in Welshampton and 5 additional dwellings in Lyneal. The Parish Council have given their agreement to the designation of a boundary around the main built up area of the village although it is stated that all new development is subject to establishing adequate foul drainage and water supply. No allocated sites have been identified within the area of the village.

6.1.9 The "saved" policies of the North Shropshire Local Plan include Policy H6 which relates to infilling, groups of houses and conversions within identified settlements within development boundaries. Welshampton was identified as a Main Service Village under that policy and a settlement boundary was provided within which appropriate new housing development would normally be permitted. At that time the whole of Oakleigh Farm and its outbuildings, which have since been converted to residential use, lay outside of the settlement boundary which instead followed the western boundary of Sycamore House to the east. The proposed settlement boundary shown within the SAMDev pre submission draft also shows the proposed settlement boundary as following the western boundary of Sycamore House and therefore excludes the application site.

6.1.10 The Council's view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone very substantial public consultation, where some degree of weight can be attached. However, as the Final Plan has not been through the examination stage, the weight has to be considered with care alongside the other material considerations and having regard to specific

circumstances of particular planning applications. The absence of a 5 year supply and the NPPF aim of boosting housing supply would be significant considerations.

- 6.1.11 Sites that are not within development boundaries or, in the case of some emerging hubs and clusters, within settlements, should be considered as being in the 'countryside' in policy terms, where Policy CS5 (Countryside and Green Belt) applies, having regard to any other material considerations. This requires new development to be strictly controlled in accordance with national planning policies protecting these areas. In the case of new dwellings these are generally required to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need in accordance with national planning policies.
- 6.1.12 On the basis of Policy CS5 and the site's location outside of the settlement boundary planning permission for a new dwelling would not normally be permitted.
- 6.1.13 NPPF presumption in favour of sustainable development/boosting housing supply
The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking, so it applies, as a material planning consideration. The NPPF specifically aims to 'boost significantly the supply of housing', with the 5 years supply requirement one mechanism to achieve this. If the Council cannot demonstrate a 5 year housing land supply then the housing supply policies should be considered not to be up-to-date and given limited weight, with consequently greater weight to the NPPF presumption in favour of sustainable development and the aim of boosting housing supply.
- 6.1.14 The determination of this application rests primarily on whether other material considerations change this view, with the circumstances being sufficiently exceptional to justify a departure.
- 6.1.15 As the current application is for outline approval only the principle issue for consideration in this instance is whether the sustainability of the site location overrides the departure from emerging local plan policy and lack of local support, as voiced by the Parish Council, for the proposal.
- 6.1.16 The application sites lies outside of the area of the Welshampton settlement boundary, both as proposed within the latest draft SAMDev Plan and the previous settlement boundary identified within the North Shropshire Local Plan. In both cases the boundary follows the western boundary of Sycamore House and excludes Oakleigh Farm, and its adjacent converted outbuildings.
- 6.1.17 In terms of sustainability the proposal site is not deemed to be isolated within open countryside sitting as it does at the edge of the village which offers a range of services and facilities including a Primary School, parish hall, Church, hair salon, and library. A bus service operates Monday to Saturday from a bus stop adjacent to the Sun Inn linking to the settlement to other market towns.
- 6.1.18 On balance given the site location of the proposed dwelling at the edge of the village and within easy walking distance of the various services and facilities it is considered that the proposal might be considered to be sufficiently sustainable to meet the overriding aims of the NPPF and to warrant departure from the local plan.

It is therefore recommended that in this case that greater weight is accorded to the NPPF than the saved local plan policies and that the proposed development is deemed to be acceptable in principle.

- 6.1.19 Policies CS11 (Type and Affordability of Housing) and CS17 (Environmental Networks) are also considered to apply to the consideration of this application. CS11 requires an integrated and balanced approach to be taken with regard to existing and new housing, including type, size, tenure and affordability. Housing developments should be designed to be capable of adaptation to accommodate lifestyle changes, including the needs of the elderly and people with disabilities. All new open market housing is required to make contributions to the provision of local needs affordable housing. Policy CS17 seeks to ensure that new development protects and enhances the diversity, high quality and local character of Shropshire's natural, built and historic environment and does not adversely affect the visual, ecological, geological, heritage or recreation values and functions of these assets, their immediate surroundings or their connecting corridors.

6.2 **Details of Proposal**

- 6.2.1 The proposal is submitted in outline form only and other than the affected site area, the principle of development for 1 dwelling and access all other matters are intended to be dealt with by way of reserved matters. Additional information supplied with the application does however indicate that the intention would be for the construction of a single 4 bedroom dwelling of double fronted design in brick facing materials and slate roofing. A garage would also form part of the reserved matters proposals and a total of 4 car parking spaces is also referred to within the application form. Foul sewage is proposed to be dealt with by way of a septic tank and surface water disposed of via a soakaway.

- 6.2.2 The applicants envisage that the proposed dwelling and garage would measure 207.80m square with the dwelling having an eaves height of around 4.88 metres and ridge height of around 7.54 metres. However, all of these details would need to be carefully considered as part of any future reserved matters application.

6.3 **Impact on Amenity**

- 6.3.1 The stated intention is that existing mature mixed species hedges to the east, west and south would be retained in order to provide screening for the proposed development and to ensure a degree of privacy. If the application were to be approved details of landscaping and boundaries would be required for consideration at Reserved Matters stage to ensure that the proposal would blend within its surroundings.

- 6.3.2 In terms of impact on the amenity of other residential dwellings the nearest affected properties would be Oakleigh Farmhouse and the three converted farm buildings formerly linked to the farm. It is considered that the size of the proposed plot together the distances involved entails that, subject to detail at reserved matters stage, the introduction of a new dwelling could be achievable without the need to significantly impact on the amenity of existing properties either in terms of overshadowing or overlooking.

6.4 **Ecology**

- 6.4.1 An ecological survey prepared by Churton Ecology has been submitted with the

application. This concludes that 'the grassland is of low ecological value but the hedgerows are of higher ecological value.'

6.4.2 The Council's Ecology team have been consulted and their comments will be reported to members by means of late representations.

6.5 **Drainage**

6.5.1 The site is identified within the Environment Agency's Flood Risk Maps as being within Zone 1. The Council's drainage engineer was consulted on the proposal and raised no objection. However it was recommended that conditions and informatives be attached in the event that the application was approved. These require the submission of drainage details, plan and calculations for approval at the reserved matters stage.

6.5.2 It was noted that the application form states that the surface water drainage from the proposed development is to be disposed of via soakaways but that no details and sizing of the proposed soakaways have been provided. It was also noted that SuDS Applicability for the site is Attenuation. Percolation tests and soakaways are required to be designed in accordance with BRE Digest 365 and full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval. It is also required that a catchpit should be provided on the upstream side of the proposed soakaways.

6.5.3 The Engineers advises that If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to 5.0 l/s run-off rate should be provided. The attenuation drainage system should be designed with the capacity to cope with storm events of up to 1 in 100 year + 30% for climate change and to safeguard against cause flooding of any property either within the proposed development or any other in the vicinity. This is to ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

6.5.4 An informative has also been requested to ensure that as part of the SuDS, the applicant should consider employing measures such as water butts, rainwater harvesting and permeable surfacing on any new access road.

6.5.5 Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields would also be required to be submitted for approval including the Foul Drainage Assessment Form (FDA1 Form) in order to ensure that the foul water drainage system complies with the Building Regulations H2. British Water 'Flows and Loads: 3' should be used to determine the number of persons for the proposed development i.e. for a 4 bedroom dwelling, the population equivalent should be 6 and the sizing of the septic tank and drainage fields should be designed to cater for a minimum of 6 persons and in accordance with the Building Regulations H2 Paragraph 1.18. These documents should also be used if other form of treatment on site is proposed.

6.6 **Highways**

6.6.1 The Highways team have been consulted on the application and raise no objection to the application. The highways officers has observed that the site is served by a private drive that already serves a number of properties and is considered

satisfactory in layout to cater for the likely increase in traffic generated by the proposed dwellings. Whilst it is acknowledged that the site access is located close to the school it is not considered that a highway objection solely on the increase in traffic from the proposed properties potentially causing an unacceptable impact on the use of Stocks Lane is a sustainable highway objection.

6.6.2 Visibility from the private drive junction along Stocks Lane in a north westerly direction is however restricted by the boundary hedge. This is shown to be in the applicant's ownership and a visibility splay of 2.4 metres by 43 metres should be provided in connection with the developments and will be addressed by the imposition of an appropriately worded condition.

7.0 CONCLUSION

7.1 On the basis of the current 5 year supply issue officers are of the view that the NPPF "presumption in favour of sustainable development" applies.

7.2 The application site is deemed to be in a sustainable location for development in terms of the availability of services, facilities and public transport and is deemed not to have any adverse implications relating to environmental and highways safety matters.

7.3 The proposal is therefore considered to accord with the relevant policy provisions set down within the NPPF and Core Strategy Policies CS4, CS5, CS6, CS11 and CS17 and is recommended for approval subject to a section 106 agreement requiring the affordable housing contribution required by Policy CS11.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management

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

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

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

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 **Human Rights**

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

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

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

8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 **FINANCIAL IMPLICATIONS**

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