

Committee and Date

North Planning Committee

23 September 2014

Item**15**

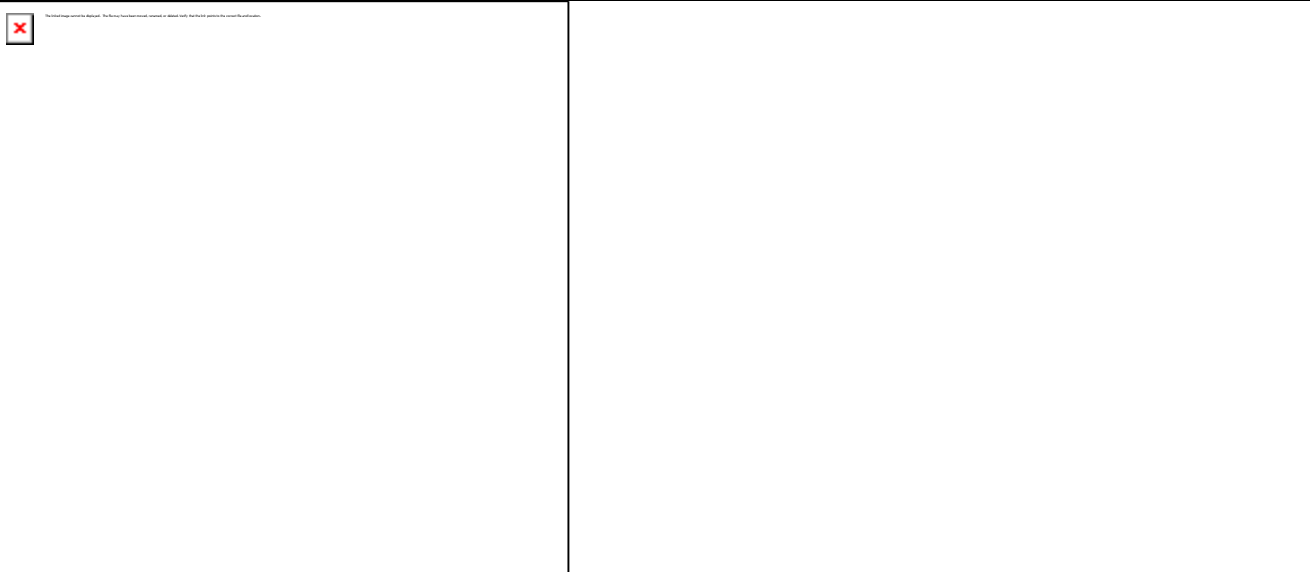
Public

Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

Application Number: 14/01723/OUT	Parish:	Welshampton And Lyneal
Proposal: Outline application for the erection of 2No dwellings (to include access and layout)		
Site Address: Proposed Residential Development Land West Of Stocks Lane Welshampton Shropshire		
Applicant: Mr & Mrs R K & M A Mainwaring		
Case Officer: Janet Davies	email: planningdmnw@shropshire.gov.uk	

Grid Ref: 343245 - 335010

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Recommendation:- Grant Permission subject to the applicants entering into a S106 legal agreement to secure 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 off Stocks Lane within the village of Welshampton. The application included details of access and layout with all other matters reserved for later approval and as such the application seeks consent for the principle of developing the site for two new dwellings. An indicative layout plan was submitted with the original application showing two, detached brick dwellings orientated to face the existing farmhouse 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.

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.

- 1.4 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 475m 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 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 proposed dwellings are intended to either drain foul waste flow to a bio-disc sewage treatment plant, and then into the watercourse to the north west of the development.
- 2.9 Natural England are of the opinion that as the development sites lies at just above 90m and the surface of Clarepool moss at around 100m, at the top of the water table, the proposed drainage arrangements would not have an adverse impact, particularly given the distances involved.
- 2.10 It is also deemed unlikely that the proposed dwellings would have a significant impact on the River Dee Special Area of Conservation especially given that the site is considered to sit on lower ground than the designated site.
- 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 The main ecological issues associated with the development are
- i) the possible destruction or disturbance of bat roosts (if present) in the mature Sycamore, if it is to be felled or lopped and
 - ii) disturbance of bats (by inappropriate lighting) that may be using the nearby farm buildings, and/or the mature Sycamore tree for roosting and/or the stream corridor and scrub for foraging and/or commuting. Enhancement opportunities include more hedgerow planting at site boundaries and along the stream.
- 2.16 Conditions are recommended requiring that works is carried out strictly in accordance with the submitted Ecological Appraisal in order to ensure the protection of bats and birds.
- 2.17 A condition requiring the production of a detailed landscaping plan as part of any subsequent Reserved Matters application is also requested.

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

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 two detached dwellings and their 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 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 Background

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

9.0 Additional Information

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

APPENDIX 2 – Habitats Regulations Assessment
APPENDIX 3 – 1st July report

APPENDIX 1

STANDARD CONDITIONS

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.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However, no details and sizing of the proposed soakaways have been provided. SuDS Applicability for the site is Attenuation. Percolation tests and soakaways should be designed in accordance with BRE Digest 365. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval prior to built development commencing on site and the works carried out in accordance with the approved details. A catchpit should be provided on the upstream side of the proposed soakaways.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

Reason: To ensure that the proposed surface water drainage systems for the site are fully compliant with regulations and are of robust design.

5. Full details, plan and sizing of the proposed septic tank including percolation tests for the drainage fields should be submitted for approval prior to built development commencing on site including the Foul Drainage Assessment Form (FDA1 Form). British Water 'Flows and Loads: 3' should be used to determine the number of persons for the proposed development i.e. for a 3 bedroom dwelling, the population equivalent should be 5 and the sizing of the septic tank and drainage fields should be designed to cater for a

minimum of 5 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. The works shall be carried out in accordance with the approved details.

Reason: To ensure that the foul water drainage system complies with the Building Regulations H2.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

6. If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

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

7. The proposed foul water drainage shall be in accordance with the approved drainage drawing No 1753/02 C, 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.

8. 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.

9. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
- a) Means of enclosure, including all security and other fencing
 - b) Hard surfacing materials
 - c) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, and in particular, lighting)
 - d) Planting plans, including native-species hedges and trees to the boundaries and stream and any other wildlife habitat and features (e.g. hibernacula)
 - e) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - f) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate
Native species used to be of local provenance (Shropshire or surrounding counties)
 - g) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works
 - h) Implementation timetables.

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

APPENDIX 2**Habitat Regulation Assessment (HRA) Screening Matrix
& Appropriate Assessment Statement**

Application name and reference number:

14/01723/OUT

Proposed Residential Development Land West Of
Stocks Lane
Welshampton
Shropshire

Outline application for the erection of 2No dwellings (to include access and layout)

Date of completion for the HRA screening matrix:

5th September 2014

HRA screening matrix completed by:

Nicola Stone
Assistant Biodiversity Officer
01743-252556

Table 1: Details of project or plan

Name of plan or project	14/01723/OUT Proposed Residential Development Land West Of Stocks Lane Welshampton Shropshire Outline application for the erection of 2No dwellings (to include access and layout)
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

	<p>□ The supporting processes on which qualifying natural habitats rely.</p> <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 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 Ranunculion fluitantis and Callitricho-Batrachion 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 2No dwellings to include access, and layout, Proposed Residential Development Land West Of, Stocks Lane Welshampton, Shropshire.</p> <p>The drainage proposed for the dwellings development is to a bio-disc sewage treatment plant, and into a watercourse.</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 into a water course on plan 1753/02 C.

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 475m 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.

A small stream/ditch to the north west of the development site flows eventually to the River Dee over 17km downstream. Discharge into this water course is unlikely to cause an impact 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 1753/02C, 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

14/01723/OUT

The proposed works in the Outline application for the erection of a 2 detached dwellings to include access and layout, Land West Of Stocks Lane, Welshampton, Shropshire 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 2 detached dwellings to include access and layout, Land West Of Stocks Lane, Welshampton, Shropshire 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 two detached dwellings to the north of Sycamore House off Stocks Lane within the village of Welshampton with all matters reserved apart from access.

2.0 SITE LOCATION/DESCRIPTION

2.1 The proposal site is located at the north western edge of the village of Welshampton and is currently a flat agricultural field currently used for grazing which extends to approximately 0.363 acres in size.

2.2 The eastern boundary to the site is formed by a private driveway (to Holly Tree Cottage). The car parking area to the nearby primary school and pre-school is also located further to the east around the junction with Stocks Lane.

2.3 To the west is a paddock which is separated from the application site by way of a ditch and mature trees. Beyond the paddock are barn conversions formerly associated with Oakleigh Farm.

2.4 To the south are a number of outbuildings belonging to Sycamore House, with the farmhouse itself fronting onto the main village road.

2.5 The northern site boundary is provided by the existing private access drive to the converted barns at Oakleigh. On the other side of this are open fields.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

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 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 28 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 relating to visibility splays, parking and turning.
- 4.1.4 **SC Drainage: No objection** subject to inclusion of conditions and informatives if the application is to be approved.
- 4.1.5 **SC Ecology** - Shropshire Councils ecology team has been consulted and their comments will be reported to members by means of late representations.
- 4.2 **Public Comments**
- 4.2.1 Local ward member - wish to record my opposition to the development for the reasons set out by the Parish Council.
- 4.2.2 A objection has also been received from a neighbouring household which raises the following issues -
- Highways & Access – addition of 2 new properties could amount to 16 cars regularly using Stocks Lane
 - The site line from the end of the drive is extremely limited when looking left up Stocks Lane.
 - Impact on adjacent primary school and pre-school car park

- Area around car park and lane suffers congestion with potential risk to schoolchildren
- village has no mains drainage. Proposal site is at bottom end of village and question whether the land can take yet another two septic tanks in the vicinity. Surrounding land is marshy - hence the reeds and grasses nearby.
- services in Welshampton are already overloaded and telecommunications in the village are abysmal. Further properties accessing broadband nearby will weaken signal further and substantially affect ability to conduct business as homeworkers, especially with regards online communications

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.

6.1.7 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.

6.1.8 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 stage 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 later in 2014.

6.1.9 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. 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.

6.1.10 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.

6.1.11 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.

- 6.1.12 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.
- 6.1.13 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.
- 6.1.14 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.
- 6.1.15 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.
- 6.1.16 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.
- 6.1.17 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.
- 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 for two dwellings 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.

Policies CS11 (Type and Affordability of Housing) and CS17 (Environmental

Networks) are also considered to apply to the consideration of this application.

6.1.19 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.

6.1.20 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 2 dwellings and access all other matters are intended to be dealt with by way of reserved matters. Access is proposed to be provided via Stocks Lane and the existing stone access driveway which serves the existing converted barns adjacent Oakleigh Farm.

6.2.2 Additional information supplied with the application does however indicate that the intention would be for the construction of 2 no 3 bedroom dwellings to face towards the existing farmhouse in brick facing materials and slate roofing.

6.2.3 The applicants envisage that the proposed dwellings would include an eaves height of around 3.95 metres for house one with a ridge height of around 7.62 metres. House two would be intended to have an eaves height of around 4.8 metres and a ridge height of 6.83.

6.2.4 It is explained that parking areas would be provided to the north of the dwellings with rear garden areas to the south. Foul sewage is proposed to be dealt with by way of a septic tank and surface water disposed via a soakaway whilst a total of 4 car parking spaces would be proposed.

6.2.5 However, all of these details would need to be carefully considered as part of any future reserved matters application should the current application be approved.

6.3 **Impact on Amenity**

6.3.1 Information submitted with the application explains that existing stock fencing would be supplemented by native mixed species hedges although 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 rural surroundings.

6.3.2 In terms of impact on the amenity of other residential dwellings 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 the proposed new dwellings 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 on the proposal their comments will be reported to members by means of late representations.

6.5 **Drainage**

- 6.5.1 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 advices 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 It was also required that if non permeable surfacing is proposed to be used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.
- 6.5.5 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.
- 6.5.6 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 commented as follows:

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. 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 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.

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.

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.