



---

## Appeal Decision

Site visit made on 29 April 2025

**by E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

---

**Appeal Ref: APP/L3245/W/24/3352860**

**Land off The Parklands, Cockshutt, Ellesmere SY12 0LN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by JS Construction against the decision of Shropshire Council.
  - The application Ref is 24/00748/OUT.
  - The development proposed is described as 'Outline application for the erection of six dwellings'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for outline application for the erection of six dwellings at Land off The Parklands, Cockshutt, Ellesmere SY12 0LN in accordance with the terms of the application, Ref 24/00748/OUT, and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The application was made in outline with all matters reserved for future consideration. Therefore, I have had regard to the Proposed Site Plan<sup>1</sup>, which shows the layout of the development, as indicative only.
3. The Council's second refusal reason relates to the lack of a legal agreement to secure financial contributions towards affordable housing and to mitigate the effects of the development upon Cole Mere, which forms part of the Midlands Meres and Mosses Phase 2 Ramsar site. However, a unilateral undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 has been submitted as part of the appeal to secure the relevant financial contributions. I shall return to these matters later in my decision.
4. The Council has confirmed that the reference to Policy S17 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan, adopted December 2015 (SAMDev Plan), in the first refusal reason was made in error and should in fact refer to Policy S8 of the SAMDev Plan.
5. The appeal submissions indicate that the draft Shropshire Local Plan was submitted for examination in September 2021. However, following the stage 2 hearing sessions, examining Inspectors have expressed concern regarding the soundness of the plan. I therefore consider that limited weight should be given to the emerging policies in the draft Local Plan at the current time. For these reasons, my determination of this appeal is made against the current development plan policies.

---

<sup>1</sup> dwg. no. 77052/RJC/003

## Main Issues

6. The main issues are:

- whether the development would be in a suitable location, with particular regard to the development strategy;
- whether the proposal would make adequate provision for affordable housing; and
- the effect on the European site.

## Reasons

### *Location*

7. The appeal site comprises vacant land, which forms part of a larger parcel of land located close to but beyond the development boundary for Cockshutt, as defined in the SAMDev Plan.
8. Policy CS1 of the Shropshire Local Development Framework: Adopted Core Strategy, adopted March 2011 (the CS) sets out the Council's strategic approach to the location of new development within the plan period. It highlights the rural areas will become more sustainable through a rural rebalance approach, whereby development in these areas will be located predominantly in community hubs and clusters and will contribute to social and economic vitality.
9. Policy CS4 of the CS indicates that, development outside community hubs will not be allowed unless it meets policy CS5. Policy CS5 allows for development proposals on appropriate sites which maintain and enhance countryside vitality and character, where they improve the sustainability of rural communities by bringing local economic and community benefits, particularly where they relate to small scale economic development and dwellings to meet a local need.
10. Cockshutt is identified as a community hub. Policy S8.2(i) of the SAMDev Plan sets out a housing guideline of around 50 additional dwellings over the period to 2026 in Cockshutt, to be delivered through the development of the allocated sites, infilling, conversions and small groups (up to 5 dwellings) on suitable sites within the development boundary. As the appeal proposal would exceed the threshold of 5 units and would not comprise the types of sites considered suitable for development, it would fail to accord with the provisions of Policy S8.2(i) of the SAMDev Plan.
11. Policy MD7a of the SAMDev Plan seeks to control new market housing in the countryside outside of settlements including community hubs such as Cockshutt, unless specific criteria are met, none of which apply to the appeal proposal.
12. While not referred to in the Council's refusal reason, its submissions allege conflict with Policies MD1 and MD3 of the SAMDev Plan. Collectively, these policies support sustainable development in community hubs, including windfall development, having regard to specific policies in the CS and SAMDev Plan. In addition, Policy MD3 supports additional sites outside the settlement development boundaries that accord with the settlement policy, where a settlement housing guideline appears unlikely to be met.

13. The appeal site, which lies immediately opposite the dwellings at The Parklands, is currently free from built development. It is clearly located beyond the built form of the settlement, the edge of which is defined on this side of the road by the residential properties in The Parklands, which runs perpendicular to the adjoining highway, known locally as Park Lane. Despite being a short distance from the existing built form, which includes nearby residential development on the opposite side of Park Lane, due to its open and undeveloped nature and its close relationship with the adjoining agricultural land, the site contributes positively to the semi-rural character of the edge of the settlement. The introduction of residential development on the site, which is currently open, would inevitably change its character and appearance.
14. Nonetheless, due to the size and position of the site, the proposal would not protrude significantly beyond the dwellings at the end of the row at The Parklands or the rear boundaries of the dwellings on the other side of Park Lane. Furthermore, the site is relatively well contained in the wider landscape by existing trees and hedgerows to much of the site boundaries. Thus, notwithstanding the projection into undeveloped land, subject to detailed matters including scale, position within the plot, orientation and design of the dwellings, which would form part of a subsequent reserved matters application, a scheme for residential development would not unduly encroach into the countryside or appear at odds with the semi-rural character of the site and its immediate environs.
15. Consequently, there is no clear evidence before me that a scheme could not be designed that would complement the character and appearance of the area, including the rural edge of the village and the surrounding landscape. Taking these factors into account, the proposed residential development in this location would not harm the character and appearance of the area.
16. The site is located a short distance from the facilities and amenities within the settlement, which include a primary school, pub, church and village hall, from which a small convenience shop and weekly post office operates, as well as public transport links to Shrewsbury and Ellesmere. While I acknowledge the absence of a continuous footpath between the entrance to The Parklands and Shrewsbury Road, and that the route is devoid of streetlights, the traffic travelling along this stretch of Park Lane is likely to be doing so at low speeds, given its configuration and rural nature. Taken together, these factors, along with the relatively modest travel distance, are unlikely to deter cyclists or pedestrians from accessing amenities within the main part of the settlement. Future residents of the proposed development would therefore benefit from access to some services and amenities to meet day to day needs, by means other than the private car.
17. Therefore, the proposal would not conflict with those aims of Policy CS6 of the CS, which require development likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Furthermore, it would not conflict with Policy MD12 of the SAMDev Plan and Policy CS17 of the CS which, among other things, seek development which protects and enhances local character and contributes to local distinctiveness.
18. The provision of additional housing may be capable of providing community and economic benefits, particularly in the current circumstances where the Council has confirmed that it cannot demonstrate an adequate supply of housing land.

Furthermore, the delivery of housing in a location where there is accessibility to services and amenities could benefit from support from CS Policies CS1, CS4 and CS5, having regard to the policy aims in relation to achieving a rural rebalance.

19. However, the proposal would conflict with Policies MD7a and S8.2(i) of the SAMDev Plan, by virtue of the location of the development beyond the development boundary of Cockshutt and given the housing target for the settlement has almost been met. Consequently, this would give rise to conflict with Policies MD1 and MD3 of the SAMDev Plan. Having regard to these factors, I find that the proposal would not be in a suitable location having regard to the development strategy, when considering the development plan as a whole.
20. The Council's first refusal reason also alleges conflict with Policies CS9 and CS11 of the CS, which require development that provides additional dwellings to help deliver more sustainable communities by making contributions to local infrastructure and help to balance the size, type and tenure of the local housing stock. However, it is not clear from its submissions as to the conflict which would arise in that regard by virtue of the location of the development.

#### *Affordable housing*

21. CS Policy CS11 requires all new open market housing development to make appropriate contributions to the provision of local needs affordable housing, having regard to the current prevailing target rate and the viability of developments, taking into account Policy CS9 in respect of infrastructure contributions. The Council indicates that it is satisfied that the submitted UU would secure an appropriate financial contribution towards off-site affordable housing provision.
22. Thus, the proposal would make adequate provision for affordable housing; and in that regard would accord with Policy CS11 of the CS.

#### *European site*

23. The appeal site is within the Zone of Influence (Zol) of Cole Mere, which forms part of the Midland Meres and Mosses Phase 2 Ramsar site and is a Site of Scientific Interest. The Ramsar site is designated for its natural or near natural wetland, which includes a range of habitats from open water to raised bog, rare wetland plants and invertebrates, including several rare wetland species. Increased recreational pressure, predominantly from additional visitors is likely to give rise to significant adverse effects upon the structure, function and integrity of the site and having an impact upon the aim of bringing it to a favourable condition. There is, therefore, potential that the proposed residential development at the site, in combination with other development, could result in adverse effects on the integrity of Cole Mere.
24. The Council advises that recreational pressures could be mitigated through the provision of visitor management measures including improved signage, visitor infrastructure maintenance, car park improvements, and visitor monitoring, so as to avoid such adverse effects. This is to be funded through developer contributions towards the implementation of the onsite mitigation measures as set out in the Cole Mere Heritage Site Management Plan 2020-25.
25. Natural England indicate that it is not aware of an evidence base relating to existing or projected impacts through increased recreational pressure on the

qualifying features of the Cole Mere and have not been party to the setting up of the payment mechanism. However, the Council has clarified that any impact on the site could be mitigated by the measures set out, which would be sufficient to avoid an adverse impact on the integrity of Cole Mere in relation to its specified qualifying features. This appears to be the Council's established approach to dealing with this matter, and previous Inspectors have concurred with this. Consequently, there is no reason why such an approach should not be accepted in this case.

26. The UU submitted as part of the appeal would secure the appropriate financial contribution. Following appropriate assessment under the Conservation of Habitats and Species Regulations 2017 (the regulations), I am, therefore, satisfied that adverse effects on the integrity of Cole Mere by future occupiers of the proposed development could be mitigated. In that regard, the proposal would accord with Policy CS17 of the CS which seeks to ensure development does not adversely affect environmental assets and Policy MD12 of the SAMDev Plan which sets out measures by which the avoidance of harm to Shropshire's natural assets and their conservation, enhancement and restoration will be achieved.

### **Other Matters**

27. While I acknowledge concern expressed by interested parties regarding flooding in the locality, there is no compelling evidence that the proposal would exacerbate flooding in the area, including flooding of the existing highway, subject to a suitable planning condition to ensure the provision of an appropriate drainage system to serve the development as part of a reserved matters application. Moreover, there is no substantive reason to find the proposal would lead to unacceptable pressure on the local water supply, wastewater infrastructure, or electricity supply.
28. The Highway Authority has raised no objection to the proposal in principle on highway safety grounds, including visibility at the Shrewsbury Road and Park Lane junction. While I recognise there would be a shortfall in the forward visibility splay at the entrance to the site, which also includes land beyond the application site boundary, given that traffic at this point is likely to be moving slowly, and the carriageway is wide enough so that 2 cars can pass, it is not critical that forward visibility, which may be obstructed at times by parked vehicles, is maintained. On this basis, there is no clear reason why the proposed development could not be served by an access point in the area shown.
29. Providing the development is carried out in accordance with the submitted Preliminary Ecological Appraisal<sup>2</sup> (PEA), including the precautionary and enhancement measures therein, which can be secured by a suitable planning condition, the proposal would safeguard protected species and biodiversity interests. In addition, the appellant has submitted a Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate which confirms the appellant's intention to enter the District Level Licensing scheme. In light of this and subject to a mitigation licence being obtained from Natural England for the works, the Council indicate that it is satisfied that the impacts of the development on great crested newts can be fully addressed in accordance with the regulations. Based on the evidence before me, I have no reason to reach a different conclusion.

---

<sup>2</sup> Preliminary Ecological Appraisal by Arbor Vitae dated 27 November 2023



30. Furthermore, I have had regard to my duties under Regulations 9(1) and 9(3) of the regulations and having considered the three tests, in light of the proposed mitigation, I have no reason to doubt that a mitigation licence would not be issued. There is no particular evidence that the mitigation proposed would not be effective and could not be secured by conditions.
31. It is suggested that work has taken place on the site including clearance and felling of trees. However, there is nothing before me to indicate the trees were protected or the works to remove them were unauthorised.
32. My attention is drawn to the Cockshutt Parish Plan, which sets out a preference for small developments of smaller size housing which are financially accessible to local, young and elderly people. While the proposed number of units would exceed that suggested, I am not aware of any specific policy requirement in that regard, or that there is no demand for larger properties. Moreover, the size of the proposed dwellings is a matter for future consideration.
33. I have also been made aware of earlier schemes for residential development at the site, including a proposal for similar development which was refused by the Council and subsequently dismissed at appeal in 2016<sup>3</sup>. The Inspector in that case found that the proposal would result in an unjustified encroachment of built development into the countryside. However, given my observations on site regarding the present site context, for the reasons set out above I have reached a different conclusion.

### **Planning Balance**

34. The proposed development would conflict with the development strategy and would not be in a suitable location having regard to the development plan as a whole. However, the Council has confirmed that it cannot demonstrate an adequate supply of housing land<sup>4</sup>, with the current number of years supply being 4.73. In such circumstances paragraph 11 of the National Planning Policy Framework (the Framework) indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies including those directing development to sustainable locations and making effective use of land.
35. The proposal would offer benefits in terms of housing supply, in a location where future occupiers of the dwellings would benefit from accessibility to services and facilities by means other than the private car. I have also found that the proposal would not give rise to harm to the character and appearance of the area.
36. Thus, in this case, the adverse impacts in terms of the technical conflict with the development plan would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would benefit from the presumption in favour of sustainable development, set out at paragraph 11 of the Framework. As Government policy, that is a material consideration of significant weight and, in this case, indicates that a decision should be made otherwise than in accordance with the development

---

<sup>3</sup> Appeal Ref: APP/L3245/W/16/3151475

<sup>4</sup> Shropshire Council Five Year Housing Land Supply Statement Executive Summary dated 13 February 2025

plan. Therefore, having regard to all other relevant material considerations, I conclude that planning permission should be granted.

### **Conditions**

37. The conditions set out in the accompanying schedule are based on those suggested by the Council should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance. In addition to the standard conditions relating to the submission and timing of the reserved matters and the commencement of the development, I have imposed a condition specifying the relevant drawings, in so far as they depict the site location, as all other matters are reserved.
38. A condition to secure details of surface and foul water drainage as part of the reserved matters application in relation to layout is necessary to ensure the development does not exacerbate the risk of flooding.
39. In order to conserve and enhance protected species, conditions are necessary to ensure the development is carried out in accordance with the details contained in the submitted PEA, and to agree details of bird and bat boxes to be installed, as well as external lighting. The Council's list of requirements in its suggested bird/bat box condition, which is overly prescriptive, is not included in order to allow the parties to agree details when the condition is discharged. I have amended the trigger point in the condition to above damp-proof course to enable the provision of integrated nesting bricks in the walls of the buildings if deemed appropriate.
40. Given that a licence is required from Natural England for the works in respect of great crested newts, in accordance with the regulations, a condition to require the licence to be obtained and submitted to the Council prior to the commencement of development is not necessary.

### **Conclusion**

41. For the reasons given above, having had regard to the development plan as a whole and all other matters raised, the appeal should be allowed.

*E Worley*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing dwg no. 77052/RJC/001 Location Plan.
- 5) The application for the reserved matter of 'layout' shall include drainage details and plans for the disposal of surface water and foul sewage. The development shall be undertaken in accordance with the approved details prior to the occupation of any of the dwellings hereby approved.
- 6) All works in relation to the development hereby approved shall be carried out strictly in accordance with the mitigation and enhancement measures as set out in the Preliminary Ecological Appraisal by Arbor Vitae Environment Ltd dated 27 November 2023.
- 7) Prior to any development above damp-proof course of the dwellings hereby approved, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The boxes shall be installed in accordance with the approved details prior to the first occupation of the dwellings and shall be retained thereafter in perpetuity.
- 8) Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes, trees, and hedgerows. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note 08/18 Bats and artificial lighting in the UK. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

**\*\*\*\*\*end of conditions\*\*\*\*\***