

**Committee and Date**

South Planning Committee

22nd July 2014**Annex 2****Development Management Report**

Responsible Officer: Tim Rogers

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

Application Number: 14/00885/OUT	Parish:	Bishops Castle
Proposal: Outline application for mixed residential development and formation of a vehicular and pedestrian access		
Site Address: Land south of Woodbatch Road, Bishops Castle		
Applicant: Mr J M Jones		
Case Officer: Grahame French	email: planningdmse@shropshire.gov.uk	

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Recommendation:- Approve as per the officer recommendation in Appendix 1**

1.0 BACKGROUND TO THE REPORT

1.1 This application was considered at the committee meeting on 27th May 2014 and Members also visited the site on the morning of the Committee. The officer appraisal report considered at the time is attached as Annexe 1 to this report.

1.2 Members resolved to defer the application after hearing from speakers for and against the proposals. This was in order for the applicant to:

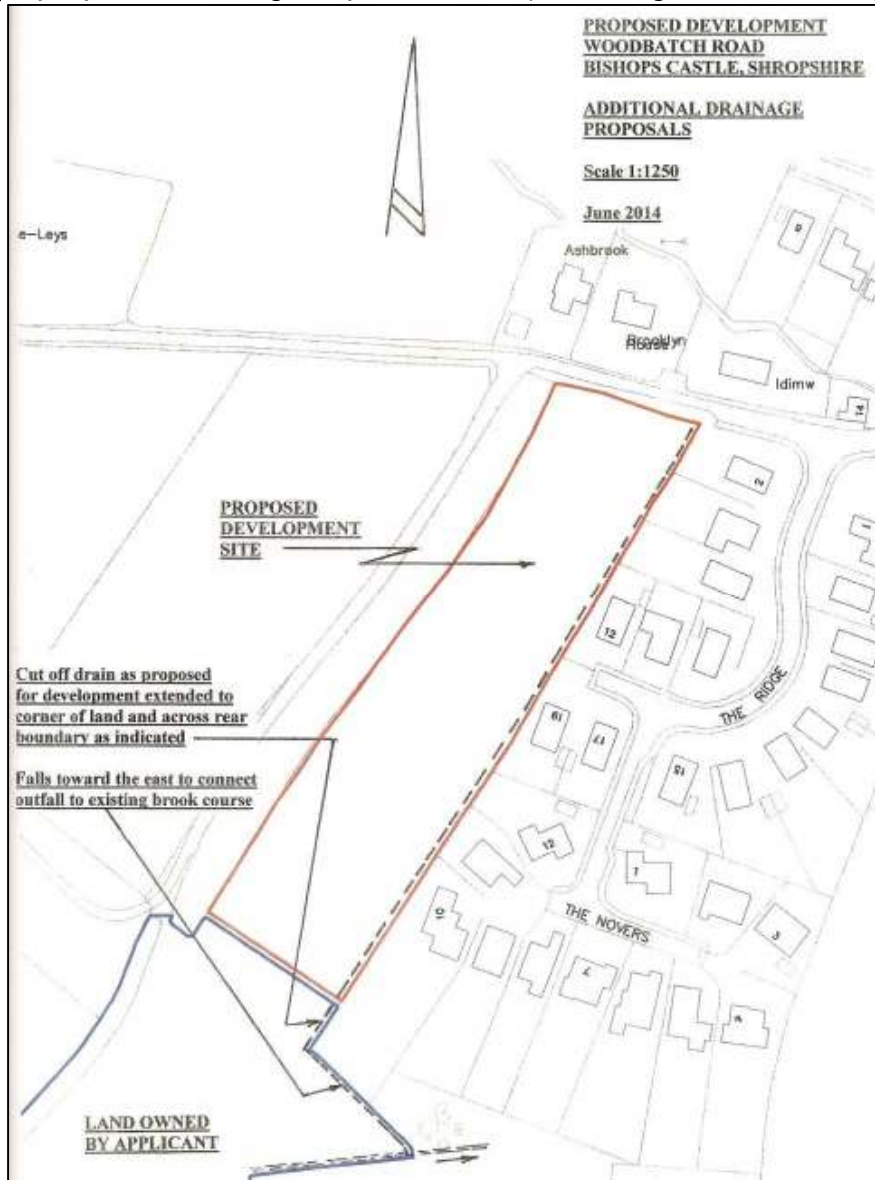
- i. Review the impact and effect of the proposed development on the local road network and Conservation Area, and
- ii. Review drainage issues and put forward mitigation measures identified as necessary.

1.3 These matters have been progressed in the intervening period and accordingly, the application is being reported back to the committee to allow Members to make a decision.

2. DRAINAGE

- 2.1 The Council's drainage team did not object to the proposals subject to the imposition of appropriate drainage conditions which were included in the recommended draft conditions. However, Members heard representations at the previous committee meeting from Mr J Percy, a resident living adjacent to the development site. Mr Percy informed Members that water from the site had caused flooding underneath his property at The Novers which had resulted in soil erosion. He stated that he had dug trenches to divert the water into a stream and this had alleviated but not solved the problem. He indicated that as the land was waterlogged in winter the developers Flood Risk Assessment (FRA) should be based on winter conditions.
- 2.2 Following the committee meeting the applicant's hydrological consultant held a site meeting with the landowner to assess these concerns. Arising from this it was agreed that a cut off drain would be provided / extended along the higher southern margin of the site on land owned by the applicant and also down the eastern site margin (see plan 1).

Plan 1 – proposed drainage improvements (excluding on site SUDs provisions)



2.3 The applicant's drainage consultant has confirmed that the effects of this would be to assist in providing a comprehensive drainage solution for the proposed site whilst also providing a drainage improvement for adjacent residential properties. A comprehensive drainage condition is also being recommended in accordance with the advice of the Council's Lane Drainage section. It is considered that the combination of these measures would ensure satisfactory drainage of the site whilst also providing a drainage improvement for the local area. It is concluded on this basis that the proposals comply fully with Core Strategy Policy CS18 (sustainable drainage) and that refusal on grounds of drainage could not be substantiated.

3. TRAFFIC / ACCESS

3.1 At the meeting of this committee on 27th May 2014 it was reported that the applicant has agreed to make a financial contribution to facilitate improvements to the junction between Woodbatch Road and Kerry Lane as part of a S106 legal Agreement. This would have the effect of prioritising traffic on Kerry Lane, resulting in an overall improvement in local highway safety. Agreement on this measure was reached shortly before the previous committee meeting and the local member Councillor Barnes expressed concern that there had been insufficient consultation with the local community on the proposals. Accordingly, the committee resolved to defer the proposals in order to allow time for relevant meetings / discussions to proceed.

3.2 A meeting between relevant stakeholders subsequently took place on 11th June at which highway officers were able to confirm that the proposals would result in a highway improvement. The applicant reports that this has been acknowledged by the Town Council representatives.

3.3 A further issue discussed at the meeting relates to the proposal to widen Woodbatch Road and provide footway provision across the frontage of the application site. An amended plan has been submitted (plan 2) which details this arrangement. The improvements would be undertaken on land within the applicant's control. As such, they are capable of being conditioned in the event of permission being granted. Highway officers have acknowledged that this would also be beneficial with respect to the current proposals.

3.4 It is understood that an affordable housing scheme will be progressed in an area commencing 15m to the west of the current site. This application is yet to be submitted. However, highway officers have also acknowledged that the proposed improvements to the highway frontage would have highway benefits with respect to this forthcoming affordable development.

3.5 Highway officers did not object to the proposals as submitted. Since this time further improvements have been agreed with the applicant in response to comments received through the planning consultation process. It is considered that the additional improvement measures referred to above provide an appropriate level of highway improvement to the local area and that refusal on highway grounds could not be substantiated, given in particular the absence of objection from highway officers. (Core Strategy Policy CS7)

Plan 2 – Highway improvements along the site frontage



4.0 CONCLUSION

- 4.1 Consideration of the application was deferred from the previous committee meeting on May 27th to allow time to address concerns in relation to drainage and highways which were raised at that meeting. Since this time the applicant has provided additional information in relation to these matters. It is considered that this information clearly indicates that drainage and highway matters are capable of being satisfactorily addressed and that refusal on these grounds could not be substantiated.
- 4.2 There have been no further representations or other significant developments in relation to the application since the previous committee meeting which would suggest the need for some further assessment by the Committee before a decision is taken. In view of this officers conclude that the proposals are sustainable and would deliver benefits in terms of highways, drainage and local housing provision. It

is therefore recommended that the application is approved in accordance with the recommendations set out in the original officer report.

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 1970.

6.0 FINANCIAL IMPLICATIONS:

6.1 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 Additional Information

List of Background Papers: Planning application reference 13/003126/FUL and plans.
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Charlotte Barnes, Bishops Castle
Appendices: Annex 1 – Officer report to 4 th March Committee including Appendix 1 – Conditions