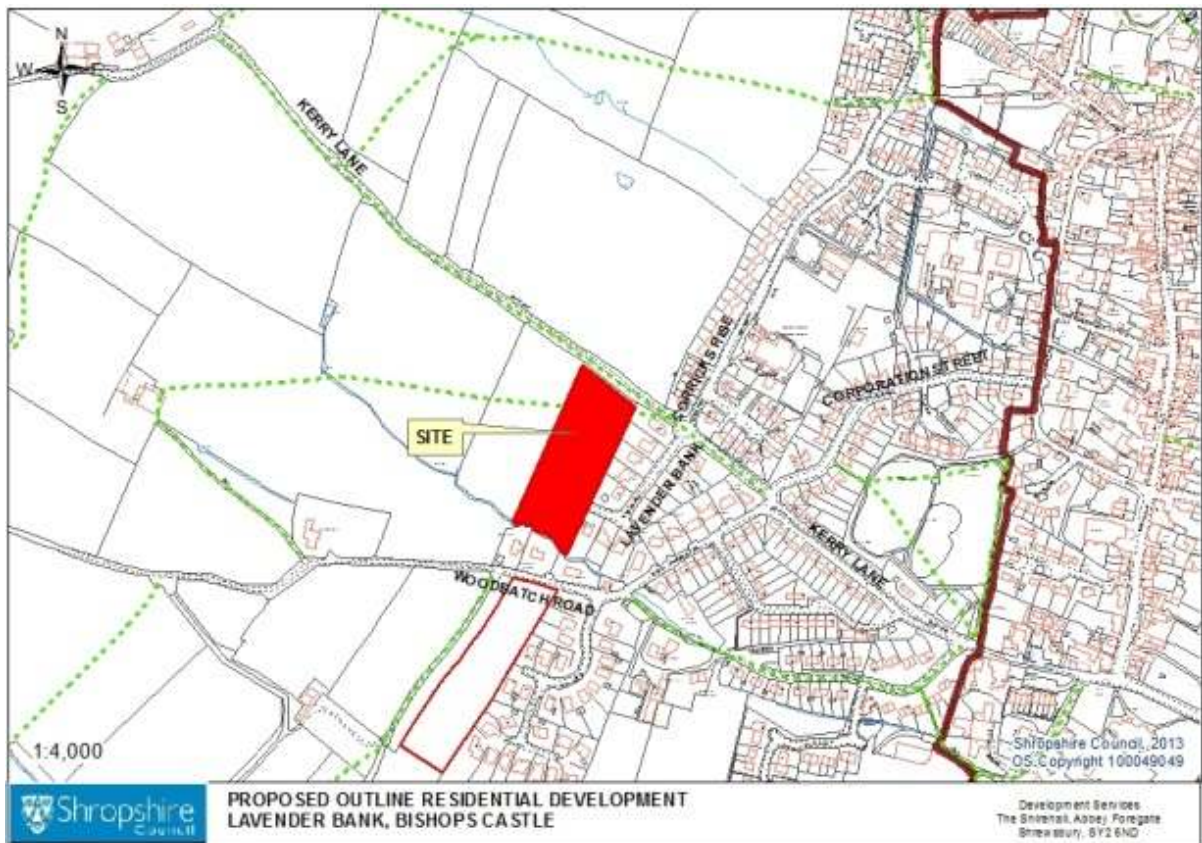


Development Management Report

Responsible Officer: Tim Rogers
 email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/02632/OUT	Parish:	Bishops Castle
Proposal: Outline Application for a mixed residential development (to include access)		
Site Address: Land west of Lavender Bank, Bishops Castle		
Applicant: Trustees Of Old-De-Leys - Miss M M Watson And Mr C I J Bevan		
Case Officer: Grahame French	email: planningdmsw@shropshire.gov.uk	



Recommendation: Grant Permission subject to the conditions and informatives set out in Appendix 1, and subject to a Section 106 legal agreement to secure the payment of an affordable housing financial contribution, in accordance with the Council’s affordable housing policy and a contribution towards improvement works on the Woodbatch Road / Kerry Lane junction.

Contact: Tim Rogers (01743) 258773

REPORT

1.0 THE PROPOSAL

- 1.1 Permission is sought for the erection of a mixed residential development on land off Lavender Bank, Kerry Lane, Bishops Castle. The application is in outline, with all matters of detail reserved for subsequent approval except the access off Lavendar Bank. The application form indicates 10 dwellings; two 2 bedroom, four 3 bedroom and four 4 bedroom, but this has now been reduced to 9 for ecological reasons. No indicative layout plan has been provided. However, it is suggested that the 2 smaller properties would be affordable with the remainder being for 'open market' sale. The shape of the plot suggests that properties would be accessed of a central internal access road with a turning area at the end. It is stated that the plots are proposed to be family sized homes with adequate parking and good-sized garden area for each property.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site (area 0.9ha) is located on a grassed field off Kerry Lane and would be accessed via Lavender Bank. It is located on the edge of existing housing development of Bishops Castle with residential properties adjoining the site to the east and south. The nearest bus stop is located 600 meters away on High Street.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application has been referred to the committee by the local member and this decision has been ratified by the Chairman of the Planning Committee and the Development Manager in accordance with the Council's adopted Scheme of Delegation.

4.0 COMMUNITY REPRESENTATIONS

- 4.1.1 Bishop's Castle Town Council – Objection for the following reasons:

- i. The overwhelming need for housing within the immediate future in Bishop's Castle is for affordable housing to suit the needs of local young people who otherwise have to leave the town, resulting in an increasingly aging population and an inability to sustain the facilities that ensure the long term vitality of the settlement. The need for affordable housing is one of the most frequently quoted requirements in the survey recently undertaken for the Bishop's Castle Town Plan update. It has also long been recognised by the policy of 'exception sites' which allows for affordable housing to be built outside the town boundary where open market housing would not normally be eligible. This application would not contribute in any way to the provision of affordable housing.

- ii. In order to comply with the requirements of the NPPF the community has completed a lengthy process of consultation to establish the appropriate location for new housing development. Sites to the south and west of the town and to the north east were considered. The former were rejected primarily on the grounds that access to and from the hinterland of the town could not be gained without using inappropriate town centre/residential roads and increasing the already significant pedestrian/vehicular conflict. The north east site was overwhelmingly supported because of its close proximity to the town centre and safe access/egress to all main road entrances to the town. This site is in an area of the town that the community has already rejected as unsuitable for housing during the intensive SAMDEV consultation period and has allocated in the SAMDEV plan an alternative site for mixed housing.
- iii. Kerry Lane provides a significant problem as the sole access to any new development. It is an old drovers' road, only 4 metres wide in places (cf. Highways standards of a minimum of 6.1m for new residential developments), with limited sight lines in places, problematic junction alignments and 58% of its length without pavements. Between Church Lane and Corricks Rise which is the area that any new virgin land residential development in the south west would need to take access, there are 5 junctions within a 440 meter stretch. At the western end, there are already 224 houses, a Primary School, a Sure Start children's facility and 10 flats in the Abbeyfield sheltered accommodation that generate traffic and can only access/exit their properties via Kerry Lane. Additional traffic includes agricultural machinery and service lorries and vans as well traffic from other housing developments which also have access onto Kerry Lane. A 15 minute survey was taken on 11 July 2014 between 8.45 and 9.00am at two junctions on Kerry Lane. At the junction with Lavender Bank 81 cars and 22 pedestrians were counted. At Corporation Street, there were 129 cars and 76 pedestrians. Whilst no lorries or agricultural vehicles were recorded during this 15 minute period, they are commonly seen in this location and include multi decked sheep transporters and combine harvesters. At the eastern end, there are a further 84 residential properties with sole access onto Kerry Lane, together with an outstanding planning permission for a further 7 new houses; 18 sheltered houses and its community centre; a Nursing Home; a Fire Station; a pub and brewery; a Church Hall (which is hired out for public events) and a Bowles Club, all of which also have sole access/egress onto Kerry Lane. In addition a children's playground and playing fields also has an entrance onto Kerry Lane where there is no pavement. In addition to the existing 308 houses and 7 additional houses already approved, there are in total 5 further applications currently in process, of which this application is one. The 5 applications total 24 additional houses whose only access/egress would be onto Kerry Lane. In line with the highway authorities calculations of daily traffic generation per dwelling, the additional 24 houses would generate a further 144 vehicle movements per day. The approval of this application would encourage piecemeal development not only of the other four applications but also further into the future. This application covers only half of the site on which it is located and the indicative layout would allow for the rest of the site to be developed using the same access. Such piecemeal development would lead to a significant increase in the burden and potentially dangerous pedestrian/traffic conflict issues on the totally inadequate Kerry Lane.

- iv. In the Design and Access Statement the applicant refers to the fact that the site is outside the Environment Agency Flood Zone but makes no reference to the stream which runs along the southern boundary of the site and into which the site drains taking surface water from the northern edge of the field across a downward slope running in a southerly/south easterly direction towards Lavender Bank. This stream and the water which drains into it causes considerable problems for properties in Lavender Bank particularly on the contiguous boundary with the site. Also, on occasions of heavy rain this stream causes severe flooding to Field Lane and Church Lane, further down its course where it enters a culvert and again at the A488 before it is piped under the road. In paragraph 4.4 of the Design and Access Statement the applicant proposes that 'Surface water drainage will be taken to suitable soakaways sized in accordance with BRE365' This may be sufficient to deal with surface water drainage on the site itself but it does not address the problem of the inadequate capacity of the stream into which the surface water will drain and in fact will exacerbate the existing problem as the development of the site will inevitably increase the amount of surface water run off going into the stream. Paragraph 4.5 of the Design and Access Statement states that 'Foul water drainage will be taken to the nearby mains public sewer'. This is believed to be at the public sewage network at Lavender Bank which is already subject to overflow into private gardens. The additional pressure from a further 10 houses will exacerbate the already unacceptable problems of the current system which suggest that it is totally inadequate to take any additional load.
- v. The Design and Access Statement makes no reference to or provision for the well-used public footpath which crosses this site.
- vi. The site is a natural meadow full of flora and fauna which is cut for hay at the end of July. It has not been ploughed in recent history. The field is a valuable source of flora and fauna which contributes to the sustainability of the natural environment and should not be destroyed.
- vii. As evidence of fulfilment of the Sustainability criteria of the NPPF, paragraph 2.3 of the Design and Access Statement states that 'The area has good public transport links' and that 'there are 4 bus services' running from Bishop's Castle. This totally misrepresents the actual situation. A frequently repeated problem identified by respondents to the consultation procedure currently being undertaken for the update of the Bishop's Castle Town Plan is the fact that public transport services are totally inadequate in terms of the number of service trips per day and the times of the service to meet the needs of those accessing work, health facilities or leisure pursuits. Access to a car remains vital for everyday needs. The application is therefore at best misleading in applying public transport as a benefit under the NPPF sustainability criteria when in reality the public transport provision is unlikely to meet the needs of the occupants of the site requiring them to use their vehicles to the maximum.
- viii. As evidence of fulfilment of the Sustainability criteria of the NPPF, paragraph 2.5 of the Design and Access Statement states that 'There are job opportunities within Bishop's Castle.' This also totally misrepresents the actual situation. A frequently repeated problem identified by respondents to the consultation procedure currently

being undertaken for the update of the Bishop's Castle Town Plan is the fact that there are a lack of job opportunities and those that exist are, on the whole, minimum or low paid. Added to this, the Business Park which has been in existence for a number of years has yet to be developed, let alone occupied, by any potential employers. There is therefore little optimism regarding the possibility of obtaining employment locally. The application is therefore at best misleading in stating as a benefit under the NPPF sustainability criteria that job opportunities exist, when in reality occupants of these dwellings will need to have or seek employment elsewhere, using private transport or, most probably will be of retirement age.

- ix. The presumption in favour of sustainable development which lies at the heart of the National Planning Policy Framework (NPPF) is being used to drive this application forward especially as it is questionable as to whether Shropshire Council can evidence a sufficient and deliverable supply of land to meet the 5 year demand for housing. However, paragraph 14 of the NPPF states that there should be 'a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole or specific policies in this Framework indicate that development should be restricted.' * Paragraph 17 of the NPPF refers to the Core Planning Principles which should govern the approach to development of settlements and states that 'planning should be genuinely plan led, empowering local people to shape their surroundings always seeking to secure a good standard of amenity for all existing and future occupants of land recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Every effort should be made objectively to identify and then meet the housing needs of an area and take into account housing affordability '. These are part of the policies in the Framework taken as a whole.

The community has identified the core need for affordable housing to ensure the future as a thriving rural community and this application makes no contribution to the urgent affordable housing requirement. Furthermore, in light of the limited job availability locally and based on historical experience of similar housing provision in Bishop's Castle, the dwellings on this site are likely to attract mature residents from beyond the town who are either retired or travel to work elsewhere. As such this will increase the ageing demographic of the town, putting pressure on its ability to thrive and generate additional travel to work by car, thereby further threatening environmental sustainability. The community has already rejected the area on which this application is sited as acceptable for housing because of the requirement to take access by Kerry Lane. The inadequacy of Kerry Lane is evidenced above and additional housing in this area will seriously affect the safety and amenity of occupants of the existing and committed 317 houses with sole access to Kerry Lane. Approval of this application will lead to further speculative and piecemeal development which is totally contrary to core planning principles as defined in paragraph 17 of the NPPF. The adverse impacts of permitting this development would therefore significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole and specifically counter several of the Core Planning Principles listed in paragraph 17 of the NPPF.

- 4.1.2 SC Public Protection - Specialist – No comments received.
- 4.1.3 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.
- 4.1.4 SC Rights of Way: - Footpath 14 Bishop's Castle crosses the development and does not appear to have been accommodated within the proposed layout. The development must not proceed until an application is made to divert the path under the Town and Country Planning Act 1990 of the plans must be changes so the path is not obstructed. (Condition included in Appendix 1)
- 4.1.5 SC Drainage: - No objection subject to conditions covering surface drainage (included in Appendix 1).
- 4.1.6 SC Highways DC: – No objection (verbal comments). Whilst the concerns of the Town Council and local residents are noted it is not considered that refusal would be justified on highway capacity grounds. Notwithstanding this, a meeting has taken place with the applicant's highway consultant in order to discuss a number of potential improvements to the existing highway situation in the Woodbatch Road / Kerry Lane junction in recognition of the above concerns. A highway improvement scheme is being put forward jointly by the current applicants and the prospective developers of the adjoining Woodbatch Road outline residential development. It is not considered that the proposals would be capable of delivering any fundamental improvements to the pre-existing highway situation. However, it is considered that some beneficial change would be possible. It is understood that the applicant has indicated that the highway improvements would be delivered by means of section 106 legal agreement funding and through targeting of CIL monies.
- 4.1.7i. SC Ecology: – No objection (verbal comments). An initial objection was lodged on the basis of a lack of ecological information. The required ecological survey information on bats and badgers has subsequently been provided and indicates that these protected species are absent at the site. The application falls within the catchment of the River Clun SAC. The number of houses proposed has however been reduced from 10 to 9 so the application falls within the Council's guidance with respect to the Clun Catchment. On this basis there is no objection subject to the imposition of relevant ecological conditions and informatives. A Habitat Regulation Assessment matrix is included in appendix 2. The full consultation response will be provided in the update report.
- 4.1.8 SC Archaeology (verbal comments): - No objection subject to archaeological investigation pre-commencement condition (included in Appendix 1).

Public Comments

4.1.9 The application has been advertised in accordance with statutory provisions and the nearest 21 residential properties surrounding the site have been individually notified. 15 objections have been received. The main issues are as follows:

- i. Traffic: In particular it will add to the existing problems at the Woodbatch Road/Kerry Lane junction. This site is only accessed by using Kerry Lane, a dangerous bottle neck of an old drovers road, one car wide in places. The crossroads joining Kerry Lane, Corrick's Rise, Oak Meadow and Lavender Bank are horrendous now and cannot cope with the traffic using it already. Heavy farm machinery, lorries, school buses, cars bringing children to and from school as well as residents. Also the main route up to Mainstone and the the extra traffic which will be caused by the new development would be an accident waiting to happen. Lives will be put at risk! object to this application because it will add a significant amount of traffic to Kerry Lane. This road is basically single track with passing places and is already very busy throughout the day. I regularly use the road by car and on foot and my children often walk up and down the road to, from and during school. The crossroads from Woodbatch Road to Corporation street is especially dangerous to cross on foot. When exiting either road onto Kerry Lane it is very difficult to see traffic coming uphill, made worse since the recent residential development on that corner. If houses must be built in Bishops Castle there are many more suitable sites accessed from the B4385 and B4384. Traffic from the proposed new development through Lavender Bank and onto Kerry Lane (which is a lane 4 meters wide in places) already has a major problem at certain times, especially as there is a primary school, nursery, and housing estate coming onto the junction. This lane has to be used as the main road to farms and villages west of Bishop Castle. As access through the north side of town is no longer possible to these vehicles i.e. buses lorries and farm machinery. There is the problem of Woodbatch road, Corporation street traffic emerging onto the known dangerous crossroads junction of Kerry lane, which has been a concern for planners when considering other developments in the area; approval of this development will only add to the traffic problem. I also note on the plan that the indicated access road could be easily extended for further development in the future which should also be considered as part of the current traffic problem.
- ii. Drainage / Flooding: Drainage. There is a water course at the bottom of this field which floods. The field has poor drainage and is frequently sodden. With the heavy rain earlier this year my garage was flooded by water travelling through the hedge and down my driveway into my garage. Flooding is another problem from the stream at the bottom of the proposed site, the ground is always sodden in the winter months, and wet weather causes flooding to lower property and further down in town. Brooklyn house is situated along with Ashbrook on Woodbatch road heading out of Bishops castle separated by a stream at the bottom of the development. The stream floods during heavy or prolonged rain causing flooding issues further downstream. Any development of the plot will increase the flooding problems.

- iii. Site choice / principle: This is a greenfield site and an old meadow which gives beautiful amenity, and a public footpath. There are other options in Bishop's Castle to build new residential properties.
- iv. Pressure on services: If granted this development will create more difficulties than it solves in that it will exacerbate existing problems of flooding, sewerage and danger from traffic. The sewerage system, into which the sewerage from this development would run, at the Church Street end of Bishops Castle has always been a problem I am not aware that it has been solved, extra sewerage from this development can only lead to further problems; Drainage and sewerage problems in this area will be exacerbated. The ground on this undulating area is unlikely to be adequate to accommodate any more buildings needing sewerage. There have been extensive problems with sewerage and the system runs through my garden. The sewerage system which we currently have does not cope with the 13 bungalows here. It gets blocked and sewerage comes back and floods No 8 (my property) and No 7, so I would like to know where the sewerage from the new development are going to connect. The sewerage system in Lavender Bank had always been a problem, especially to the three bungalow's at the bottom of Lavender Bank. We would like this issue looked at before planning is approved.
- v. Amenity: The planning application is for 10 houses which show the 3 houses nearest bottom of the development will be overlooking our property with the whole development affecting our privacy and view. Whilst a household has no right to a view its worth mentioning that the development will affect not only ours, but our neighbours views too. I will be overlooked and my property de-valued.
- vi. Policy: The application is premature as it fails to take into account the general wishes contained the SAMDev document currently being developed which identifies land more suitably located for development for housing in Bishops Castle. There is no reason to build on this land when the SAMDev allocation is being found elsewhere, on suitable sites on the other side of town. (Where there are main roads). The development is to be situated on Greenfield site which is outside the development boundary for the area, and could not be considered as infill. There is more suitable land for development of housing with better access, services and infrastructure in Bishops Castle to meet the current windfall criteria, which was highlighted at a recent town council meeting when a development near this application was refused.
- vii. Public Footpath: There is a public footpath across this field, used daily by many people who enjoy the flowers and wildlife. This should not be taken away from them. The proposed site has a public footpath running through the very old meadow, the council have put styles and improved paths for local people, visiting walkers, especially children to enjoy the countryside safely.
- viii. Other: Wild life impact. This is green belt land. Red Kites hunt on it, partridge, pheasants, foxes and badger runs are in this field, and also many wild flowers grow here. The hedges are also filled with many species of birds. Views. If 2 storey buildings are built here, my views across the countryside will be spoilt. Employment. There is very little work in this area, very few shops. So where would the new

residents find work? Also if the development attracts young families, are there enough placements in the 2 schools for extra children? The site is currently pasture land and has numerous wild flowers growing. The site should be inspected by professionals before any decision is made to ascertain no protected species are present.

5.0 THE MAIN ISSUES

- Policy context and principle of the proposed development;
- Environmental impacts of the proposals – traffic, drainage, sewerage, ecology, visual impact;
- Social impact – residential amenity, public safety, footpath;
- Economic impact;
- Overall level of sustainability of the proposals.

6.0 OFFICER APPRAISAL

6.1 Policy Context and principle of the development:

6.1.1 Bishops Castle is identified as a Market town and Key Centre in the adopted Core Strategy. Policy S2 of the Pre-Deposit Draft SAMDev site allocations document advises that the town will provide the focus for development in this part of Shropshire, with a housing guideline of around 150 dwellings for the period 2006-2026. New housing development will be delivered through the allocation of a greenfield site (Schoolhouse Lane East - BISH013 – 40 houses) together with a windfall allowance which reflects opportunities within the town's development boundary as shown on the Proposals Map. All development in Bishop's Castle must have regard to the conservation targets for the River Clun catchment as set out in the Nutrient Management Plan and any agreed management strategy for the river catchment.

6.1.2 The current site is not allocated in the Pre-Deposit Draft SAMDev and is outside (to the immediate west of) of the development boundary of the town as shown on the relevant SAMDev inset plan. Therefore, the current proposals would not comply with this emerging policy. However, housing land supply in Shropshire has fallen beneath the 5 year level required by the National Planning Policy Framework (para. 47). As a consequence, existing saved policies on housing supply are now out of date and this has implications for future planning decisions. The NPPF states (para 14) that 'where the development plan is absent, silent or relevant policies are out-of-date, (permission should be granted) unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted'.

6.1.3 As existing housing supply policy is now out of date, permission must be granted for new housing proposals which are 'sustainable' (NPPF 197). This is the case, even where, a proposal would represent a departure from existing saved policy or emerging SAMDev policy. Relevant housing supply information indicates that the level of housing undersupply is continuing to increase so this situation is likely to

remain until the SAMDev is adopted. Shropshire Council submitted the SAMDev Plan to the Secretary of State for Communities and Local Government on 1 August 2014 for independent examination. Whilst the plan is at a relatively advanced stage the policies have not been tested through the Public Inquiry process. Legal caselaw has established that little weight can be accorded to these policies in the context of the current housing supply shortfall. The NPPF therefore provides a temporary 'window of opportunity' for developers to come forward with developments which might not otherwise succeed when the SAMDev is adopted.

- 6.1.4 The key policy test to apply therefore at this stage is not whether the proposal complies with emerging policy and the parish plan but whether or not it would be so fundamentally flawed that it should not be regarded as sustainable. If a proposal does not comply fully with some individual sections of the NPPF it may still be regarded as sustainable overall. The NPPF advises that there are three dimensions to sustainable development – environmental, social and economic (NPPF 7). In order to assess the sustainability of a proposal it is necessary therefore to evaluate these three dimensions before deciding whether the development can be regarded as sustainable overall. This is having regard to relevant policies and guidance and also to any benefits offered by the proposals.
- 6.1.5 The main issue to address is whether the proposals would result in any additional impacts on surrounding properties, amenities, the environment, infrastructure, economy and local community relative to the existing situation and, if so, are these impacts capable of being mitigated such that the proposals would be sustainable. If the proposals can be accepted as sustainable then the presumption in favour of sustainable development set out in the NPPF would apply. Sustainable proposals would also be expected to be compliant with relevant development plan policies including Core Strategy Policies CS5 and CS6.

6.2 Environmental Considerations

- 6.2.1 Traffic: Objectors have expressed concerns that the proposed access would join a dangerous stretch of the public highway and would exacerbate existing traffic capacity issues. Whilst these concerns are noted Highways Development Management have advised that refusal of the current application for 9 houses in this location 450m from the geographic centre of Bishop's Castle could be substantiated on highway capacity grounds. The proposed development would not on its own result in an unsustainable increase in levels of traffic locally. A safe access is capable of being obtained into the site from the public highway.
- 6.2.2 Notwithstanding this, in recognition of the concerns of local residents and the Town Council the Applicant has appointed a highway consultant to investigate the potential of delivering improvements to the Woodbatch Road / Kerry Lane 130m east of the site, to ensure a safer arrangement at this junction. A modular schedule of improvements has been identified. It is not considered that this would result in any fundamental improvements, but some benefits would be possible relative to the existing situation. The Town Council and local member has already been consulted on a key element of the improvements and two site meetings have taken place. The overall improvement package is capable of being discussed at the reserved matters

stage community consultations on the various options being recommended could take place then. Exact details would be provided at the reserved matters stage. Highway officers have not objected and it is considered on balance that refusal on highway or access reasons could be justified at this outline stage. (Structure Plan Policy CS7).

- 6.2.3 Ecology: An ecological survey confirms that there are no issues with respect to protected species. The number of houses has been reduced from 10 to 9. ON this basis, the Natural Environment section has withdrawn an earlier holding objection subject to the inclusion of appropriate ecological conditions and informative notes. The site is located in the Clun Catchment, part of which incorporates a Special Area of Conservation (SAC). An updated Habitat Risk Assessment (included as Appendix 2) concludes that there would not be any adverse impacts on the ecological interests of the SAC if the development was restricted to 9 properties as adequate phosphate stripping capacity is available to deal with any effluent from the development at Bishop's Castle Sewage Treatment Works. The applicant has confirmed on this basis that a condition restricting the development to 9 properties would be acceptable. Landscaping is proposed and would add to overall levels of biodiversity within the site. The proposals therefore comply with Core Strategy Policy CS17.
- 6.2.4 Drainage / Flooding: Objectors have raised concerns that the proposals could make existing local flooding problems worse due to replacing agricultural field with less permeable surfaces. Detailed drainage measures would be addressed at the reserved matters stage. The option of providing interceptor drains along site margins would exist in order to remove any water ingress from higher ground. A sustainable drainage system (SuDs) would be adopted, including the use of features such as permeable surfacing and oversized pipes. Surface water from roofs would be taken to suitably sized soakaways, the design of which would be dealt with at building regulation stage, and would comply fully with BRE 365. This would ensure that drainage from the site is attenuated to greenfield rates. The council's land drainage section has not objected subject to imposition of appropriate drainage conditions which are included in Appendix 1. The Environment Agency Flood Map indicates that the development is not within an area that is at risk of fluvial flooding. It is not considered that the proposals would result in an unsustainable increase in local drainage levels provided appropriate measures are employed as per the recommended conditions. The proposals are therefore capable of complying in principle with Core Strategy Policy CS18 relating to drainage.
- 6.2.4 Sewerage: The applicant is proposing that foul water from the proposed dwellings would be taken to the existing foul sewer that runs nearby to the site. Local residents have expressed concerns that the proposals could increase the level of strain on local sewerage capacity and may also contribute to flooding. If the applicant achieved an agreement to link to the mains sewer then Severn Trent Water will be statutorily obliged to ensure that the sewerage system has sufficient capacity to accommodate the development. There is no reason to suspect that such an agreement would not be forthcoming. The option of installing a package/biodisc treatment plant at the site would however exist if a main sewer connection was not

possible, subject to a separate planning permission. (Core Strategy Policy CS8, CS18)

- 6.2.5 Visual amenity: The proposed site is located 1.04km north east of the AONB but would not be directly visible from the AONB due to the presence of an intervening ridge. The ground level varies between 195 and 210m Above Ordnance Datum which is higher than the adjacent residential area and the main town but comparable to the elevation of the Castle Green area to the north. The proposals would involve landscape planting. It is considered that specifying bungalows or 1½ height houses would be appropriate given the elevation of the site and to prevent overlooking of adjacent residential development. The detailed house design would be established at the reserved matters stage. The level of the development platform for the site and the detailed appearance of the properties would also be important considerations in terms of visual amenity and would also be confirmed at the reserved matters stage. It is however considered that a properly designed scheme would be capable of integrating visually with the surrounding landscape and townscape. It is concluded that the proposals are capable of complying with relevant policies covering visual amenity and wider sustainability issues. (CS5, CS6, CS16, CS17)
- 6.2.8 Amenities: A condition requiring submission of a Construction Management Plan has been recommended in order to reduce the impact of site construction on adjoining properties. This would control matters such as hours of working and management of construction traffic. It is recognised that the site also benefits from a degree of natural screening from vegetation, topography and that the number of publicly accessible viewpoints is very limited.
- 6.2.9 Agricultural land: The site currently comprises agricultural land, some of which is of best and most versatile quality and is protected by the NPPF. However, the area of such land is not great and the site has limitations for modern farming due to the relatively steep slope and current limitations with the agricultural access. It is not considered that an objection on the grounds of effects to agricultural land could be sustained in these circumstances.
- 6.2.10 Public footpath. A public footpath passes through the northern part of the site, travelling in an east-west direction and linking to Kerry Lane. The Rights of Way section has not objected subject to a condition which requires the formal diversion of the footpath around the edges of the site prior to the commencement of any development. An appropriate condition has been included in Appendix 1. An appropriate diversion route would exist in principle around the site periphery. This matter is capable of being progressed at the reserved matter stage.
- 6.2.11 Conclusion on environmental effects: The proposals would result in some disturbance to local amenities during the construction phase and there would a change to some local views. There would also be an additional pressure on the public highway and on local sewerage services and a need for archaeological evaluation at the reserved matters stage. However, it is not considered that there is any evidence that there would be any unacceptably adverse environmental effects which would justify refusal when available mitigation measures and recommended

conditions are taken into account. The outline proposals therefore meet the environmental sustainability test set out in the NPPF.

6.3 Economic sustainability:

6.3.1 All housing schemes have some benefits to the local economy from building employment and investment in local construction services. The occupants of such properties would also spend money on local goods and services, thereby supporting the vitality of the local community. In addition, the proposals would generate an affordable housing contribution, CIL funding and community charge revenue which would also give rise to some economic benefits. Inappropriate development can potentially have adverse impacts on other economic interests such as existing businesses and property values. In this particular case however it is not considered that there would be any obvious adverse economic impacts. There are no leisure or tourism facilities in the immediate vicinity which would be adversely affected. The site is sufficiently far from the AONB for there to be no material effect on the enjoyment of the AONB. A public footpath would require diversion. It is not considered that there would be any material impact on property values provided a sensitive design and landscaping are applied at the reserved matters stage. It is considered overall therefore that the economic effects of the proposals would be positive and that the economic sustainability test set out in the NPPF is therefore met. (Core Strategy Policy CS5, CS13)

6.4 Social sustainability:

6.4.1 Local housing need: A preference for affordable properties has been expressed by the Town Council. The applicant's indicative layout plan indicates that the development would deliver mainly 2-3 bedroom properties of modest size, with 2 affordable properties. The design of properties would be agreed at the reserved matters stage. It is considered that the proposals would make some contribution towards housing need in the local area. The proposals would also bring new people into the community who may potentially contribute to the social vitality of the community.

6.4.2 Location and design: The proposed site is located close to key community facilities and would be linked to them by an existing footpath. Sufficient space exists within the plots to provide generous garden space and off-street parking. There would also be good levels of natural light given the unshaded south facing aspect of the plot. It is considered that these factors increase the overall the level of social sustainability of the proposals.

6.4.4 Social considerations, conclusion: The proposals would offer benefits to the occupants of the new properties and the existing local community through delivery of highway improvements at the Woodbatch Road / Kerry Lane junction. These benefits have been conceived as part of a joint scheme with the Woodbatch Road development but key elements would in principle be capable of being delivered unilaterally. Such benefits may not be readily deliverable through other mechanisms and will significantly increase the level of sustainability of the settlement. It is

concluded that the social sustainability test set out by the NPPF is also met on balance.

7.0 CONCLUSION

7.1 In the current sub-5 year housing supply situation decisions on housing applications must be taken on the basis of whether a development would be sustainable in the terms meant by the NPPF, rather than with reference to extant or emerging housing policies.

7.2 It is considered that the housing mix would meet support local housing provision, including the affordable element. It is also considered that the application site is of a suitable size to accommodate the development and would not have an unacceptable impact on the amenities of the nearby existing properties, provided bungalows and/or 1½ height properties are specified. Nor is it considered that there would be any unacceptably adverse impacts on the character of the town, the surrounding landscape, or on highway safety, having regard to the comments of the Council's Highways section. Diversion of a footpath would be required prior to commencement of any development. Detailed design measures would be addressed at the reserved matters stage.

7.2 It is considered on balance that the proposals are sustainable in environmental, social and economic terms and are compliant with the NPPF and Core Strategy Policy CS6. Outline permission is therefore recommended, subject to appropriate conditions and a legal agreement to highway improvements and an affordable housing contribution.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk Management:

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry. If the decision is 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 intervene 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 a) promptly and b) in any event not later than three months after the grounds for making the claim first arose. Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights:

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community. First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents. This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities:

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under Section 70(2) of the Town and Country Planning Act 1970.

9.0 FINANCIAL IMPLICATIONS

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

10.0 BACKGROUND

Relevant Planning History

None of relevance to this proposal

Relevant Planning Policies

Central Government Guidance:

10.1 National Planning Policy Framework (NPPF) (DCLG – July 2011)

10.1.1 The National Planning Policy Framework (NPPF) came into effect in March 2012, replacing most former planning policy statements and guidance notes. The NPPF provides a more concise policy framework emphasizing sustainable development and planning for prosperity. Sustainable development 'is about positive growth – making economic, environmental and social progress for this and future generations'. 'Development that is sustainable should go ahead, without delay - a presumption in favour of sustainable development that is the basis for every plan, and every decision'. The framework sets out clearly what could make a proposed plan or development unsustainable.

10.1.2 Relevant areas covered by the NPPF are referred to in section 6 above and include:

- 1. Building a strong, competitive economy;
- 3. Supporting a prosperous rural economy;
- 4. Promoting sustainable transport;
- 7. Requiring good design;

- 8. Promoting healthy communities;
- 10. Meeting the challenge of climate change, flooding and coastal change;
- 11. Conserving and enhancing the natural environment;
- 12. Conserving and enhancing the historic environment;

10.2 Core Strategy:

10.2.1 The Shropshire Core Strategy was adopted in February 2011 and sets out strategic objectives including amongst other matters:

- To rebalance rural communities through the delivery of local housing and employment opportunities (objective 3);
- To promote sustainable economic development and growth (objective 6);
- To support the development of sustainable tourism, rural enterprise, broadband connectivity, diversification of the rural economy, and the continued importance of farming and agriculture (objective 7);
- To support the improvement of Shropshire's transport system (objective 8);
- To promote a low carbon Shropshire (objective 9) delivering development which mitigates, and adapts to, the effects of climate change, including flood risk, by promoting more responsible transport and travel choices, more efficient use of energy and resources, the generation of energy from renewable sources, and effective and sustainable waste management.

10.2.2 Core Strategy policies of relevance to the current proposals include:

i. CS6: Sustainable Design and Development Principles:

To create sustainable places, development will be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness and which *mitigates and adapts to climate change*. This will be achieved by: Requiring all development proposals, including changes to existing buildings, to achieve criteria set out in the sustainability checklist. This will ensure that sustainable design and construction principles are incorporated within new development, and that *resource and energy efficiency and renewable energy generation are adequately addressed and improved* where possible. The checklist will be developed as part of a Sustainable Design SPD; Requiring proposals 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; And ensuring that all development: Is designed to be adaptable, safe and accessible to all, *to respond to the challenge of climate change* and, in relation to housing, adapt to changing lifestyle needs over the lifetime of the development in accordance with the objectives of Policy CS11 Protects, restores, conserves and enhances the natural, built and historic environment and is appropriate in scale, density, pattern and design taking into account the local context and character, and those features which contribute to local character, having regard to national and local design guidance, *landscape character assessments and ecological strategies where appropriate; Contributes to the health and wellbeing of communities, including safeguarding residential and local amenity* and the achievement of local standards for the provision and quality of open space, sport and recreational

facilities. Is designed to a high quality, consistent with national good practice standards, including appropriate landscaping and car parking provision and taking account of site characteristics such as land stability and ground contamination; Makes the most effective use of land and safeguards natural resources including high quality agricultural land, geology, minerals, air, soil and water; Ensures that there is capacity and availability of infrastructure to serve any new development in accordance with the objectives of Policy CS8. *Proposals resulting in the loss of existing facilities, services or amenities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility, service or amenity is not viable over the long term.*

ii. CS13: Economic Development, Enterprise and Employment:

Shropshire Council, working with its partners, will plan positively to *develop and diversify the Shropshire economy, supporting enterprise, and seeking to deliver sustainable economic growth and prosperous communities*. In doing so, particular emphasis will be placed on: Promoting Shropshire as a business investment location and a place for a range of business types to start up, invest and grow, recognising the economic benefits of Shropshire's environment and quality of life as unique selling points which need to be valued, conserved and enhanced Raising the profile of Shrewsbury, developing its role as the county town, growth point and the main business, service and visitor centre for the Shropshire sub-region, in accordance with Policy CS2 Supporting the revitalisation of Shropshire's market towns, developing their role as key service centres, providing employment and a range of facilities and services accessible to their rural hinterlands, in accordance with Policy CS3 *Supporting the development and growth of Shropshire's key business sectors and clusters, in particular: environmental technologies; creative and cultural industries; tourism; and the land based sector, particularly food and drink production and processing* *Planning and managing a responsive and flexible supply of employment land and premises comprising a range and choice of sites in appropriate locations to meet the needs of business, with investment in infrastructure to aid their development or to help revitalise them*. Supporting initiatives and development related to the provision of higher/further education facilities which offer improved education and training opportunities to help raise skills levels of residents and meet the needs of employers Supporting the development of sustainable transport and ICT/broadband infrastructure, to improve accessibility/connectivity to employment, education and training opportunities, key facilities and services Encouraging home based enterprise, the development of business hubs, live-work schemes and appropriate use of residential properties for home working In rural areas, recognising the continued importance of farming for food production and *supporting rural enterprise and diversification of the economy, in particular areas of economic activity associated with agricultural and farm diversification, forestry, green tourism and leisure, food and drink processing, and promotion of local food and supply chains*. Development proposals must accord with Policy CS5.

v. CS17: Environmental Networks

Development will identify, protect, enhance, expand and connect Shropshire's environmental assets, to create a multifunctional network of natural and historic resources. This will be achieved by ensuring that all 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, heritage or recreational values and functions of these assets, their immediate surroundings or their connecting corridors. Further guidance will be provided in SPDs concerning the natural and built environment; Contributes to local distinctiveness, having regard to the quality of Shropshire's environment, including landscape, biodiversity and heritage assets, such as the Shropshire Hills AONB, the Meres and Mosses and the World Heritage Sites at Pontcysyllte Aqueduct and Canal and Ironbridge Gorge Does not have a significant adverse impact on Shropshire's environmental assets and does not create barriers or sever links between dependant sites; Secures financial contributions, in accordance with Policy CS8, towards the creation of new, and improvement to existing, environmental sites and corridors, the removal of barriers between sites, and provision for long term management and maintenance. Sites and corridors are identified in the LDF evidence base and will be regularly monitored and updated.

vii. Other relevant policies:

- CS4 - Community hubs and community clusters
- Policy CS5: Countryside and Green Belt;
- Policy CS7: Communications and Transport;
- Policy CS8: Facilities, services and infrastructure provision.
- CS11 - Type and affordability of housing;

Supplementary Planning Guidance: Type and affordability of housing (March 2011)

Emerging Planning Guidance

SAMDev

i. MD1 – Scale and Distribution of Development

Further to the policies of the Core Strategy:

1. Overall, sufficient land will be made available during the remainder of the plan period up to 2026 to enable the delivery of the development planned in the Core Strategy, including the amount of housing and employment land in Policies CS1 and CS2;
2. Specifically, sustainable development will be supported in Shrewsbury, the Market Towns and Key Centres, and the Community Hubs and Community Cluster settlements identified in Schedule MD1.1, having regard to Policies CS2, CS3 and CS4 respectively and to the principles and development guidelines set out in Settlement Policies S1-S18 and Policies MD3 and MD4;
3. Additional Community Hubs and Community Cluster settlements, with associated settlement policies, may be proposed by Parish Councils following formal preparation or review of a Community-led Plan or a Neighbourhood Plan and agreed by resolution by Shropshire Council.

ii. MD2 – Sustainable Design

Further to Policy CS6, for a development proposal to be considered acceptable it is required to:

1. Achieve local aspirations for design, wherever possible, both in terms of visual appearance and how a place functions, as set out in Community Led Plans, Town or Village Design Statements, Neighbourhood Plans and Place Plans.
2. Contribute to and respect locally distinctive or valued character and existing amenity value by:
 - i. Responding appropriately to the form and layout of existing development and the way it functions, including mixture of uses, streetscape, building heights and lines, scale, density, plot sizes and local patterns of movement; and
 - ii. Reflecting locally characteristic architectural design and details, such as building materials, form, colour and texture of detailing, taking account of their scale and proportion; and
 - iii. Respecting, enhancing or restoring the historic context, such as the significance and character of any heritage assets, in accordance with MD13; and
 - iv. Enhancing, incorporating or recreating natural assets in accordance with MD12.
3. Embrace opportunities for contemporary design solutions, which take reference from and reinforce distinctive local characteristics to create a positive sense of place, but avoid reproducing these characteristics in an incoherent and detrimental style;
4. Incorporate Sustainable Drainage techniques, in accordance with Policy CS18, as an integral part of design and apply the requirements of the SuDS handbook as set out in the Water Management SPD
5. Consider design of landscaping and open space holistically as part of the whole development to provide safe, useable and well-connected outdoor spaces which respond to and reinforce the character and context within which it is set, in accordance with Policy CS17 and MD12 and MD13, including:
 - i. Natural and semi-natural features, such as, trees, hedges, woodlands, ponds, wetlands, and watercourses, as well as existing landscape character, geological and heritage assets and;
 - ii. providing adequate open space of at least 30sqm per person that meets local needs in terms of function and quality and contributes to wider policy objectives such as surface water drainage and the provision and enhancement of semi natural landscape features. For developments of 20 dwellings or more, this should comprise an area of functional recreational space for play and recreation uses;
 - iii. ensuring that ongoing needs for access to manage open space have been provided and arrangements are in place for it to be adequately maintained in perpetuity.
6. Ensure development demonstrates there is sufficient existing infrastructure capacity, in accordance with MD8, and should wherever possible actively seek opportunities to help alleviate infrastructure constraints, as identified with the Place Plans, through appropriate design;
7. Demonstrate how good standards of sustainable design and construction have been employed as required by Core Strategy Policy CS6 and the Sustainable Design SPD.

iii. MD3 - Managing Housing Development

Delivering housing:

1. Residential proposals should be sustainable development that:
 - i. meets the design requirements of relevant Local Plan policies; and

- ii. for allocated sites, reflects any development guidelines set out in the relevant settlement policy; and
- iii. on sites of five or more dwellings, includes a mix and type of housing that has regard to local evidence and community consultation.

Renewing permission:

- 2. When the proposals are for a renewal of planning consent, evidence will be required of the intention that the development will be delivered within three years.

Matching the settlement housing guideline:

- 3. The settlement housing guideline is a significant policy consideration. Where development would result in the number of completions plus outstanding permissions exceeding the guideline, decisions on whether to exceed the guideline will have regard to:
 - ii. The likelihood of delivery of the outstanding permissions; and
 - iii. Evidence of community support; and
 - iv. The benefits arising from the development; and
 - v. The presumption in favour of sustainable development.
- 4. Where a settlement housing guideline appears unlikely to be met by the end of the plan period, additional sites beyond the development boundary that accord with the settlement policy may be acceptable subject to the criteria in paragraph 3 above.

iv. MD7a – Managing Housing Development in the Countryside

- 1. Further to Core Strategy Policy CS5 and CS11, new market housing will be strictly controlled outside of Shrewsbury, the Market Towns, Key Centres and Community Hubs and Community Clusters. Suitably designed and located exception site dwellings and residential conversions will be positively considered where they meet evidenced local housing needs, other relevant policy requirements and , in the case of market residential conversions, a scheme provides an appropriate mechanism for the re-use and retention of buildings which are heritage assets. In order to protect the long term affordability of affordable exception dwellings, they will be subject to size restrictions and the removal of permitted development rights, as well as other appropriate conditions or legal restrictions;
- 2. Dwellings to house essential rural workers will be permitted if:-
 - a. there are no other existing suitable and available affordable dwellings or other buildings which could meet the need, including any recently sold or otherwise removed from the ownership of the rural enterprise; and,
 - b. in the case of a primary dwelling to serve an enterprise without existing permanent residential accommodation, relevant financial and functional tests are met and it is demonstrated that the business is viable in the long term and that the cost of the dwelling can be funded by the business. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, a financial contribution to the provision of affordable housing will be required, calculated in accordance with the current prevailing target rate and related to the floorspace of the dwelling; or,

- c. in the case of an additional dwelling to provide further accommodation for a worker who is required to be present at the business for the majority of the time, a functional need is demonstrated and the dwelling is treated as affordable housing, including size restrictions. If a new dwelling is permitted and subsequently no longer required as an essential rural workers' dwelling, it will be made available as an affordable dwelling, unless it can be demonstrated that it would not be suitable. Where unsuitability is demonstrated, a financial contribution to the provision of affordable housing, equivalent to 50% of the difference in the value between the affordable and market dwelling will be required.
 3. Such dwellings will be subject to occupancy conditions. Any existing dwellings associated with the rural enterprise may also be subject to occupancy restrictions, where appropriate. For primary and additional rural workers' dwellings permitted prior to the adoption of the Core Strategy in March 2011, where occupancy restrictions are agreed to be removed, an affordable housing contribution will be required in accordance with Policy CS11 at the current prevailing target rate and related to the floorspace of the dwelling.
 4. In addition to the general criteria above, replacement dwelling houses will only be permitted where the dwelling to be replaced is a permanent structure with an established continuing residential use. Replacement dwellings should not be materially larger and must occupy the same footprint unless it can be demonstrated why this should not be the case. Where the original dwelling had been previously extended or a larger replacement is approved, permitted development rights will normally be removed;
 5. The use of existing holiday let properties as permanently occupied residential dwellings will only be supported if:
 - a. the buildings are of permanent construction and have acceptable residential amenity standards for full time occupation; and,
 - b. the dwellings are restricted as affordable housing for local people; or,
 - c. the use will preserve heritage assets that meet the criteria in Policy CS5 in relation to conversions and an affordable housing contribution is made in line with the requirements set out in Core Strategy Policy CS11.
- v. MD7b – General Management of Development in the Countryside
Further to the considerations set out by Core Strategy Policy CS5:
 1. Where proposals for the re-use of existing buildings require planning permission, if required in order to safeguard the character of the converted buildings and/or their setting, Permitted Development Rights will be removed from any planning permission;
 2. Proposals for the replacement of buildings which contribute to the local distinctiveness, landscape character and historic environment, will be resisted unless they are in accordance with Policies MD2 and MD13. Any negative impacts associated with the potential loss of these buildings, will be weighed with the need for the replacement of damaged, substandard and inappropriate structures and the benefits of facilitating appropriate rural economic development;

3. Planning applications for agricultural development will be permitted where it can be demonstrated that the development is:
 - a. Required in connection with a viable agricultural enterprise and is of a size/ scale and type which is consistent with its required agricultural purpose and the nature of the agricultural enterprise that it is intended to serve;
 - b. Well designed and located in line with CS6 and MD2 and where possible, sited so that it is functionally and physically closely related to existing farm buildings; and,
 - c. There will be no unacceptable impacts on environmental quality and existing residential amenity.

vi. MD8 –Infrastructure Provision

Existing Infrastructure

1. Development should only take place where there is sufficient existing infrastructure capacity or where the development includes measures to address a specific capacity shortfall which it has created or which is identified in the LDF Implementation Plan or Place Plans. Where a critical infrastructure shortfall is identified, appropriate phasing will be considered in order to make development acceptable;
2. Development will be expected to demonstrate that existing operational infrastructure will be safeguarded so that its continued operation and potential expansion would not be undermined by the encroachment of incompatible uses on adjacent land;

New Strategic Infrastructure:

3. Applications for new strategic energy, transport, water management and telecommunications infrastructure will be supported in order to help deliver national priorities and locally identified requirements, where its contribution to agreed objectives outweighs the potential for adverse impacts. Particular consideration will be given to the potential for adverse impacts on:
 - i. Residential and other sensitive neighbouring land uses;
 - ii. Visual amenity;
 - iii. Landscape character and sensitivity, including impacts on sensitive skylines;
 - iv. Recognised natural and heritage assets and their setting, including the Shropshire Hills AONB (Policy MD12);
 - v. The visitor and tourism economy including long distance footpaths, cycle tracks and bridleways (Policy MD11);
 - vi. Noise, air quality, dust, odour and vibration;
 - vii. Water quality and resources;
 - viii. Impacts from traffic and transport during the construction and operation of the infrastructure development;
 - ix. Cumulative impacts.

Development proposals should clearly describe the extent and outcomes of community engagement and any community benefit package.....

vii. MD12: The Natural Environment

In accordance with Policies CS6, CS17 and through applying the guidance in the Natural Environment SPD, the conservation, enhancement and restoration of Shropshire's natural assets will be achieved by:

1. Ensuring that the social or economic benefits of development can be demonstrated to clearly outweigh the harm to natural assets where proposals are likely to have an unavoidable significant adverse effect, directly, indirectly or cumulatively, on any of the following:
 - i. the special qualities of the Shropshire Hills AONB;
 - ii. locally designated biodiversity and geological sites;
 - iii. priority species;
 - iv. priority habitats
 - v. important woodlands, trees and hedges;
 - vi. ecological networks
 - vii. geological assets;
 - viii. visual amenity;
 - ix. landscape character and local distinctiveness.In these circumstances a hierarchy of mitigation then compensation measures will be sought.
2. Encouraging development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition.
3. Supporting proposals which contribute positively to the special characteristics and local distinctiveness of an area, particularly in the Shropshire Hills AONB, Nature Improvement Areas, Priority Areas for Action or areas and sites where development affects biodiversity or geodiversity interests at a landscape scale, including across administrative boundaries.

S2: Bishop's Castle Area

S2.2 (x) Worthen, Brockton, Little Worthen, Little Brockton, Binweston, Leigh, Rowley, Aston Rogers and Aston Pigott.

The settlements of Worthen, Brockton, Little Worthen, Little Brockton, Binweston, Leigh, Rowley, Aston Rogers and Aston Pigott within Worthen with Shelve Parish are a Community Cluster where development by infilling and conversions may be acceptable on suitable sites. The housing guideline for the Cluster is around 30 additional dwellings over the period to 2026.

The Worthen with Shelve Parish Council Local Implementation Plan expresses a preference for the following:

- a) phased development so that no more than 10 houses are permitted in each third of the Plan period,
- b) no single site is developed for more than 5 houses,
- c) the existing gap between the villages of Worthen and Brockton remains undeveloped to maintain the distinctive character and separate nature of the two settlements.

11. ADDITIONAL INFORMATION

List of Background Papers: Planning application reference 13/01633/OUT and associated location plan and documents

Cabinet Member (Portfolio Holder) Cllr M. Price

Local Member: Cllr David Evans, Councillor C Barnes (Bishops Castle)

Appendices: Appendix 1 – Conditions

APPENDIX 1

Legal Agreement

1. Affordable housing contribution;
2. Highway improvement funding.

Planning Conditions

STANDARD CONDITIONS:

- 1 The development hereby permitted shall not be commenced until the Local Planning Authority has approved the following details (hereinafter referred to as the 'reserved matters'):
 - i. The siting and ground levels of the dwellings;
 - ii. The design and external appearance of the dwellings;
 - iii. Details of the materials, finishes and colours of the dwellings;
 - iv. Details of the landscaping of the site.

Reason: The application was made as an outline planning application in accordance with Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and the provisions of Section 92 of the Town and Country Planning Act 1990.

- 2 Application for the approval of the reserved matters shall be made to the Local Planning Authority within three years from the date of this permission.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be commenced either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES:

- 4a. Construction of the development hereby permitted shall not be commenced until details and sizing of the proposed soakaways have been submitted to and approved in writing by the Local Planning Authority.

- b. If non permeable surfacing is used on the driveway and parking area or the driveway slopes toward the highway, the applicant shall submit for approval a drainage system to prevent water flowing onto a public highway.

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site to minimise the risk of surface water flooding (4a) and to ensure that no surface water runoff from the new driveway runs onto the highway (4b).

Notes:

- i. *Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Full details, calculations and location of the percolation tests and the proposed soakaways should be submitted for approval. 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.*
- ii. *The applicant should consider employing measures such as the following:*
- *Swales*
 - *Infiltration basins*
 - *Attenuation ponds*
 - *Water Butts*
 - *Rainwater harvesting system*
 - *Permeable surfacing on any new access road, driveway, parking area/ paved area*
 - *Attenuation*
 - *Greywater recycling system*
 - *Green roofs*
- iii. *Consent is required from the service provider to connect into the foul main sewer.*

5. The proposed foul water drainage shall be installed in accordance with the Drainage and Flood Risk Assessment by D.A. Sluce & Partners Feb 2014 prior to the first use of the development hereby approved.

Reason: To ensure appropriate sewage treatment and ensure the protection of the River Clun SAC, a European protected site.

- 6a. No ground clearance, demolition or construction work shall be commenced on the application site until a scheme of protection measures for the existing trees and hedges within and adjacent to the site has been submitted to and approved by the Local Planning Authority. The submitted tree protection scheme shall include a tree protection plan that reflects the guidance within BS5837:2012. All measures

comprised in the tree and hedge protection scheme shall be implemented and retained throughout all of the clearance and construction works on the site.

- b. Where the approved detailed plans indicate that construction work is to take place within the Root Protection Area (RPA) of any retained trees or hedges, an Arboricultural Method Statement (AMS), detailing how the approved construction works will be carried out, shall be submitted to the Local Planning Authority for approval prior to the commencement of any development works. The AMS shall include details of when and how the construction works will take place and be managed, and how the trees and hedges will be protected during the works.

Reason: To safeguard the existing trees and hedges in and adjacent to the site in the interests of visual amenity (and in accordance with Policies CS6 and CS17 of the Shropshire Core Strategy).

7. No development shall commence at the site until a Heritage Assessment has been submitted to and approved in writing by the local planning authority in consultation with the Local Planning Authority's Archaeology service. This shall take the form of a desk based assessment accompanied by the results of walk over and a geophysical surveys of the site. If the results of the heritage survey indicate that further survey work is required before the development commences then such works shall be undertaken in accordance with the recommendations of the heritage survey.

Reason: To allow appropriate opportunities for inspecting any archaeological remains present within the site prior to the commencement of the development.

8. No development shall take place until an application is made which secures the formal diversion of Footpath 14 Bishop's Castle which crosses the development site. The diverted footpath shall remain open and shall not be obstructed.

Reason: To ensure that an appropriate diversion route for the public footpath is secured prior to the commencement of any development at the Site.

9. The outline permission hereby approved is for a maximum of nine dwellings.

Reason: To ensure appropriate sewage treatment and ensure the protection of the River Clun SAC, a European protected site.

10. 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 development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

Reason: To minimise disturbance to bats, a European Protected Species.

Notes:

- i. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice. The single in-field ash tree has some potential for bat roosts. If this tree will be removed, it should be inspected for bat roosts prior to felling or works.*
- ii. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended); an active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion and demolition work should if possible be carried out outside the bird nesting season, which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active birds' nests should be carried out. If vegetation cannot be clearly seen to be clear of birds' nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*
- iii. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.*
- iv. Where possible trenches should be excavated and closed in the same day to prevent any wildlife becoming trapped. If it is necessary to leave a trench open overnight then it should be sealed with a closefitting plywood cover or a means of escape should be provided in the form of a shallow sloping earth ramp, sloped board or plank. Any open pipework should be capped overnight. All open trenches and pipework should be inspected at the start of each working day to ensure no animal is trapped.*
- v. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.*

- 11a. Within the first planting and seeding season following the completion of the dwellings hereby permitted, a scheme of new tree and hedge planting shall be implemented within and bordering the grounds of the dwellings, in accordance with full details to be submitted to and approved by the Local Planning Authority.
- b. Any new trees and hedges planted as part of the required planting scheme which, during a period of five years following implementation of the planting scheme, are removed without the prior written approval of the Local Planning Authority or die, become seriously diseased or are damaged, shall be replaced during the first available planting season with others of such species and size as the Authority may specify.

Reason: To ensure that new planting is undertaken, in order to enhance the appearance and privacy of the site (and in accordance with Policy CS6 of the Shropshire Core Strategy)(10a). To ensure that the approved planting scheme is effective and in accordance with Policy CS6 of the Shropshire Core Strategy (11b).

12. As part of the reserved matters details of the location and design of bat boxes, tubes or bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

Reason: To ensure the provision of roosting opportunities for bats, which are European Protected Species

13. Prior to the commencement of work on site a 10m buffer shall be fenced off parallel to the banks along the length of the water course, put in place within the site to protect the watercourse during construction works. No access, material storage or ground disturbance should occur within the buffer zone.

Reason: To avoid impacts on water quality.

CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT:

14. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Assessment by Star Ecology submitted 2nd October 2014.

Reason: To ensure the protection of hedgehogs, a UK BAP Priority Species

15. Existing shrubs and hedges within and around the margins of the site shall be retained and protected from damage for the duration of the construction works. No such shrubs or hedges shall be removed unless this has first been approved in writing by the Local Planning Authority.

Reason: To ensure that the screening and amenity effect of existing shrubs and hedges around the margin of the site is protected in the interests of residential amenities.

16. An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The authority worked with the applicant in a positive and pro-active manner in order to seek solutions to problems arising in the processing of the planning application. This is in accordance with the advice of the Governments Chief Planning Officer to work with applicants in the context of the NPPF towards positive outcomes. Further information has been provided by the applicant on indicative design, layout and housing need. The submitted scheme has allowed the identified planning issues raised by the proposals to be satisfactorily addressed, subject to the recommended planning conditions.

APPENDIX 2 – HABITAT RISK ASSESSMENT**Habitat Regulation Assessment (HRA) Screening Matrix**

Application name and reference number:

14/02632/OUT

Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access).

Date of completion for the HRA screening matrix:

8th September 2014

HRA screening matrix completed by:

Alison Slade
Planning Ecologist
Shropshire Council**Table 1: Details of project or plan**

Name of plan or project	14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access)
Name and description of Natura 2000 site	River Clun SAC (14.93ha) supports a significant population of Freshwater Pearl Mussel <i>Margaritifera margaritifera</i> . The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on any planning application within this area. Annex II Species that are a primary reason for selection of site: <ul style="list-style-type: none"> Freshwater pearl mussel <i>Margaritifera margaritifera</i>
Description of the plan or project	An outline application with ten dwelling indicated on the submitted plans.
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	Yes 14/02411/OUT 2 dwellings South of Woodbatch Rd, Bishops Castle 14/00885/OUT 9 dwellings Woodbatch Road 12/02006/FUL 4 dwellings Kerry Green, Bishops Castle

Contact: Tim Rogers (01743) 258773

could affect the site (provide details)?	14/01275/FUL 2 dwellings Kerry Green, Bishops Castle
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Statement

Guidance Note 12: Development within the River Clun Catchment has been published by Shropshire Council, based on information and discussions with Natural England and the Environment Agency who have subsequently endorsed it. This guidance will be followed by the planning authority when making planning decisions until the Nutrient Management Plan for the Clun Catchment has been finalised by NE and the EA.

According to Guidance Note 12 at 4.2:

*The two largest treatment plants within the catchment, Bishop's Castle and Bucknell, currently have phosphate stripping and in terms of individual houses make the smallest contribution to the phosphate in the river of all works. They both have potential catchment transfer schemes that would remove any impact they have within the catchment. Further if catchment transfer is not possible then both will be able to be fitted with a more rigorous phosphate treatment if required within the next two rounds of the Five Year Asset Management Planning (AMP) process. **Any development of less than 10 houses, serviced by these two treatment works, is considered to be unlikely to have a significant effect on the features of interest as the impact will be picked up by actions identified in the NMP.** In the interim period, development connecting to mains sewer leading to Bucknell or Bishop's Castle sewage treatment works can be put forward for a planning decision. Development of 10 houses or more will still have to show how the contribution to the treatment works will affect the site in the interim between now and completion of any upgrade.*

The Design and Access Statement states that foul water drainage will be taken to the nearby mains public sewer. No ecological information has been submitted with the application, including how it is intended to avoid an adverse effect on the integrity of the River Clun SAC. In relation to in-combination effects there are a number of other planning applications for residential development in Bishops Castle, although all are for under ten dwellings.

The application has been reduced to 9 dwellings. In view of the above, and providing the development is carried out according to the details submitted and the following conditions are attached to any decision notice, the proposal will not lead to significantly increased concentrations of nutrients within the River Clun. Hence there should be no adverse effect on the integrity of the River Clun SAC through this development, either alone or in combination with other projects.

Condition:

1. The outline permission hereby approved is for a maximum of nine dwellings.

Reason: To ensure appropriate sewage treatment and the protection of the River Clun SAC, a European protected site.

The Significance test

The proposed works in application 14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access will not have a significant effect on the European Designated Site at the River Clun SAC, through additional phosphate generated by a new source of waste water reaching the watercourse connecting to the River Clun.

The Integrity test

Contact: Tim Rogers (01743) 258773

Planning application No 14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access) will not adversely affect the integrity of the European Designated Site at the River Clun SAC providing waste water from the development is treated as conditioned and detailed in the submitted documents.

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'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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 unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 62 of the Conservation of Habitats and Species Regulations 2010. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

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.

Habitat Regulation Assessment (HRA) Screening Matrix

Application name and reference number:

14/02632/OUT

Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access).

Date of completion for the HRA screening matrix:

8th September 2014

HRA screening matrix completed by:

Alison Slade
Planning Ecologist
Shropshire Council

Table 1: Details of project or plan

Name of plan or project	14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access)
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Contact: Tim Rogers (01743) 258773

	Mussel <i>Margaritifera margaritifera</i> . The River Clun SAC is currently failing its water quality targets particularly relating to ortho-phosphates. The current phosphate target for the river and particularly at the SAC is 0.02mg/l. Shropshire Council is working closely with Natural England and Environment Agency on developments within the Clun catchment. Shropshire Council formally consults Natural England on any planning application within this area. Annex II Species that are a primary reason for selection of site: <ul style="list-style-type: none"> Freshwater pearl mussel <i>Margaritifera margaritifera</i>
Description of the plan or project	An outline application with ten dwelling indicated on the submitted plans.
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)?	Yes 14/02411/OUT 2 dwellings South of Woodbatch Rd, Bishops Castle 14/00885/OUT 9 dwellings Woodbatch Road 12/02006/FUL 4 dwellings Kerry Green, Bishops Castle 14/01275/FUL 2 dwellings Kerry Green, Bishops Castle

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According to Guidance Note 12 at 4.2:

*The two largest treatment plants within the catchment, Bishop's Castle and Bucknell, currently have phosphate stripping and in terms of individual houses make the smallest contribution to the phosphate in the river of all works. They both have potential catchment transfer schemes that would remove any impact they have within the catchment. Further if catchment transfer is not possible then both will be able to be fitted with a more rigorous phosphate treatment if required within the next two rounds of the Five Year Asset Management Planning (AMP) process. **Any development of less than 10 houses, serviced by these two treatment works, is considered to be unlikely to have a significant effect on the features of interest as the impact will be picked up by actions identified in the NMP.** In the interim period, development connecting to mains sewer leading to Bucknell or Bishop's Castle sewage treatment works can be put forward for a planning decision. Development of 10 houses or more will still have to show how the contribution to the treatment works will affect the site in the interim between now and completion of any upgrade.*

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The application has been reduced to 9 dwellings. In view of the above, and providing the development is carried out according to the details submitted and the following conditions are attached to any decision notice, the proposal will not lead to significantly increased concentrations

of nutrients within the River Clun. Hence there should be no adverse effect on the integrity of the River Clun SAC through this development, either alone or in combination with other projects.

Condition:

2. The outline permission hereby approved is for a maximum of nine dwellings.

Reason: To ensure appropriate sewage treatment and the protection of the River Clun SAC, a European protected site.

The Significance test

The proposed works in application 14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access will not have a significant effect on the European Designated Site at the River Clun SAC, through additional phosphate generated by a new source of waste water reaching the watercourse connecting to the River Clun.

The Integrity test

Planning application No 14/02632/OUT Proposed residential development West of Lavender Bank, Bishops Castle - Outline Application for a mixed residential development (to include access) will not adversely affect the integrity of the European Designated Site at the River Clun SAC providing waste water from the development is treated as conditioned and detailed in the submitted documents.

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'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the 'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

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Contact: Tim Rogers (01743) 258773

(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.