



Committee and date

Northern Planning Committee

17<sup>th</sup> February 2026

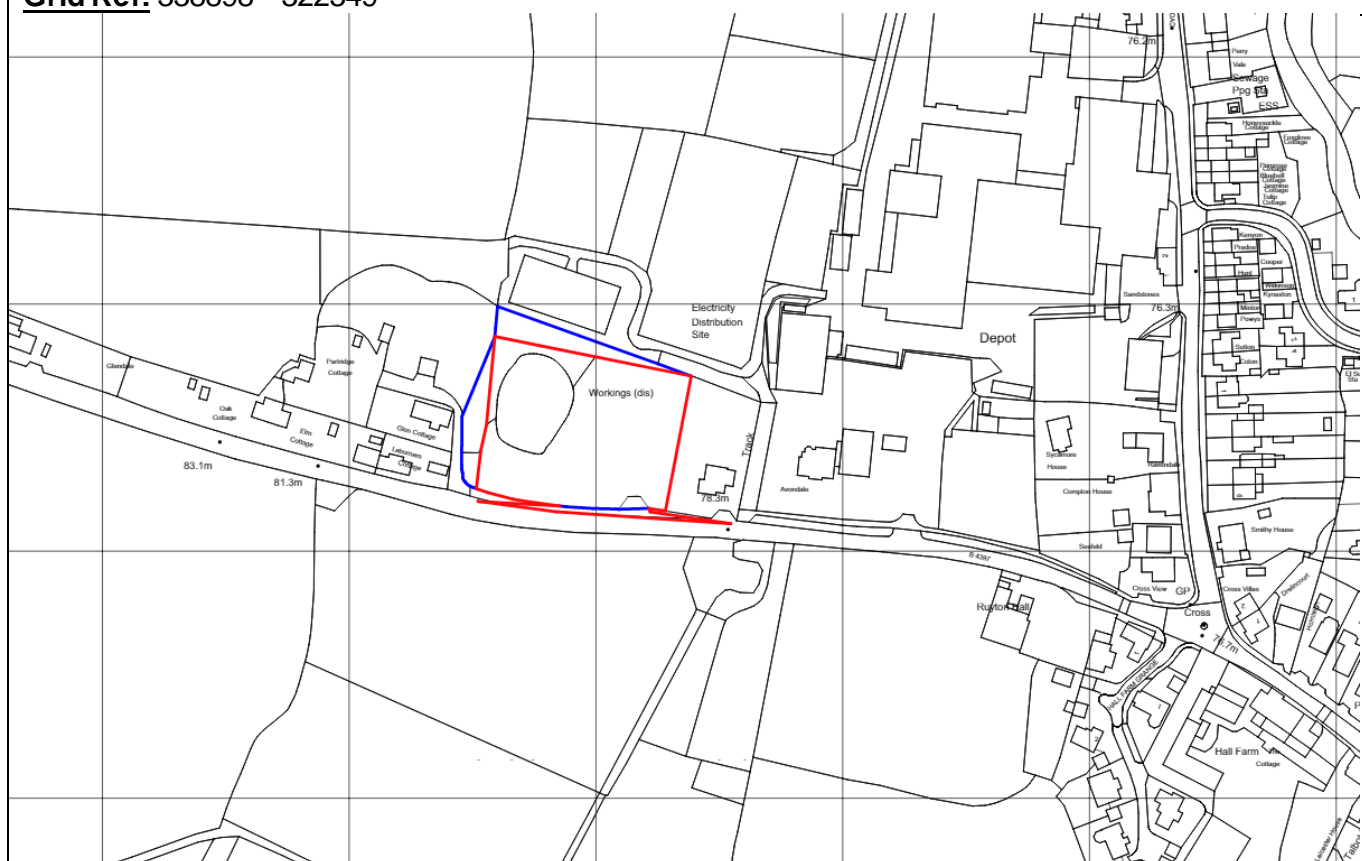
## Development Management Report

Responsible Officer: Tim Collard, Service Director – Legal, Governance and Planning

### Summary of Application

<b><u>Application Number:</u></b> 24/03767/OUT	<b><u>Parish:</u></b>	Ruyton XI Towns
<b><u>Proposal:</u></b> Outline application for the erection of 5No. self-build dwellings (to include access and scale)		
<b><u>Site Address:</u></b> Proposed Residential Development Land North Of Olden Lane Ruyton Xi Towns Shropshire		
<b><u>Applicant:</u></b> Jones		
<b><u>Case Officer:</u></b> Ollie Thomas	<b><u>email:</u></b> <a href="mailto:ollie.thomas@shropshire.gov.uk">ollie.thomas@shropshire.gov.uk</a>	

**Grid Ref:** 338898 - 322349



**Recommendation:- That delegated authority is given to Officers to grant planning permission subject to a financial contribution towards mitigating recreational pressures on an internationally designated ecological site and the conditions in Appendix 1, and for any minor changes to conditions as required.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application is seeking outline planning permission for the erection of five self-/custom-build dwellings, with access and scale submitted for consideration (all other matters reserved for subsequent approval). The proposals include the improvement and enhancement of an existing field access, associated internal access arrangements and indicative plot positions shown on the submitted layout plan.

1.2 There have been several planning applications for residential development on this site, including:

- 14/03841/OUT for the erection of 3no dwellings;
- 21/05221/OUT for the erection of up to 4no dwellings; and
- 22/05574/OUT for the erection of a single dwelling.

All applications were refused *inter alia* as the site lies outside of the defined development boundary for Ruyton XI Towns and the conflict this had with the adopted Development Plan. Furthermore, highway safety has consistently been a reason for refusal, whereby the previous proposals were unable to demonstrate a satisfactory means and the resultant impact on highway safety.

Whilst there has been little movement in terms of adopted local planning policy since the previous applications. What has changed is that the Council is now longer able to demonstrate a five-year housing land supply – it is on this basis to which the application is made.

1.3 In addition to the planning history, there have been two previous planning enforcement investigations (2022 and 2023) into alleged unlawful operational development, engineering/ground works, creation of vehicle access point and the erection of gates and fences. Both investigations were closed down with no further action being taken. Whilst it was confirmed that a technical breach of planning control had been amounted to, it was determined that this did not result in any planning harm and therefore not expedient to pursue.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The application site comprises approximately 0.49ha of land to the north of Olden Lane, on the eastern approach into Ruyton-XI-Towns. The land forms part of a

former quarry, but is now largely vegetated and has been subject to vegetation clearance over recent times. The surrounding area is characterised by a mix of residential properties, paddocks and agricultural land, constituting a transitional area between the built form and wider countryside.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 The Parish Council have submitted a view contrary to officers based on material planning reasons. The Principal Planning Officer in consultation with the Committee Chair agrees that the Parish Council has raised material matters which cannot be overcome by negotiation or the imposition of planning conditions in relation to the weight to be given to former draft allocations which are appropriate to be discussed by planning committee.

### **4.0 Community Representations**

The below Section provides a summary of representations received during the consultation/publicity period, comments can be viewed in full on the online planning register, using the application reference.

#### **4.1 Consultee Comment**

#### **4.2 SC Trees – Objection**

The Tree Officer raises significant concern regarding the site levels and their implications for both existing trees and the usability of proposed garden spaces. The submitted levels information indicates that substantial excavation would be required, particularly for the plots on the western side of the site, resulting in steep and potentially impractical access to rear gardens. The land identified as private garden is currently uneven and occupied by scrub and small trees, and would require extensive re-grading that is likely to affect the root systems of important boundary trees.

Particular concern is directed towards Trees 12 and 16 on the northern boundary, which are prominent landscape features and would be at risk from excavation works. Their scale and proximity would also dominate the proposed gardens and dwellings, causing overshadowing and reduced residential amenity. The proposed layout leaves little scope for new planting or meaningful green infrastructure, limiting opportunities for biodiversity enhancement. For these reasons, the Tree Officer cannot support the application in its current form and advises that revisions are needed to address site layout, levels, the relationship with retained trees, and the provision of usable amenity space and biodiversity improvements.

#### **4.2 SC Regulatory Services – No objection subject to conditions**

It is noted that historic land uses on the site, including disused workings and potentially infilled ground, raise the possibility of land contamination, meaning the developer must demonstrate that the site is suitable for its proposed residential use in accordance with the NPPF and the Council's duties under Part 2A of the

Environmental Protection Act 1990. This requires evidence that ground contamination risks and any issues relating to land instability have been properly investigated, that appropriate mitigation and remediation are proposed where necessary and that following such remediation the land would not meet the definition of contaminated land.

#### 4.3 **SC Drainage (SuDS) – Standing advice only**

This is a minor development and the site is not located within the SuDS Consultation Area.

#### 4.4 **SC Ecology – No objection subject to conditions and financial contribution**

The application sites falls within 11.4km from the Cole Mere Ramsar, where new housing is known to contribute to increased recreational pressure and therefore the application must be assessed under the Habitats Regulation. Visitor survey data indicates that Cole Mere is highly sensitive to increased dog walking and recreational use and a mitigation contribution of £50 per bedroom is required to support long-term visitor management measures in line with the Cole Mere Management Plan. Confirmation of the number of bedrooms and agreement to this contribution is required to enable completion of an Appropriate Assessment.

The submitted Preliminary Ecological Appraisal is otherwise acceptable, and its recommendations for protected species can be secured by condition.

#### 4.5 **SC Highways – Object**

The site has been subject to three refused applications, all of which raised unresolved highway safety concerns. The current outline proposal for five dwellings still fails to adequately address these issues.

The access lies on the inside of a bend on a Class II road where visibility is constrained by the road alignment, boundary features and changing gradients, and no robust justification has been provided for the proposed visibility splays. In particular, no speed survey data, highway assessment, or topographical information has been submitted to demonstrate how the visibility can be achieved.

Mitigation has been proposed in the form of relocating the existing 30mph speed limit and traffic calming measures. In order to provide a substantive response, further assessment is required, including a Road Safety Audit being undertaken.

#### 4.6 **Ruyton-XI-Towns Parish Council – Object**

The Parish Council have raised several material considerations within their objection response, including:

- Land it outside the development boundary and contrary to adopted policy;
- Highway safety concerns due to insufficient visibility splays;
- Insufficient drainage for storm water run-off;

- Lack of information and control due to 'self build' aspect of the application;
- Environmental harm through tree and wildlife loss.

## 4.7 Public Comments

A total of nine public representations were received, all of which object to the proposal. The main grounds for objection are summarised as follows:

- **Highway safety, visibility and access**
  - o Insufficient visibility splays, close to a blind bend on a downhill approach
  - o The site has had permission refused previously on highway grounds
  - o Relocation of speed limit and traffic calming is unjustified and could worsen conditions
  - o Proposal will result in increased traffic and congestion
- **Drainage, flooding and ground conditions**
  - o Existing flooding issues along School Road and Olden Road, with run-off heavy during periods of bad weather.
  - o Further hardstanding would increase surface run off
  - o Concerns over ground stability based on sites historic use as a quarry
- **Landscape, trees and environmental impact**
  - o Potential impact to prominent northern-boundary trees, causing damage to roots and impacting on living standards of future dwellings
  - o Previous site clearance has altered the character of the site and further development would cause irreversible harm to local landscape character.
  - o Limited opportunities for tree planting within the layout.
- **Amenity and design issues**
  - o Sites position outside of the development boundary would result in encroachment into countryside
  - o Steeply elevated site would result in dwellings overlooking neighbouring properties, harming privacy and altering the street scene
  - o Self-build dwellings could result in incoherent and inconsistent design
  - o Refuse collection could obstruct the highway at a sensitive point.

## 5.0 THE MAIN ISSUES

- 5.1 The main issues of this application are the principle of development given the sites location outside of the defined development boundary; the scale of the dwellings and the associated visual and landscape impacts arising from the site's topography and relationship with existing vegetation; and the highway safety implications of the proposed access onto Olden Lane.

## **6.0 OFFICER APPRAISAL**

### **6.1 Adopted Development Plan**

- 6.1.1 Core Strategy Policies CS1, CS4 and CS5 and SAMDev Policies MD1 and MD3 establish a clear hierarchy directing housing to sustainable settlements, with Ruyton XI Towns identified as a Community Hub in accordance with SAMDev S14.2(iv), whilst restricting open market housing in the countryside.
- 6.1.2 The application site falls outside of the defined development boundary and does not meet any of the exception criteria for countryside development under Core Strategy CS5 of SAMDev MD7a, nor does it represent development of an allocated site.
- 6.1.3 The development would introduce residential development in an area defined as open countryside and therefore conflicts with the adopted spatial strategy.
- 6.1.4 However, as the Council is unable to demonstrate a five-year supply of deliverable housing land, paragraph 11(d) of the NPPF requires decision-makers to apply the presumption in favour of sustainable development, unless policies in the NPPF that protect areas of particular importance provide a clear reason for refusal. In such circumstances, the conflict with the adopted Development Plan must be considered in the overall planning balance and the weight given to that conflict relevant to the extent of housing land supply shortfall.

### **6.1.5 Draft Local Plan**

- 6.1.6 The Draft Local Plan has since been withdrawn from examination, whereby none of the draft settlement strategies, development boundaries or emerging allocation can be relied upon as material considerations. Furthermore, the site was not proposed as an allocation within the withdrawn Plan. Consequently, the proposal must be assessed against the current adopted policies and any other material considerations.

### **6.1.7 The Tilted Balance**

- 6.1.8 Paragraph 11(d) of the NPPF sets out that where the policies most important for determining an application are out-of-date, planning permission should be granted unless either:
- The application of NPPF policies that protect areas or assets of particular importance provides a clear reason for refusal or
  - Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as whole.

### **6.1.9 In regard to the first criterion:**

- The site does not lie within a protected landscape, a heritage designation or

an area where development is restricted for ecological reasons.

- Technical assessments confirms that the proposal would not result in unacceptable impacts on designated heritage assets, protected species or designated ecological sites.
- The majority of the site lies within Flood Zone 1, with built development excluded from areas of higher risk.

On this basis, there is no clear reason for refusal to protect areas or assets of importance and the tilted balance is not dis-engaged.

6.1.10 Consequently, paragraph 11(d)(ii) applies and requires a balancing exercise between the adverse impacts and benefits of the development. The key test is whether the adverse impacts significantly and demonstrably outweigh the benefits.

#### 6.1.11 **Other material considerations**

6.1.12 The applicant within their submission documents has referred to the land as constituting previously developed land ('PDL'/'brownfield') as the historic land use is that of a disused sand quarry. The Officer does not agree with this as the operational element of any quarry ceased long ago and the land has since become naturally regenerated with self-seeded vegetation, scrub and maturing trees (despite the applicant undertaken vegetation clearance which has been subject to enforcement investigations). The NPPF provides a definition on PDL to which it is explicit that land is not regarded as brownfield where its use has blended back into the landscape and where natural regeneration has taken place. The site now (or did prior to vegetation clearance) reads as part of the rural environment, rather than active or derelict industrial land. On this basis, the site cannot reasonably attract the positive weight normally associated with the reuse of brownfield land and does not deliver any brownfield-related benefits.

## 6.2 **Whether the site is in a sustainable location**

6.2.1 Although the site is located outside of the defined development, it is nonetheless positioned within close proximity to the existing built-up areas, with existing residential development in both directions along the western approach into Ruyton XI Towns and represents an infill plot in an otherwise built-up street scene. Furthermore, the site is served by a pedestrian footway that leads to the centre of village and therefore benefits from accessible access to local services and facilities. The site is not isolated in planning terms, and the pattern of surrounding development ensures that future occupiers would remain well-connected, with access to essential day-to-day services, such as local shops, schools, community facilities and public transport services, achievable within a reasonable distance.

## 6.3 **Access and Highways**

6.3.1 The application is supported by highways information which seeks to address the previously identified highway issues raised through previous planning application.

The proposed development would utilise a reconfigured access onto Olden Lane, with a 5.5m wide access and footways on both sides of the junction.

- 6.3.2 Although the Local Highways Authority maintains an objection on the grounds that full visibility splays commensurate to the prevailing road condition cannot be achieved. The application has provided speed survey data which demonstrates the actual 85<sup>th</sup> percentile speeds are approx. 39.7mph (westbound) and 40.8mph (eastbound). This provides a more accurate basis for assessing highway risk.
- 6.3.3 To address visibility limitations, the applicant has suggested a series of on-highway measures including relocating the existing 30/40mph speed limit transition further west so that the entire site frontage sits within a 30mph zone, thereby reducing the required visibility splays to distances that can be delivered within land under the applicant's control and the public highway. Additionally, the applicant has suggested the incorporation of physical traffic calming measures, including a single lane chicane/build out, to reduce the speed of passing vehicles and reinforcing the relocated speed limit.
- 6.3.4 The Case Officer is of the judgement that the proposed traffic calming chicane/build-out would create an unnatural and contrived driving environment along this rural stretch of Olden Lane. Whereby such measures are considered inappropriate for the character of the highway and would not represent a proportionate or contextual response to the identified visibility constraints. Therefore, the on-highway measures are not acceptable. However, even without the chicane/build-out, the Officers judgement is that the access arrangements and proposed visibility are sufficient to ensure a suitable means of access, and the development would not result in an unacceptable or severe residual impact on the highway network.
- 6.3.5 In addition, the Case Officer does not consider the proposed relocation of the existing 30/40mph speed limit transition to be necessary or justified. Relocating the speed limit (to be done by a Traffic Regulation Order) is a highway engineering intervention that must be evidence-led, demonstrating that the revised location reflects the actual speed environment and is capable of achieving the desired outcome. The applicants own ATC data indicates that a simple shift of signage is unlikely to materially alter passing speeds or deliver a safer access arrangement. As a result, relocating the speed-limit, which the sole purpose being to achieve commensurate visibility splays would not provide a proportionate or technically robust solution and is therefore not required.
- 6.3.6 Paragraph 116 of the NPPF makes clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts would be severe. Whilst the application has been unable to demonstrate an adequate package of mitigation works to satisfy the Local Highways Authority, the Case Officer is of the judgement that the proposal, utilising an existing access point on the entrance approach to the village, would not result in an unacceptable safety impact or that the residual cumulative impacts would be severe. The absence of off-site traffic calming or speed limit changes does not alter the Officer's overall conclusion that the



development would not give rise to unacceptable highway safety risks.

## **6.4 Site Layout and Scale**

- 6.4.1 As mentioned, this outline application is also seeking to approve scale matters concurrently, as a result the application is supported by a series of plans/drawings to show the arrangements of dwelling within the plot, along with an indicative street scene.
- 6.4.2 The indicative site layout plan shows the five dwellings positioned along the northern edge of Olden Lane, following the existing pattern of linear development and reinforcing the established grain of frontage properties in the existing built-up area. The dwellings are set back behind the existing vegetation line and served via a shared access that runs parallel to the highway before reaching the individual plots. The plan also demonstrates generous private garden areas, areas of new planting and a defined corridor of public open space.
- 6.4.3 As has been raised by the Tree Officer, there are significant changes to the site levels, with the submitted topographical information showing the land rising steeply to the north. This results in the rear gardens to slope noticeably upwards which does raise some concern in regard to the usability of this site and potential impracticability issues. However, the steepness of the land is a characteristic of the site, as opposed to a result of the proposed development and that there remains flexibility within each plot to achieve suitable garden levels through sensitive engineering, terracing or stepped solutions – of which would be a landscape matter to be dealt with at reserved matters stage.
- 6.4.4 As scale is a matter for consideration at this outline stage, the submitted drawings and sections seek to demonstrate the appropriateness of the proposed dwellings and their massing within the site's topography and surrounding built and natural environment. As mentioned, the site levels rise steeply away from Olden Road and it is therefore necessary to control scale to avoid excessive height or visual dominance when viewed from within the highway and neighbouring dwellings. It has been sufficiently justified that dwellings of two storeys can be accommodated without resulting in unacceptable landscape or amenity impact, provided that finished levels are carefully managed and secured through condition.

## **6.5 Trees**

- 6.5.1 The Tree Officer has raised concerns with Trees 12 and 16 along the northern boundary and that these may dominate the garden spaces, cause overshadowing and impact amenity due to their elevated position. However, the Layout Plan shows sufficient separation and orientation, including sun-path, to ensure that the living accommodation face southwards towards Olden Lane. This reduces the extent to which these trees would impact day-to-day living.
- 6.5.2 The Tree Officer also notes that limited space appears available for new planting or green infrastructure. Whilst this is acknowledged, the Layout Plan shows meaningful areas for landscaping, most notably the open space provision along the

southern boundary, retained boundary vegetation and potential for reinforcement planting along the northern edge. As landscaping is a reserved matter, there remains scope for a planting strategy to be secured through subsequent application. As part of this application, the Officer is satisfied that opportunities for biodiversity enhancement, mitigation planting and visual softening can be achieved, and will be secured via planning condition to be submitted with the reserved matters.

- 6.5.3 Whilst the concerns surrounding existing trees and the topography of the site are material to the determination of this application, it is the Officer's judgement that they do not amount to constraints that would prevent the development from achieving a suitable and policy-compliant development at reserved matters stage. The submitted plans with this application demonstrate that the site is able to provide five dwellings with private garden spaces, parking spaces and public open space that is achievable. The remaining technical matters relating to levels, garden usability and tree protection can be satisfactorily addressed through reserved matters and condition.

## **6.6 Flood Risk and Drainage**

- 6.6.1 The application site lies wholly within Flood Zone 1, where the risk of fluvial flooding is low and the principle of residential development is acceptable in sequential terms. The applicant has submitted outline drainage information indicating that surface water would be managed within the site using sustainable drainage principles, with foul drainage to agreed at reserved matters stage. As a minor development, outside of the SuDS consultation area, the LLFA have not raised any objection, but nonetheless recommending that infiltration should be prioritised wherever feasible.
- 6.6.2 Public representations raise concerns about existing localised flooding along School Road and Olden Lane and that new development would worsen flooding conditions. Whilst these concerns are acknowledged, the Officer is satisfied that an appropriate on-site and combined drainage design and SuDS strategy can adequately address surface water to ensure development does not increase flood risk on- or off-site, to be addressed through reserved matters.

## **6.7 Ecology and Biodiversity**

- 6.7.1 The application is supported by a Preliminary Ecological Appraisal which confirms that the site comprises a former quarry area that has since been partly cleared, with remaining habitats including areas of bare sandy ground, tall form-dominated neutral grassland and several mature and semi-mature trees on the northern and eastern boundaries. Overall, the site is assessed as being of low ecological value, with no statutory or non-statutory wildlife designations within 1km.
- 6.7.2 The PEA identifies no evidence of protected species on the site, but notes that foraging and commuting bats, occasional badger use, hedgehog and nesting birds may be present within the boundary vegetation or within the wider landscape. No trees on or adjoining the site were found to contain bat-roost features and the

nearest mapped ponds lie more than 240-350m from the site. The PEA concludes that protected species do not represent a constraint to development provided that standard mitigation is applied.

6.7.3 The Council's Ecologist raises no objection in principle, but advises that the proposals fall within the recreational impact zone for Colemere Ramsar. In line with established mitigation for residential development within the catchment, a financial contribution of £50 per bedroom will be required to fund long-term visitor management. This contribution has not yet been made, and subject to a positive resolution, the Officer will seek this contribution prior to issuing any decision.

6.7.4 As the proposal relates to individual self-build plots, the development falls within one of the exemptions of the mandatory 10% BNG requirements. The scheme is therefore not required to provide a quantified metric or meet the 10% uplift.

## 6.8 Affordable Housing

6.8.1 The proposal falls below the threshold at which affordable housing contributions are required, as set out in the NPPF.

## 7.0 PLANNING BALANCE

7.1 In assessing this application, the Council is required to determine in accordance with the Development Plan, unless material considerations indicate otherwise. As set out in Section 6.1 of this Report, the proposal conflicts with the adopted spatial strategy contained in the adopted Development Plan, by virtue of the site lying outside of the development boundary for Ruyton XI Towns and not forming part of any allocated housing site. This conflict carries weight against the proposal.

7.2 However, as the Council is unable to demonstrate a five-year supply of deliverable housing land, the tilted balance under paragraph 11(d) of the NPPF is engaged. None of the policies that protect areas or assets of particular importance provide a clear reason for refusal. The proposal must therefore be assessed in accordance with paragraph 11(d)(ii), whereby planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF, as a whole.

## 7.3 Adverse Impacts

7.4 The proposal would introduce new built form on land currently experienced as part of the village's rural edge, resulting in a change to landscape character and the loss of undeveloped land. Whilst this change would be perceptible, it is contained by existing development along Olden Road and the established vegetation to the north. These effects therefore attract **limited to moderate weight**.

7.5 Concerns have been raised by the Tree Officer regarding the steeply sloping rear gardens, potential impracticability of private amenity space and the presence of mature trees along the northern boundary. Whilst these constraints are acknowledged, the submitted plans demonstrate that appropriate garden areas can

be achieved, whereby matters of any landscaping, tree protection and planting can be dealt with at reserved matters. These matters attract **limited weight**.

7.6 The Highways Authority have not accepted the applicants proposed traffic-calming scheme or access junction arrangements. However, even without such measures the access arrangements, as revised, can provide a safe and suitable means of access and would not result in severe residual impact. Accordingly, the highway impacts are assessed as **neutral** in the planning balance.

7.7 No unacceptable impacts have been identified with respect to ecology, drainage or flood risk. These matters are either neutral or can be addressed through conditions and therefore attracting **neutral weight**.

## 7.8 **Benefits of the proposal**

7.9 The delivery of five self-build homes carries **significant weight**, given the acknowledged under-provision of housing within Shropshire. The proposal would make a modest contribution towards local supply and support opportunities for bespoke, locally-designed housing.

7.10 The development would deliver economic benefits, including construction employment, local spending and Council revenue through Council Tax receipts. Although typical of residential development of this scale, these benefits nonetheless attract **limited to moderate weight**.

7.11 The proposal incorporates on-site public open space, reinforces the existing vegetation around the edges of the site and allows for future landscaping and ecological enhancements, attracting **limited weight**.

7.12 Residential development in this infill plot, surrounded by residential development along Olden Road, would complete a fragmented frontage and make efficient use of an accessible site closely related to existing development and within close and accessible reach to a range of essential services and facilities by sustainable means. This attracts **limited weight**.

## 8.0 **CONCLUSION**

8.1 Taking the proposal as a whole and applying the tilted balance as required by paragraph 11(d)(ii) of the NPPF, it is the Officers judgement that this is a finely balanced case. The proposal does give rise to identifiable harms, in particular the site's location outside of the development boundary, landscape change and the constraints associated with site levels and existing trees. However, these harms attract limited to moderate weight and on balance do not significantly or demonstrably outweigh the benefits of delivering five dwellings in a sustainable and accessible location. With technical matters capable of being addressed through planning conditions and reserved matters and there being no clear NPPF policy that provides a reason for refusal, the balance narrowly indicates that planning permission should be granted.

## **9.0 Risk Assessment and Opportunities Appraisal**

### **9.1 Risk Management**

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

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

### **9.2 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.

### **9.3 Equalities**

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

## **10.0 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. Background

### Relevant Planning Policies

#### **Core Strategy and Saved Policies:**

CS1 - Strategic Approach  
CS4 - Community Hubs and Community Clusters  
CS5 - Countryside and Greenbelt  
CS6 - Sustainable Design and Development Principles  
CS7 - Communications and Transport  
CS11 - Type and Affordability of housing  
CS17 - Environmental Networks  
CS18 - Sustainable Water Management  
MD1 - Scale and Distribution of Development  
MD2 - Sustainable Design  
MD3 - Managing Housing Development  
MD7A - Managing Housing Development in the Countryside  
MD12 - Natural Environment  
MD13 - Historic Environment  
Settlement: S14 – Oswestry

#### **National Planning Policy Framework**

### RELEVANT PLANNING HISTORY:

14/03841/OUT Outline application for the erection of 3No dwellings (all matters reserved)  
REFUSE 3rd November 2015

21/05221/OUT Outline application for residential development of up to 4 dwellings REFUSE 4th January 2022

22/05574/OUT Outline planning application for a single dwelling using a existing access off a established dropped curb to the site (to include access) REFUSE 14th February 2023

## 11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SKN0YGTDKPJ00>

List of Background Papers (This MUST be completed for all reports, but does not include items
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containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor David Walker
Local Member - Cllr Robert Jones
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. Approval of the details of the appearance of the development, layout, and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: The application is an outline application under the provisions of Article 5 of the Development Management Procedure (England) Order 2015 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. With each reserved matters application full details of the existing and proposed site levels, including finished floor levels, finished ground levels, garden gradients and all associated earthworks shall be submitted. The submitted details shall reflect the scale parameters approved at outline stage and shall include:

- a) a topographical survey of existing site levels;
- b) proposed levels across each plot and the internal access road;
- c) cross-sections demonstrating the relationship between the dwellings, their gardens, boundary treatments and adjacent land; and
- d) details of any engineering operations necessary to achieve the proposed levels.

The development shall thereafter be carried out strictly in accordance with the approved levels.



Reason: To ensure that the development reflects the approved scale, responds appropriately to the site's topography, safeguards residential amenity and landscape character and secures an acceptable relationship with the existing built and natural environments.

5. The dwellings hereby approved shall be limited to no more than two storeys in height, and no dwelling shall exceed a maximum ridge height of 8 metres above its approved finished floor level. Details demonstrating compliance with this height limit shall be submitted as part of any reserved matters application. The development shall thereafter be carried out strictly in accordance with the approved details.

Reason: To ensure the development responds appropriately to the site's topography and safeguards amenity of the built and natural environments.

6. With each reserved matters application up-to-date arboricultural information, prepared in accordance with BS 5837:2012 shall be submitted. This shall include, as a minimum:

- a) An updated Arboricultural Impact Assessment
- b) A Tree Protection Plan showing the precise location and extent of all protective fencing and ground-protection measures;
- c) A detailed Arboricultural Method Statement;
- d) A schedule of any proposed tree works; and
- e) A detailed landscaping scheme, demonstrating opportunities for new tree planting.

Reason: To prevent harm or loss of existing trees and to secure appropriate protection and enhancement of the sites ecological and arboricultural features.

## **CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

7. a) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.

Submission and implementation of remediation scheme

b) Where the approved risk assessment (required by condition a) above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority. A validation and verification plan must be formulated, form part of the remediation scheme and be approved by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority.

Verification of remediation scheme

c) Following implementation and completion of the approved remediation scheme (required by condition b) above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

#### Unforeseen contamination

d) In the event that further contamination is found at any time when carrying out the approved development - that was not previously identified ' it must be reported in writing immediately to the Local Planning Authority and no further development shall be carried out. Following this, an investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

#### REASON:

To ensure that the risks associated with any contamination have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with the National Planning Policy Framework.

8. Prior to the commencement of development a Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall set out as, as minimum, site specific measures to control and monitor impact arising in relation to:

- Construction traffic
- Noise and vibration
- Dust and air pollutants
- Land contamination
- Ecology and ground water.

The CEMP shall set out arrangements by which the development shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP. The development shall be carried out in full accordance with the approved CEMP at all times.

Reason: To safeguard the amenities of the adjoining properties and the area generally.

9. The dwellings hereby permitted must only be developed as a self-build or custom-build home as defined in the Self-build and Custom Housebuilding Act 2015 (as amended). Prior to the commencement of development of each dwelling, the applicant must submit to and have approved in writing by the Local Planning Authority a Compliance Statement. This statement must include the following:

1. Evidence that the initial owner of the dwelling will have/has had primary input into its final design and layout;
2. A timetable for construction and occupation;
3. A marketing strategy (if applicable) to ensure the plot is offered to self/custom builders;

4. A mechanism to ensure the dwelling is occupied by the person(s) who commissioned its design and construction.

and any other relevant information reasonably required by the Local Planning Authority to demonstrate compliance with the definition of self-build or custom-build housing.

The development of each dwelling must thereafter be carried out in accordance with the approved Compliance Statement.

The first occupation of each self-build or custom-build dwelling must be by a person or persons who had a primary input into the final design and layout of that dwelling and the dwelling(s) must be occupied by this/these person(s) for a period of at least three years.

Reason: To ensure the development is implemented as a self-build or custom-build dwelling in accordance with the Self-build and Custom Housebuilding Act 2015 (as amended), which is the justification for exemption from the provision of mandatory biodiversity net gain.

10. No development shall take place until a site-wide scheme for a combined surface and foul water drainage system, serving all dwellings within the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate how each dwelling will be connected to a single, integrated drainage system. The approved scheme shall be fully implemented before the development is occupied/brought into use (whichever is the sooner).

Reason: The condition is a pre-commencement condition to ensure satisfactory drainage of the site and to avoid flooding.

11. Prior to the commencement of the development, including any works of demolition and/or site clearance, a site wide Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period of each dwelling.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

12. The access apron shall be constructed in accordance with Shropshire Council's specification currently in force for an access and shall be fully implemented prior to the dwelling being occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

13. Prior to first occupation of each dwelling, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 2 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 2 artificial nests, of either integrated brick design or external box design, suitable for starlings (42mm hole, starling specific) or sparrows (32mm hole, terrace design).
- 1 hedgehog nesting box.

The boxes shall be sited at an appropriate height above the ground, with a clear flight path and where they will be unaffected by artificial lighting. Bat boxes should be erected on southerly aspects (south-west, south or south-east) and bird boxes should be erected on northerly or shaded east/west aspects. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of roosting and nesting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

14. The hereby approved access shall be satisfactorily completed and laid out prior to the dwellings being occupied. The approved parking and turning areas shall thereafter be maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory access and parking facilities in the interests of highway safety

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

15. Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features, e.g. bat and bird boxes (required under a separate planning condition). The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note GN08/23: Bats and Artificial Lighting At Night, GN01/21: The Reduction of Obtrusive Light and Guidance Note 9/19: Domestic exterior lighting: getting it right. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

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

### **Informatives**

1. In arriving at this decision Shropshire Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework, paragraph 38.

2. This planning permission is exempt from mandatory Biodiversity Net Gain. Please see <https://www.gov.uk/guidance/meet-biodiversity-net-gain-requirements-steps-for-developers> for more information.