

## Development Management Report

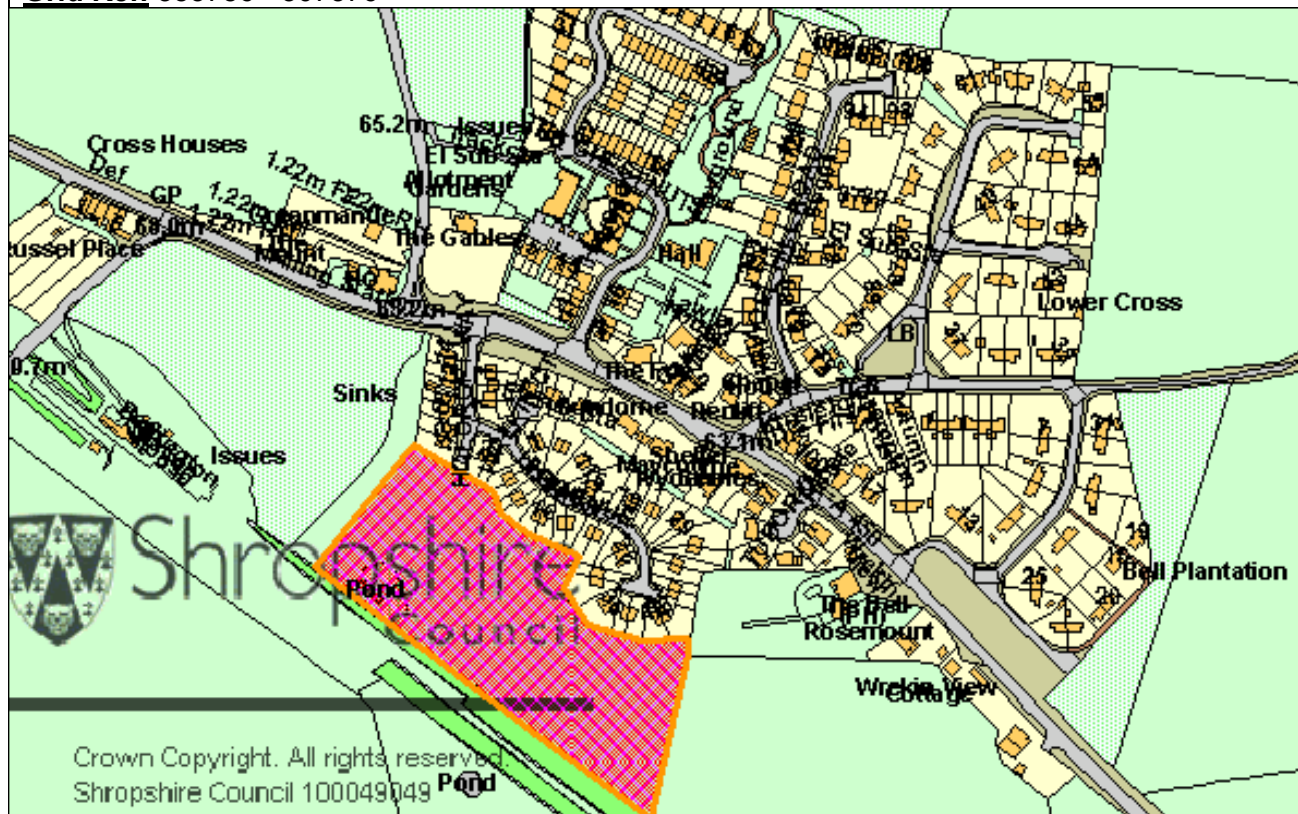
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/02406/OUT	<b>Parish:</b> Berrington
<b>Proposal:</b> Outline application for residential development to include means of access	
<b>Site Address:</b> Land South Of Holcroft Way Cross Houses Shrewsbury Shropshire	
<b>Applicant:</b> Fletcher Homes (Shropshire) Ltd	
<b>Case Officer:</b> Jane Raymond	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>

**Grid Ref:** 353756 - 307376



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## ADDENDUM TO 18 SEPTEMBER 2014 REPORT

This application was deferred at the 18 September 2014 meeting of the Central Planning Committee to enable the applicant to reconsider the access and provide further information relating to drainage. The agent has submitted a revised indicative layout plan and a highways plan for a potential future roundabout. The main changes proposed include:

- Private road on NW side of the site now proposed to be a public adoptable road, to enable future road link options
- Larger amount of public open space
- Greater distance between proposed dwellings and existing dwellings on High Cross Avenue
- Land for the proposed roundabout to be gifted through the s106 agreement **(Members should not give any weight to this in decision as this does not meet the tests for s106 agreements and any decision including this requirement would be unlawful and open to challenge).**

In addition the following statement has been provided by the agent to address the planning committee's concerns regarding drainage, describes the highway proposals and summarises the community consultation undertaken at a special meeting of the Parish Council:

### **Drainage**

**Agent comment** - *Members expressed concerns about the discordance between the professionals' view and the locals' view of drainage, and requested that the disagreement be resolved. A site meeting was held with concerned residents and the parish council on Thursday 25th September to explain the drainage proposals. The applicant's drainage consultant Andy Gough walked the site with residents and explained the proposed water attenuation scheme, which consists of a number of very large, 1.8m diameter underground pipes designed to store surface water. These large pipes are of sufficient size to accommodate a small car. The surface water drainage attenuation system would be in the order of 148m long and would be provided with flow control to release the water at a slow greenfield rate of release into the existing ditch in the field to the west of the development site. These underground storage pipes would be effective for periods of very heavy rain, including storm levels expected only once in 100 years plus 30% climate change and any exceedance flows from gardens. In addition, water release will be slowed down by a range of modern sustainable urban drainage techniques (SUDS) designed to slow down the flow of water and ensure water does not escape in the wrong direction. The scheme will be fully indemnified. The on-site discussions satisfied the parish council, neighbours and local Member that the drainage proposals are satisfactory and will prevent flooding problems occurring in the future.*

**Officer response:** David Edwards (SC Flood and Water Manager) has confirmed that from a flood risk and drainage perspective the principal of the development is technically acceptable but notes the concern from adjacent properties which currently suffer from flooding in their gardens. Confirms that this issue would be resolved as a result of the development, as all water falling on the site would be managed and this flow route would no longer exist. The current, outline, proposal is to discharge surface water to the watercourse to the north west of the site. This would be done in a controlled manner at a rate not exceeding that which currently leaves the site.

### **Open Space**

**Agent comment** - *To address concerns about open space, a revised layout has been submitted that has a lower density of development (37 dwellings instead of 39), less space used by private drives and more public open space on site. The revised layout was discussed with residents and the parish council on site and at an extraordinary meeting of the parish council held on 25th September. While the revised layout has reduced the concerns raised, a number of neighbours would prefer to see more amenity open space between their existing properties and the proposed new dwellings rather than a larger expanse of open space around the pond. This is an issue that will only be fully resolved at the reserved matters stage, when the precise layout and types of proposed dwellings are finalised. The reduction in number of dwellings as shown on the revised layout plan provides more space to resolve the individual objections from neighbours at the reserved matters stage.*

**Officer response:** Members are advised that this proposal is an outline application only and that the layout (including number and location of dwellings, road layout, and the amount and location of open space) will be determined at the reserved matters stage. The indicative layout is for illustrative purposes to demonstrate how the site could satisfactorily accommodate up to 37 dwellings and the required amount of open space. The layout is therefore not open for debate and revisions cannot be requested as it will not become an approved plan and is purely indicative. With regards to an equipped play area if indicated in the place plan funding for this can be provided by CIL.

### **Highways**

**Agent comment** - *Members wished to see more radical changes to reduce traffic speeds on the A458, whilst acknowledging their officers' advice that the speed of traffic through the village was not directly related to the proposed development. In response the applicant has offered to gift the land necessary for construction of a larger roundabout on the A458, through a section 106 agreement. The development will contribute Community Infrastructure Levy monies in excess of £250,000 which will be sufficient to pay for the construction of the roundabout. Therefore although not necessary for the proposed development, the scheme will provide both the land and funding required to deliver a 28 metre wide roundabout. The 28 metre wide roundabout greatly increases the deflection of traffic, which ultimately slows traffic speeds. The centre of the roundabout will be in the position of the current field-side pavement. This will be a kerbed roundabout with a lower collar to facilitate its navigation by HGVs. It will reduce vehicle speeds significantly. The roundabout also facilitates a future road to serve development on the south*

*side of Cross Houses and enable the future closure of Holcroft Way to vehicular traffic. However this would be the subject of a separate application at some point in the future. It is not part of the current application, which has to be considered on its own merits.*

*The package of improvements also includes new vehicle activated repeater 30mph signs, the positioning of which was discussed on site with the parish council on 25th September. The repositioning of the 30mph sign and addition of ladder markings between the roundabout and the pedestrian crossing were reported in the officer's report to 18th September committee. Funding for these other works to contribute to reducing traffic speeds on the A458 will be secured through the section 106 agreement.*

**SC Highways:** The local highway authority does not support the suggested 'gifting' of land for the construction of a compact roundabout in place of the existing mini-roundabout junction at A458/Atcham road, as we are of the opinion that this is not relevant to the development hereby proposed.

Whilst there are some issues with the current layout on the A458 at this location, we have worked with the applicant to agree a package of improvement measures for the A458 which are relevant to mitigate against an increase in vehicle movements at the Holcroft Way junction. We agree that replacing the existing mini roundabout with a compact roundabout would offer an improvement to the control of traffic at this location, but it is not necessary and improvements at this junction have not been identified in any Shropshire Council Local Transport Plans or the Berrington Council Parish Plan. The indicative roundabout junction layout provided would potentially 'unlock' further phases of development on land owned by the applicant and therefore we take the view that the construction of this junction should be a development cost; the suggestion that this should be funded by CIL or any other contributions to provide local enhancements is therefore inappropriate and using such funds this way could potentially be deemed unlawful.

Notwithstanding the above we do support the notion of constructing a roundabout at the suggested location and as the costs of constructing this are probably unviable under the current scheme proposed we suggested to the applicant that they could consider extending their current site to provide a more 'complete' development incorporating the roundabout junction to provide access to the wider site. However it is understandable that the developer has chosen not to pursue this suggestion at this time, as they have a scheme recommended for approval by officers which utilises an existing access within their control. If the current application is approved, we will be looking for the applicant to present a scheme at reserved matters which does allow access between any future phases of development on their land to facilitate a future connection to the Holcroft estate from a roundabout junction at the junction with the Atcham Road. At this time, without prejudice we take a view that it would be undesirable to permit any further phases of development over and above the current application under consideration which utilise the Holcroft Way/A458 junction for access (due to further intensified use of the junction and the potential to impact highway safety) and hence we are firm in our view that the suggested roundabout should be viewed as a development cost.

**Officer response:** In response to Highway comments the agent has provide the following statement:

**Agent comment** - *We would agree that future development would provide road access from the enlarged roundabout and could be required to pay for provision of the roundabout as a necessary part of its development. In this scenario it would be a development cost.*

*However the above scenario presupposes that the local planning authority will permit a future phase of development. In the event that the LPA refuse a future phase, then how will the roundabout be built? The gifting of the land through a s106 agreement means that the LPA could still provide a roundabout using its own funding. The use of CIL would be entirely appropriate and not unlawful as suggested, as it would be to provide infrastructure unrelated to development (in this scenario).*

*The proposal to gift the land for a roundabout benefits the LPA as it does not pre-judge their future decision on a future phase of development. Should the LPA be minded to grant consent for phase 2, it can require the developer to pay for the construction of the roundabout. However this is a decision for the future, not for now. The current proposal to gift the land means the LPA could either construct the roundabout itself (using CIL or other funds) or have it paid for by the developer of a phase 2 development. Members will no doubt prefer to keep the two options open at this stage.*

**Officer response** - Officers stand by their previous recommendation that the proposal has no highway safety implications provided the initial package of highway improvements is secured by S106. Planning obligations must meet the following 3 tests set out in the CIL regulations:

- (a)necessary to make the development acceptable in planning terms;
- (b)directly related to the development; and
- (c)fairly and reasonably related in scale and kind to the development

It is considered neither reasonable nor necessary to secure any financial contribution or gifting of land from the applicant to secure an improved roundabout to make this current proposal acceptable. Officers therefore recommend that the Council do not enter into a S106 agreement that requires the applicant to gift land for the future provision of a roundabout. If an application was made in the future to develop the adjacent site the provision of the roundabout would be necessary and would be funded by the developer and secured by a S106 at that time. If the Parish wish to see the roundabout improvements undertaken now (in advance of any future development that may or not come forward) then provided it is identified within the place plan then CIL funding could be used to pay for it but there is no guarantee that it would. 15% of CIL funds can be spent in accordance with the Parish wishes and approximately 72% of CIL funds is spent locally at the discretion of the Council based on local priorities. However it is not for members to determine whether a roundabout or any other highway improvements should be funded by CIL as that is not a matter to be decided within the scope of this planning application.

With regards to the gift of land officers recommend that this should not be required to be secured by a S106 attached to this permission as this would be open to challenge and unlawful. If the applicant is willing to gift land now for the future provision of an enlarged and improved roundabout then they can offer this separately by a unilateral undertaking but this should not be taken into consideration or given any weight by members in determining this current application.

**The officers report and recommendation therefore remains the same as reported to the 18 September Central Planning Committee:**

**Recommendation: Grant Permission subject to the conditions set out in Appendix 1 and a S106 to secure the relevant affordable housing at the time of the Reserved matters application and to secure the proposed highway improvements and a commuted sum for the future maintenance of the proposed vehicle activated signs.**

## 1.0 THE PROPOSAL

- 1.1 This application relates to Outline permission for residential development to include means of access with layout, scale, appearance and landscaping reserved for later approval.
- 1.2 The access will be off Holcroft Way which is the access road to High Cross Avenue off the main road (the A458). Although layout is not included and therefore not determined at this stage an indicative layout indicates 39 dwellings and public open space around the pond and trees to be retained. Information has also been submitted regarding highway improvements to the A458 including repositioning the 30mph sign, two new vehicle activated repeater 30mph sign and alterations to the mini roundabout and approach roads to the mini roundabout.

## 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is a parcel of land situated between the rear of houses in High Cross Avenue to the North and the disused railway line to the South. To the East and West are open fields.

## 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The scheme does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution as the Parish Council have submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Area Planning Manager in consultation with the Committee Chairman agrees that the application should be determined by committee.

#### 4.0 **Community Representations**

##### 4.1 **- Consultee Comments**

4.1.1 **SC Public Protection – Specialist:** No objection in principle however would like to inform the applicant that at reserved matters stage details of how the development will take note of paragraph 35 of the NPPF should be given. Without information which is seen to be appropriate electric vehicle charging points may be recommended as a condition for all dwellings with off road parking.

4.1.2 **SC Highways DC:** The local highway authority raised some initial concern over the intensified use of the junction with Holcroft Way and the A458 due to a number of recent collisions at this junction involving right turning vehicles. Whilst the layout of the Holcroft way junction exceeds the requirements of modern design criteria, its proximity to the nearby mini-roundabout for the Atcham road appears to be the main contributory factor to the recently recorded incidents, as drivers are focusing on this junction and not on the preceding junction and travelled speeds over the mini-roundabout appear to be quite high.

A site meeting was held with the applicant's transport engineer in order to discuss possible options for improvement works to improve safety along this stretch of the A458 and therefore deal with our concerns. Further to these discussions a design has now been provided which includes the following measures:

-Repositioning of the existing 30mph terminal signs when entering Cross Houses from the Shrewsbury direction, as the existing location is on approach to the petrol station and the signs are not very conspicuous to approaching drivers. The signs are proposed to be relocated to the top of the bank near to Russell Place where they will be more conspicuous to approaching drivers.

-Provide two Vehicle Activated Signs (VAS's): one on the approach to the mini-roundabout when travelling from Shrewsbury and one on approach to the zebra crossing when travelling from Cressage. These will flash up the speed limit to drivers who are exceeding the speed limit.

-Improve the layout of the mini-roundabout to increase deflection for vehicles travelling straight-on along the A458 in order to reduce speeds and reposition the junction signs so they're in a more visible location.

-Alter the centre road markings on the A458 alongside Holcroft Way to provide more space for right-turning vehicles and to make the junction more conspicuous to approaching drivers.

The above measures have been investigated by the applicant's engineer and have been laid out on the supplied drawing number HW-RD-100. Having reviewed the design, we confirm that the measures are acceptable in principle to the local highway authority and we are of the opinion that these will help to reduce speeds and improve safety on the A458 and at the junction with Holcroft Way. The proposed access arrangements off Holcroft Way have been set out in accordance with local and national standards/guidance and we take the view that with the

proposed safety measures the junction between Holcroft Way and the A458 will be suitable for the additional traffic loading from the proposed development.

In transport terms we consider Cross Houses to be a sustainable location due to a small level of local employment, the ease of access offered by the A458 to Shrewsbury, the availability of some local services/amenities and access to a regular bus service between Shrewsbury and Bridgnorth.

Subject to a condition to obligate the provision of the proposed road safety improvement measures, we have no objection to the proposed development.

The proposed changes to the A458 will require an appropriate agreement with the local highway authority to allow the developer to construct them. It should be noted that the proposed vehicle activated signs will attract a commuted sum for future maintenance. Also, we understand the proposed estate roads will be offered up for adoption and therefore an agreement will be required under s38 of the Highways Act 1980 with the local highway authority.

#### 4.1.3 **SC Ecology:**

04.09.14

Great crested newts

Turnstone Ecology have confirmed in the September report that there will be no requirement for a licence from Natural England for the exclusion fencing or the development and have recommended a full suite of Risk Avoidance Measures (RAMs) for GCN to be produced prior to the start of any works. The RAM will also need to include installation and removal of the exclusion fencing. Turnstone Ecology recommend that Pond 1 is cleared out and enhanced for wildlife. These works will be included in the RAMs. Conditions and informative(s) are recommended in addition to those recommended 01 September 2014.

01.09.14

Confirmation should be provided by Turnstone Ecology that a Natural England licence in respect of great crested newts is not required for the development and the proposed exclusion fencing. Full Risk Avoidance Measures should be submitted so that they can be conditioned.

Conditions and informative(s) on other wildlife matters are recommended.

Bats

Further to my previous comments on the need to survey mature trees to be removed, the Location Plan and Proposed Block Plan Rev A show retention of existing mature trees. The hedgerows, stream and trees will offer bat foraging and commuting routes for bats. It is important that these are retained and that lighting is sensitively designed. Turnstone (2014) recommend erection of bat boxes and



bat bricks.

### Badgers

There is an active main badger sett in the immediate vicinity, with details provided in the ecology report, which should be kept confidential for this reason. The June 2014 Ecology report makes detailed recommendations on working methods to avoid any damage or disturbance to the badger sett.

### Reptiles

Turnstone (2014) note that the adjacent disused railway line and on-site pond are suitable for reptiles and make recommendations on working methods to discourage reptiles from using the site. I would presume that the amphibian fencing proposed would also prevent reptiles from entering the site and no additional precautions would be necessary.

### Nesting birds

The two mature trees on the site, together with other vegetation along the disused railway line and pond all have good bird nesting potential.

### Great crested newts

There is one pond (Pond 1) in the south west corner of the development site. Pond 2 is around 40m to the south of the former railway line and a further pond is around 250m to the south. Turnstone (2014) carried out six presence/absence surveys for great crested newts (GCN) on the first two ponds in May and June 2014.

One adult female and one adult male was found in Pond 2. No amphibians were found in Pond 1. No GCN eggs or larvae were found which would have confirmed breeding. Turnstone (2014) recommend precautionary mitigation measures including installation of temporary exclusion fencing for GCN before development and removed on completion of the works.

Confirmation should be provided that Turnstone Ecology are satisfied that there will be no requirement for a licence from Natural England for the exclusion fencing or the development.

The on-site Pond 1 has scope to be improved to encourage amphibians. These would need to take place during the GCN hibernation period (November to February). Hand searches by an ecologist would be needed before ground works around the pond. Turnstone (June 2014) have not recommended a full suite of Risk Avoidance Measures for GCN, which would be necessary in the absence of an EPS licence and fencing completely enclosing the site.

This additional information should be submitted and then appropriate conditions can be recommended.

**4.1.4 SC Trees:**

01.09.14

No objection in principle to the proposals on the grounds of trees as all the mature Oak trees on site are shown as retained in the indicative layout, with root protection areas (RPA) excluded from development. If the trees are to be situated in POS ownership, the responsibility of the trees should be established. A full application will require a Tree Protection Plan and Method Statement if any work such as surfacing or underground services impact on the RPA's.

26.06.14

There are two mature Oak trees on site and a group of trees around the pond. The Design and Access statement states that the two mature Oaks will be retained however only one of the trees is shown - the second tree sited in approximately plot 24 is not shown on the plan. Further details on the trees would need to be submitted if I was to support a full application. A tree survey, arboricultural implication assessment and a tree protection plan in line with BS 5837 2012 is required. The Oak trees should be sited in public open space not in small back gardens which would lead to proximity issues.

- 4.1.5 SC Drainage:** The outline drainage strategy is acceptable. Highway gullies are typically designed to accept flows up to the 5 year rainfall event only, with exceedance flows being generated beyond this return period. A design is required demonstrating that gullies will be able to convey the 100 year plus 30% storm to the piped network. Further to previous comments suggests details, plans and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission is granted.

**4.2 - Public Comments****4.2.1 Cllr Claire Wild – OBJECTS:**

1. The development is in open countryside on best agricultural land. Currently there is wheat growing in the field and last year there was oil seed rape. How is this sustainable use of good agricultural land? In the NPPF it states 'Planners should promote land of lesser environmental and economic value'.
2. The development provides no net gain for the natural environment. This again flies in the face of the NPPF.
3. The proposed housing would encroach on the old railway line which has become a wildlife sanctuary with many rare species making it their home including buzzards. This would have a detrimental impact on the natural environment, the NPPF states that 'Developments should enhance the natural environment'.
4. The local school is full; this would mean that the children of the families would have to travel into Shrewsbury for their education.

5. There is no provision for play facilities within this scheme. The only play facilities are the other side of the A458, an incredibly busy road and there have been no offers from the developer to install a pelican crossing to replace the current zebra crossing which has seen numerous near misses. Not providing site based play facilities within the scheme does not make the scheme sustainable.

6. There is very little local employment with the majority of the current residents travelling by car to work. The existing homes in Holcroft Way and High Cross Avenue includes a high level of shared ownership homes as the wage levels in this area are low. The proposed development only provides for two shared ownership homes. Therefore many local people will be unable to afford these residences and therefore I would argue that this development is not sustainable in terms of the local population and their social and economic needs.

7. The surface water from the proposed development would be collected in part in the dry pond at the top of the site. This is likely to increase the frequent incidents of flash flooding when heavy rainfall occurs. The current properties suffer from having their gardens flooded in heavy rain and due to the soil conditions the previous developer has constructed a large stone filled ditch to attempt to alleviate this problem which unfortunately still occurs on a regular basis. With the amount of hard surfaces being proposed and also water from the houses and garages I would question whether the surface water could be dealt with in an environmentally friendly way.

8. The NPPF states that housing developments must have access to high quality public transport infrastructure. The current bus service (the 436) is not a high quality service and the buses do not allow for disabled access. In addition to this the local bus service is heavily subsidised and has already seen reductions in service. The first bus leaves at 8am and the last bus is at 8pm - Monday to Saturday, there are no buses on a Sunday. In the mornings and evenings the service runs hourly, during the middle of the day it is 2 hourly. It is impossible to get to work if you are a shift worker or you do not work in one of the main settlements via the current service. This bus often does not stop in the morning as it is full by the time it reaches Cross Houses with students travelling to the Sixth Form and Shrewsbury colleges.

9. The junction into the development is inadequate. The junction is approximately 20 metres from a mini roundabout and there are no road markings to indicate a right or left hand turn into the development. This has caused a number of accidents over the recent months. As part of the proposed development improvements need to be made to this junction. In the applicant's traffic statement they suggested there would be 39 traffic movements at peak times, this number would, in effect, create tailbacks and prevent access to the Atcham Road causing even more congestion on or about the junction. However given that the applicant has indicated that the development is likely to include 3, 4 and 5 bedroom homes I would suggest that their traffic plan is underestimated. Living in a rural area such as Cross Houses, with poor quality bus service necessitates households having more than one car. It is not uncommon to see three bedroom homes in Cross Houses with 3 or sometimes 4 cars.

10. The Parish have consistently stated that they wish to stay as 'Open Countryside'. In the previous Local Plan period Cross Houses had 188 new dwellings, a large amount for such a small settlement (400). As with all new developments which take place in or adjacent to an existing development the residents need time to form a cohesive community. The A458 already provides a virtual barrier to community cohesion, one which the Parish has worked very hard to ameliorate; the addition of 39 new dwellings will do nothing to improve this situation.

In conclusion this proposed in development is not sustainable in economic, social or environmental terms. I urge you to refuse this application on the grounds above.

4.2.2 **Berrington Parish Council:** Does not support this application as Berrington is designated as Open Countryside and this is in conflict with that. A public meeting is to be held on Thursday 19<sup>th</sup> June for residents to meet and express their opinions and concerns. Further details of objections to follow after the Public Meeting

Following a Public meeting and further consultations with the residents of Crosshouses the Parish Council has the following objections to add to its earlier comments on this application:

1. The Parish Council is certain that this application flies in the face of the NPPF as there are no provisions being made for the natural environment within the application. The land is also in continual production with Wheat being the crop this year and Oil seed rape last year. This is good quality agricultural land. The Parish Council feels that the Planners should take heed of the NPPF where it says that Planners should promote land of lesser environmental and economic value and that developments should enhance the Natural environment which this application does not. It also takes no account of the natural habitat and sanctuary that the Old Railway line has become with some rare species taking up residence there. This includes a pair of nesting Buzzards.
2. Crosshouses had an increase of 47% development in the last Local Plan with 188 new properties being built which is huge increase for a small community. The residents of the parish have stated at many public meetings attended by Shropshire Council Officers that they wish to remain as Open Countryside and this application clearly goes against those wishes.
3. The public facilities which serve the community are at capacity with the local school being full and the public transport system which would be needed to transport any new children to schools in Shrewsbury is often full by the time it arrives in Crosshouses and does not even stop to pick up passengers. The 436 service is inadequate with no disabled access, this service is heavily subsidised and has been reduced and is at risk of further cuts in the current economic climate. The first bus leaves at 8am and the last bus is at 8pm - Monday to Saturday, there are no buses on a Sunday. In the mornings and evenings the service runs hourly, during the middle of the day it is 2 hourly. This makes it very difficult for those who work shifts or work somewhere that is not directly on the bus route and have no transport of their own.

4. The development has no recreational facilities shown within it and the present play areas within the parish would necessitate the children having to cross the very busy A458. The current pelican crossing would need to be upgraded and there is no offer to do this within the scheme. To make this development sustainable the applicants would need to provide some play facilities.
5. There is little local employment and most have to travel by car to reach their places of work. The wage levels in the area are low and a high level of homes on Holcroft Way and High Cross Avenue are shared ownership; the proposal is for only two affordable homes which will mean that the homes on this development will not be within the reach of local people. So this development does not fulfil the criteria of sustainability for the local population and their social and economic needs.
6. The drainage of the development does raise concerns as the existing drainage systems struggle to deal with increases of rainfall after heavy downpours. The current properties do have flooding in the gardens after heavy rain and this is a regular occurrence despite a large stone filled ditch built to help alleviate the problem. This site has been identified as being at risk of groundwater flooding.
7. The proposed development has large areas of hard surfaces and dealing with the excess rainwater would need to be dealt with in an environmentally friendly manner without compromising the existing system in place for the current residents.
8. Lastly the entrance off the junction causes grave concerns for residents and members alike. The suitability of the existing junction must be questioned with the potential extra vehicles exiting on to the A458 at peak periods when it will become a bottleneck for residents creating tailbacks and be almost impossible to gain access to the A458 to start their journeys to work. The junction is approximately 20 metres from a mini roundabout and there are no road markings to indicate a right or left hand turn into the development. This has caused a number of accidents over the recent months. As part of the proposed development improvements need to be made to this junction.
9. Given that the proposal is likely to have 3,4, and 5 bedroom properties there are likely to be in excess of the traffic movements as suggested by the applicants traffic statement. Many of these properties will have more than one vehicle particularly in a rural area with infrequent bus services as we have in Crosshouses.

In conclusion this proposed development is not sustainable in economic, social or environmental terms. The Parish Council would urge you to refuse this application on the grounds above.

4.2.3 34 letters of objection have been received summarised as follows:

#### **Principal/Policy/Need**

- ☒ Against the wishes of the residents of Cross Houses and the PC.
- ☒ The village has already seen significant development in recent years with an increase in the number of homes from approx. 187 in 1990 to approx. 343 in 2014 including 'The Chestnuts' for example.
- ☒ No need for more housing as housing on 'The Chestnuts' is proving hard to sell
- ☒ No demand for larger 4 and 5 bed housing

#### **Sustainability Criteria**

- ☒ Contrary to the Councils sustainability objectives SO2, 6, 9, 11, 13, 14, 15 and 16.
- ☒ The number of dwellings is too large for a village with limited facilities
- ☒ It will not provide a sufficient quantity of good quality housing, which meets the needs of all sections of society as it only includes a very limited number of affordable/social housing dwellings
- ☒ Cross Houses has very little employment opportunities with the majority of residents required to travel to a place of work daily
- ☒ The only employment opportunities are the 'Shropshire Homes Office'. The Bell Inn and the Post Office.
- ☒ The bus service does not support employment unless you work 9 to 5 in Shrewsbury or Bridgnorth and it is already over crowded on its peak services and sometimes doesn't stop.
- ☒ Cross Houses does not have any schools, doctors or dentists and the shop is a small convenience store so residents will have to travel by car to reach services and facilities including weekly shopping needs
- ☒ It will not reduce Shropshires contribution to climate change with most residents having to travel by car to reach services and employment
- ☒ The only facilities Petrol station, shop, post office, Playing field, Playground, Village hall, school bus stop, Phone box and Post box are all on the opposite side of the main road which is dangerous to cross.
- ☒ There is no enhancement but only detriment to the village
- ☒ The agricultural land is currently used for arable farming which has an

economic value to the farmer and farm workers and its loss increases the rate at which rural communities lose out financially through employment of local people

- ② The 59 construction jobs created will only be for the duration of building works.
- ② The village hall and playgrounds would benefit from CIL funds but there is no specific proposal to engage with the community to facilitate an upgrade of existing facilities.

### **Environment**

- ② On the approach from the South-East it would form an unacceptable intrusion into open countryside and any development would be visually detrimental to the rural surroundings of Cross Houses and visually extend the village on its approach.
- ② The existing farmland is a valuable habitat for wildlife including protected species
- ② The site is opposite an area of Special Landscape Character.
- ② The proposed site is approx. 1,000mts from Berrington Pool which is a Site of Special Scientific Interest and is designated a Ramsar site. It is also within 1,000mts of Venus Pool Nature Reserve and adjacent to a (previously protected) disused railway track which is now overgrown and is home to many species of plants and animals including protected species.
- ② Badgers, bats, newts, owls and other wildlife have been observed and there is no ecological survey work or report available to view by the public
- ② Any building and light pollution on the proposed site would have a dramatic effect on these valuable natural habitats and biodiversity will suffer
- ② The proposal will impact on the air quality in Berrington and result in noise, traffic and light pollution.
- ② The site is prime agricultural land
- ② Brownfield sites should be developed first
- ② The development could impact on the Oak trees on site

### **Highways/Access**

- ② Inadequate parking

- ❑ No pedestrian crossing
- ❑ The existing crossing is ignored and it is not safe to cross the main road
- ❑ No safe cycle and pedestrian route to Shrewsbury
- ❑ The traffic report is not realistic and is misleading in terms of the volume of traffic at the junction with the A458 and the speed of traffic on the A458
- ❑ Additional traffic in Holcroft Way will make it more unsafe for existing residents
- ❑ The junction with Holcroft Way and the main road and the nearby mini roundabout is already hazardous and this proposal will exacerbate this
- ❑ 39 houses will result in increased congestion at this junction

### **Residential amenity**

- ❑ Overlooking and a loss of privacy for existing residents due to properties being on a higher level
- ❑ Noise and disturbance from traffic and development compared to the existing tranquil countryside
- ❑ Loss of an open view and countryside
- ❑ Overshadowing and loss of light

### **Drainage/Flood risk**

- ❑ The development will contribute to flood risk.
- ❑ Water run off from this and adjacent fields has been responsible for the flooding of the A458 and this development will exacerbate this.
- ❑ Existing drainage systems can barely cope and this will exacerbate the situation.
- ❑ The site and neighbouring land is at risk of surface water flooding and flash flooding which will be exacerbated with the increased hard surfaced areas
- ❑ The existing gardens already get waterlogged and as the site slopes toward the existing houses and gardens this situation will be worse if developed.
- ❑ The surface water is proposed to flow towards an existing watercourse and existing pond but this would be uphill.



- ② The existing foul drain sewerage system already has problems and was not designed to take the amount of houses now feeding it.

### **Infrastructure**

- ② The amenities in the village such as schools and roads would not be able to support and accommodate the additional residents.
- ② The nearest primary school is oversubscribed
- ② The bus service cannot cope with demand at busiest times in the morning and is only 2 hourly during the day
- ② It has not been demonstrated that the sewage, telecoms, electricity and water suppliers has sufficient capacity to cater for the development

## **5.0 THE MAIN ISSUES**

Principle of development  
Highways/Access  
Scale, appearance and layout / visual and residential amenity  
Trees, Landscaping and Open Space  
Ecology  
Drainage  
Developer contributions - AHC and CIL

## **6.0 OFFICER APPRAISAL**

### **6.1 Principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy policies the National Planning Policy Framework (NPPF) has been published and also needs to be given weight in the determination of planning applications. Paragraph 12 of the NPPF states that:

*‘Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise’.*

- 6.1.2 Paragraph 14 of the NPPF states that:

*‘At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision-taking this means that where the development plan is absent, silent or relevant policies are out of*

*date, granting permission unless:*

*— any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the]Framework taken as a whole; or*

*— specific policies in [the] Framework indicate development should be restricted.'*

With regards to housing development paragraph 49 of the NPPF states that:

*'Housing applications should be considered in the context of the presumption in favour of sustainable development'.*

and that

*'Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'*

The Council has published a revised 5 year land supply statement alongside the submission of the SAMDev plan which demonstrates that the Council currently has a 5 year land supply. However policies may be considered out of date and of limited weight for other reasons (e.g. age of a saved local plan policy and consequent inconsistency with NPPF policies).

6.1.3 The key issue in determining applications is whether adopted and emerging policies are considered up to date and what weight should be given to these policies balanced against the weight that can be given to other material considerations. The relevant Local Plan for Cross Houses is the SABC Local Plan and the adopted Core Strategy in addition to the SAMDev.

6.1.4 Cross Houses is identified as a HS3 settlement within the SABC Local Plan which identifies that residential development would be acceptable subject to satisfying the following list of criteria:

*(i) that the development lies wholly within the settlement as identified by the development boundaries on the proposals map;*

*(ii) that the development does not detract from the character of the settlement and is of an appropriate scale, design and character sympathetic to the immediate environment;*

*(iii) that the development does not result in the loss of any land in open use that is considered important to the setting and character of the settlement;*

*(iv) that adequate provision can be made for essential utilities;*

*(v) that an adequate and safe means of access exists or can be provided.*

It is considered that the proposal meets with (ii) – (v) of the above and will be

considered later in the report. However the proposed site is outside the development boundary and therefore this proposal would be contrary to this policy and has been advertised as a departure. However adopted local plan policies are at risk of being considered “time expired” due to their age and the time which has lapsed since the end date of the plan. Officers therefore advise that it is appropriate to assess this site within the context of the ‘presumption in favour of sustainable development’. This site is adjacent to a HS3 settlement where it is considered acceptable to support additional residential development and this demonstrates that it is the Councils opinion that Cross Houses is a sustainable location. It is therefore considered that the proposal should be supported provided it is considered to represent sustainable development, that it accords with (i) - (v) above and that there would be no adverse impact of approving it.

- 6.1.5 CS4 of the Core Strategy outlines how villages will be identified as Hubs or Clusters within the SAMDev DPD where additional development will be supported. Cross Houses is not identified as a hub or a cluster within the SAMDev DPD that was submitted for examination at the beginning of August. Paragraph 216 indicates that the ‘weight’ that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. With the submission of SAMDev the Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 year supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as they have not yet been found sound and consistent with the NPPF and there are significant unresolved objections which will not be resolved until the public examination. The Council’s view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone public consultation, where some weight can be attached but, pending examination and adoption, this needs to be considered with care alongside the other material considerations.
- 6.1.6 In this period prior to examination sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. Officers consider that it would be difficult to defend a refusal for a site which is considered to constitute sustainable development unless the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits (as outlined in paragraph 14 of the NPPF).
- 6.1.7 The principle issue for consideration therefore is whether the development is sustainable or not when considered against the NPPF as a whole. The balance of material considerations is still in favour of boosting housing supply in locations that are considered to be sustainable. The key factor in determining this proposal is therefore assessing whether the proposal would represent sustainable development and whether there would be any significant impact or harm as a result of the proposed development that would outweigh the benefits. This will be considered in the paragraphs below.

## 6.2 Sustainable development

- 6.2.1 Policy CS6, amongst a range of considerations, requires 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. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. Policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.
- 6.2.2 Cross Houses is a large village with a range of services including a shop, post office, pub and petrol filling station and a regular bus service to Shrewsbury and a bus service to the primary school in Condover. The facilities in the village can be accessed on foot or by cycle, and Shrewsbury, which is a short car journey away, can also be accessed by public transport. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services and a range of facilities and employment opportunities without over reliance on the private motor car and is certainly more sustainable than many settlements that have been put forward as Hub and Cluster settlements suitable for development.
- 6.2.3 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:
- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
  - *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
  - *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*
- 6.2.4 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development supporting builders and building suppliers. The provision of additional houses will

also support local businesses as future occupiers are likely to access and use local services and facilities in this and neighbouring villages helping them to remain viable. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable for a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

6.2.5 Social role – The proposal will provide up to 39 houses which will help meet the housing shortage in Shropshire. In addition to boosting the supply of open market housing the proposal will provide affordable housing on site at the prevailing rate at the time of the reserved matters application. The current rate of 15% would provide 5 affordable houses on site with an off-site contribution. Villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding area. The NPPF positively encourages the siting of housing in settlements where it will support facilities helping to retain services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. It is recognised that increasing the number of dwellings in a settlement without a proportionate increase in the provision of local services risks impacting upon the social integrity of the settlement. Residents are concerned that the infrastructure is not capable of accommodating the new development and that the nearby primary school is already over subscribed and the bus service is at capacity for example. However infrastructure and education are in part funded by CIL contributions and increased housing numbers and population will help ensure services remain viable and that villages and rural communities remain or become more sustainable. Cross Houses is one of the larger settlements in Shropshire and up to 39 additional houses is not considered to be a disproportionate number that would adversely change the structure and character of the community.

6.2.6 Environmental role – The site is prime agricultural land but has no heritage, cultural or ecological designation. It is considered that the development of this relatively small piece of agricultural land of low ecological value would not be a significant loss that would justify refusal. The proposal would not result in any adverse ecological or environmental implications or loss of trees but would provide some ecological enhancements of the site including tree and hedge planting and better management of the existing pond and its surrounding vegetation (drainage, trees and ecology will be considered more fully later within the report). In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle to local services and facilities and by a short car journey or public transport to the array of services, facilities and employment opportunities in Shrewsbury.

6.2.7 It is therefore considered that the proposed residential development is acceptable in principle and would provide significant benefits having regard to the three dimensions of sustainable development and is in accordance with the NPPFs 'presumption in favour of sustainable development'.

### 6.3 Highways/Access

6.3.1 The vehicular access to the proposed development will be via Holcroft Way that joins the A458 near the roundabout at the Shrewsbury end of the village. Residents have raised concern about the difficulty of accessing the main road at busy times and also highway safety around the existing roundabout and pedestrian crossing due to speeding traffic on the main road. However this proposal will not actually increase the speed of traffic or significantly increase the volume of traffic using the A458 and would therefore not impact on highway safety or make it more difficult to access the highway at this point. The agent has provided a package of measures to help calm traffic and improve highway safety for all road users on the A458. These include repositioning the 30mph sign, two new vehicle activated repeater 30mph signs and alterations to the mini roundabout and approach roads to the mini roundabout and these are considered to be a significant benefit of the proposal. The highways officer has commented that the proposed measures will help to reduce speeds and improve safety on the A458 and at the junction with Holcroft Way. In addition the proposed access arrangements off Holcroft Way have been set out in accordance with local and national standards/guidance and highways take the view that with the proposed safety measures the junction between Holcroft Way and the A458 will be suitable for the additional traffic loading from the proposed development. Some residents have also commented on the impact of traffic from the new houses affecting highway and pedestrian safety on Holcroft Way. However this is an adopted highway and not a private drive or play area and it is not considered that the development would result in a significant increase in traffic or vehicles that would be driving irresponsibly or at speed any different to the traffic already using this road. It is considered that the proposal would not result in a significant increase in traffic using this road and that the proposal would not impact on highway safety at this point. In any case paragraph 32 of the NPPF advises that '*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*'. It is considered that there would be no significant adverse highway impacts of approving this development.

#### 6.4 **Scale, appearance and layout / visual and residential amenity**

6.4.1 This proposal is Outline with all matters other than access reserved for later approval. The indicative layout indicates an estate of predominantly family sized detached houses and semi-detached homes. This is only indicative to illustrate how the site might accommodate the number of dwellings indicated and it is considered that the site could accommodate up to 39 dwellings without appearing cramped or over developed and that would be in keeping with the adjacent housing. However as this application is only outline with siting, scale and appearance reserved for later approval the number (and density) of dwellings is not part of the proposal and would not be fixed by approval of this application. The number of dwellings and the layout could change completely and will be considered fully (along with scale and appearance) at the Reserved Matters stage as will the impact on existing residents and residential amenity. However it is considered that a development of an appropriate scale and design could be achieved that would not significantly and adversely affect the character and appearance of the locality and without any significant adverse impact on residential amenity.

6.4.2 Whilst it is accepted that development of this field behind existing properties will

change the view of open countryside enjoyed by existing residents there is no right to a view. The Public view of the site is already screened from the centre of Cross Houses by the existing development in High Cross Avenue. On approaching the village along the A458 from either the Shrewsbury or Bridgnorth direction the infill of the narrowest part of this field between the disused railway line and the rear of houses in High Cross Avenue will not appear prominent. The proposal would not result in the loss of a protected landscape and it is considered that the proposed site is an appropriate extension of the village up to the boundaries of the disused railway line making efficient use of the narrowest part of this field. Additional tree and hedge planting along the boundaries with the larger field areas either side will provide additional screening and ecological enhancement.



## 6.5 Trees, Landscaping and Open Space

- 6.5.1 There are two mature Oak trees on site and a group of trees around the pond. The revised indicative layout plan indicates that these will be retained. A tree survey, arboricultural assessment and tree protection plan have been submitted and the tree officer has no objection as all trees will be situated in open space with root protection areas (RPA) excluded from development. However the layout is indicative and simply indicates that the site is developable without the loss of existing mature trees. The layout and landscaping, including open space provision, will be determined at the reserved matters stage. For a development of more than 20 houses recreational open space should be provided on site in accordance with the IPG. Although some residents and the PC are concerned that a play area is not being provided the IPG is clear that equipped play areas should be funded by CIL and that additional developer contributions are not required to fund play areas within the recreational open space provided on site. Detailed landscaping and open space provision will be determined at the reserved matters stage and if it is decided that a larger area of recreational open space is required the number of units will be reduced to accommodate this as the number of dwellings is not fixed by this proposal. A revised tree protection plan will also be required to reflect the

layout proposed at the Reserved matters stage but officers consider that the site is developable without the loss of mature trees either within or near the boundaries of the site.

## 6.6 Ecology

6.6.1 Concern has been raised about the ecological implications of the proposal and the impact on protected species and wildlife both on the site and the adjacent disused overgrown railway line and that the proposal does not address this. Some of the concern has been generated due to the original and revised ecology reports not being made public due to the presence of badgers and therefore the public have been unable to appreciate the assessment that has been undertaken. Detailed survey work has been undertaken and an ecological assessment has been provided that assess the impact and also recommends mitigation measures and safe working methods in order to maintain and increase biodiversity of the site and protect adjacent habitat. The Councils Ecologist has no objection to the proposal subject to conditions to ensure that the ecological mitigation and protection measures suggested within the report are adhered to. It is considered that subject to these conditions being imposed the proposal would have no impact on protected species or the adjacent disused railway which will continue to function as a green corridor. Although the proposal will result in the loss of a field this is in agricultural use and therefore of low ecological value compared to the homes and gardens that will replace it and provide a variety of habitat for wildlife. The boundary hedgerow and mature trees within and adjacent the site will be retained and additional tree and hedgerow planting along the new field boundaries and the boundary with the railway line will also provide longer term biodiversity value and enhancement. The condition of the pond is poor and does not currently support breeding amphibians or much other aquatic life and the pond and its surrounds will be enhanced to encourage a greater diversity of plants and wildlife. It is therefore considered that the proposal would have no adverse ecological implications and would actually provide enhancement and improve bio-diversity.

## 6.7 Drainage

6.7.1 Surface water drainage - Many of the concerns raised by residents relate to drainage issues and in particular the run off from the existing field. This situation will be improved as the proposed surface water drainage strategy outlined in the amended highways and drainage report reduces run-off rates to less than green field by the use of oversized drains to hold the water and a hydrobrake that will restrict outfall and release water in a controlled manner to the small watercourse to the West. The Councils drainage officer has approved the surface water drainage strategy and it is considered that the proposal will not result in increased surface water run off from the site any greater than already exists and will likely reduce the risk of flooding of adjacent land and properties as the proposed system will capture and collect water flow at source and direct it in a controlled manner to the water course to the West. A condition will be imposed regarding full details of the proposed surface water drainage being submitted for approval as part of the reserved matters that reflects the actual layout at that stage and to ensure its future maintenance.



6.7.2 Foul drainage – The agent has confirmed that foul drainage will be collected via a new piped system that will discharge to the existing foul water sewer located in Holcroft Way and A458. The proposed site sewers will be offered for adoption to the Local Water Authority under the terms of a Section 104 Agreement of the Water Industry Act 1991.

## 6.8 **Developer contributions - AHC and CIL**

6.8.1 The proposal is outline only but due to the likely number of dwellings affordable housing will be provided on site and the amount will be determined by the target rate at the time of the submission of an application for Reserved matters. This will be secured by a S106 in accordance with CS11 and the Housing SPD. At the current rate of 15% a development of up to 39 houses would include 5 affordable homes on site together with an off-site contribution. The proposal will also be liable for a CIL payment. Some residents have raised concern about the capacity of the local infrastructure (including school places) to support the additional dwellings. However CIL replaces the need to seek additional developer contributions for education, highway improvements or other infrastructure improvements for example and can also be used to target community improvements identified in the LDF Implementation plan and Place plans. Notwithstanding this proposal does include highway improvements that will be secured by S106 and will benefit existing and future residents.

## 7.0 **CONCLUSION**

7.1 The proposed development is considered to represent sustainable development in a sustainable location having regard to the three dimensions of sustainable development and is therefore acceptable in principle. It is not considered that there would be any significant adverse impacts of the proposal that would outweigh the benefits. Layout, scale, appearance and landscaping of the scheme are reserved for later approval but it is considered that an acceptable and appropriately designed scheme could be achieved that would have no significant adverse impact on residential amenity and would not result in significant or demonstrable harm to the character and appearance of the locality. The proposal would not result in the loss of any significant trees, and have no adverse highway or ecological implications subject to conditions being imposed, and landscape details and open space provision will be determined as part of an application for reserved matters. The on-site affordable housing provision and any balance of AHC and the proposed highway improvements will be secured by a S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF.

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, i.e. written representations, hearing or inquiry.

- ☐ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

## 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 1990.

## 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. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy Policies: CS4, CS5, CS6, CS11 and CS17

Saved SABC Policies: HS3

11. Additional Information

List of Background Papers: File 14/02406/OUT
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Member: Cllr Claire Wild
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

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

Reason: The application is an outline application under the provisions of Article 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

4. Full details, plans and calculations of the proposed SuDS including information on the proposed maintenance regime for any sustainable drainage system proposed and details of who will take responsibility, should be submitted for approval as part of the first application for reserved matters. The SuDS shall be implemented as approved prior to the first occupation of the dwellings

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner and to ensure that the drainage system remains in good working order throughout its lifetime.

5. As part of the first application for reserved matters a contoured plan of the finished ground levels should be provided to ensure that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

6. As part of the first application for reserved matters a Construction Method Statement shall be submitted to the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- ' the parking of vehicles of site operatives and visitors
  - ' loading and unloading of plant and materials
  - ' storage of plant and materials used in constructing the development
  - ' the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - ' wheel washing facilities
  - ' measures to control the emission of dust and dirt during construction
  - ' a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. As part of the first application for reserved matters details of the design and construction of any new roads, footways, accesses together with details of the disposal of surface water shall be submitted to the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory access to the site.

8. As part of the reserved matters details of ten bat boxes or bat bricks shall be submitted and shall be erected prior to the first occupation of the dwellings.

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

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

9. No development or earth moving shall take place or material or machinery brought onto the site until Risk Avoidance Measures for great crested newts have been submitted and approved and protective fencing has been erected on site in accordance with the approved Ecological Survey Report by Turnstone Ecology revision 02 report dated September 2014. The approved Risk Avoidance Measures shall be implemented as approved prior to commencement of any work on site.

Reason: To ensure the protection of great crested newts, a European Protected Species

10. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Survey Report by Turnstone Ecology dated August 2014 and as amended date September 2014.

Reason: To ensure the protection of badgers, a protected species.

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

11. The highway safety measures proposed by the applicant on the adjacent A458 as set out on drawing number HW-RD-100 shall be fully implemented in accordance with the agreed design prior to the first occupation of the proposed residential development hereby proposed.

Reason: in the interests of highway safety.

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

12. If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway

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

13. 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.

14. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 - 18:00, Saturday 08:00 - 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

15. No burning shall take place on site including during clearance of the site.

Reason: to protect the amenity of the area and protect the health and wellbeing of local residents.