



Committee and date

South Planning Committee

11 November 2014

Development Management Report

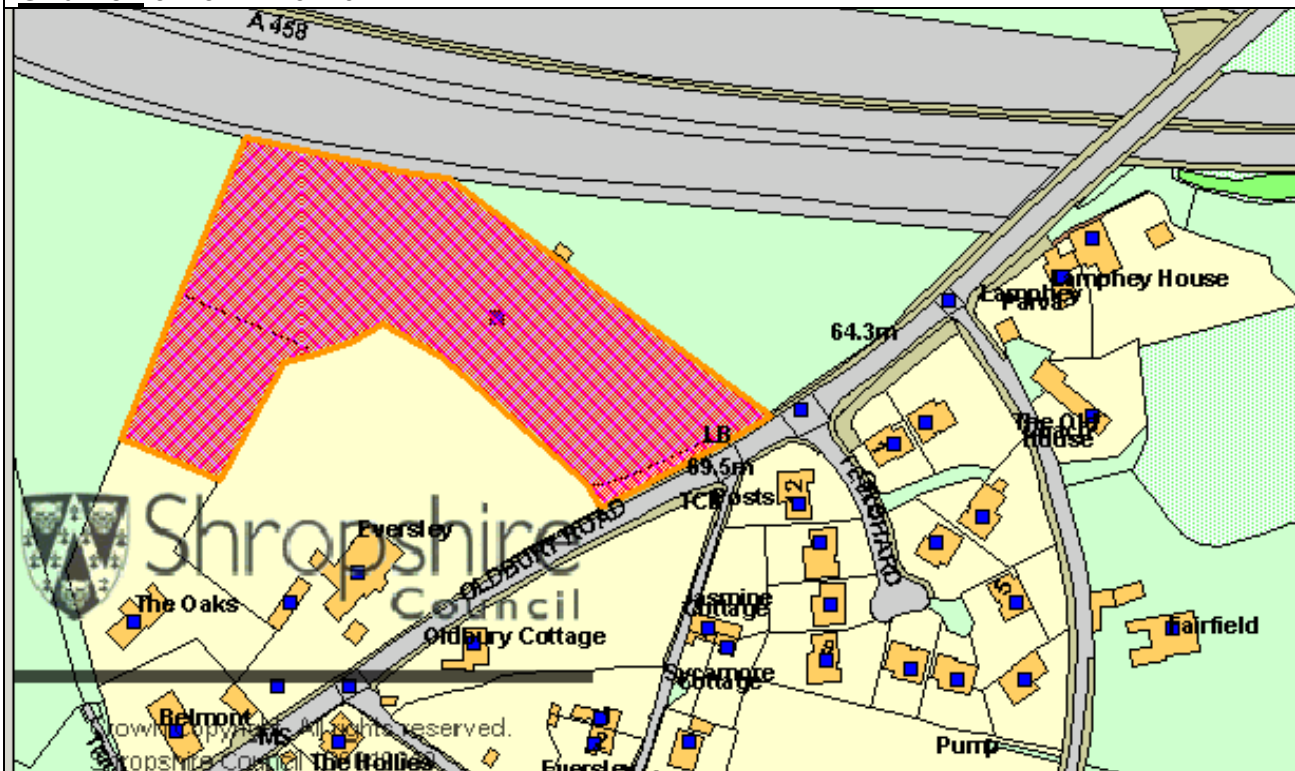
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Summary of Application

Application Number: 14/03768/OUT	Parish:	Bridgnorth Town Council
Proposal: Outline planning permission for residential development to include access		
Site Address: Land South Of A458 Off Oldbury Road Bridgnorth Shropshire		
Applicant: P Woodall & I Bissell		
Case Officer: Jane Raymond	email: planningdmc@shropshire.gov.uk	

Grid Ref: 371317 - 292207



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Recommendation:- Grant Permission as a departure and subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant on site affordable housing provision and/or the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

1.0 THE PROPOSAL

1.1 This application relates to outline consent for residential development of the site to include means of access off Oldbury Road. It is essentially the same as application 14/01016/OUT recommended by officers for approval but refused by members in July of this year. The proposal indicates a single access point off Oldbury Road and the removal of some trees and hedgerow in front of the site (but not the adjoining land) to provide the access and adequate visibility splays. The proposal still reserves landscaping, layout, scale and appearance for later approval but an illustrative site layout plan and street scenes have been provided to support this outline application. However the exact layout of the proposal and the scale and design of the buildings would be a matter for consideration at the reserved matters stage in the event of outline planning permission being granted.

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is approximately 1 hectare of rough grazing land situated to the South of Bridgnorth and on the edge of the village of Oldbury. The site is separated from Bridgnorth by the A458 bypass to the North. The site is 'L' shaped with the southern boundary wrapping around the northern side of the grounds to a property known as 'Eversley'.

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 Town Council has submitted a view contrary to officers and the application has been requested to be referred by the Local Member, and the Committee Chair in consultation with the Principal Planning Officer agrees that the application should be determined by committee.

4.0 Community Representations

4.1 - Consultee Comments

4.1.1 Bridgnorth Town Council – Objects as members felt that this was an inappropriate overdevelopment which would have a detrimental impact on the rural character of Oldbury.

4.1.2 SC Trees

It is considered that the current application to be similar in terms of its potential impact upon existing trees and hedges as the previous application at this site (ref: 14/01016/OUT, refused, pending appeal). The original concerns with that application, regarding the loss of trees and hedgerow to create the visibility splay for the new site access, were eventually addressed, following clarification and revision of the arboricultural report. It is noted that the final version of that report (Sylvan Resources Ltd, 8th May 2014) has been submitted with the current application. This report is acceptable as the size and condition of the trees and hedges in and adjacent the site will not have changed significantly in the intervening period.

On balance it is considered that the impact of the proposed development, given adequate protection to retained trees and hedges during construction and taking account of compensatory new planting, to be within acceptable limits and there is no objection to the proposed development on arboricultural grounds.

The key arboricultural issue, aside from adequate protection of retained trees and hedges during implementation of any approved development, remains the creation of the new access and associated visibility splays. In that respect it is noted that the following trees are to be retained during any works: T26 (4-stemmed yew, 6m high), which is on the south-west side of the proposed access; T38 (larch, 10m high), T39 (pine, 13m high) and T40 (sycamore, 10m high) all of which are to the north-east of the proposed access.

The submitted Planning, Design & Access Statement (The Planning Group Ltd, registered 19/08/14) includes as Appendix B a Shropshire Council Highway Engineer's statement about the visibility splay. This statement concludes that the necessary sightline to the south-west of the proposed access can be achieved by cutting the existing overgrown hedge line back to the back of the footway, without the removal of any third party tree. In addition, it notes that relevant government guidance (Manual for Streets) would require a visibility splay of 2.4 x 43m at this site, rather than the 2.4 x 60m proposed in the application. This would further reduce any hedge loss and it is recommended that the lesser visibility splay be incorporated into revised plans for the application.

The indicative site layout (drawing ORB/PP/04) shows the additional tree planting and hedgerow creation to be carried out behind the line of the visibility splay either side of the new access to the site. This new planting will in time compensate for the removal of any existing trees and hedgerow.

Recommends attaching tree protection and new planting conditions to be dealt with at reserved matters to any approval.

4.1.3 SC Ecology

Badgers - Greenscape Environmental (May 2014) report shows that there is no evidence of a badger sett or activity on the site or near the site. No mitigation is needed for badgers.

Bats - Four buildings were examined by Greenscape Environmental (2014) and no evidence or potential for bat roosts was found. The trees and hedgerows on site are likely to be used for bat foraging and commuting. A condition on lighting is recommended to avoid affecting bat behaviour.

Nesting birds - No evidence of nesting birds were found within the buildings on site however the trees and hedgerows on the site are likely to be used by nesting birds.

4.1.4 SC Highways

Principle of Development - Shropshire Council as Highway Authority has no objection in principle to the residential development at the proposed location. It is considered that the proposed development is located within reasonable close proximity to Bridgnorth Town Centre, with direct access on to the B4363.

Access - The submitted Highway, Drainage and Flood Risk Assessment, makes reference to the required visibility splay, in accordance with Manual for Streets, it is considered that the proposed visibility splays as shown on the submitted Proposed Block Plan (Drawing no. 3907/03) are acceptable in view of the posted speed limit and surrounding conditions. Previous planning application 14/01016/OUT generated concerns with regard to the existing hedge line between the proposed development boundary and Eversley House. Site observations in July 2014 noted that the existing hedge line is currently overgrown and is encroaching on to the existing highway boundary.

Due to the existing hedge line is a difficult to establish the proposed visibility splay and mark it on site. However, based on site observations and the information submitted within the amended tree report and Drawing SR3 – Root Protection, it is considered that the proposed visibility splay of 2.4 metres by 60 metres in a south west direction can be provided without the removal of any tree that falls within third party land to include Tree 24.

Shropshire Council as Highway Authority is in a position whereby notice can be served if they consider it necessary, on any land owner where an overhanging hedge line encroaches on the existing highway boundary. It is considered that if the existing hedge line was cut back to the back of the footway, then a sufficient visibility splay can be provided as per the submitted Block Plan (Drawing no. 3907/03).

In addition to the issues raised above, it is worth noting that whilst the applicant has provided visibility splays in accordance with the average vehicle speeds along Oldbury Road, the Department for Transport document that provides advice with regard to visibility splays, Manual for Streets only requires a visibility splay of 2.4 by 43 metres, which in the event of a planning appeal would be upheld as the required visibility splay, further reducing the need for the removal of hedge line.

4.1.5 SC Conservation

Previous comments were made on a previous outline application on the site. This application now includes an indicative layout and street scene.

As previous comments outlined, the rural nature of this site at the north eastern entrance to the village contributes to the character of the village and the Conservation Area. Any development within or adjacent to the Conservation Area has the potential to impact upon its setting therefore layout, size, design and the use of green space and landscaping will be key to ensure any new development proposals fit within their setting. Development proposals should aim to protect and enhance the Conservation Area.

The indicative layout and street scene show the retention of the existing boundary trees and hedges and the provision of additional planting along the boundaries and within the site. This planting will help to screen the development and help to minimise the impact on the setting of the Conservation Area.

4.1.6 SC Archaeology

No comments to make on this application with respect to archaeological matters.

4.1.7 SC Drainage

The drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

4.1.8 SC Affordable Housing

If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of a full application or a Reserved Matters application. The current prevailing target rate for affordable housing came into force on the 1st September 2013 and in this area is 20%. The assumed tenure of the on-site affordable home would be for affordable rent and would be transferred

to a housing association for allocation from the housing waiting list in accordance with the Council's prevailing Allocation Policy and Scheme. Any additional contribution will be paid as an off-site financial contribution. The size, type and tenure of the affordable home will need to be agreed with the Housing Enabling Team before any further application is submitted.

4.2 - Public Comments

4.2.1 21 letters of objection (including one from the civic society) have been received summarised as follows (full details are available to view on the public file):

- ❑ Negative impact on the Conservation area and semi rural character of the village.
- ❑ Impact on the setting of the adjacent house known as 'Eversley' which is considered to be an outstanding period house.
- ❑ The houses will not be adequately screened from either the road or from the public footpath in the field to the rear.
- ❑ The submitted Heritage Impact Statement is misleading and inaccurate on a number of fronts and therefore cannot be relied upon to form the basis of judgment.
- ❑ The lack of an appraisal of the Conservation Area is no reason to dismiss its value and importance.
- ❑ The houses proposed seem to indicate large executive style homes for which there is no need.
- ❑ Impact on large Oak tree in the garden of Eversley
- ❑ The access requires the removal of mature trees and hedgerow
- ❑ Wildlife habitat will be lost for ever and increased noise and light pollution from such a development will disturb birds and bats beyond the boundaries.
- ❑ The provision of housing in place of the field will provide no scope to protect or enhance the natural environment.
- ❑ The site contains nesting pipistrelle bats, there are badger sets, and it is understood that crested newts are also to be found in the area. There is no consideration as to how these are to be protected.
- ❑ Set a precedent for development of surrounding fields and Oldbury will be subsumed by Bridgnorth.

- ❑ Insufficient infrastructure (school, shopping or leisure facilities for example within Oldbury) to support this level of housing.
- ❑ No public transport to serve the site as the bus stops are half a mile away.
- ❑ The development is not sustainable in terms of employment opportunities, distance from local facilities and the school is over a mile away.
- ❑ Access to local services in Bridgnorth will be by car which is not sustainable
- ❑ This area of Oldbury was rejected from the independent sustainability appraisal conducted as part of the SAMDEV works by the Council
- ❑ Increased level of traffic and impact on highway safety as congestion is already a problem on the road that this road leads to.
- ❑ The proposed entrance to the site is in a dangerous position on a busy road.
- ❑ The footpath indicated on the submitted plan is incorrectly drawn - There is no public footpath diagonally across the field from Oldbury Road; the only public right of way is through the church car park and strictly down the hedge-line to the corner of the field.
- ❑ The proposed houses will need to be screened from the road noise pollution
- ❑ Over 40 members of the public object to this development.
- ❑ The proposal would be contrary to the Bridgnorth Town Plan and is not allocated for housing within SAMDev and is outside the development boundary for Bridgnorth.
- ❑ Shropshire now has a 5 year land supply and additional housing is not necessary or required.
- ❑ The D and A statement repeatedly contradicts this and suggests that the NPPF should prevail.
- ❑ A letter to the local MP from Nick Boles indicates that following the submission of SAMDev for examination '*SAMDev will start to become the over-arching planning document which will determine where and how much development can be expected to take place in Shropshire over the next ten years*'
- ❑ The council would be in breach of its own policies if this application were approved.
- ❑ Nothing of significance has changed in this application since the unanimous rejection of the earlier application from the developers by the Southern Planning Committee.

5.0 THE MAIN ISSUES

Principle of development
Assessment of sustainability
Impact on character of conservation area and landscape/ visual impact
Highways
Others material considerations
- Trees
- Ecology
- Impact on residential amenity
- Drainage

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 the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight.

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'

and that for decision making this means:

'approving development proposals that accord with the development plan without delay; and 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 this Framework taken as a whole'

NPPF Paragraph 49 states 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. This was the position when the previous application was considered and had been the position in Shropshire since September 2013 when the last 5 years' supply statement was published and this meant that on the housing supply point, Shropshire Councils relevant policies were then out of date, and so had less weight as part of the overall consideration. The council published a revised 5 year land supply statement in August 2014 which demonstrates that the Council now has a 5 year land supply.

- 6.1.3 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) therefore simply having a 5 year land supply does not mean full weight can be given to saved housing policies or emerging SAMDev policies (the weight to these policies also being dependent on the extent of unresolved objections and degree of consistency with the NPPF).
- 6.1.4 The SAMDev Plan has been submitted to the Secretary of State for its examination and it is considered to be at an advanced stage of preparation. However, the Plan has not been through the examination stage and there are unresolved objections to elements of it (e.g. sites contributing to the housing supply), so the weight that can be attached has to be considered with care alongside the other material considerations and having regard to the specific circumstances of a particular planning application.
- 6.1.5 There is also a strong likelihood of continuing under delivery against the county-wide Core Strategy target for another few years, meaning that the overall requirement at each update would be higher, even though the number of sites available will be increasing. Consequently, in the balance of considerations the more acceptable sustainable and suitable sites that are permitted the impact of under-delivery is offset to a greater degree.
- 6.1.6 The NPPF aim of boosting significantly the supply of housing is therefore a significant material consideration and “*housing applications should be considered in the context of the presumption in favour of sustainable development*” (NPPF paragraph 49). The fact of having a five year land supply can never be a reason in itself for refusing a planning application; it simply affects what other policy considerations are applied as set out above. The main issues in determining this application are therefore:
- ☐ whether it accords with adopted and emerging plan policy and
 - ☐ whether the proposal would give rise to any adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme in the context of the presumption in favour of sustainable development.
- 6.1.7 Adopted and emerging plan policy - The adopted planning policy for the area is the Bridgnorth District Local Plan (1996 – 2011) but the site is outside the development boundary on the proposals inset map and is therefore classed as countryside. Shropshire Council has an adopted Core Strategy and Bridgnorth is identified as a market town within policy CS3 (Market Towns and Other Key Centres) which outlines that balanced housing and employment development, of an appropriate scale and design that respects each town’s distinctive character and is supported by improvements in infrastructure, will take place within the towns’ development boundaries and on sites allocated for development. CS3 also states that the detailed scale of development in each market town will be determined through the process of preparing the SAMDev DPD. SAMDev has been submitted for

examination since the previous application and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

The SAMDev draft plan indicates a development boundary for Bridgnorth and allocated housing sites and as the proposed site is not included as an allocated site and is outside the suggested development boundary, allowing this proposal would be contrary to the emerging SAMDev DPD. However as outlined above, there still remain unresolved objections to the SAMDev DPD and although the Council can currently demonstrate a 5 year land supply this is also open to challenge and the Council also risks continuing under delivery against the county-wide Core Strategy target for another few years. Therefore the NPPF 'presumption in favour of sustainable development' still prevails and the need to boost the housing supply (a government priority) is still the most significant material consideration when determining planning applications for housing. 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 **Assessment of sustainability**

6.2.1 The site is approximately half a mile from Bridgnorth which has a wealth of facilities, services and employment opportunities as would be expected in any large market town. Bridgnorth is accessible by foot or by cycle and there is a regular bus service including the 125 which provides an hourly service to Stourbridge and Bridgnorth (bus stop adjacent Kings Loade Junction) and the 297 that provides an hourly service to High Town. Some residents consider that it is not realistic to consider that future residents would use the bus service which requires a walk of up to 500m but this is not considered to be an unreasonable distance to access public transport. It is 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 making long journeys and over reliance on the private motor.

6.2.2 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.*

6.2.3 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 will access and use local services and facilities within Bridgnorth. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also be liable to a CIL payment which will help provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

6.2.4 Social role – The proposal will help boost the supply of open market housing and will provide affordable housing at the prevailing rate at the time of the reserved matters application. The provision of additional housing will help support and maintain existing facilities and services and will benefit both the existing and future residents and help meet the needs of present and future generations

6.2.5 Environmental role – The site is agricultural land with no heritage, cultural or ecological designation. The application site has been assessed for its heritage, cultural and ecological value by the Council's Historic Environment, Ecology and Tree officers and these matters are considered in greater detail below. In principle it has been determined that the proposal would have no significant adverse impacts on these values. Officers consider that the impact of the proposal on the landscape and adjacent Conservation area would not be significant and as such would not outweigh the benefits of the proposal. With regards to its ecological value it is often considered that the large landscaped gardens of private dwellings offer greater biodiversity and ecological enhancement compared to open fields. Some trees and hedgerow will be required to be removed at the front of the site (but not on the adjoining land) and will be replaced by new planting. In addition the proposal would

help contribute to a low carbon economy as the site is reasonably accessible on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Bridgnorth and any journeys by private car to access these facilities would be short.

- 6.2.6 The site was not progressed as an allocated site within SAMDev partly because it was considered inappropriate given that better alternative sites were available. However simply because there may be sites that score higher on sustainability grounds does not mean that this site is not a sustainable location for development and that it should be rejected at the planning application stage. Officers consider that the proposed development is sustainable having regard to the three dimensions of sustainable development and that the development of this site outside the proposed development boundary identified within the Draft SAMDev is acceptable in principle to help boost housing supply numbers subject to a satisfactory scale and design, and should be supported provided there are no adverse impacts that would outweigh the benefits.

6.3 Impact on character of conservation area and landscape / visual impact

- 6.3.1 This application is the same as a previous application recommended for approval by officers but refused by members for the following reason:

The proposed development would have a detrimental impact upon the character and appearance of the Oldbury Conservation Area and its setting through the erosion of the rural character of the north eastern approach to the village by built development on this site, and the loss of a visually prominent section of roadside hedgerow and trees. The proposed development would therefore be contrary to Shropshire Core Strategy policies CS6 and CS17 and paragraphs 131, 135 and 138 of the National Planning Policy Framework (NPPF) and these adverse impacts would significantly and demonstrably outweigh the benefits in terms of the site contributing to the supply of housing land in Shropshire

- 6.3.2 The Planning (Listed Buildings and Conservation Areas) Act 1990 defines a Conservation Area as: '*an area of special architectural or historic interest, the character and appearance of which it is desirable to preserve or enhance*' but that the purpose of a conservation area is not to prevent all development but rather to enable its careful management. As part of Conservation Area designation an appraisal is required to demonstrate what factors contribute to the special character of a Conservation Area.
- 6.3.3 A Heritage Impact Assessment has been submitted with the application which confirms that there is no Conservation Area Appraisal for the Oldbury Conservation Area and that there has been no official review of the Conservation Area or its boundary since it was first established in 1981. Since its designation the Conservation area has been significantly altered by the construction of the by-pass and modern developments including the recent suburban 'Fells Orchard' development opposite the application site. Limited weight can therefore be given to

the Conservation status and as no Conservation Area Appraisal has ever been prepared there is no description of the special architectural or historic interest that contributes to the character and appearance of the Conservation Area to assist in the assessment of the impact of the proposal on the Conservation area and its setting.

- 6.3.4 The site is approximately 1 hectare of rough agricultural grazing land situated to the South of Bridgnorth and on the edge of the village of Oldbury within Oldbury Road along its front South East boundary and the A458 Bridgnorth by-pass to the Northern boundary. It is adjacent to the Oldbury Conservation Area, with only a small portion along Oldbury Road lying just within the Conservation Area. Notwithstanding that there has been no appraisal of the factors that contribute to the special character of the Oldbury Conservation Area or its setting the Conservation Officer, at the time of the previous application, considered that the mature trees and hedgerow that run along the boundary with Oldbury Road and the rural nature of the site at the North Eastern entrance to Oldbury contributes to the character of the village and that the loss of this rural character would have some detrimental impact on the appearance of the Conservation Area. Although the proposal would result in the loss of some hedgerow and trees in front of the site (but not the hedgerow and mature trees in front of the adjacent Eversley House as members have been led to believe) the Councils Arboriculturalist has commented that the existing belt of trees and hedgerow within the access and visibility splay are not of any individual or collective merit and that the hedgerow could easily be recreated by suitable replacement planting and enhanced with appropriate standard sized trees. An indicative layout has been submitted that indicates a substantial belt of tree planting behind a front boundary hedge and demonstrates that the proposed dwellings could be set back behind this woodland setting so that the green and rural appearance would be retained and the built development less prominent as only glimpses of the built development would be viewed through the gap.
- 6.3.5 Whilst it is acknowledged that the proposal would result in the loss of part of an agricultural field and the existing mature hedgerow and trees to the front of the site this will be compensated for with additional tree and hedge planting and it is considered that the proposal would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape. The majority of the site frontage is opposite the modern development of 'Fells Orchard' that does not contribute to the character and appearance of this part of Oldbury and the approach from Bridgnorth from the North East has already been altered by the construction of the by-pass and this new development in the vicinity of the site. The view when first approaching Oldbury after crossing the by-pass is an open field with no hedgerow to the front and this view will remain virtually unaltered as the development site is the field beyond this open field and is screened by existing hedgerow and trees along the boundary which are to be retained. The site itself would therefore not be readily viewable from the road on the North East approach from Bridgnorth and when travelling in the opposite direction the site is screened from view by Eversley House and its surrounds. The hedgerow and trees to the front of Eversley house are not required to be felled to provide the required visibility splays but require trimming to the footpath and only a minimal length of hedgerow

and trees are required to be removed at the front of the site.

- 6.3.6 Officers consider that the loss of an agricultural field and a short length of hedgerow and trees to be substantially replanted but set further back from the highway would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the benefits of this proposal. Furthermore in the absence of a Conservation Area appraisal when it was designated in 1981 and with no subsequent review since its designation little weight can be given to the Conservation area status. In view of the recent developments near to the site and the appraisal of the impact of the proposal given above it would be difficult to support the view previously agreed by members that *'the proposed development would have a detrimental impact upon the character and appearance of the Oldbury Conservation Area and its setting through the erosion of the rural character of the north eastern approach to the village by built development on this site, and the loss of a visually prominent section of roadside hedgerow and trees.*
- 6.3.7 Officers consider that an appropriately designed and landscaped scheme could be achieved (to be considered at the Reserved Matters stage) that would reflect the local vernacular in terms of scale, details and materials and provide an attractive and interesting frontage to Oldbury Road that would compliment and make a positive contribution to the existing street scene and would therefore not be in conflict with paragraph 131 of the NPPF. It is not considered that the loss of this field, the removal of a small section of roadside hedgerow and trees to be replaced by seven houses in landscaped gardens set back behind replacement trees and hedgerow would have a significant adverse impact on the character and appearance of the landscape and the setting of the adjacent conservation area. It is therefore also considered that the proposal would not be contrary to paragraphs 138 of the NPPF referred to by members in their reason for refusal as it would not result in substantial or less than substantial harm to an element which makes a positive contribution to the significance of the Conservation Area.

6.4 Highways

- 6.4.1 The application is outline only but includes means of access. Highways have no objection to the proposed access and consider that the proposed visibility splays indicated on the submitted plan are acceptable and that the proposed visibility splay of 2.4 metres by 60 metres in a south west direction can be provided without the removal of any tree that falls within third party land to include Tree 24 in the hedgerow in front of Eversley House. This hedgerow and tree is not required to be removed but merely trimmed back to the back of the highway. Furthermore the visibility splay indicated is greater than that required for the posted speed limit and takes account of the average speeds which are in excess of the speed limit. The planning conditions suggested regarding full details being submitted for approval and the sight lines being kept free of any obstruction can be imposed. Subject to these conditions it is considered that the proposal would not result in any adverse highway safety implications.

6.5 Other considerations and impacts

6.5.1 **Trees** – The Councils Arboricultuarlist confirms that there are several boundary hedgerows and trees, some of which are protected under a Tree Preservation Order and some by virtue of being located within a conservation area. At the time of the previous application there was some confusion as to which trees or hedges would be required to be removed to enable adequate visibility spays to be provided for the proposed new access onto Oldbury Road. The submitted tree report clarifies that only those to the front of the site and not those in front of Eversley House are required to be removed. Although the proposal would result in the loss of some of the roadside hedge and trees the Councils Arboriculturalist considers that the existing belt of trees and hedgerow that are required to be removed are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds and considers that on balance the impact of the proposed development, given adequate protection to retained trees and hedges during construction and taking account of compensatory new planting, to be within acceptable limits. The tree report also includes details of the proposed method of removal and the Councils Arboricultuarlist has confirmed that this would not damage adjacent protected and other trees to be retained. He also considers that in time the hedgerow could be relatively easily recreated by suitable replacement planting and enhanced with appropriate standard sized trees. Replacement hedge and tree planting and full tree protection measures will be secured at the Reserved Matters stage.

6. **Ecology** – A Phase 1 Environmental Survey by Greenscape Environment has been submitted with the application. This confirms that there is no evidence of protected species on the site such as badgers, bats or newts and that the site is considered to be of low ecological value with no BAP species present. The surrounding trees and hedgerows on site are however likely to be used for bat foraging and commuting, and by nesting birds and the conditions and informatives suggested by the Ecologist can be imposed. The proposal will therefore not cause an offence under the Conservation of Habitats and Species Regulations. In addition in terms of the ecological value of the site and residents concern about the impact of the proposal on wildlife the field itself is of low ecological value and the proposed landscaped residential gardens and the boundary hedge rows and trees to be retained and enhanced by the additional woodland planting will improve the bio-diversity and ecological value of the site.

6 **Impact on residential amenity** – Core strategy Policy CS6 (Sustainable Design and Development Principles) indicates that development should safeguard residential amenity. The nearest property to the site boundary is number 12 'Fells Orchard' to the South East and on the opposite side of Oldbury Road. The only property that shares a boundary with the site is 'Eversley' to the South West. Due to the distance from these and other properties it is unlikely that the proposal would have any adverse impact and this will be fully considered at the Reserved Matters stage.

6.5.4 **Drainage** – The submitted drainage report and FRA indicates that the site is not at risk of flooding and that surface water can be dealt with via soakaways and foul drainage to the Public Sewer or a foul treatment plant could be considered with discharge to soakaway. The Councils drainage engineer has no objection to the proposal and has commented that the detailed drainage proposals can be submitted at the reserved Matters stage and conditions and informatives can be imposed regarding this.

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 in the context of the guidance set out in the National Planning Policy Framework. In order to refuse the application there would need to be serious demonstrable harm that would outweigh the benefit of boosting the housing supply. Whilst it is acknowledged that the proposal would result in the loss of an agricultural field and the semi-rural nature of the edge of Oldbury it is considered that this would not result in significant demonstrable harm to the character and appearance of the Conservation area and wider landscape that would outweigh the benefits. Full details of the layout, scale, appearance and landscaping of the scheme are reserved for later approval and it is considered that an appropriately designed scheme that would reflect the local vernacular in terms of scale, design, details and materials could be achieved that would provide an attractive and interesting frontage to Oldbury Road that would compliment the existing street scene. The proposal would have no adverse highway or ecological implications subject to the imposition of the recommended conditions. Although the proposal would result in the loss of some of the roadside hedge the Councils Arboriculturalist considers that the existing belt of trees and hedgerow are not of sufficient individual or collective merit as to warrant objection to the application on arboricultural grounds and that the proposed method of removal would not damage adjacent protected and other retained trees. Replacement planting and full tree protection measures will be secured at the Reserved Matters stage. Any open space provision and on site affordable housing will also be decided at the reserved matters stage and will be secured by a S106 agreement. It is considered that the proposal accords with Shropshire LDF policies CS6, CS11, and CS17 and the aims and provisions of the NPPF and it is recommended that members support this application and grant planning permission in line with clear guidance within 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:
National Planning Policy Framework
National Planning Practice Guidance

Shropshire Core Strategy and saved Bridgnorth District Local Plan policies:

CS3 The Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
D6 Access and Parking
S1 Development Boundaries

SPD on the Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

14/01016/OUT Outline application (access for approval) for mixed residential development REFUSE 24th July 2014

Appeal

14/02142/REF Outline application (access for approval) for mixed residential development INPROG

<p>List of Background Papers: File 14/03768/OUT Planning Statement/Design and Access Statement Highways, Drainage and Flood Risk Assessment Ecology Reports Tree Reports</p>
<p>Cabinet Member (Portfolio Holder): Cllr M. Price</p>
<p>Local Member: Cllr John Hurst-Knight and Cllr Les Winwood</p>
<p>Appendices APPENDIX 1 - Conditions</p>

APPENDIX 1**Conditions****STANDARD CONDITION(S)**

1. Approval of the details of the siting, design and external appearance of the development 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 4 of the Development Management Procedure Order 2010 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 calculations and location of the percolation tests and the proposed soakaways and information on the proposed 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. On the Pluvial Flood Map, the site is at risk of surface water flooding. As part of the first application for Reserved matters full details on how the surface water runoff will be managed and how the flow of the flood water will be routed away from properties and will not cause flooding of any property either within the proposed development or any other in the vicinity and to ensure that the finished floor levels are set above any known flood level, shall be submitted to and approved by the Local Planning Authority. If non permeable surfacing is used on the new access road, driveway and parking areas and/or the access road slopes toward the highway, full details of a drainage system to intercept water prior to flowing on to the public highway shall be included as part of this submission. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To minimise the risk of surface water flooding and to ensure that no surface water runoff from the new roads and driveway runs onto the highway.

6. As part of the first application for Reserved Matters a landscape plan shall be submitted to the written satisfaction of the LPA, providing details of the species, location, size, planting pattern, means of protection and support and early-years maintenance for those trees, hedges and shrubs to be planted in association with the development.

Reason: to enhance the appearance of the development and its setting within the area.

7. As part of the first application for Reserved matters and prior to commencement of any works on site, a tree protection plan (TPP) and arboricultural method statement (AMS) shall be submitted to the written satisfaction of the LPA. The TPP shall be based on a topographical site layout and identify those trees and hedges to be retained and those to be removed, and their root protection areas. It shall also show the specification and location of the tree protection measures to be used to protect retained trees and hedges within and adjacent the site during the development. The AMS shall describe any necessary pre-commencement tree works and how any works within or that could affect the root protection area of retained trees and hedges within and adjacent the site are to be designed and implemented so as to avoid causing damage to those trees and hedges. The TPP and AMS shall be prepared by a competent arborist, in accordance with British Standard 5837: 2012 - Trees in Relation to Design, Demolition and Construction.

Reason: to protect significant trees and hedges which contribute to the character of the site from damage or harm during implementation of the development.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

8. The approved tree protection measures shall be installed to the written satisfaction of the LPA, following completion of the approved tree works, prior to commencement of development. Thereafter they shall be maintained in a satisfactory condition throughout the development. They shall not be moved or removed, even temporarily, without the prior written consent of the LPA. The area within the tree protective barrier is to be treated as a construction exclusion zone, within which there shall be no storage or construction activities. The development shall be carried out strictly in accordance with the approved Tree Protection Plan and Arboricultural Method Statement.

Reason: to protect significant trees and hedges which contribute to the character of the site from damage or harm during implementation of the development.

9. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced.

Reason: To ensure a satisfactory means of access to the highway.

10. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. 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.

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

11. The approved landscape plan shall be implemented in full during the first planting season (November - February inclusive) following completion of development. Any tree, hedgerow transplant or shrub, or replacement tree, hedgerow transplant or shrub, which within a period of three years from planting becomes seriously diseased, dies or is otherwise lost, shall be replaced by another of similar type and specification, to the written satisfaction of the LPA.

Reason: to ensure satisfactory planting and contribute towards long-term continuity of tree cover in the area.

12. Prior to the first occupation of the dwellings details of two woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/building.

Reason: To ensure the provision of nesting opportunities for wild birds

13. Prior to the erection of any external lighting over 150W 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.

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

14. Notwithstanding the provisions of the Town and Country General Development Order 1995 (or any order revoking or re-enacting that order with or without modification),

fences or other means of enclosure at the road junction shall be set back to the sight lines shown on the approved plan and those areas shall thereafter be kept free of any obstruction at all times.

Reason: In the interest of highway safety.

15. Construction works shall not take place outside the following times:

- Monday to Friday 07:30hrs to 18.00hrs
- Saturday 08:00hrs to 13.00hrs
- Not at any time on Sundays, bank or public holidays.

Reason: In the interest of amenity of the occupants of surrounding residential properties