

APPENDIX 2



<u>Committee and date</u>
South Planning Committee
1 April 2014

<u>Item</u>
Public

Development Management Report

Responsible Officer: Tim Rogers
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Summary of Application

Application Number: 12/02334/OUT	Parish:	Highley
Proposal: Outline application for residential development with all matters reserved		
Site Address: Land At Rhea Hall Rhea Hall Estate Highley Shropshire		
Applicant: Shropshire Council		
Case Officer: Richard Fortune	email: planningdmse@shropshire.gov.uk	

Grid Ref: 374088 - 283879



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Recommendation:- Grant Permission subject to Section 106 Agreement relating to affordable housing and the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 The application relates to some 0.8 hectares of land which is allocated for residential development by saved Bridgnorth District Local Plan policy HIG 1. The allocation of this land for residential development, with an approximate capacity for 30 units, has been carried forward in the Shropshire Council SAMDev Plan at all stages of its production so far.
- 1.2 The application which has been submitted is solely for outline planning permission with all matters (layout, scale, appearance, access and landscaping) reserved for later approval. The Design and Access Statement submitted explains that the land is owned by Shropshire Council at the time the application was lodged in 2012. (It is now owned by the Council's HRA (Housing Revenue Account)). The site would be for Shropshire Towns and Rural Housing to progress with either the development or disposal. The proposal has to be considered therefore as one for general (open market) housing with the option for the amount of affordable housing to exceed the minimum prevailing rate for affordable housing that would be in force at the time of any reserved matters submission, should outline consent be given.
- 1.3 Two illustrative site layouts have been submitted with the application, both with vehicular access from the southern site boundary, off Rhea Hall Estate, and retaining the hedge and bank adjoining Vicarage Lane, in accordance with the notes to site allocation HIG1. The first scheme shows a straight cul-de-sac, terminating in a shared surface square which would provide a vehicle turning facility. Off the eastern side of this road a row of bungalows is shown, with two storey housing along the western side. Around the western and northern sides of the turning area would be a combination of bungalows, dwellings and two storey flats: It would provide a total of 22 dwelling units with two parking spaces per dwelling. Trees and hedges would be retained along the western site boundary and adjacent to The Stone Manor which is adjacent to the northern portion of the eastern site boundary, along with a section of the hedgerow which currently divides the site. The second layout, for 21 units shows a shorter cul-de-sac contained within the southern field, again with bungalows on the eastern side and two storey dwellings on the western side. A private drive would then lead through a gap in the hedge separating the two fields to serve a parking court, along the northern side of which would be bungalows and houses. Trees and hedgerow would be retained along the western site boundary and adjacent to The Stone Manor..

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is situated within the Highley Development boundary shown in the Bridgnorth District Local Plan. It is currently subdivided into two fields by a hedgerow. The northern field contains a number of self set trees, with the southern field having dense cover of undergrowth. There are some substantial trees and hedges to the western and northern site boundaries. There is a gentle fall across

the site in an easterly direction. The site is bounded by the rear gardens of dwellings off Bridgnorth Road to the west, Vicarage lane to the north, a dwelling accessed off Vicarage Lane and the bungalows off Park View to the east and the Rhea Hall housing to the south.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The application is one made by the Council in relation to land owned by the Council which is not in line with statutory functions. The application must therefore determined by Committee.

4.0 Community Representations

-Consultee Comments

Where consultees have made several comments, the latest comment is listed first below to demonstrate where concerns have been addressed through negotiations.

- 4.1 Highley Parish Council – comment that vehicular access to the site should not be off Vicarage Lane as per SamDev. Access via Rhea Hall is unsuitable due to narrow roads and vehicle parking.
- 4.2 SC Highways Development Control – No Objection:
The existing highway infrastructure in the area is adequate to cater for a small residential development with minimal disruption though there may be some conflict with the numbers of parked vehicles on the roads and it may be necessary to consider the introduction of Traffic Regulation Orders to reduce this. Consideration should be given to the provision of a pedestrian only access onto Vicarage Lane; on no account should vehicular access to this lane be permitted.

Concerns have been raised with regard to the level of parking along Coronation Street, and the Rhea Hall Estate and emergency access to the proposed development and surrounding properties. It is acknowledged that a number of vehicles park on the Highway network within the vicinity of the site due to the restricted amount off street parking.

It is recommended that further consideration is given to introducing Traffic Regulation Orders, within the vicinity of the site to formalise parking and improve safety. The introduction of any Traffic Regulation Orders within the vicinity of the site would be subject to Statutory Consultation and introduced in consultation with the local community. It is recommended that a Highway Contribution is sought to cover the cost of introducing any Traffic Regulation Order, and associated works to improve safety within the vicinity of the site.

- 4.3 SC Ecology (03-01-14) – No Objection:
I recommend that retention of the woodland area on the site and the two trees with bat potential is secured through a condition on the outline planning consent. One hedgerow across the centre of the site will require removal. To ensure no net loss of hedgerow, an equivalent length of native species hedgerow should be required to be planted.

Condition

1. The first submission of reserved matters shall include a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:
 - a) Planting plans, including wildlife habitat and features (e.g. hibernacula)
 - b) Written specifications (including cultivation and other operations associated with plant, grass and wildlife habitat establishment)
 - c) Schedules of plants, noting species (including scientific names), planting sizes and proposed numbers/densities where appropriate
Native species used to be of local provenance (Shropshire or surrounding counties)
 - g) Details of trees and hedgerows to be retained, which shall include all mature trees on the northern and western site boundaries, and measures to protect these from damage during and after construction works
 - h) Implementation timetables

Reason: To ensure the provision of amenity and biodiversity afforded by appropriate landscape design.

Slow Worm

The Reptile Mitigation Strategy and Precautionary Method Statement submitted December 2013 sets out that the Severn Valley Country Park is a suitable receptor site for the slow worms to be translocated from the application site and the approach to be adopted. The following condition is recommended to require compliance with this strategy/statement.

Condition

2. The first submission of reserved matters shall include submission of a scheme of mitigation for slow worms which complies with the REPTILE MITIGATION STRATEGY AND PRECAUTIONARY METHOD STATEMENT dated December 2013 attached as an appendix to this planning permission, unless otherwise agreed in writing by the Local Planning Authority and these works shall be carried out as approved.

Reason: To ensure the protection of slow worm, protected under the Wildlife and Countryside Act 1981 (as amended)

Bats

The retention of the two trees with bat potential should be secured by condition as recommended above. If their removal is proposed then trees should be assessed in line with The Bat Conservation Trust's *Bat Surveys – Good Practice Guidelines* by a licensed bat ecologist and if deemed necessary activity surveys should be undertaken.

A scheme of bat box provision suitable for common native bat species should be put together for the site with the guidance of an experienced ecologist.

Condition

3. Bat boxes and building features suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the buildings hereby permitted, in locations and to details agreed with the local planning authority. All boxes must be permanently retained.

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

Informative

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

Nesting Wild Birds

The site has nesting wild birds present according to the Protected Species Survey by EcoTech (2010). A scheme of artificial nest box provision for the site should be put together with the guidance of an experienced ecologist at the reserved matters/full planning application stage.

Condition

4. Prior to the first occupation of the buildings hereby approved details for the provision of nesting opportunities for small birds 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

Informative

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

Badgers

Although the 2010 ecological survey found no signs of badgers on the site, the dense scrub in places means it is important that the site is checked prior to work commencing in case the species has moved in.

Condition

5. The site must be subject to a further inspection for badger setts by an experienced ecologist immediately prior to the commencement of works on the site.

Reason: Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

SC Ecology (10-10-13) Comment: A reptile mitigation strategy and precautionary method statement should be submitted with this outline application.

The additional information from EcoTech clarifies that the two priority habitat types present on the site are Broadleaved semi-natural woodland and hedgerow. The Protected Species Survey by EcoTech (2010) states that these priority habitats should be incorporated into the site design and maintained where possible. I recommend that retention of the woodland area on the site and the two trees with bat potential is secured through a condition on the outline planning consent.

One hedgerow across the centre of the site will require removal. To ensure no net loss of hedgerow, an equivalent length of native species hedgerow should be required to be planted.

Conditions

A condition should ensure that the existing woodland on the site shall be retained, in order to preserve biodiversity at the site.

Slow Worm

Slow Worm is present within the site according to the Protected Species Survey by EcoTech (2010). EcoTech (2010) recommend that either suitable habitat is maintained on the site for slow worm or that a translocation program be undertaken to clear the site of slow worm prior to the development occurring.

At the meeting on the 7th October 2013 it was agreed that retention of sufficient and suitable habitat for slow worms on the site is not a viable option for the site. A small number of slow worms have been found at the site but a full slow worm survey and population class estimate has not been carried. Such surveys are not recommended between November and February and best undertaken between April and June or in September. Ecotech are of the opinion that as slow worms have been shown to be present and the extent of their possible habitat known, a translocation can be proposed and made a condition and other restriction on the

outline planning permission. A population class estimate is not included in the Protected Species Survey by EcoTech (2010) and this information should be provided before details of the translocation can be approved. This can be required at the reserved matters/full planning application stage.

A reptile mitigation strategy and precautionary method statement should be submitted with this outline application. The following matters should be included:

- ☐ That a reptile survey should be carried out of the application site by an experienced ecologist using the methods set out in the Herpetofauna Workers' Manual (JNCC 2003) at the reserved matters/full planning application stage.
- ☐ Identification of a receptor site, ideally not currently have a slow worm population but capable of improvement to provide slow worm habitat, and demonstrate that it is under the long term control of the applicant.
- ☐ The receptor site should be subject to a written, agreed and funding pre and post-translocation management agreement and monitoring programme.
- ☐ The slow worm habitat will need to be created and ready for occupation prior to the translocation taking place.
- ☐ The proposed methodology for translocation including timescale, capture methods etc.

SC Ecology (31-07-12): Additional information required relating to priority habitats and slow worms. In the absence of this additional information recommend refusal since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

4.4 SC Trees – No Objection:

Mature trees and established hedgerows should be considered and respected during site layout and design. To this end I would recommend attaching the following reserved matters conditions to any approval:

Prior to the commencement of any development related activity on site, a tree survey and arboricultural implications assessment shall be submitted to the written satisfaction of the Local Planning Authority (LPA), in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. The survey shall accurately plot and identify all trees and hedges on and adjacent the site, evaluating their condition and suitability for retention. A Tree Protection Plan shall be submitted to the written satisfaction of the LPA, detailing those trees and hedges to be removed and those retained, along with their root protection areas and the measures to be taken for their protection. An Arboricultural Method Statement shall be submitted to the written satisfaction of the LPA, for any development works that could affect retained trees and hedges and their root protection areas, as defined on the tree protection plan.

Reason: To protect during development trees and hedges that make a contribution to the character of the scheme and the neighbourhood.

Tree and hedge protection measures shall be erected or installed to the written satisfaction of the LPA, prior to commencement of any development related activity on site, as detailed within the Tree Protection Plan.

Reason: To protect from damage during development trees and hedges that make a contribution to the character of the scheme and the neighbourhood.

4.5 SC Rights of Way - Comment:

Footpath 16-1 is partly contained within the curtilage of the development site as shown on the block plan, heading in a SSE from GR 740-839 to GR 740-838 to turn NE to meet Rhea Hall Estate at GR 741-838.

With regard to the development itself, please ensure that the applicant adheres to the criteria stated below:

The design and access statement states: The Public Right of Way FP16 will be retained without the need for diversion within any development scheme. If the developer decides to fence off the path while development is taking place, the Outdoor Recreation Team would ask that a width of approximately 2.5 metres be allowed as this is the width indicated for the path on the GIS mapping system, The alignment of the right of way must not be altered. The surface of the right of way must not be altered without prior consultation with this office; nor must it be damaged. No additional barriers such as gates or stiles may be added to any part of the right of way without authorisation as mentioned above.

If it is not possible to maintain public access along the footpath at all times while building works take place, the applicant should apply to the Outdoor Recreation Team for a temporary closure of the path. (Fees apply)

4.6 SC Public Protection – No Objection:

I have reviewed the Phase I Desk Study submitted in support of this outline planning application and the report has not identified any potential contaminated land issues that would impact on the proposed development. Accordingly, Specialist Pollution do not have any comments to make in respect of this planning application.

4.7 SC Drainage – No Objection:

No details of the proposed surface and foul water drainage have been supplied. Full details of the proposed surface water drainage should be submitted for approval. This should illustrate how the development will comply with PPS25, Environment Agency Standing Advice for the particular flood zone / site area and Shropshire Councils Interim Guidance for Developer, and how SUDs will be incorporated into the scheme. As part of the SuDS, the applicant should consider employing measures such as the following:

Surface water soakaways (Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure.)

Infiltration basins
 Attenuation ponds
 Water Butts
 Rainwater harvesting system
 Permeable paving on any new driveway/paved area
 Attenuation
 Greywater recycling system
 Green roofs

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner. This will also serve to minimise flood risk as a result of the development.

4.8 Shropshire Fire and Rescue – Comment on the access requirements for emergency fire vehicles; water supplies for fire fighting and the benefits for sprinkler systems.

4.9 -Public Comments

14 Objections:

-2 storey buildings would affect light.

-Seek single storey properties by existing bungalows, which have very small back gardens.

-Development should be single storey only.

-Rhea Hall Estate houses have no driveways, leading to cars parking on road and being barely passable by 2 way traffic.

-Access difficult for emergency vehicles.

-Increased traffic dangerous for old people and children; will lead to accidents.

-Access not suitable for more traffic.

-Access on hairpin bend a danger.

-Would become a very congested area.

-Access should come from Vicarage Lane.

-Parish Plan states that large housing developments are not wanted in Highley; no more than 50 houses should be built between now and 2026.

-Only housing which should be built on this land is for elderly people from Highley which would then free up properties for younger members of the community.

-Village infrastructure unable to cope.

-Foul drains at this end of Rhea Hall get blocked when there is heavy rain, due to road gullies going to foul drains, causing smells.

-Harm peace and quiet, but no objections if the development is for the elderly.

-Noise and pollution from extra traffic.

-Harm neighbour amenity; overshadowing.

-More litter.

-Loss of property values.

-Loss of privacy.

- Impact upon several mature trees and wildlife.
- Slow worms found on site.
- Harm view of village from Severn Valley Country Park.

- Query proximity of electricity sub station to proposal.

- Site includes the well used footpath between Rhea Hall estate and Vicarage Lane.

5.0 THE MAIN ISSUES

Principle of development
Ecology
Visual impact and character
Residential Amenity
Highway safety
Drainage
Affordable Housing
Open Space
Contamination

6.0 OFFICER APPRAISAL

6.1 Principle of development

- 6.1.1 Highley is identified by Shropshire Core Strategy policy CS3 as a key centre where there is no in principle planning policy objection to residential development on suitable sites within the development boundary of that settlement. Saved Bridgnorth District Local Plan policy H3 also identifies Highley as a settlement appropriate for house building. The application site is an allocated housing site in the Bridgnorth District Local Plan, reference policy HIG1, which is a policy allocation that remains in place following the adoption of the Shropshire Core Strategy. It is part of the Development Plan which has been through a full public consultation process and examination in public before adoption, and the housing allocation is binding on Shropshire Council.
- 6.1.2 The Council currently cannot at this time demonstrate that it has a 5 year supply of housing land as required by the National Planning Policy Framework (NPPF). This means that the Council's housing policies cannot be considered up to date and the NPPF states that in such circumstances a Local Planning Authority should grant planning permission for housing developments unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or unless specific policies in this Framework indicate development should be restricted." In this particular case the site has already been included within the Council's 5 year housing supply figures, due to it being an allocated housing site in the Bridgnorth District Local Plan. The principle of the proposed development is therefore acceptable.

6.2 Ecology

6.2.1 Core Strategy policies CS6 and CS17 seek to ensure that developments do not have an adverse impact upon ecology. An Protected Species Survey was submitted with the application. This assessment identified that slow worms were present on the site. The Council's Planning Ecologist requested that further information be gathered on the likely size of the slow worm population, about the possibility of retaining suitable habitat on site and, if translocation is proposed, details of that site and how the developer would find, survey, secure and manage the slow worm translocation site. Further information on the possible site layout in relation to the current habitats on the land and in relation to badgers was also sought. The production of this additional ecological information has been the reason for the long delay in bringing this application before the South Planning Committee. A Reptile Mitigation Strategy and Precautionary Method Statement has now been provided. This document explains that a receptor site for slow worms has been identified at the nearby Severn Valley Country Park. The Strategy explains:

"It is understood that the Country Park area does already have a slow worm population but it can be confirmed that an additional area is capable of improvement to provide a further enhanced slow worm habitat. The land is under the ownership and long term control of Shropshire Council, as the applicant

Alternative receptor sites may be considered prior to commencement of any development, but such revisions to the Mitigation Strategy would need to fully satisfy the Local Planning Authority in line with an agreed statement and translocation plan of proposals and timings for the mitigation strategy

- ☐ The receptor site will be subject to a written, agreed and funding pre and post-translocation management agreement and monitoring programme in line with the approval of reserved matters and its associated conditions.
- ☐ The slow worm habitat will be created and ready for occupation prior to the translocation taking place.
- ☐ Full details of the proposed methodology for translocation including timescale and capture methods will be submitted to and approved by the Local Planning Authority prior to commencement of any works
- ☐ Given the suitable habitat at the Rhea Hall site amounts only to some 0.3ha (approx. 55x55m), it is considered that more than an equivalent area can be created or enhanced in the nearby extensive Severn Valley Country Park. Verbal confirmation has been obtained from the site manager that a) slow worms are already present in several areas and b) that there is scope for this extent of creation/enhancement."

The Council's Planning Ecologist has now raised no objection to the proposed development, recommending that the layout of the development retains some of the woodland area on site; retention if possible of two trees with bat potential and the planting of native species hedgerow to replace any equivalent lengths removed during the course of development. She recommends conditions requiring the development to be carried out in accordance with the Reptile Mitigation Strategy and Precautionary Method Statement; the provision of bat boxes and a scheme of artificial bird nest boxes and a check for badger setts immediately prior to the commencement of works on site. The precise details of the landscaping and the

protection of Environmental Networks would be assessed at the reserved matters stage to address both biodiversity and visual amenity issues. The informatives relating to bats and nesting birds would be attached to any planning permission issued.

6.3 Visual impact and character

6.3.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment. All matters are reserved for later approval in this case and it would be in these submissions, in the event of outline planning permission being given, that detailed design issues would be assessed. However, in terms of landscape impact it is considered that development of the form indicated in the supporting documents would not detract from the landscape setting of Highley. The landscaping reserved matters would give full details of existing trees and hedges proposed for retention, along with new additional planting proposed. Measures for tree protection during site works and the submission of an arboricultural method statement can be covered by condition on any outline planning permission that is issued.

6.4 Residential Amenity

6.4.1 Core Strategy policy CS6 seeks to safeguard residential and local amenity. It would be at the reserved matters stage following any grant of outline planning permission, when details of the layout, scale and appearance of the development are available, that the impact of the proposed development upon the residential amenities of existing properties in the vicinity can be fully considered and to ensure that no undue harm would arise. The positioning of the existing bungalows at Park View close to the eastern site boundary are factors that would be taken into account at the detailed planning stage and would not be a reason to refuse the principle of residential development. It is noted that the illustrative site layouts show bungalows close to the eastern edge of this site, which would ensure no unacceptable overbearing impacts and no undue harm to the privacy of the existing properties.

6.4.2 It is almost inevitable that building works anywhere will cause some disturbance to adjoining residents. This issue has been addressed elsewhere through SC Public Protection recommending hours of working (07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays or Bank Holidays); to mitigate the temporary impact. This matter could be conditioned on any approval issued. The noise and emissions from vehicle movements associated with the dwellings after completion would not impact upon the amenity of the area to an extent that would justify a refusal of planning permission.

6.5 Highway Safety

6.5.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and whether:
“- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic 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 reduced. It seeks to achieve safe development and saved Bridgnorth District Local Plan policy D6 states that development will only be permitted where the local road network and access to the site is capable of safely accommodating the type and scale of traffic likely to be generated. This proposal must be assessed in the context of the above national guidance and Development Plan policies.

- 6.5.2 The allocation of this site for housing in the Bridgnorth District Local Plan has established that the vehicular access to the site off Rhea Hall and local road network is adequate to accommodate the amount of traffic likely to be generated by a development of around 30 dwellings on this land. The notes to the Local Plan policy housing allocation make no reference to the need for any off site highway works. The Council's Highways Development Control remains content that the proposal would not be detrimental to highway safety. The issue of parking on the adjacent access roads, and the possibility of a traffic order to address any local congestion which may arise, is a matter for the Council, as landowner, to consider separate from this current application.

6.6 Drainage

- 6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. The allocation of this land for residential development (Policy HIG1) established that there are no drainage constraints to the development of this land for residential purposes. The comments of the Council's Drainage Team are noted, but it would not be reasonable to require the submission of full drainage details with this outline planning application. The precise drainage details would be the subject of a planning condition on any approval issued.

6.7 Affordable Housing

- 6.7.1 Core Strategy policy CS9 (Infrastructure Contributions) highlights the importance of affordable housing as 'infrastructure' and indicates the priority to be attached to contributions towards provision from all residential development. With regard to provision linked to open market housing development, Core Strategy policy CS11 (Type and Affordability of Housing) sets out an approach that is realistic, with regard to economic viability, but flexible to variations between sites and changes in market conditions over the plan period. The delivery of the affordable housing contribution would be secured through a section 106 Agreement, with the amount being determined at the reserved matters stage in the event of outline planning permission being granted.

6.8 Open Space

- 6.8.1 The precise form and extent of the open space would be a matter for consideration at the reserved matters stage, should outline planning permission be given, and regard would be paid to the Council's Open Space Interim Planning Guidance adopted in January 2012. The equipping of open spaces with any formal play equipment would have to be through the use of Community Infrastructure (CIL) receipts.

6.9 Contamination and Land Stability

6.9.1 Core Strategy policy CS6 seeks to secure safe development. The NPPF, at paragraph 120 advises that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. It continues at paragraph 121 that planning decisions should ensure that account is taken of these matters and that adequate site investigation information, prepared by a competent person, is presented. The Coal Authority report referred to in the Land Contamination Assessment advises that the site is in the likely zone of influence from workings in one seam of coal at 290m to 330m depth. The seam was last worked in 1930 and any ground movement from these workings should have stopped by now. The report also states that the property is not in the likely zone of influence of any present underground coal workings. The Council's Public Protection team have considered the Land Contamination Assessment submitted and concur with the findings that there are no potential contaminated land issues relating to this site.

7.0 CONCLUSION

7.1 This outline planning application relates to an allocated housing site in the adopted Bridgnorth District Local Plan, which forms part of the Development Plan, and this designation is binding on Shropshire Council. The site is already included in Shropshire Council's five year land supply calculations as an existing commitment. With all matters relating to the layout, scale, appearance, access and landscaping reserved for later approval (the details supplied being for illustrative purposes only) no reasons relating to these matters would be sustainable reasons to refuse this outline planning application. Drainage and ecology matters can be the subject of conditions on the outline consent. The provision of an element of affordable housing would be the subject of a section 106 Agreement.

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 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

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

9.0 Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far 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
Technical Guidance to the National Planning Policy Framework

Shropshire Core Strategy and Saved Bridgnorth District Local Plan Policies:
CS1 Strategic Approach
CS3 The Market Towns and other Key Centres
CS5 Countryside and Green Belt
CS6 Sustainable Design and Development Principles
CS9 Infrastructure Contributions

CS10 Managed Release of Housing Land
CS11 Type and Affordability of Housing
CS17 Environmental Networks
CS18 Sustainable Water Management
S1 Development Boundaries
D6 Access and Car Parking
H3 Residential Development in Main Settlements
HIG1 Rhea Hall allocated housing site

SPD on the Type and Affordability of Housing
Open Space Interim Planning Guidance

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Design and Access Statement
Protected Species Survey
Land Contamination Assessment
Reptile Mitigation Strategy and Precautionary Method Statement

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr Dave Tremellen

Appendices

APPENDIX 1 - Conditions

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Conditions

STANDARD CONDITION(S)

1. Details of the layout, scale, appearance, access 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 three years from the date of this permission.

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

3. The development to which this permission relates must be begun no later than whichever is the later of the following dates: (i) the expiration of five years from the date on which this permission is granted; or (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:
The foul and surface water drainage of the site.

Reason: To ensure the development is of an appropriate standard to safeguard amenity and the water environment..

5. Nothing in this permission shall be construed as giving approval to the details shown on the plans accompanying this application (as such details which were included on the plans accompanying the application are intended for illustration purposes only).

Reason: To define the permission and to retain planning control over the details of the development.

6. The first submission of reserved matters shall include submission of a scheme of mitigation for slow worms which complies with the Reptile Mitigation Strategy and Precautionary Method Statement dated December 2013, unless otherwise agreed in writing by the Local Planning Authority and these works shall be carried out as approved.

Reason: To ensure the protection of slow worm, protected under the Wildlife and Countryside Act 1981 (as amended)

7. Bat boxes and building features suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site in accordance with a schedule which has been agreed in writing with the local planning authority prior to the first occupation of a dwelling on this site. The schedule shall include details of the locations and types of bat boxes and form of building features, and all boxes must be permanently retained.

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

8. Nesting opportunities for small birds shall be provided on site in accordance with a schedule which has been agreed in writing with the Local Planning Authority prior to the first occupation of a dwelling on this site. The schedule include details of the location and form of nesting opportunities, which shall be permanently retained.

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

9. The site must be subject to a further inspection for badger setts by an experienced ecologist immediately prior to the commencement of works on the site.

Reason: Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

10. Prior to the commencement of any development related activity on site, a tree survey and arboricultural implications assessment shall be submitted to the Local Planning Authority (LPA), in accordance with British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction. The survey shall accurately plot and identify all trees and hedges on and adjacent the site, evaluating their condition and suitability for retention. A Tree Protection Plan shall be submitted to the LPA, detailing those trees and hedges to be removed and those retained, along with their root protection areas and the measures to be taken for their protection. An Arboricultural Method Statement shall be submitted to the LPA for approval in writing, for any development works that could affect retained trees and hedges and their root protection areas, as defined on the tree protection plan. The development shall be carried out in accordance with the approved arboricultural method statement and the tree and hedge protection measures shall remain in place for the duration of the construction works.

Reason: To protect during development trees and hedges that make a contribution to the character of the scheme and the neighbourhood.

11. Demolition or construction works shall not take place outside the following times:
 - Monday to Friday 07:30hrs to 18:00hrs
 - Saturday 08:00hrs to 13.00hrs
 - Nor at any time on Sundays, bank or public holidays.

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

12. 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.

13. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason: To ensure the long term maintenance of landscaped areas, in the interests of visual and neighbour amenity.

Informatives

1. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

If a live bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

2. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

3. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required by the National Planning Policy Framework, paragraph 187.
4. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.
5. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.