

Development Management Report

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Summary of Application

<u>Application Number:</u> 14/03451/FUL	<u>Parish:</u>	Ford
<u>Proposal:</u> Erection of 2 no. dwellings with associated garages; formation of vehicular access		
<u>Site Address:</u> Proposed Residential Development To The NW Of Ford Shrewsbury Shropshire		
<u>Applicant:</u> Mrs M Jones		
<u>Case Officer:</u> Joe Crook	<u>email:</u> planningdmc@shropshire.gov.uk	

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ADDENDUM

The application was presented at Committee on the 13th November 2014 where Members gave the following resolution:

“Consideration DEFERRED to the next meeting, with MEMBERS MINDED TO REFUSE the application on the basis that the proposal would be detrimental to the residential amenities of neighbouring residents. In addition, the proposal would fail to satisfy the three dimensions to sustainable development defined within the National Planning Policy Framework: the economic, social and environmental roles. Given the Council’s current five year housing land supply position, the proposed scheme is not considered necessary to meet Shropshire Council’s housing development requirements or the community’s needs in terms of health, social and cultural well-being and would therefore undermine the strategy for the location of housing. Accordingly, the proposal would fail to accord with the aims and requirements of saved policy H3 of the Shrewsbury and Atcham Borough Plan, adopted Core Strategy policies CS4, CS5, CS6 and emerging site allocation and management of development policies MD1 and MD3.”

The agent provided the following response in a letter received on Monday 1st December 2014:

‘I refer to the above application, which was considered by Central Planning Committee on the 13th November 2014. The minutes of this meeting have not yet been published however my understanding is that Members were minded to refuse the application for the following reasons:

- *Loss of good quality agricultural land*
- *Impact on the amenities of neighbouring properties*

In accordance with the Council's Constitution the application will be reconsidered by committee on 11th December.

In response to the issues raised I will respond as follows:

Agricultural Land

You will be aware that agricultural land is classified into grades 1 — 5, according to its quality, in the Agricultural Land Classification (ALC) system devised and introduced in the 1980's by the Ministry of Agriculture, Fisheries and Food (MAFF).

Attached is an extract from the Agricultural Land Classification Map which clearly identifies the site as being Grade 3 (Good to Moderate) Land. It is accepted that protection of good quality agricultural land from development is a material consideration; however Government policy advises that only the best and most versatile agricultural land should be protected as a national resource for future generations, and this usually defined as land in grades 1 and 2.

In addition to the above the site only occupies a site area of 0.13 hectares. The total field area would extend to 1.38 hectares. Consequently 90% of the field would remain in agricultural use.

Finally a significant proportion of sites allocated and approved for housing development in Shropshire are on grade 2 and 3 agricultural land. Accordingly refusal of this application for

these reasons would therefore have implications for the Council's approach to housing allocations.

Impact on Amenities

The nearest property to the site would be Clifton Coach House. At the nearest point the side elevation of plot 2 would be 18 metres from the rear elevation of the Coach House. There would be no windows on this elevation and consequently no overlooking or overshadowing would take place.

In addition to the above the proposed boundary to the site is 7 metres from Clifton Coach House. If deemed necessary additional tree planting and/or fencing could take place along this boundary to provide a buffer between the two properties. Members will also be aware there is no private "right to a view" and accordingly this cannot be advanced as a reason for refusal.

The proposed dwellings would have private garden and parking areas with rear gardens facing south. Consequently the use of these garden areas would have no direct impact on the amenities of neighbouring properties.

Finally, the existing bridleway will remain unobstructed by the development. There is sufficient space within the site to accommodate a compound during the construction phase and when built the properties would benefit from a minimum of two off-site parking spaces per dwelling excluding garages.

Sustainability of Site

We would endorse the comments in your report and in particular paragraphs 6.1 onwards "Principle of Development". The site adjoining a significant number of existing dwellings in this part of Ford and is within comfortable walking distance of the range of community services and facilities available in the village.

Paragraph 55 of the NPPF also makes it clear that housing should be located where it will enhance and maintain the vitality of rural communities and the overarching aim is to significantly boost housing supply.

To conclude we would respectfully request that the planning committee reconsider their decision in light of this additional information.'

Officer comment.

The drafted reason for refusal does not specifically reference the loss of agricultural land as an issue. Members should consider the above comments made on behalf of the applicants and determine whether its inclusion is justified. Based on the amount of agricultural land to be lost and the fact that it is not classed as Grade 1 or 2, officers are not supportive of its specific inclusion in a reason for refusal though it could potentially be given some limited weight in the overall planning balance and assessment of sustainability.

The reason for refusal as drafted does not identify the specific detrimental impact to the amenity of neighbouring occupiers and this does need to be clear. Lack of clarity could

potentially lead to a successful claim for costs with regard to this issue should the decision be appealed.

The agent for the application has referenced the original report to Committee (attached) which was written prior to the 'Dorrington' appeal decision which Members clearly had regard to in forming their opinion. Officer's advice is that the Dorrington decision is not well balanced, is not aligned with other appeal decisions, and should therefore be treated with some caution. Clearly every application is different and should be considered on its own merits.

The Council's position (as published in an amended Five Year Housing Land Supply Statement on 12/08/14) is that it has identified a housing supply of 5.47 years for Shropshire which is sufficient to address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF's aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications. The site is outside any settlement boundary identified in either adopted or emerging policies and is therefore contrary to policy. It should accordingly be determined on its sustainable credentials.

Members were clearly of the opinion at the last meeting that the site is not sustainable. Taking into account all the three strands of sustainability as set out in the NPPF i.e. the economic environmental and social roles. Members must clearly identify any benefits and adverse impacts in coming to a balanced decision. Since the last meeting part of the social benefit i.e. contribution to affordable housing, may have been removed (further advice to be provided at the meeting) and may therefore add weight towards a refusal.

Recommendation

Members were clearly minded to refuse this application when previously considered. The proposal does not accord with adopted or emerging policy. Therefore refusal of the application can be justified provided the balance of considerations in terms of its sustainability is in the negative. Any reason for refusal must clearly identify the negative impacts arising from the proposal and reference the positives against which they have been balanced.

APPENDIX 1 (Original report to Committee) - Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a Section 106 Agreement to ensure the affordable housing contribution is made.

REPORT

1.0 THE PROPOSAL

1.1 The proposed development is for the erection of 2 no. dwellings with associated garages and the formation of a vehicular access

2.0 SITE LOCATION/DESCRIPTION

2.1 The site is located to the north west of Ford, and is a section of agricultural land adjacent to Clifton Coach House. The site is located within the Ford Conservation Area.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Following detailed objections being received from the Parish Council, the Local Member confirmed his objections to the scheme and requested the scheme be considered for determination by the Central Planning Committee. The Committee Chair and Principal Planning Officer are due to consider this report and confirm whether the application merits a committee determination.

4.0 Community Representations

- Consultee Comments

Ford Parish Council - Ford Parish Council strongly objects to this planning application on a number of material planning grounds.

Following extensive consultation via a Rural Toolkit event and Parish Plan review, including a Housing Needs Survey, the Parish has confirmed its desire to be treated as Open Countryside under the emerging SAMDev Local Development Plan. This plan has been submitted to the Planning Inspectorate for scrutiny and demonstrates in excess of 5 years housing supply, so must be given appropriate weight as a material planning consideration. The principles of Core Strategies CS5 and CS6 should therefore be applied to this application.

The site fails to comply with CS5 as the proposed development is for open market housing which fails to improve economic diversity in the rural economy. The housing fails to meet any identified local need for agricultural, forestry or other essential countryside workers.

The proposal fails to comply with CS6, Sustainable Design and Development Principles on the grounds of poor connectivity to the amenities of the community. The site was assessed under SHLAA as site Ford 014 in 2010. The site was rejected due to its 'detached location from the settlement centre'.

The Council noted that a number of other objections raised by residents were pertinent. The Council noted the submission of a petition signed by 72 residents and the online comments of objectors, which together with the personal representations at the Parish Council meeting demonstrated the strength of local opposition to the application. In particular they are concerned that the site has no apparent right of access for vehicles and that access is proposed over a narrow bridleway, used regularly by horses and pedestrians as of right. The safety of pedestrians and riders both on the bridleway itself and on the narrow highway approach up Jackson's Bank is a matter of great concern.

The Parish Council urges that the officer recommends refusal, however should the officer be minded to recommend approval the Parish Council would wish the matter to be referred to the Planning Committee for a decision.

SC Conservation - Generally no objection in principle to the proposal subject to the inclusion of conditions to ensure the external appearance of the development is satisfactory.

SC Drainage – Recommend conditions/informatives relating to drainage.

SC Affordable Housing - The affordable housing contribution proforma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing

SC Archaeology – No comments to make.

SC Rights of Way - Bridleway 7 Ford runs along the proposed access to the development site. The developer must be able to show that private access rights exist along this route to enable it to be used as access to the proposed housing. If any changes to the surface of the public right of way are intended permission must be sought from the Rights of Way department.

The applicant should also be aware of the following

' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.

' Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.

' Building materials, debris, etc must not be stored or deposited on the right of way.

' There must be no reduction of the width of the right of way.

' 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.

SC Public Protection – Recommend condition relating to details of the means of construction which safeguards the development from possible landfill gas.

SC Highways – No objections to the scheme subject to works to upgrade the surface of the bridleway. Confirm that the provision of a suitable and safe vehicular access between the development and the public highway is a matter for consideration under the planning process, contrary to the details submitted by the agent with regard to this matter. Recommend that this is conditioned.

SC Ecology – No objections to the scheme following receipt of an ecology report, subject to conditions and informatives.

SC Trees – Requested further information relating to trees. This has been provided though the works to the bridleway for the access could still have a detrimental impact on the prominent and attractive trees on the opposite side of the bridleway to the development. As such if a condition is added to protect these trees it will need to ensure a suitable method of constructing the access road that would minimise damage to the trees and comply with the recommendations of BS5837:2012.

- Public Comments

The following comments were received from the Local Member:

The application is in effect in open countryside with no adopted road immediately adjacent to it. A housing needs survey was recently carried out in the area and it was identified that no more houses were needed. The Parish wishes and have asked for its area to be declared as open countryside. Notwithstanding this wish there have been a number of recent applications to build houses granted. These were prior to the declaration that there was now a five year land supply of housing in Shropshire.

The site is in what can be called with justification a detached location and far from the main settlement. Access is via a Bridle Way and along a path much walked along by local residents wanting to enjoy the open countryside nature of the area. Where this proposed new access eventually joins the public road network it does so where there are no safe paths to walk along and where many motor vehicles drive along. The bridleway which it is identified as giving access to the site is very narrow and often overgrown. Access I understand to the field by vehicles and tractors has normally been via other adjacent fields and very rarely if ever down that now proposed. Photographs have been supplied to me showing the state of this proposed access which shows it as being very much open countryside.

As is shown a petition signed by 72 local residents has been submitted objecting to this application. This is the first petition sent in, in response to a housing application in the Ford area, even though there have been other applications that have been objected to. Residents are so much against this application to build in open countryside that they wanted to show their opposition to it. This was also demonstrated when the application was discussed at the appropriate Parish council. The room was packed and everyone present objected to the application.

This application though small in comparison to many others is of such an intrusive nature it needs to be seen by members who will see why it needs to be rejected. This site is in an unsustainable location with very little if any connectivity with village amenities. I also urge the objections made by the Parish Council and others be read.

Roger Evans
Shropshire Councillor for the Ford Area.

12 objections have also been received which raise the following issues:

- Ford has been designated as open countryside in the SAMDev plan following extensive community consultation. Houses currently for sale in Ford have not sold for a number of years.
- The site is unsustainable given its distance to the community core of Ford. This was considered within the SAMDev evaluation and deemed unsustainable. Under the Shropshire Strategic Housing Availability Assessment, the site was considered to perform poorly in sustainability terms and was rejected due to its detachment from the settlement centre.
- If there is no private right of access, the planning department cannot grant planning permission.
- The block plan fails to show the full extent of Clifton Coach House. The distance between this and the proposed dwelling would be closer than is shown on the block plan and would be 13 metres.
- A tree survey should be submitted.
- The development is within Conservation Area for the village of Ford, and outside the Ford development boundary.
- Along with other approved applications this development would increase the overall level of residential development within this area of Ford by 25%. This will in turn increase the level of vehicular movements which will pose a danger to pedestrians as there is no footpath in this area.
- The development would severely impact on the use of Bridleway No.7 which is used by pedestrians and horse riders for the purpose of recreation.
- The proposal contravenes policy CS5 as the development is located within open countryside and this policy restricts residential development in open countryside.
- The development will create a serious impact on residential amenity in terms of an overbearing impact, overshadowing and loss of light.
- The development makes a mockery of the details required to match existing etc when the barn conversion was approved at Clifton Coach House.
- There is no historically recorded vehicular use of the bridleway.
- There is a lack of parking space proposed, for only two spaces per dwelling.
- There is no provision for lighting, pathways, disabled access, rubbish and recycling and also excessive distance to fire hydrant.
- The development contravenes the right to quiet enjoyment of homes through the development phase and once completed with all the necessary service vehicles and associated car movements travelling up and down the bridleway

- There is no natural gas in Ford, and therefore the oil or gas for heating etc would be provided by tankers which would be unable to turn round and therefore would need to reverse down the lane.
- The development will have a detrimental impact on the wildlife in particular the birds within the hedgerow.
- The development would be incongruous with this part of the village.
- The development represents a harmful intrusion into open countryside and will have a detrimental impact on the sensitively converted Clifton Coach House.
- The adverse impact of the development outweighs any benefits to the village.
- The bridleway is too narrow and would be damaged by large vehicles accessing the site.
- The development would destroy the rural nature of the bridleway.
- Hedgerows have already been removed to the detriment of the wildlife and nesting birds etc
- Rainwater harvesting and reuse are more sustainable and concerns are raised relating to potential groundwater pollution in the groundwater protection zone.

Nesscliffe Hills and District Bridleway Association – Object to the scheme as there are no vehicular access rights over the bridleway. These have not been acquired by usage given that the access to the field was only cut open in May this year. Concerns relate to the lack of turning area, delivery vehicles and visitors blocking the track for users, and vehicles damaging the surface. It is one of the few routes for horse riders and will be detrimental to their use of this route. The bridleway must remain clear and useable at all times. Bridleway 7 forms an important off road link in the Humphrey Kynaston Way long distance bridleway. This is a leisure route promoted by Shropshire Council, which was put in with volunteer help from our Association, and other local volunteers. It was funded by Natural England as part of its 'Paths for Communities' project to connect rural communities and promote tourism.

A petition signed by 71 residents was also submitted which raised the above issues and added that the use of the bridleway for vehicular access is illegal, and raised concerns that it will be utilised for parking associated with the dwellings.

Full objections to the scheme are available on the Council's public access system.

5.0 THE MAIN ISSUES

Principle of development

Design, scale and impact on the character of the Conservation Area

Impact on residential amenity

Highways

Bridleway

Ecology

Drainage

Trees

Contributions

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004). Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise. The National Planning Policy Framework (NPPF) constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Development Plan: In relation to the current application, the site is located outside of the development boundary of Ford, as identified within the Shrewsbury and Atcham Borough Local Plan. The area is therefore defined as 'countryside' for the purposes of planning policy. Core Strategy Policy CS5 is therefore applicable. Policy CS5 controls new development in the countryside, and seeks to restrict open market dwellings from such areas.

6.1.3 Core Strategy Policy CS4 (Community Hubs and Clusters) states that developments outside of the Community Hubs and Community Cluster settlements will not be allowed unless it meets Policy CS5. The Pre-Submission Draft of the SAMDEV does not propose to identify Ford as a Community Hub or Community Cluster. Saved Policy HS3 of the Shrewsbury and Atcham Borough Local Plan restricts residential development which is located outside of the development boundary of the settlement. Therefore the proposed open market dwellings do not comply with Policies CS4 or CS5 of the adopted Core Strategy, or saved Policy HS3.

6.1.4 National Planning Policy Framework: The National Planning Policy Framework (NPPF) constitutes guidance for local planning authorities which is a material consideration to be given significant weight in the decision making process. The NPPF imposes a presumption in favour of sustainable development, and states that this should be seen as a golden thread running through plan-making and decision-taking. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

6.1.5 The NPPF aims to boost significantly the supply of housing, and this is a material consideration in determining this application.

6.1.6 The village of Ford benefits from a range of community services and facilities, and these are within walking distance of the application site. These include a primary school, local convenience store, village hall, church, public house, and restaurant. It is considered that these services and facilities contribute to enhancing the sustainability of this location for the proposed dwelling. The site also lies approximately 3 miles from the edge of Shrewsbury, which provide a large and wide range of facilities

- 6.1.7 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.

- 6.1.8 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide opportunity for local employment for the construction phase of the development supporting local builders and building suppliers. The provision of the proposed dwellings would be expected to support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan.

- 6.1.9 Social role – Settlements need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the settlement and surrounding area. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities, will benefit both the existing and future residents and help meet the needs of present and future generations.

- 6.1.10 Environmental role – The site forms part of an agricultural field adjacent to the built up area of Ford, and is not located within or in the vicinity of any area with specific land-use designation in respect of landscape or ecological value. The impact of the proposal on the Conservation Area is considered below, however there is no reason in principle to prevent additional residential development within such an area. Whilst a small section of hedgerow would be lost in order to form vehicle access, additional landscape planting is proposed within the development site which would compensate for this. In terms of assessing the proposal in relation to the three dimensions of

sustainable development it is therefore considered that in principle the proposed site represents a sustainable location for open market dwellings.

6.1.11 It is recognised that the site lies outside of the development boundary and would not comply with Development Plan policies which seek to restrict open market dwellings from such locations. Nevertheless it is considered that the proposal is consistent with the aims and objectives of the NPPF in respect of the presumption in favour of sustainable development and the need to boost significantly the supply of housing. It is considered that these are material considerations which can be given significant weight. On balance therefore it is considered that this location can be supported in principle.

6.2 Design, scale and impact on character of the Conservation Area

6.2.1 Objections have referred to the proposed scheme having a detrimental impact on the surrounding Conservation Area, and being out of keeping with the adjacent Clifton Coach House. However, following consultation with the Conservation department they have not objected to the scheme in principle and commented they did not consider that the scheme was detrimental to the character or setting of the Conservation Area and the scale, proportion and design were generally acceptable provided that they are completed to a high standard with appropriate materials. These can be conditioned for approval prior to development. The scheme includes a variety of architectural detailing on the dwellings in keeping with other properties close by including external chimney breasts, brick plinths, exposed rafter feet, timber storm porches, bay window and timber joinery. It is acknowledged that these are 4 bedroom properties but they are not excessive in scale and will be located within relatively generous plots, fronting the adjacent lane. The proposal incorporates garages for the properties and allows for requisite turning areas within the site. On balance it is considered that the design, scale and character of the proposed development are acceptable and the scheme will preserve the character and setting of the Conservation Area. The scheme is therefore considered to accord with policies CS6 and CS17 of the Shropshire Core Strategy.

6.2.2 An objector to the scheme has commented that the block plan does not accurately depict Clifton Coach House and the distance between the Coach House and the proposed dwelling would be closer than is shown on the proposed drawing. However, the Coach House position shown on the plan matches that on the Councils computer mapping system and in any case the distance of 13 metres referenced within the objection is considered to be acceptable when taking into consideration the impact on the adjacent dwelling which will be assessed further below.

6.3 Impact on residential amenity

6.3.1 The proposed site for the dwellings will be to the west of Clifton Coach House, and will be approximately 15 metres from the existing property. This is considered to be appropriate and it is noted that there is a gap between the two sites. Whilst the objector has raised the issue of this distance being closer than shown, the distance between the proposal and the existing property to the east is considered acceptable given the gap left between the two sites and the overall distances involved. The objector from the neighbouring property has raised the issue of overshadowing from the proposed dwellings but given that these will be located

directly to the west, it is considered that overshadowing will be minimal as the sun will be setting and very low in the sky when it faces the side of the dwellings and the adjacent Clifton Coach House. In addition, there will be no windows on the facing elevation to the east towards Clifton Coach House and therefore no adverse impact in privacy terms. On balance it is considered that the impact on residential amenity will be minimal and therefore the scheme is acceptable in this regard.

6.4 Highways

6.4.1 The Highways Officer has confirmed that the highways department has no objection to the granting of consent. They also confirmed that the surfacing of the bridleway between the site and the entrance to the adjacent property would require upgrading as part of the scheme and details of this is requested as a condition to ensure it is carried out appropriately.

6.5 Bridleway

6.5.1 A number of the issues have been raised by the objectors, Rights of Way team and Bridleway association and these largely relate to the use of the bridleway for vehicular access to the site, mainly with regard to restricted (or illegal) access rights and the potential for a detrimental impact on the safety of the users of the bridleway including pedestrians and horse riders.

6.5.2 The planning application cannot be refused on the basis of the bridleway being utilised for a vehicular access as this is outside the remit of the planning authority. In terms of the consideration of this application, it is considered that an access to the site is in place and whilst the application does not provide evidence that vehicle rights to access the site currently exist, this is a private matter for the applicant and it is considered that the granting of planning permission would not imply the existence of any such right for the applicant. An informative can be imposed to ensure that the applicant is aware of this.

6.5.3 Whilst the owner of the bridleway has not been confirmed, and all reasonable steps taken to find the owner including an advertisement in the Shropshire Star paper, the Council as the Highways Authority has the right to maintain the surface of the public right of way, and it is considered that this should not be an obstacle to securing the re-surfacing via condition. In addition to this, the future maintenance of the right of way can be undertaken by the Highways Authority for the purposes of access by horse and on foot, but it has been confirmed that the responsibility for maintaining the condition of the bridleway for vehicular uses would fall to the owners of the dwellings, and this is not a concern given that it will be in their interests to ensure it is suitable for passing vehicles. In addition to this, it is anticipated that the re-surfacing will allow for an improved surface over that existing for a significant period of time in any case.

6.5.4 The natural speed of a vehicle in this location given the nature of the bridleway means it is not considered to be dangerous to users of the right of way and the level of vehicular use created by the two dwellings is not considered to be excessive. An informative will be included outlining the applicant's responsibilities. Overall it is considered that the access via the Bridleway is sufficient for planning purposes and conditions and informatives will be attached.

6.6 Ecology

6.6.1 Whilst concerns have been raised relating to the impact of the development on wildlife and protected species, following the submission of an ecological assessment the Council's Planning Ecologist has confirmed that there are no objections to the scheme subject to conditions and informatives.

6.7 Drainage

6.7.1 The drainage engineer has not objected to the scheme subject to full soakaway details being submitted for approval via condition.

6.8 Trees

6.8.1 Following the trees officer requesting further details in the form of an Arboricultural Impact Assessment, a revised block plan identifying the trees in and around the site and confirmation that these will be unaffected other than those on the opposite side of the bridleway, and that the track surfacing required will be done using a hand dig procedure to avoid any damage. The Trees Officer responded to the detail by confirming that these were prominent and attractive trees and as if a condition is added to protect these trees it will need to ensure demonstration of a suitable method of constructing the access road that would minimise damage to the trees and comply with the recommendations of BS5837:2012 to be provided prior to the commencement of development.

6.9 Contributions

6.9.1 The scheme will be liable for both the affordable housing contribution and community infrastructure levy and the appropriate forms have been submitted in this regard. Any permission granted will be subject to a Section 106 agreement to ensure the affordable housing contribution is paid.

7.0 CONCLUSION

The planning application relates to the provision of open market dwellings in open countryside and would be contrary to Development Plan policies CS4 and CS5 and saved Local Plan Policy HS3 restricting such development. The village of Ford is not being promoted as a Community Hub or Cluster under the emerging SAMDev plan where residential development would be considered acceptable. However, the proposed site is located adjacent to the built up area of Ford, which has a number of local facilities and services, and as such the proposal would represent sustainable development for which there is strong support in the NPPF. On balance it is considered that this location can be supported in principle.

The proposed development is of an acceptable design and scale, and can be provided without adverse impact upon residential and local amenity or upon the character of the Conservation Area. Whilst there is uncertainty over the public rights that exist to use a vehicle on the track which would form the access to the site, it is considered that in principle this access track is satisfactory for such use with no objections from the Highway Officer in this regard. The grant of planning permission does not grant such use rights or imply that such use rights exist. A financial contribution will be provided in relation to the provision of affordable housing. It is not considered that there are other material considerations which would indicate that planning permission should not be granted. On this basis the scheme is considered to be acceptable in accordance with policies CS6, CS11 and CS17 of the Shropshire

Core Strategy as well as the National Planning Policy Framework. 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 in the National Planning Policy Framework paragraph 187.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

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

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

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

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

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

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

8.3 Equalities

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

9.0 Financial Implications

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

10. Background

Relevant Planning Policies

Central Government Guidance:

NPPF

Core Strategy and Saved Policies:

- CS4 - Community Hubs and Community Clusters
- CS5 - Countryside and Greenbelt
- CS6 - Sustainable Design and Development Principles
- CS11 - Type and Affordability of housing
- CS17 - Environmental Networks

RELEVANT PLANNING HISTORY:

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Roger Evans
Appendices APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the deposited and amended plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

4. No windows or doors shall be installed on the development without details plans and sections at a scale of 1:20 having been first submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To protect and enhance the appearance of the building and the area.

5. No development approved by this permission shall commence until there has been submitted to and approved by the local planning authority a scheme of landscaping and these works shall be carried out as approved. The submitted scheme shall include:

Means of enclosure

Hard surfacing materials

Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)

Planting plans

Written specifications (including cultivation and other operations associated with plant and grass establishment)

Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate

Implementation timetables

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

6. Prior to the occupation of any buildings on site details of all walls, fences and hedges shall have been submitted to and approved by the Local Planning Authority. The approved details shall be completed prior to the occupation of any of the buildings on the site and thereafter retained.

Reason: To provide adequate privacy and an acceptable external appearance.

7. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

8. No development shall take place until details for the improvement of the bridleway surface in a suitable free-draining stone material have been submitted to and approved by the Local Planning Authority. The submitted details should be of a suitable method of construction that would minimise damage to the adjacent trees and comply with the recommendations of BS5837: 2012 in this regard. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: In the interests of highway safety and local amenity.

9. Before the development commences, details of the means of construction which safeguards the development from possible landfill gas shall be submitted to and approved by the Local Planning Authority, unless the Local Planning Authority are satisfied following the submission of results of investigations and tests for landfill gas, that such safeguards are unnecessary.

The development shall be carried out in strict accordance with any details submitted and approved under the foregoing condition.

Reason: The site lies within 250 metres of a landfill site and the Local Planning Authority wishes to ensure that the site can be developed and occupied with adequate regard to environment and public safety.

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

10. Work shall be carried out strictly in accordance with the Ecological Assessment conducted by Turnstone Ecology (October 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of biodiversity, a European Protected Species.

11. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

12. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

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

Informatives

1. The application proposes access over a route that is recorded as a public footpath and does not appear to carry public vehicular rights. The applicant is very strongly advised to satisfy themselves that they are able to demonstrate a sufficient vehicular right of access before committing further resources to the proposal. Neither the granting of planning permission, nor any associated obligations relating to the proposed access, either grant or imply the existence of any right for the benefit of the applicant to use that way with vehicles. It is a road traffic offence to drive a motor vehicle on a public footpath, bridleway or restricted byway without lawful authority and a property that is not able to demonstrate a lawful right of access with vehicles may be unsaleable. No works must be carried out that might affect the footpath without prior approval of the Rights of Way Officer.
2. The SuDs applicability for the area is Infiltration PLUS treatment as the development lies within a groundwater Source Protection Zone.

Surface water run-off must be treated through a filtration unit prior to entering the soakaway and also pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway.

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. Full details, calculations, dimensions and location of the percolation tests and the proposed soakaways should be submitted for approval as part of the discharge of conditions.

3. Confirmation is required that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12, where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

4. If non permeable surfacing is used on the driveways and parking areas and/or the driveways slope towards the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway
5. The applicant should consider employing measures such as the following:
 - ' Water Butts
 - ' Rainwater harvesting system
 - ' Permeable surfacing on any new driveway, parking area/ paved area
 - ' Greywater recycling system

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

6. Consent is required from the service provider to connect into the foul main sewer. If the service provider is Welsh Water, Section 104 Agreement has to be in place before any physical work on the drainage system can start on site.
7.
 - ' The right of way must remain open and available at all times and the public must be allowed to use the way without hindrance both during development and afterwards.
 - ' Vehicular movements (i.e. works vehicles and private vehicles) must be arranged to ensure the safety of the public on the right of way at all times.
 - ' Building materials, debris, etc must not be stored or deposited on the right of way.
 - ' There must be no reduction of the width of the right of way.
 - ' 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.
8. 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).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

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

9. 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.

An experienced ecologist should assess whether any badger setts are present within the proximity of the proposed development site. If any work is proposed within 30m of the

sett then it may be necessary to apply for a Licence to interfere with a Badger Sett for the Purpose of Development from Natural England.

The applicant should follow the advice of their experienced ecologist throughout the works. If the applicant does not follow the procedure advised above then they may find themselves vulnerable to prosecution for an offence under the Protection of Badgers Act 1992.

10. 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.

11. If piles of rubble, logs, bricks, other loose materials or other possible reptile and amphibian refuge sites are to be disturbed, this should be done by hand and carried out in the active season for reptiles (approximately 31st March to 15th October) and any reptiles discovered should be allowed to naturally disperse. Advice should be sought from an experienced ecologist if large numbers of reptiles are present.

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