



Committee and date

Central Planning Committee

12 February 2015

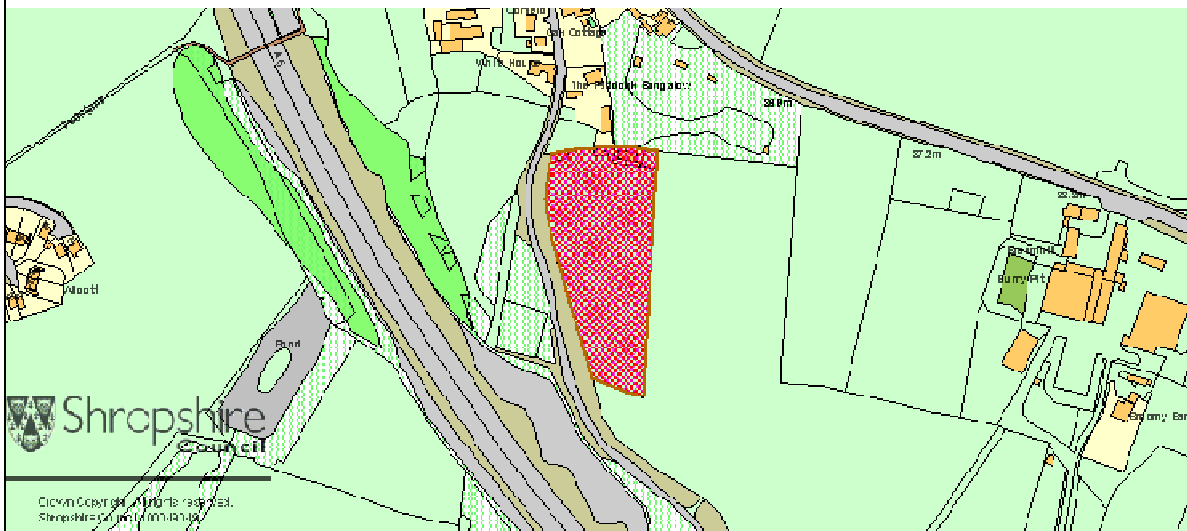
Development Management Report

Responsible Officer: Tim Rogers

email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

Application Number: 14/03259/OUT	Parish:	Great Ness
Proposal: Outline application for proposed housing development (all matters reserved)		
Site Address: Proposed Residential Development East Of Wilcot Lane Nesscliffe Shrewsbury Shropshire		
Applicant: Midland Groundworks Ltd		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	
Grid Ref: 338384 – 318890		



© Crown Copyright. All rights reserved. Shropshire Council 100049049. 2011 For reference purposes only. No further copies may be made.

Contact: Tim Rogers (01743) 258773

Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a Section 106 Agreement to secure affordable housing in accordance with the prevailing rate current at the time of submission of Reserved Matters.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks outline planning consent for residential development on land adjacent to Wilcott Lane, Nesscliffe with all matters reserved for later consideration.

The amended illustrative site layout proposal shows the provision of 9 dwellings; a mixture of 5 bungalows, one pair of semi-detached properties and two detached houses.

2.0 SITE LOCATION/DESCRIPTION

2.1 Nesscliffe is located approximately 4 miles south east of Kinnerley and approximately 9 miles north west of Shrewsbury.

The development site is set to the east of the adjacent road and comprises a parcel of agricultural land set to pasture. The site is set to the south of existing residential properties set to the northern boundary of the site.

2.2 Services and facilities in Nesscliffe include a school, post office, shop, a village hall, petrol station, a pub and a hotel. The Nesscliffe by-pass links the village with Shrewsbury and Oswestry, opening up more extensive services, facilities and employment opportunities for the village.

The number 70 bus service runs Monday to Saturday from Shrewsbury to Oswestry. There are 3 stops within the village, 2 of these are approximately half a mile from the development site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 In accordance with Part 8 of the Shropshire Councils Scheme of Delegation, a request to consider the application at Central Planning Committee has been received from the local member for the Nesscliffe ward, based on material planning considerations following an objection from the local Parish Council.

4.0 Community Representations

4.1 Consultee Comments

4.1.1 SC Drainage: No objections

No objection(s), subject to conditions

4.1.2 SC Affordable Housing: No objections

Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would

need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

4.1.3 **SC Ecology: No objection**

Supporting documents including the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

Bats

The site has the potential to support foraging and commuting bats. The following condition and Informatives should be on the decision notice.

1. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 permitted as shown on a site plan. 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.

2. 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.

1. A scheme of landscaping shall be submitted to and approved in writing by the local planning authority. These works shall be carried out as approved. The submitted scheme shall include:

a) Planting plans, including wildlife habitat and features (e.g. bird boxes, bat boxes)

b) 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).

c) Details of trees and hedgerows to be retained and measures to protect these from damage during and after construction works

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

Badgers

No evidence/field signs of badgers were noted on site during the ecological survey. No further survey is deemed necessary. Due the close proximity of a known badger sett (20m) a pre-commencement survey should be undertaken prior to vegetation clearance/construction works and the method statement provided by Pearce Environment should be conditioned and adhered to. The following condition should be on the decision notice.

1. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of Badgers, protected under the Protection of Badgers Act (1992).

Informative

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.

No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992).

All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.

Great Crested Newts

Pearce Environment recommends that the current grazing regime continues to ensure the site does not inadvertently increase in its potential to support herptiles. Ponds within 250m of the proposed development have been assessed and no further survey work has been recommended. The following condition and informative should be on the decision notice.

3. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) attached as an appendix to this planning permission.

Reason: To ensure the protection of Great Crested Newts, a European Protected Species

Nesting Birds

The site has the potential to support nesting birds. The buildings on site should be checked prior to demolition. The following condition and informative should be on the decision notice.

1. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of nesting Barn Owls

Informative

Barn Owls are protected under the Wildlife & Countryside Act 1981 (as amended). It is an offence to disturb the active nests of Barn Owls, this includes when they are making a nest, occupying a nest or have chicks still dependent on the nest for survival. Barn Owls can breed at any time of the year in the UK. Any offence under the Wildlife & Countryside Act 1981 (as amended) is punishable by up to a £5000 fine per individual animal impacted and up to 6 months in prison.

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.

4.1.4 **SC Public Protection: No objections**

In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided.

The following condition is therefore proposed should this application be granted approval:

An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.

Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."

Recommend that construction times are conditioned.

4.1.5 **Great Ness & Little Ness Parish Council: Objection**

Great Ness and Little Ness Parish Council object to this planning application on the grounds that the roads are too narrow and the location.

4.1.6 **SC Highways: No objection**

Recommendation

The highway authority raises no objection to the granting of consent.

Conditions

New Access

No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the

Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

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

Informatives

We understand that the proposed access road would remain private and therefore a s38 won't be required. We must therefore clarify to the applicant that unless they enter into a s38 agreement with the LHA and the construction works are inspected, we won't consider them for adoption in future. If the access roads do remain private, the street name plates should state 'PRIVATE ROAD' or 'UNADOPTED ROAD' below the street name. This is to ensure the LHA aren't contacted regarding their upkeep in the future.

A licence will be required with the local highway authority for the proposed access before work can commence on site. Details of the process for obtaining a licence can be found on the following web page: [http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-\(dropped-kerb\)/](http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-(dropped-kerb)/)

Background

The local highway authority raised some concern over the scale of the scheme originally submitted by the applicant due to the site's position on the outside of the village and the lack of a footway connection along Wilcott Lane. However have now carried out a site visit and the scale of the development has been reduced we are less concerned at the site and hence we make no objection to the development.

Wilcott Lane is narrow between the site and its junction with the Old A5, but the narrow width and poor visibility at the Wilcott Lane/Old A5 junction should deter people from using this route. Instead to the south of the site Wilcott Lane has been improved with passing places and the route to the Old A5 via the Pentre Road is of a suitable standard to accommodate additional traffic from the development. As Wilcott Lane carries low volumes of traffic and travelled speeds are considered to be low we are of the opinion that for the scale of development proposed it forms an appropriate 'shared surface' route for walking between the site and the footway along the Old A5.

We have confirmed with the applicant that the required 2.4m x 43m visibility splays would be provided in the highway verge fronting the site.

4.2 Public Comments

4.2.1 **14 letters of objection have been received from 9 addresses** and have been summarised as follows:

Highway Safety

Development will increase traffic on narrow lanes; no pedestrian access available to the site the amended plans do not help those pedestrians walking from the site to the village; pedestrians will have to use the carriageway, not a suitable shared surface; danger to all who use the lane, those passing each other have to rely on other residences driveways to pass in; lane does not have a 30mph speed limit;

Drainage

Increase risk of flooding to neighbouring properties land on a slope with neighbours at the bottom; fail to see how development of the site would make things better; sewerage outflow needs to be addressed, no mains connection

Wildlife

Badgers present/adjacent to the site

Amenity

Loss of privacy to neighbouring properties; loss of view of open fields;

Impact on village

Development not in keeping with the design of the village; disproportionate growth added to other proposals will vastly change its character; not in keeping with the street pattern; not a preferred site; no provision for additional school facilities

Nesscliffe Hills & District Bridleway Association - Objection

Wilcott Lane forms part of the route for the Humphrey Kynaston Way long distance bridleway promoted by Shropshire Council, and funded by Natural England as part of its 'Paths for Communities' project, to connect rural communities, and to promote tourism. There is no off road or alternative route for horse riders to get to Nesscliffe from the south and west, to link to the popular routes in the Nesscliffe Countryside Heritage Park, and onward routes, so they have to use this lane.

Wilcott Lane is single track with passing places, with a short two way funnel on the exit to the Pentre Road. The lane from the proposed site up to the main road in Nesscliffe goes up a long bank and is very narrow, with no footway. There is no room on this section on the public highway to pass another vehicle, or to pass non motorised users, who have to use private house entrances in order to get out of the way to enable traffic to pass.

The plans, give the impression that visibility from the access to the proposed housing site is good. In fact there are unsighted bends in both directions towards Nesscliffe and towards Pentre. Also the proposed site access is shown to exit on a wide section of the road, but this is one of the few vehicle passing places on the lane. Vehicles turning in and out of the proposed new site entrance would impede those on the road attempting to pass other vehicles, or passing non motorised users such as horse riders.

For non motorised users travelling north along Wilcott Lane, the west side of the lane to the south of the proposed site has a metal barrier alongside a long section of the carriageway. The lane is narrow here, and there is no way for equestrians and other non-motorised users to get out of the way of traffic when travelling towards Nesscliffe, and they have to walk or ride along the narrow carriageway between the traffic and the metal barrier. Shropshire Council Highways are aware of problems with overrunning on the lane near to the proposed site entrance. Bollards have been erected in the past to try and prevent the overrunning damage but many of these were driven over, with the resulting broken bollards providing

extra hazards on the verge. The verge there is usually unusable by non motorised users due to it being overgrown.

Extra traffic generated by all these proposed 17 properties will make the situation on this narrow lane much worse.

Vehicles from and to the properties are unlikely to use Wilcot Lane, then Pentre Lane to the Great Ness Cross Roads, and then left on the old A5 to Nesscliffe, and vice versa, to visit, make deliveries etc and to reach the services, school and other facilities in Nesscliffe: they will use the shortest route up the very narrow section of Wilcot lane to the main road in Nesscliffe. Children will also have to use the roadway of this narrow section of the lane if they walk to school as there is no footway there, along with cyclists and horse riders.

There is no direct access from Wilcot Lane down onto the A5 Nesscliffe Bypass. Vehicles to and from the north are unlikely to travel all the way down the Nesscliffe Bypass to the south roundabout and then come back up the old A5. They are more likely to come off at the northern Wolfs Head roundabout and come down through Nesscliffe, and then turn down the narrow section of Wilcot Lane to access the proposed housing site. The extra vehicles that this proposed housing site will generate on this narrow lane will put equestrian and other non-motorised users at risk.

5.0 THE MAIN ISSUES

Principle of development

Sustainability

Affordable Housing

Access

Landscape/Visual Impact

Drainage

Ecology

Residential Amenity

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF states that 'Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'

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

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

and that:

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

6.1.3 Shropshire Council has an adopted Core Strategy. Policy CS4 replaces the former Shrewsbury & Atcham Borough Local Plan policy HS4 that identified Nesscliffe as a village that could accommodate small scale development). Policy CS4 outlines that housing development that is of a scale that is appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD. The SAMDev DPD is at the ‘Submission’ stage and is currently being publicly examined and paragraph 216 of the NPPF states that decision-takers should give weight to the relevant policies in emerging plans according to:

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

The Council’s view is that the SAMDev Plan has reached a point, being settlement and site specific and having undergone substantial public consultation and having reached the point of being examined by independent Examiners/Inspectors, where some degree of weight can be attached to its contents.

6.1.4 Further to Core Strategy Policy CS4, Nesscliffe is proposed to be identified as a Community Hub, with no proposed boundary under Policy MD1 of the emerging SAMDev Plan. SAMDev also identifies a housing guideline for the village of Nesscliffe of around 30 new dwellings over the period to 2026 (which will include the numbers that have already been resolved to approve). Reference is made in the guidelines for development in the village to the Nesses Parish Plan (2004) and subsequent Housing Needs and Development Survey (2011), and the Parish Council’s view that developments in the village should be of a maximum of 10 houses on any one site and include predominantly 2 and 3 bedrooms. The SAMDev Plan is currently under examination by the Inspectors to the Secretary of State and Shropshire Council has confirmed that it considers that a 5 year land supply has been identified. Paragraph 216 of the National Planning Policy Framework explains that weight can be given to relevant policies in emerging plans, with the weight according to the stage of preparation, the extent that there are unresolved objections, and the degree of consistency with the NPPF policies and so it is considered that some weight can be given to the requirements and details set out in the SAMDev DPD. However, whilst Shropshire Council considers that a five year land supply is in place and that the details contained within SAMDev can be given weight the key factor remains in determining this proposal is

therefore assessing whether the proposal would represent sustainable development and whether it is an acceptable scale and design appropriate for the village of Nesscliffe.

6.2 Sustainability

6.2.1 Nesscliffe is a relatively large village situated within the Great Ness & Little Ness Parish located 9 miles from both Oswestry and Shrewsbury with daily bus service running six days a week. The settlement has a primary school, village hall, public house, and restaurant and petrol garage with shop and post office. Secondary school aged children are likely to attend The Corbet School at Baschurch approximately 4 miles away. The Parish Church is located in Little Ness. Recreational facilities are available on Nesscliffe Hill Country Park and on a village playing field located adjacent to the school. The proposed application site is located adjacent to existing housing and is considered to be situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance on the private motor car.

6.2.2 However 'sustainable development' isn't solely about accessibility and proximity to essential services but the NPPF states that it as '*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:

② *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;*

② *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*

② *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

6.2.3 Economic role – The proposal will help boost the supply of housing in Shropshire and will provide employment for the construction phase of the development potentially supporting local builders and building suppliers. The provision of more houses will also 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 be liable for a CIL payment and this will provide financial contributions towards community needs and priorities identified in the Parish Plan which include:

- Childcare facilities
- Adult classes
- A youth club
- Additional use of the village hall for events and services
- Traffic on unsuitable roads
- Public transport
- Need for small family homes
- Conversion of redundant villages for housing
- Wildlife conservation in Nesscliffe Country Park

- 6.2.4 Social role – Nesscliffe is a village with a good range of services. Rural villages need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the village and surrounding villages. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities in other settlements, thereby retaining services and enhancing the vitality of rural communities. Providing housing that will support and maintain existing facilities will benefit both the existing and future residents and help meet the needs of present and future generations. The residential development would provide affordable housing at the rate prevailing at the time of the submission of the reserved matters. The current prevailing rate for this area is 15%. The amended illustrative plans show that two of the proposed dwellings would be affordable dwellings and that the development would consist of 5 no. bungalows, 2 no. detached house and one pair of semi detached dwellings, this mix would help to maintain the balance of housing stock within Nesscliffe resulting in a more balanced community. However, house type and design would be considered at reserved matters.
- 6.2.5 Environmental role – The application site consists of an agricultural field. The Council's Ecologist has noted that the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014) identifies that the field is in agricultural use for grazing and concludes that they have no objection to the scheme subject to the attachment of conditions and informative(s) in respect of badgers, bats and nesting birds.
- 6.2.6 Accordingly it is considered that the proposal would have no adverse impact on wildlife and the ecological value of the site. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible on foot and by cycle to the services in Nesscliffe and by public transport and by a short car journey to the array of services, facilities and employment opportunities just over 9 a miles away in Shrewsbury and Oswestry.
- 6.2.7 It is therefore considered that Nesscliffe is a sustainable location having regard to the three dimensions of sustainable development.
- 6.2.8 Policy MD3 of SAMDev addresses the issue of matching and exceeding the settlement guideline figure that has been identified in conjunction with Parish Council's. This policy has been discussed at the current examination hearing and has unresolved objections, with a new draft wording now being considered by the inspector. The new draft wording gives a presumption in favour of sustainable development and notes that the settlement housing guidelines are not a maximum.

Whilst SAMDev identified a guidance figure of 30 new dwellings in Nesscliffe over the development plan period, this has been taken up by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by those other smaller sites that have also been recently resolved/granted for approval in the village, totalling 51 dwellings (refs: 13/02901/REM, 14/00412/FUL and 14/03357/OUT). Whilst this application, stating up to 9 dwellings when added to those above will clearly further exceed the guidance figure the additional 9 dwellings now proposed would have little proportional cumulative impact on the settlement. Nesscliffe village as previously discussed is a sustainable settlement and is in a position where additional housing development could be accommodated.

- 6.2.9 Although Great Ness and Little Ness Parish Council have not supported the application, their concerns stated relate to the location of the site and the narrowness of the roads that lead to the site. The amendments to the application include reducing the proposed numbers of dwellings to 9 complies with the Parish Council's wishes as stated within SAMDev for sites to accommodate no more than 10 dwellings on any one site. It is considered that the site can accommodate the number of dwellings specified and subject to a satisfactory scale and design; a development appropriate and proportionate to the size and character of the village could be produced.
- 6.2.10 In this respect the proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for higher housing numbers would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

6.3 Affordable Housing

- 6.3.1 The residential development would provide affordable housing at the rate prevailing at the time of the submission of the reserved matters. The current prevailing rate for this area is 15%. However the information provided on the amended plans indicates that the scheme would provide 2 affordable units on site which would exceed this current required provision.

6.4 Access

- 6.4.1 The amended illustrative plans show the access to the site created off Wilcott Lane that abuts the western side of the application site. The access would be sited approximately half way along the sites western boundary. The illustrative plans also show a pedestrian link provided within the site at its northern end granting pedestrian access out onto Wilcott Lane. Concerns relating to highway safety for pedestrian and vehicle users along Wilcott Lane have been raised by both local residents and the Parish Council.
- 6.4.2 Highways Officers have not raised any objections to the application noting that visibility splays of 2.4m x 43m can be proved for the new vehicular access and that whilst Wilcott Lane is narrow between the site and its junction with the old A5 it is of a suitable standard to accommodate additional traffic from the proposed development. They also consider that the existing low volumes of traffic using Wilcott Lane and speeds travelled as the road narrows forms an appropriate shared surface route for walking between the site and the footway along the old A5.

6.5 Landscape/Visual Impact

6.5.1 The proposed site forms an existing field that is currently used for grazing and extends to the east of Wilcott Lane, to the south of the existing residential properties that front onto the lane. The development of this site would extend the built form of the village along the lane utilising the next available field and would be contained within the existing field boundaries. It is considered that on balance the extension of this development would not have any significant detrimental impact in terms of landscape value in this area.

6.6 Drainage

6.6.1 Council Drainage Officers have raised no objections to the application subject to conditions requiring details of surface water drainage to be submitted before development commences.

6.7 Ecology

6.7.1 No objections to the application have been raised by the Council's Ecologist following the submission of additional survey reports. The Ecologist notes that the site has the potential to support foraging and commuting bats and has recommended appropriate conditions relating to the provision of bat boxes, external landscaping and landscaping.

6.8 Residential Amenity

6.8.1 The immediate neighbours to the site have raised objections to the application on the grounds of potential overlooking and loss of privacy. The application site is located to the south of existing residential properties. The submitted illustrative site layout plans indicate how the site may be developed should outline planning permission be granted with a footpath link to the roadway sited at the north end of the site, closest to the village. This would result in any built dwellings being sited further away from the boundary to accommodate the footpath. It is considered by officers that the illustrative site layout plan demonstrates that sufficient distance could be provided to ensure that no significant detrimental impact would occur to the residential amenity of immediate neighbours through loss of privacy.

7.0 CONCLUSION

7.1 The application site is currently 'countryside' in planning policy terms. However Nesscliffe is proposed to be identified as a Community Hub under the provisions of the emerging SAMDev Plan and adopted Core Strategy Policy CS4. Paragraph 216 of the National Planning Policy Framework explains that weight can be given to relevant policies in emerging plans, with the weight according to the stage of preparation, the extent that there are unresolved objections, and the degree of consistency with the NPPF policies. Whilst it is acknowledged that the application form and indicative site plan illustrate a scheme of up to 9 dwellings, which when considered with other housing applications that are resolved for approval within Nesscliffe clearly exceeds the indicative figure included SAMDev and the Parish Council's aspirations, Nesscliffe is considered to be a sustainable settlement which could accommodate this level of additional housing. The proposal is considered to represent a sustainable form of development and the adverse impacts of granting permission for higher housing numbers would not significantly or demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

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, CS5, CS5, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

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

Planning File 14/03259/OUT

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 – Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2010 and no particulars have been submitted with respect to the matters reserved in this permission.

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

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

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

5. 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.

6. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of nesting Barn Owls

7. Prior to the erection of any external street 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.

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

8. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 permitted as shown on a site plan. 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.

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

9. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

Reason: To ensure the protection of Badgers, protected under the Protection of Badgers Act (1992).

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

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

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

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