

Development Management Report

Responsible Officer: Tim Rogers

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

Summary of Application

Application Number: 14/03484/OUT	Parish: Whitchurch Rural
Proposal: Outline application (access for approval) for residential development (some affordable housing) and associated amenity space;	
Site Address: Proposed Residential Development South Of Ash Hall Ash Magna Whitchurch Shropshire	
Applicant: R H Gregory And Company	
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk

Grid Ref: 357079 - 339711



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

Recommendation:- Grant Permission subject to the applicants entering into a S106 agreement to secure an affordable housing contribution and subject to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for the creation of seven dwellings. The means of access is to be considered as part of the outline application with the appearance, landscaping, layout and scale for consideration at reserved matters stage. Six of the dwellings would be new build with the seventh being created through the conversion of The Smithy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is located to the south of Ash Hall and to the north of Ash Lane between the War Memorial to the west and the entrance to the tennis courts/bowling green to the east.
- 2.2 It is an undulating area of land which is above the level of Ash Lane. The boundary to the highway is defined by a mature hedgerow. There are dwellings located to the south of Ash Lane and to the west of the site all of which are on the opposite side of highways to the site. To the east is the entrance to the tennis courts and the bowling green with the village hall on the opposite side of the vehicular access.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 Complex or major applications which in the view of the Group Manager for Environment or the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman should be determined by the relevant Planning Committee.

As there have been a number of objections to the proposal including a petition it is considered that in this case it would be more appropriate for the proposal to be debated by the North Planning Committee.

4.0 COMMUNITY REPRESENTATIONS full details of the responses can be viewed online

4.1 Consultee Comments

4.1.1 Whitchurch Rural Parish Council:

Original Comments

The Councillors agreed to object to this application as they believe it to be outside a current development boundary, contrary to CS6, in close proximity to a grade 2* listed building and on the basis of community objections.

Final Comments

The Parish Council agreed to support the application following consideration of the amendments to the proposal. Highways alterations were noted with approval. Councillors noted plans to maintain the Old Smithy building which they would like to see restored and given a suitable ongoing function.

- 4.1.2 **Affordable Housing Officer:** No objection subject to the appropriate contribution for affordable housing is made. The level will be set at the approval of reserved matters stage.

- 4.1.3 **Drainage:** No objection but further information will be required as part of a reserved matters application.
- 4.1.4 **Public Protection:** No objection. However the development should include vehicle charging points.
- 4.1.5 **Historic Environment – Archaeology:** The site has a moderate-high archaeological potential.
- 4.1.6 **English Heritage:** Although not designated The Smithy is of some quality and is a significant component on the village. Its retention in the proposed scheme is appreciated.
- 4.1.7 **Tree Officer:** No objection and details for the planting of the new hedge have been provided.
- 4.1.8 **Highways Development Control:** No objection subject to the inclusion of the recommended conditions should planning permission be granted.
- 4.1.9 **Ecology:** Concerns raised regarding the mitigation proposals for Great Crested Newts but otherwise no objection subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.

4.2 **Public Comments**

- 4.2.1 There have been 8 letters of objection and 2 letters of support from the public. There has also been a petition against the removal of an ancient hedgerow (associated with the development site) that has received 110 signatures. The grounds for objection are as follows:
- Shrewsbury, at present, has a 5.47 year housing supply. It therefore is unnecessary to consider this site for development because it is outside the development boundary as outlined by SAMDev.
 - The community has strong feelings against the proposal.
 - The development will upset the character of the village.
 - An ancient hedgerow will be removed for access. This hedgerow is a haven for wildlife and a habitat for the Great Crested Newts. It also contributes to the character of the village.
 - There will be drainage issues. The road running through the village already does not cope with moderately heavy showers and there have been incidences of garages, drives and gardens flooding.
 - Access to the new properties will be dangerous. The road through the village is narrow and unable to accommodate the projected increase in traffic.
 - The new two-way access by the village hall will be extremely dangerous as a result of poor visibility.
 - The increase in traffic will create more pollution. If there are electrical cars, this will contribute to the current electricity shortage in the Whitchurch area.
 - In the last 50 years, Ash Magna has been affected by foot and mouth disease. It is believed that carcasses may have been buried on the site of the proposed development. Little research has been undertaken into the

exhumation of FMD carcasses and there may be a risk associated with opening such burial sites.

- There are issues with broadband speeds in the village. New houses will only exacerbate the issue.
- There is no gas supply for Ash Magna. New houses will add to this problem.
- Ash Hall is a Grade 2 listed building and it has 'medium / high' archaeological' interest.
- The land is sloping. This would mean that development would either result in a loss of privacy for the neighbours opposite or expensive excavating would be required, making the project very expensive.
- Listed in the amenities of the village is a 'daily bus service'. This is a school bus and therefore should not be considered as such.

4.2.2 Comments for support are as follows:

- SAMDev states that Ash should have at least 15 new dwellings by 2026. This development will make a major contribution to this total. It is also in keeping with the village setting of ribbon development. This is preferable to trying to squeeze in development on inappropriate sites (e.g. gardens).
- The development is of enormous importance to the landscape of the village. Support is offered for the development however, given its significance, it would be appropriate for this application to go to Committee.

5.0 THE MAIN ISSUES

- Policy & Principle of Development
- Design, Scale and Character
- Impact on Residential Amenity
- Highways
- Impact on Trees
- Ecology
- Drainage

6.0 OFFICER APPRAISAL

6.1 Policy & 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 Council's Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises 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. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will 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 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.

- 6.1.3 In both the current North Shropshire Local Plan and the SAMDev Final Plan, this area is identified as being in an area of open countryside although adjacent to the existing and proposed development boundary. As such any new housing development in the area would normally be strictly controlled as defined in policy CS5 of the Shropshire Core Strategy. However as SAMDev has not yet been adopted and considering the age of the North Shropshire Local Plan it will be necessary to consider the proposal in light of the NPPF.
- 6.1.4 In the intervening period between submission and adoption, sustainable sites for housing where the 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 such it remains officer's advice that it would be difficult to defend a refusal for a site which constitutes sustainable development and that the presumption in favour of sustainable development at paragraph 47 of the NPPF is given greater weight than either the adopted or forthcoming policies. The NPPF does not permit a housing development free-for-all, the principle issue for consideration is whether the development is sustainable or not when considered against the NPPF as a whole. As such a development which is not sustainable can be refused against the NPPF but officers advise that caution should always be taken when considering refusal against the NPPF. Paragraph 14 advises that the adverse impacts of granting consent would need to significantly and demonstrably outweigh the benefits.
- 6.1.5 Although SAMDev has not yet been adopted the documents submitted as part of the Final Plan identify that Ash Maga and Ash Parva provide a total of 15 new dwellings up to 2026. However with the exception of land at Ash Parva it is difficult to see how any further dwellings could be constructed within the proposed development boundary for Ash Magna to meet their target. The land at Ash Parva is the subject of a current application which is proposing the construction of 8 dwellings. Therefore this application for 7 dwellings on land adjacent to the development infill boundary would provide the remaining dwellings required under the proposed SAMDev.
- 6.1.6 Having regard to the position regarding land supply, the key points to consider are that the land supply calculation includes a number of sites in SAMDev and brownfield locations yet to be developed. Under delivery on the ground will

continue to erode the 5 year land supply figure until such a time as development activity on the ground increases. In principle the site is considered to be sustainable and as it is adjacent to a cluster in SAMDev which has also been taken into consideration as part of the Council's five year housing land supply calculations. To encourage the early delivery of the site it is recommended that the permission is reduced to 12 months and a planning condition will be included to this effect. The officer recommendation, having regard to these factors and the changing balance of considerations in the context of a 5 year housing land supply is to therefore to maintain a recommendation for approval.

- 6.1.6 In terms of deliverability, it has been confirmed by the Agent to the Case Officer that the Applicant is in discussion with developers about the possibility of the scheme being brought forward. However, this will not be progressed any further until planning permission is secured. This information confirms that the site is deliverable.
- 6.1.7 With regard to affordable housing officers note the recent Ministerial statement and amendments to the National Planning Practice Guidance as a material consideration in determining a planning application. However, following a subsequent decision by the Cabinet of the Council, the Council continues to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and continues to seek on site provision of affordable housing and/or developer contributions to the provision of affordable housing in relation to all sites (please see the public statement of the Council 'as published on the website 30/01/15' – or 'attached as appendix').
- 6.1.8 Given the above, it is recommended that planning permission be granted only subject to the satisfactory completion of a legal agreement to secure the provision of affordable housing in accordance with the terms of the policy. Non compliance with the requirements of adopted Core Strategy Policy CS11 would mean that the proposal would be in clear conflict with the aims and requirements of the Development Plan and should therefore be refused, unless other material considerations indicate otherwise.
- 6.2 **Is the Development Sustainable**
- 6.2.1 The sustainability of a site is not judged purely on its location, or on whether it is deliverable. The fact that the site is deliverable and available is a positive in its favour. However, the suitability of a site in terms of its sustainability needs to be considered against the NPPF as a whole and the policies within the Core Strategy which do not relate to housing supply and therefore remain up to date policies. Paragraph 6 of the NPPF advises that paragraphs 18 to 219 constitute sustainable development.
- 6.2.2 Paragraph 55 of the NPPF promotes sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The example given is where there are groups of smaller settlements and a development in one of these may support the services in others nearby. However dwellings in isolated locations should be avoided
- 6.2.3 A number of appeal decisions have been received where the issue of

sustainability is dealt with. This has provided conflicting views as to what is or is not considered sustainable development. It is also noted that a number of small settlements are being promoted within SAMDev for development which would have few if any local services or facilities.

6.2.4 This land is shown to be adjacent to the settlement of Ash Magna on Ordnance Survey maps. The land is currently for grazing with no buildings having been constructed on it. Whilst there are some hedges particularly along the road frontage these would not be considered sufficient to screen the proposed development. The proposal is considered to be located on land designated as open countryside. However it lies between and adjacent to other development within the village along one of the main access roads. Therefore whilst it would be visible within the landscape it is closely associated with other existing buildings. The proposal would provide dwellings that are linear with the highway which is a main characteristic of development in the village. As such the proposal is one that would be considered to meet the requirements of the NPPF when read as a whole as this proposal would not lead to a sporadic form of development in the open countryside.

6.3 **Economic Consideration**

6.3.1 Paragraph 7 of the NPPF sets out the three dimensions to sustainable development and provides an overview of what is considered to be the economic, social and environmental roles of the planning system.

6.3.2 It is acknowledged that there are economic benefits of new house building in providing housing in close proximity to the settlement and that it is located relatively close to other settlements where potential employment opportunities exist. Whilst it may be necessary to drive to some of these locations this does not necessarily preclude them from consideration as most rural settlements in Shropshire require access to other areas by vehicle.

6.3.3 As detailed in Paragraph 55 of the NPPF the benefit to nearby services can also be taken into consideration and as further development would contribute to the vitality and viability of these facilities in the area this aspect also has to be considered.

6.3.4 In this case Ash Magna benefits from a public house together with village hall, tennis courts and bowling green. The village is also within close proximity of Whitchurch. As such there is potential for the development to have a significant impact on the businesses and facilities in the area which would help maintain their vitality and viability.

6.3.5 Taking the above in to consideration it is noted that there may be potential benefits to the economy of the area and nearby settlements.

6.4 **Social Considerations**

6.4.1 The development of the site would increase the population of the settlement and as such provide potential support to village clubs, societies and the various facilities available. It is also within close proximity of Whitchurch where there are a significant number of other public facilities and services available. There is a

footpath through the village connecting the site to the facilities and as a result of the development it would be possible to include a further footpath along the roadside. In addition the development may provide an Affordable Housing Contribution that would assist in the provision of much needed affordable dwellings in the area. As with the economic benefits this is an accepted benefit of house building. Therefore in this instance it is considered by officers that the benefit to the social aspects would outweigh the harm potentially that could be caused.

6.4.2 Concerns have been expressed by local residents that comment has been made in the submitted documents that the village has a bus service. However this is only a school bus and there is no other regular public bus service available. This concern is appreciated, however, it is considered by Officer's that Ash Magna is close enough to other settlements with their associated services and facilities that this would not outweigh the benefit of the development. Previous appeal decisions have provided guidance that to use a car to access services in rural areas is not a reason to justify a development as being unsustainable. It should also be bourn in mind that as Ash Magna is being promoted within the SAMDev as a Cluster, the village must be considered a sustainable location and therefore to justify refusal on this issue would be difficult to sustain should it be taken to appeal.

6.5 **Environmental Considerations**

6.5.1 The site is currently used for grazing purposes. It is appreciated that the site is close to other dwellings and whilst the new development would have a visual impact on the area, this would not be considered to be unacceptable given its close association to other buildings. Whilst it will result in the removal of the existing highway boundary hedge, a new hedgerow would be planted and whilst it would take time to establish, using appropriate plants would provide an improved hedgerow which would maintain and improve upon the character of the existing.

6.5.2 The Smithy is also to be included within the scheme and following the recommendation of English Heritage will be converted as part of one of the proposed dwellings. This will therefore ensure the preservation of the non-listed heritage asset which is currently vacant and unused.

6.5.3 It is acknowledged that the development of the site from agricultural land to built development will have an environmental and visual impact, as considered in greater detail below. However there are also environmental benefits gained from the development. It has also been accepted in considering the applications around settlements, that development of agricultural land is unavoidable to deliver the housing required. The loss of grade 3 best and most versatile agricultural land is an impact of the development proposed, however officers consider that the loss of the area proposed for the seven houses would not constitute significant loss of agricultural land and as such that this harm is not so significant and demonstrable as to outweigh the benefits of new housing.

6.6 **Summary**

6.6.1 Local residents have objected to the proposal on the basis that the site is in an area of open countryside and therefore as there is a 5 year housing land supply

there is no necessity for the site to be developed and contrary to policy.

6.6.2 In view of the above it is the opinion of officers that the proposed development will have an impact on the character and appearance of the area. However the site is closely associated to other dwellings within the village and village facilities. It is also within close proximity of other settlements, particularly Whitchurch, where additional facilities and services are available. It will also ensure the preservation of a heritage asset within the village. Overall in view of the above it is considered that the potential benefits of the development outweighs the potential harm as such the development does meet the criteria set out in the NPPF.

6.7 **Design, Scale and Character**

6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development. Policy 7 'Requiring Good Design' of the National Planning Policy Framework indicates that great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

6.7.2 This is an outline application where the layout, appearance, scale and landscaping are not for consideration at this stage. However, following the recommendation by English Heritage the application has been slightly varied to allow for the retention of The Smithy within the proposal. The amended indicative layout plans identify that this would be incorporated by being converted to residential use. This would ensure the preservation of the non-listed heritage asset and the feature of the village. Full details of the proposed conversion scheme would need to be included as part of the reserved matters application should outline planning permission be granted.

6.8 **Impact on Residential Amenity**

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.8.2 Concerns have been expressed by local residents that the proposal will result in a loss of privacy and light to neighbouring properties.

6.8.3 There are no dwellings immediately adjacent to the site. There are dwellings to the south and west of the site but these are separated from the application site by public highways. The indicative plan also shows that the houses could be set approximately 30 metres from the front wall of the houses opposite. This is well in excess of the guidance generally accepted as a minimum of 21 metres to maintain privacy. However, the final design and layout together with the proposed landscaping will assess this more fully.

6.9 **Highways**

6.9.1 Local residents have raised concerns regarding the impact the proposed

development may have on the highways in the area. It is considered that the access arrangements and additional traffic will increase highway hazards.

- 6.9.2 The proposed development provides the opportunity of regularising the width of the carriageway along the site road frontage. In this respect it is considered that the carriageway should be widened to a minimum width of 5.0 metres by incorporating some localised widening. The setting back of the hedge by a depth of 2.4 metres from the carriageway edge as stated in the Design and Access Statement provides a satisfactory measure of visibility from the new accesses and an improvement to the existing entrance serving the adjoining tennis and bowling clubs. A surfaced footway should however be provided along the site road frontage to link into the village hall facility and not a grassed margin. The setting back of the hedge enables this to be provided. The principle of grouping the accesses is supported and the proposed parking and turning arrangements indicatively shown on the illustrative layout are satisfactory. The principle of the amended access arrangement to the club is also welcomed from the highway perspective. Improving an existing substandard point of access and enabling vehicles to have a more direct route to the adjoining Class III rather than travelling around the one way system to the east of the site.
- 6.9.3 In view of the comments from the Highways Development Control Officer it is considered that the proposal will not have a detrimental impact on highway safety. It may also result in improvements both through the provision of an additional footpath and also a widening of sections of the highway.
- 6.10 **Impact on Hedgerow**
- 6.10.1 Objections to the proposal also include the loss of the mature hedgerow along the highway frontage.
- 6.10.2 It is noted that the hedgerow does not fully enclose the site from the highway as sections have previously been removed or lost. Therefore the hedgerow is not considered a good example of a mature hedgerow. The new hedge to be planted could contain a mixture of new plants which would improve the bio-diversity of the area. In addition by setting the new hedgerow back from the roadside it would not only allow for the provision of a footpath but also allow for the maintenance of the hedge to be more safely carried out.
- 6.10.3 The Council's Tree Officer has made comment on the application and has recommended the species of plants to be used and other information which should be included as a condition and/or informative.
- 6.10.4 On balance the new hedgerow would be an improvement on the existing, allow improved village connectivity and provide an improvement to the biodiversity of the area.
- 6.11 **Ecology**
- 6.11.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected

species and habitats. Therefore the application has been considered by the Council's Ecologist.

- 6.11.2 No objection has been raised by the Council Ecologist to the proposed development subject to the inclusion of the recommended conditions and informatives on any planning permission that may be granted.
- 6.11.3 In view of the above it is considered that the proposed development will not have a detrimental impact on statutorily protected species and habitats. Therefore the proposal meets the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.
- 6.12 **Drainage**
- 6.12.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.12.2 Concerns have been raised by local residents regarding the potential for surface water flooding in the area as a result of the proposed development.
- 6.12.3 No objection to the proposed development has been raised by the Council's Drainage Engineer. However, should outline planning permission be granted conditions will be required to ensure that appropriate information is provided as part of the reserved matters application to demonstrate that appropriate systems can be installed. This additional information would ensure that there would be no increase in the risk of flooding in the area as a result of the proposed development.
- 6.12.4 In view of the above it is considered that an appropriate drainage system can be installed to meet the requirements of the NPPF and policy CS18 of the Shropshire Core Strategy.
- 6.13 **Impact on Historic Environment**
- 6.13.1 Issues have been raised by local residents that the proposed development will have a detrimental impact on the historic environment of the village. Of particular concern is the impact on Ash Hall which is a Grade II* listed building and that the site is identified as of moderate to high archaeological interest.
- 6.13.2 As the site is close to a Grade II* listed building the application has been considered by both English Heritage and the Council's Historic Environment Team.
- 6.13.3 No objections were raised in connection with the potential impact on the setting of the listed building. However a request was made that the non-listed Smithy be retained within the development. Amended plans were submitted which show this to be incorporated within the scheme as one of the proposed dwellings.
- 6.13.4 With regard to the archaeology on the site, the Council's Archaeologist has comments that the proposed development site lies within the core of the historic village of Ash Magna, and within a part of the settlement that is likely to have been inhabited since the medieval period. The Tithe Award map for Ash Magna

Township in Whitchurch Parish of 1841 and historic editions of the Ordnance Survey map indicate that from at least mid-19th century it previously formed part of the part of the grounds for Ash Hall (Grade II* Listed National Heritage List ref. 1366504). However, the position of the site in relation to the wider morphology of the village suggests that it may have been occupied by buildings in earlier centuries. It is therefore possible that archaeological features and deposits relating to the medieval and later development of the village will be present on the proposed development site. As a consequence, on present evidence it is deemed to have moderate high archaeological potential.

- 6.13.5 A condition has been recommended for inclusion should planning permission be granted which will allow for a programme of archaeological work to be carried out prior to works commencing on site.
- 6.13.6 In view of the comments above whilst the concerns of local residents are appreciated, the advice that has been provided does not object to the proposal. In deed the proposal will provide an opportunity for the knowledge of the history of the village to be increased and for the retention of a heritage asset which at present is unused and is falling into dis-repair.
- 6.13.7 As such it is considered by Officers that the proposal would be in accordance with the requirements of the NPPF and policy CS17 of the Shropshire Core Strategy.

6.14 **Other Matters**

- 6.14.1 Local residents have commented that there is a lack of broadband and gas to the village. These are not reasons that can be used to justify refusal of a planning application. The construction of additional dwellings may lead to the provision of such services to the village but this is most likely dependent on the need of the community and the willingness of suppliers to provide these services.
- 6.14.2 Comments have also been received that the site may be the burial site of livestock with Foot and Mouth. Following discussions with the Public Protection Officer, there is no record of this site having been used for such a purpose. In addition as this potentially would have been sometime ago, it is unlikely that there would be any residual contamination in the ground.

7.0 **CONCLUSION**

- 7.1 The proposed development will be visible within the rural landscape however, its close association with existing development, services and facilities ensure that the benefits of the development outweigh the harm and as such it meets the criteria set out in the NPPF for sustainable development.

The reserved matters application will provide the detail to ensure that the layout, appearance, scale and landscaping are appropriate for the area.

Overall it is considered that on balance the proposed development is in accordance with the NPPF, policies CS5, CS6, CS11, CS17 and CS18 of the Shropshire Core Strategy and the SPD on the Type and Affordability of Housing.

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 - written representations, a hearing or inquiry.
- The decision is 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 a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

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

8.2 Human Rights

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

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

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

8.3 Equalities

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

9.0 FINANCIAL IMPLICATIONS

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of

being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:
National Planning Policy Framework

Core Strategy and Saved Policies:
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management

11. Additional Information

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 Gerald Dakin

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 twelve months from the date of this permission.

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

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

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

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

The number of units but not exceeding seven

The means of enclosure of the site

The levels of the site

The means of access for disabled people

The drainage of the site

The finished floor levels

Full details for the conversion of The Smithy as part of the development for Plot 7

Reason: To ensure the development is of an appropriate standard.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The site is known to hold archaeological interest.

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

6. The accesses shall be satisfactorily completed in accordance with the approved plan JG_003 Rev E and setting back of the boundary hedge to depth of 2.4 metres from the carriageway edge prior to the dwellings being occupied.

Reason: In the interests of highway safety.

7. No development shall take place until a scheme for the strip widening of the Class III road to 5.0 metres along the site road frontage has been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

8. No development shall take place until full engineering details for the footway along the site road frontage and amended access arrangement to the tennis and bowling club, indicatively shown on drawing JG_003 Rev E have been submitted to and approved by the Local Planning Authority; and the development hereby permitted shall not be occupied until the works have been carried out strictly in accordance with the approved details.

Reason: In the interests of highway safety.

9. Details of the parking and turning areas shall be submitted as part of the first reserved matters application. The approved scheme shall be satisfactorily completed and laid out prior to any of the dwellings being occupied. The approved parking and turning areas shall thereafter maintained at all times for that purpose.

Reason: To ensure the formation and construction of a satisfactory parking and turning facilities in the interests of highway safety.