

Development Management Report

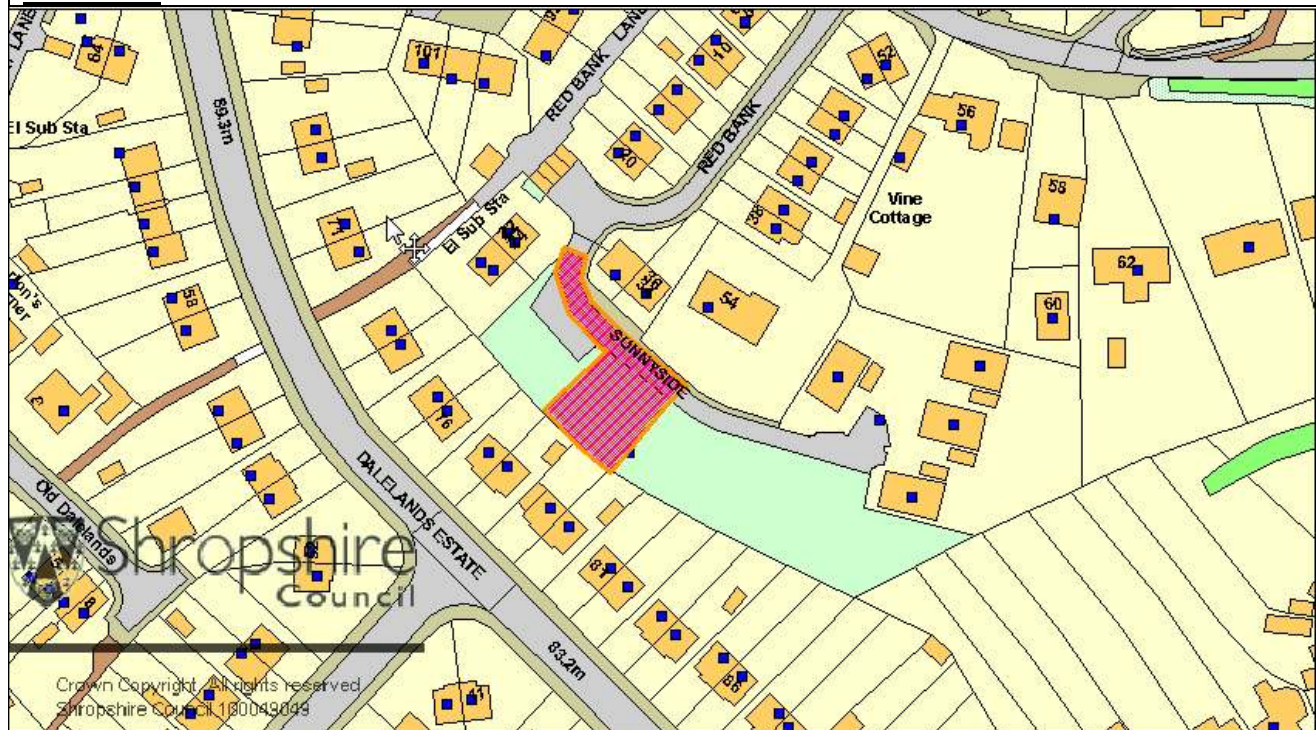
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/03759/FUL	Parish:	Market Drayton Town
Proposal: Erection of a pair of semi-detached dwellings		
Site Address: Land South Of 54 Red Bank Road Market Drayton Shropshire		
Applicant: Mr J Jones		
Case Officer: Sue Collins	email: planningdmne@shropshire.gov.uk	

Grid Ref: 366831 - 333606



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

Recommended Reason for Approval

REPORT

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the construction of a pair of semi-detached, split level dwellings on land to the south of Red Bank, Market Drayton. The development will be single storey to its frontage with Red Bank and then due to the slope of the site, the lower floor will cut into the bank and provide two storey accommodation at the rear. Parking space will be provided to the side of the dwellings with external steps being provided to allow access to the rear garden.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is currently vacant grassland within a residential area of Market Drayton. The public highway is at the top of the bank and provides access to five other dwellings. There is no definitive character of design of dwellings in this area as there is a mix of styles and sizes.

2.2 The land slopes down steeply from the top of Red Bank towards the dwellings on Dalelands with low timber fences marking the boundaries between the site and the rear gardens. There are a few trees and bushes along the rear boundary and at the top of the bank.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 Applications where the Parish Council submit a view contrary to officers (approval or refusal) based on material planning reasons the following tests need to be met:
(i) these contrary views cannot reasonably be overcome by negotiation or the imposition of planning conditions; and
(ii) the Area Manager or Principal Planning Officer in consultation with the committee chairman or vice chairman and the Local Member agrees that the Parish/Town Council has raised material planning issues and that the application should be determined by committee

In this case the Town Council has objected to the proposal on the grounds that the development will cause a loss of privacy and light to neighbouring properties and there will be an issue with surface water run-off.

Officers have sought amended plans which when assessed together with the orientation of the development would ensure that it would not have an unacceptable impact on the residential amenities of the neighbouring properties. In addition no objection to the proposal has been received from the Council's Drainage Engineer who has requested that further information be provided as the subject of a condition, to ensure that an appropriate scheme of drainage be installed. As such the Officer recommendation would be for approval of the proposed scheme.

4.0 COMMUNITY REPRESENTATIONS (full versions of the responses can be

viewed online)

4.1 **Consultee Comments**

4.1.1 **Drainage:** No objection subject to the inclusion of the recommended conditions and informatives should planning permission be granted.

4.1.2 **Affordable Housing Officer:** No Objection provided the appropriate level of affordable housing contribution is made.

4.1.3 **Market Drayton Town Council:** Object to the planning application on the grounds that the dwellings would impinge on the light and privacy of the houses below, with possible problems of the run off of surface water.

4.2 **Public Comments**

4.2.1 Four letters of representation have been received from three different addresses in connection with the development. The areas of concern are as follows:

- Loss of privacy to existing dwellings
- Drainage will be an issue
- The land is used by wildlife
- Loss of value of properties
- Loss of light
- Noise from vehicles and people
- The development will cause damage to neighbouring property.
- The land is not suitable for development
- Additional traffic will be an issue
- The proposal will be overbearing to the dwellings behind.
- There is a protected tree on the site.

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 Councils 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 the development boundary for Market Drayton. As such any new housing development in the area would need to comply with policy H5 of the North Shropshire Local Plan and CS4 of the Shropshire Core Strategy.
- 6.1.4 Policy H5 of the North Shropshire Local Plan identifies Market Drayton as a Market Town which has a wide range of facilities and services and are centres serving their surrounding rural areas. As such housing development that is appropriate in its location and scale would be considered acceptable.
- 6.1.5 Policy CS4 of the Shropshire Core Strategy focuses development within the Community Hubs and Clusters. There is a requirement that development should provide a mix of housing to cater for the needs of the community whilst respecting the character of the area.
- 6.1.6 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').
- 6.1.7 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.

- 6.1.8 On the basis of the above the construction of a new open market dwelling would normally be considered acceptable in this location.

6.2 **Design, Scale and Character**

- 6.2.1 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.

- 6.2.2 The proposal is for a pair of semi-detached dwellings and as the site is on a steep slope a split-level style of building has been designed. The upper floor will be level with the highway at Red Bank and the lower one cut into the bank so that the building will appear as a two storey from the rear elevation. Each dwelling will have an internal floor area of approximately 80 sq metres and comprise a kitchen, living room and utility on the upper floor with two bedrooms and bathroom on the lower.

- 6.2.3 Externally the building would be clad with brick and tile and has been designed with a hipped roof to minimise its visual impact and has an asymmetrical roof pitch. On the rear elevation the number of windows has been limited to two fixed light obscure glazed windows on the lower floor to the bathrooms and four rooflights to the upper floor. Due to the height of the roof at the rear, the bottom of the rooflights would be 2 metres above floor level.

- 6.2.4 In order to minimise the number of windows in the rear elevation, most of the windows have been inserted into the side and front elevations. An enclosed patio area served by steps from the parking areas will provide some private amenity space.

6.3 **Impact on Residential Amenity**

- 6.3.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.
- 6.3.2 Concerns have been expressed by the Town Council and local residents that the proposed development will have an unacceptable impact on the amenities of nearby residential properties. The development would result in a loss of privacy, a loss of light and have an overbearing impact on the amenities of the adjacent residents.
- 6.3.3 The amended proposal is for a split level dwelling with a maximum height to ridge of 6.3 metres above finished floor level. This will involve cutting back into the bank to provide the lower floor accommodation. The width of the building will be approximately 11.7 metres with retaining walls being constructed to the sides with

steps down from the drive to the patio area. The rear wall of the proposed dwellings would be approximately 19.28 metres from the rear wall of the dwellings onto Dalelands and the finished floor level of the dwellings would be approximately 4 metres above the ground level of the dwellings on Dalelands .

- 6.3.4 At present it is possible to view the whole of the rear gardens and elevations of the existing dwellings along Dalelands from Red Bank. To minimise any impact of the development on the privacy of these properties the building has been designed with limited windows on the rear elevation. Those that are proposed are either obscure glazed and fixed shut or are rooflights at too high a level to be seen out of. A condition is proposed which would prevent the installation of further windows on this elevation and also require the bathroom windows to remain obscure glazed and fixed closed.
- 6.3.5 A parking space has been provided to each unit with external steps leading down to patio areas located to the side. These areas will be screened by timber fencing to minimise any views towards the properties at the rear. Whilst the remainder of the garden would be higher than those of the properties at Dalelands a 2 metre high fence together with additional planting along the rear boundary would minimise any potential loss of privacy. A condition is recommended for inclusion on any planning permission granted requiring this to be carried out and thereafter maintained.
- 6.3.6 With regards to the issue of loss of light, the proposed dwellings are located north east of the dwellings on Dalelands. As such they would not obscure any direct sunlight. Furthermore to minimise any loss of residual light, the height of the dwellings has been minimised and hipped roofs installed.
- 6.3.7 Generally there is a guide that in order to prevent a loss of privacy there should be a minimum of 21 metres unobstructed view between habitable room windows. In this case, no windows in the proposed dwellings will provide direct views into habitable room windows and the distance between the dwellings is in excess of 19 metres. Whilst there may be some loss of privacy in parking the vehicles to the side of the dwellings or using the steps down to the screened patio areas, this would not be to an unacceptable level.
- 6.3.8 It is appreciated that with the initial scheme that the height a mass of the building would have had an overbearing impact on the residential amenities of the neighbouring properties. However, the scheme has been reduced in height by approximately 0.5 metres and the roof redesigned to be hipped and asymmetrical. These factors when combined have significantly reduced the overall mass. Therefore whilst it will still be higher than the properties on Dalelands, its impact would be significantly less and to an acceptable level.
- 6.3.9 In view of the above it is Officer opinion that the potential loss of light and privacy would be minimal and to an acceptable level. In addition whilst the building would be higher than the neighbouring properties and close to their rear boundaries it is considered that the proposal would not have an overbearing impact. Therefore the proposal would be in accordance with policy CS6 of the Shropshire Core Strategy.

6.4 **Drainage**

- 6.4.1 The NPPF and policy CS18 of the Shropshire Core Strategy require consideration to be given to the potential flood risk of development.
- 6.4.2 The drainage of surface water run-off from the development has also been raised as an issue by the Town Council and local residents.
- 6.4.3 The Council's Drainage Engineer has assessed the proposal and has raised no objection. However it is recommended that a condition be included on any planning permission requiring the full details of the proposed drainage system be submitted for approval. This would be to ensure that any proposed drainage system is appropriately designed to deal with the development. As such a scheme can be installed that would not exacerbate existing flooding risks.
- 6.4.3 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.

6.5 **Trees**

- 6.5.1 Local Residents have commented that there is a protected tree on the site and that this will affect the development. A check of the records has been carried out and the Tree Officer has confirmed that there are no Tree Preservation Orders on the site.

7.0 **CONCLUSION**

- 7.1 The proposed development is acceptable in this location and is of an appropriate design and scale. It will not have a detrimental impact on the character and appearance of the area. The submission of the drainage details would ensure that there would be no flood risk as a result of the development and the design and orientation of the development would cause minimal impact on residential amenities of the area. Therefore provided the applicant enters into a S106 Legal Agreement to ensure payment of the affordable housing contribution, the proposal is in accordance with the NPPF, policy H5 of the North Shropshire Local Plan, policies CS4, 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 6 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:

CS6 - Sustainable Design and Development Principles
CS11 - Type and Affordability of housing
CS17 - Environmental Networks
CS18 - Sustainable Water Management
H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages
SPD Type and Affordability of Housing

11. Additional Information

[View details online:](#)

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 Hughes

Cllr David Minnery

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 approved 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 details 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 development shall take place until a scheme of foul drainage, and 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.

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

5. Prior to the first occupation of the dwellings hereby approved a 2 metre high timber fence shall be constructed along the rear boundary of the dwellings.

Reason: To preserve the amenity and privacy of adjoining properties.

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

6. The lower floor windows in the rear elevation shall be permanently formed as a fixed light and glazed with obscure glass and shall thereafter be retained. No further windows or other openings shall be formed in that elevation unless otherwise agreed by the Local Planning Authority.

Reason: To preserve the amenity and privacy of adjoining properties.