

Committee and Date

North Planning Committee

17 February 2015

Item**11**

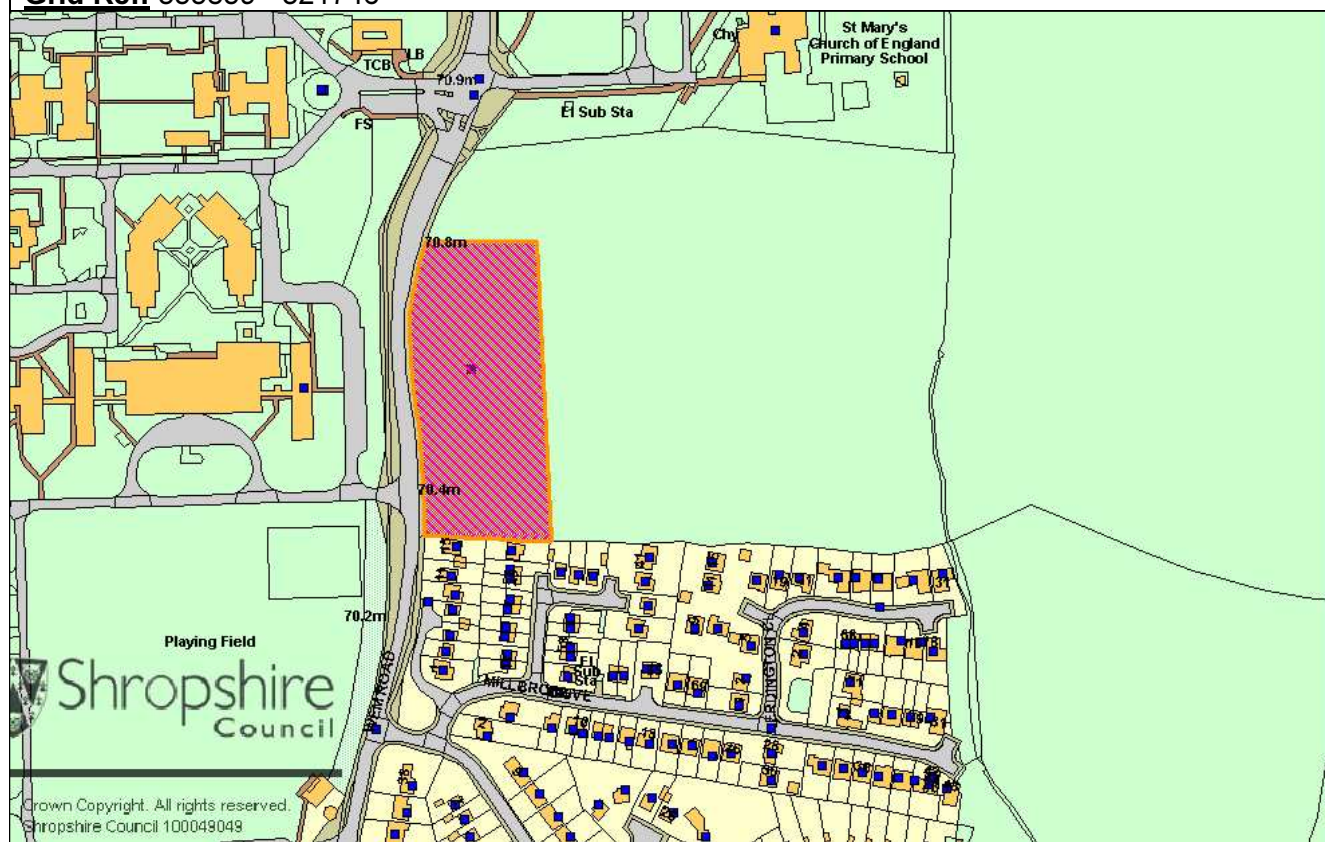
Public

Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619**Summary of Application**

Application Number: 14/04558/OUT	Parish:	Shawbury
Proposal: Outline application (access for approval) for mixed residential development		
Site Address: Development Land East Of Wem Road Shawbury Shropshire		
Applicant: Acton Reynald Estate Trustees		
Case Officer: Karen Townend	email: planningdmne@shropshire.gov.uk	

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

REPORT

1.0 THE PROPOSAL

1.1 The application seeks outline planning permission for residential development for up to 25 dwellings. At this outline stage access has been submitted for approval, all other matters of layout, scale, appearance and landscaping are reserved for later approval.

1.2 In support of the planning application the following documents have been submitted: Design and Access Statement, Ecology report and Noise Assessment.

2.0 SITE LOCATION/DESCRIPTION

2.1 The application site is 0.93 hectares in area and is part of a larger agricultural field on the edge of Shawbury. It has road frontage onto the Wem Road and lies opposite the RAF Shawbury base and buildings within the base. To the south of the application site lies an existing housing estate made up of a mix of detached and semi detached houses and bungalows. Two existing dwellings sit with their side elevations facing over the application site, one of which is a bungalow with ground floor windows in the facing elevation, the second is a two storey dwelling with one ground floor window. To the north of the site is agricultural land and north of that lies the exit road for the, now disused, primary school and the recently completed sports facilities for the RAF base.

2.2 There is a low roadside hedge running along the Wem Road with a footpath and the field boundary post and wire fence on the inside of the site but the side and rear boundaries of the application site are not currently defined and the land is open to the remainder of the field. The boundary with the adjacent dwellings is also a hedge which varies in height. The main part of Shawbury lies to the south of the application site.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The Parish Council has submitted a view which is contrary to the officers recommendation and is based on material planning reasons which can not be overcome by condition or negotiation.

This has been discussed with the Chair of the Planning Committee who has confirmed that the application should be considered by members.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Parish Council** – Object to the plans for the following reasons:

(a) The results of the Parish wide questionnaire and the public meeting called to discuss Shawburys response to the fifteen year planning cycle had overwhelmingly been that Shawbury should be classed as a hub but that development over the period should be restricted to fifty properties. There was already a plan on the table for a development of fifty properties on land adjacent to the A53.

- (b) As Shropshire had now reached its SAMDev land target, the results of the public consultation and the Parish Place Plan could and should be observed.
- (c) When the preferred sites in the Parish had been considered, this site had been rejected in favour of the site alongside the A53.
- (d) There are sustainability concerns, especially in respect of providing Doctors surgery provision and the distance from the local primary school. This will result in children walking alongside the Wem Road and then crossing the busy A53 or in more vehicles transporting them. The school suggested by the developers is not a logical proposition.
- (e) Access to/from the site is directly onto Wem Road, notorious for excessive speed and heavy use, which has already been acknowledged by the extension of the 30mph speed limit; the installation of a Vehicle Operated Speed Control and regular visits by the Speed Watch Team. It is also close to the access to the RAF station. Additional traffic on to this road will only increase the inherent dangers.

4.1.2 Ministry of Defence - Defence Infrastructure Organisation (DIO) – Royal Air Force (RAF) Shawbury lies to the north/west of the application site. It is home to the Central Air Traffic Control School (CATCS), the Defence Helicopter Flying School (DHFS), the Aircraft Maintenance and Storage Unit (AMSU), Central Flying School (Helicopter) (CFS (H)) Sqn and Air Traffic Management Standards and Evaluation (ATM Staneval).

CATCS trains all RAF and RN Air Traffic Controllers (ATC), Flight Ops Officers (FOO) and Assistants (FOA), Air Traffic and Flight Ops Instructors and Unit Training Officers. DHFS trains tri-service helicopter pilots and crews. CFS (H) Sqn trains tri-service Qualified Helicopter Instructors and Qualified Helicopter Crewman Instructors. Training at RAF Shawbury enables front-line activity and is critical in priming the frontline with aircrew, ATC/Flt Ops personnel, and in pre-deployment training standardisation and deployment of Individual Augmentees. RAF Shawbury is currently an intensively operated RAF airbase. Notwithstanding this, it is expected that the operation of RAF Shawbury will intensify further in the future. To this effect, the DIO wishes to raise the following points regarding the future of the airbase:

- It is expected that there will likely be an increase in helicopter operations in Low Flying Area 9 due to the drawdown of operations in Afghanistan and greater helicopter training taking place in the UK;
- Course sizes are increasing;
- The Defence Helicopter Flying School expect their output to increase in accordance with Future Force 2020 model;
- Over 50% of all flying training output for the military is rotary wing;
- UK Military Flying Training System Plans feature a potential relocation of activity on the airfield;
- Additional fixed-wing aircraft are expected in storage in the AMSU which will mean that there will be additional noise sources from fixed-wing ground engine running prior to storage and following removal from storage.

With regard to the proposed development, it is important to acknowledge that the MoD supports the principle of new residential development in the local area. However, in these circumstances, we wish to outline our concerns regarding this planning application.

Given the nature of operations undertaken at RAF Shawbury and their proximity to the application site, the MoD has significant concerns regarding the noise levels that would be experienced by the future inhabitants of the new houses proposed. Notwithstanding this, these concerns will be greater in future in line with the future proposals for RAF Shawbury. In view of these concerns, it would be our usual course of action to suggest that the application should be supported by a Noise Assessment and that suitable mitigation, in accordance with MoD Noise Amelioration Scheme (Military) (NAS(M)) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

In this case, the Applicant has submitted an Environmental Noise Assessment (reference 14947-1 R1) in support of their application. However, it is this Assessment which causes concern to the DIO for the following reasons; Firstly, paragraph 5.2.1 of Section 5.2 indicates that the noise monitoring surveys were carried out over a 3-day period from 23rd through to 25th April 2014, which is described by Noise.co.uk as “a typical weekday period”. Unfortunately, the DIO disagree with this statement given the period identified coincided with the Easter holiday period when on-site activity was quieter and included no night-time flying operations. N.B. on average, RAF Shawbury has 50 aircraft sorties a day. Therefore, this would not represent a typical weekday period for the site and RAF Shawbury. In addition, a 3-day period is not considered to be a sufficient timeframe due to the variable training programme which takes place at RAF Shawbury in which case a longer timeframe for the Assessment would be required. Accordingly, the DIO believe this statement is somewhat misleading.

Secondly, the Assessment almost considers RAF Shawbury itself to be the source of noise given that there has been no consideration of flight paths in/around RAF Shawbury and the application site and the potential for aircraft to fly over the application site. This is further evidenced by virtue of the monitoring position for the noise monitoring survey, which again considered the noise source to be RAF Shawbury but did not consider flight paths. Please be advised that whilst the application site is not in an area routinely transited by aircraft, it will on occasion be over-flown as it currently provides the only clear approach to the airfield from the east.

Thirdly, the assessment takes into account average noise levels only, which despite not being wrong in terms of guidance, would not reflect individual events on site. Therefore, it is suggested that this is somewhat misleading in these circumstances.

Fourthly, in respect to the noise attenuation measures proposed, average data has been used to specify the noise attenuation of the glazing proposed. It is suggested that the proposed mitigation would fail to meet the minimum standards of the NAS(M) specifications, in which case would be unacceptable in these circumstances. Please note that all glazing throughout the development scheme should comply with the minimum standards of the NAS(M) specifications. In view of the above, the DIO do not believe the Environmental Noise Assessment as submitted to be sufficient and fails to fully address the issue of noise. It is unfortunate that there has been no contact between the consultant and RAF Shawbury in advance, during or post completion of the noise monitoring surveys/assessment as this would no doubt have assisted and perhaps removed

the need for a further Assessment. Accordingly, the DIO suggest the application should be supported by a new Noise Assessment and that suitable mitigation, in accordance with MoD NAS(M) specifications, is proposed to protect the future inhabitants from existing (and future) noise generated from RAF Shawbury.

Following the submission of a new Noise Assessment, the MoD would appreciate the opportunity to review its content and be afforded a further opportunity to provide comments.

It is appreciated that the regular flying program at RAF Shawbury, in support of the Defence of the Realm, can unfortunately cause some annoyance to neighbours by reason of noise disturbance. With regard to the proposed development, should the Local Planning Authority decide to grant planning permission for residential development on this adjoining site to RAF Shawbury, the MoD/RAF will bear no responsibility for any complaints or claims from new residents in respect of matters of noise and will refer the complainants to the Developer and the Council.

Notwithstanding the above, it is my understanding that the MoD Safeguarding Department will be submitting additional representations in reference to this planning application. This response should, therefore, be read in connection with the MoD Safeguarding response.

4.1.3 **Ministry of Defence - Safeguarding** – The MOD has no safeguarding objections to this proposal.

4.1.4 **Affordable Housing** – If this site is deemed suitable for residential development, the scheme would be required to contribute towards affordable housing in accordance with Policy CS11 of the adopted Core Strategy. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and at the prevailing housing target rate at the time of Reserved Matters application.

The current prevailing target rate for affordable housing in this area is 15% this would mean a provision of 3 Affordable houses on site along with a financial sum for the remaining percentage. The assumed tenure split of the affordable homes would be 2 for affordable rent and 1 for low cost home ownership and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Councils prevailing Allocation Policy and Scheme.

However as this is an outline application the percentage contribution and number of affordable homes will not be set at this time, but will be reviewed at the time of the reserved matters application. The size, type and tenure of the affordable housing needs to be agreed in writing with the Housing Enabling team before any application is submitted

4.1.5 **Public Protection** – The noise report attached to planning application 14/04558/OUT has not considered max noise levels and the number of these events that may occur on any day/night. This is not considered to be suitable due to the large number of flight movements potentially at low level which could impact on the proposed development in terms of max noise levels day and night. The

MOD/RAF state that the noise levels are not typical due to minimal flying activities during the survey in particular no or little night time flying. They were also not contacted to discuss suitable times for the noise survey to take place. Therefore the applicant should carry out a further noise assessment which takes into consideration noise data from a noise survey which the RAF agree represents at least typical day and night time noise levels and where possible a worst case scenario as well for comparison. This is fundamental in ensuring that appropriate mitigation is feasible. Mitigation is also required across the whole site rather than simply to the façade of building on the western edge of the development facing west due to flights overhead potentially being from any direction unless it can be demonstrated otherwise. The RAF/MOD may be able to give further comment on this aspect.

Alternatively a condition as stated above could be placed to ensure an appropriate assessment is carried out in future however I would encourage an appropriate assessment at this point in order that the financial implications of mitigation are known.

- 4.1.6 **Highways** – Raise no objection to the granting of outline consent subject to a condition to require details of the access and footpath linkage to Millbrook Drive.
- 4.1.7 **Ecology** – Recommends conditions and informatives. The hedgerows on site are likely to be used for bat foraging and commuting and also for nesting birds.
- 4.1.8 **Drainage** – No objection subject to conditions requiring full drainage details to be submitted as part of the approval of reserved matters application.
- 4.2 **Public Comments**
- 4.2.1 Three letters of representation have been received raising the following concerns:
- Overdevelopment with other proposals in the village
 - Loss of prime agricultural land
 - Old school site should be developed first
 - Impact on amenities
 - Increase in noise from new dwellings
 - Proposed houses are too close to existing dwellings
 - Increase in traffic on fast section of road

5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Economic considerations
- Social considerations
- Environmental considerations
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- 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 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.
- 6.1.3 In September 2013 the housing land supply in Shropshire fell below the 5 year requirement. This has now been updated following the submission of the SAMDev Final Plan to the Planning Inspectorate. The Council is now in a position that it has identified sufficient land that addresses the NPPF 5 year housing land supply requirements. However, in calculating the 5 years' supply the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies as there are significant unresolved objections which will not be resolved until the public examination and adoption of the SAMDev.
- 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.
- 6.1.4 It is acknowledged that the site is outside the development boundary for Shawbury as previously set within the North Shropshire Local Plan. As such the application has been advertised as a departure from the adopted local plan and would not normally be supported for development. The site is also outside of the proposed

development boundary in the forthcoming Site Allocations and Management of Development (SAMDev) plan. Shawbury in the SAMDev is identified as a community hub which will provide for modest growth of about 50 new dwellings over the plan period. There is one proposed allocation for new housing which is not the current application site and as such the proposed development would not comply with the proposed SAMDev. However, as noted above the SAMDev can only be given limited weight and it is still appropriate to consider whether the development would be considered as sustainable against the whole of the NPPF.

6.1.5 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

6.1.6 It is also appropriate to consider the NPPF as a whole in assessing the sustainability of this proposal. Paragraph 14 of the NPPF states that within the context of the 'presumption in favour' development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweighs the benefits.

6.2 **Is the site sustainable?**

6.2.1 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. For a site to be considered to be sustainable development the three dimensions need to all be provided and the presumption in favour of sustainable development advises that, unless there are material considerations which significantly and demonstrably outweigh the benefits, consent should be granted. It is not a case of having to prove the benefits outweigh the harm but to prove that any harm substantially and demonstrably outweighs the benefits.

6.2.2 The agent has commented in the D&A that Shawbury is a main service village in the NSLP and that the site is approximately 400 metres from the village services and facilities and that there is a regular bus service (hourly six days per week). The agent also comments that the identification of Shawbury as a Community Hub in the SAMDev clearly shows that the settlement is sustainable and capable of accommodating development. However, just because a settlement has services and facilities and can accommodate development does not mean that all development should be granted. Each application needs to be considered on its own merits and each application needs to be shown to be sustainable development, not only within a sustainable settlement.

6.2.3 The Parish Council response notes that the site was not progressed in the SAMDev as another site was favoured. In considering the site the Council noted its good relationship with some recreation facilities but scored it poorly due to its

distance from some recreation facilities, close proximity to an ancient woodland, loss of agricultural land, distance from the primary school and close proximity to the RAF base. Overall the sustainability of the site was judged to be fair but it was not proposed for allocation as the alternative site was better located in relation to services and facilities in the village.

6.2.4 However, this does not mean that the proposed development is not sustainable. All three parts of the definition of sustainable development need to be considered and need to be given equal weight and consideration in the determination of the application. Some weight can also be given to the overall fair sustainability assessment previously noted.

6.3 **Economic considerations?**

6.3.1 The construction of new housing in, or on the edge of, Shawbury would support the businesses and services within the village. Furthermore, the development will result in construction jobs, new homes bonus, new residents, increased household expenditure and the resultant opportunities to support local shops and facilities.

6.3.2 The development will also be liable for payment of the Community Infrastructure Levy (CIL) which for this site would be at the £80 per square metre rate and be used in accordance with policy CS9 to support local infrastructure requirements. This money can be used to assist in resolving the issues raised within the local place plan.

6.4 **Social considerations?**

6.4.1 As noted by the objectors and the Parish Council, new housing in the village will also increase pressure on the services such as the school and doctors surgery. This is a social harm resulting from any development. However, objectors have also noted the size of the existing village, which is not considered to be a small village by officers but is considered to be a medium to large village with a good range of services and facilities.

6.4.2 Given the size of the existing village and that the development will provide community infrastructure levy payments, the impact of the scale of the proposed development of 25 houses is not considered to be a significant harm which would justify refusal of the application.

6.4.3 The application also proposes to provide 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').

6.4.4 The application has been submitted with the Council Affordable Housing Form which confirms the applicant's willingness to provide affordable housing on the site. The form calculates the affordable housing required for 25 dwellings at the current target rate of 15%. However as an outline planning application the target

rate would be the rate at the time of the submission of reserved matters and furthermore the number of houses is not for approval at this time. As such the form can be considered to show an agreement in principle to affordable housing but does not set the level of affordable housing to be provided. 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.

6.5 **Environmental considerations?**

6.5.1 It is acknowledged that the development of the site will result in the loss of a parcel of grade 3 agricultural land which is considered to be best and most versatile land and as such is a harm to be factored into the planning balance. However, as a site of 0.93 hectares the development of this site will only result in the loss of a small parcel of land and could not be considered as significant loss of agricultural land and as such the harm from the loss of the agricultural land needs to form part of the overall planning balance but is not considered to be significant and demonstrable to outweigh the presumption in favour of sustainable development.

6.5.2 The main consideration of environmental impact is dependent on the layout, scale and design and the impacts on highways, trees, ecology and drainage. These matters are considered in detail in the following sections

6.6 **Layout, scale and design**

6.6.1 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.

6.6.2 The design and access statement notes that the indicative layout shows a mix of 2, 3 and 4 bed houses in a mix of terrace, semi-detached and detached house types. All the properties are intended to be 2 storey similar to the majority of the adjacent housing estate and the designs will pick up the features of the surrounding housing development. The indicative layout shows the dwellings served off a single access and with small groups of houses accessed off a main spine estate road.

6.6.3 As an outline planning application it is only possible to consider the principle of the development and the potential future development of the site. It is accepted that the development of the site will extend the built form of the existing village, however in the case of the application site the development would be enclosed on three sides by existing built development. It is an agricultural field within the village limits as defined by the welcome signs and the built form. It is not isolated and the development of the site would not intrude into open countryside surrounding the village, however it will result in the loss of a section of countryside

which is within the village and this will result in some visual harm.

6.7 Impact on residential amenity

- 6.7.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. Objectors have raised concerns about the potential for increased noise, loss of privacy and light and that the layout shows buildings too close to the existing properties.
- 6.7.2 The submitted plan is for indicative purposes only and is not submitted for approval at this time. It shows two detached dwellings on the edge of the site closest to the existing dwellings, one of which is a bungalow, the other is two storey. The indicative plan shows the proposed dwellings to be 7m from the side elevations of the existing dwellings with a single garage proposed in the rear of each new dwelling and as such would not adversely affect the sunlight to the existing properties to an unacceptable level. The dwellings will alter the outlook of the existing properties but planning does not protect a right to a view. Whether the proposed development affects privacy will depend on the internal layout of the proposed dwellings but it is considered that, in principle, the site can be developed without significant harm to the amenities of the neighbouring residents.
- 6.7.3 One objector has advised that they are ill and have suffered heart problems and stress. Officers have sympathy with the residents, however the health of local residents can not be a reason to refuse a development. Given the close proximity of the site to existing properties it would be wholly reasonable to limit the hours of construction and to require a construction method statement, through which, given the health issues raised, the Council could encourage the developer to limit activity in this area to reduce the impact to only the construction of the dwellings and garages.
- 6.7.4 It is also necessary to ensure the amenity of the future residents of the application site. The close proximity of the site to RAF Shawbury with its regular helicopter movements is a potential for noise generation. The applicant has undertaken and submitted a noise assessment which covered 3 days which the agent suggests are typical week days. The report assesses the existing noise levels on site and predicts noise levels in bedrooms and living rooms. Existing noise is from the road, RAF base, aircraft and helicopters. The recorded noise measurements were 65dB daytime and 57.5dB night time and aircraft noise was recorded 2-3 per hour with a measurement of 68.5LAm_{ax}. The report notes the British standards for noise levels in living rooms and bedrooms and recommends glazing requirements to reduce impact.
- 6.7.5 However, the response from DOI comments that the noise assessment is not a typical week day as it was conducted over the Easter period, did not take into account night time flying or overflying of the site and was not monitored for long enough to cover the varying activity from RAF Shawbury. Furthermore DOI consider that providing averages is misleading and that the mitigation would not be sufficient and that a further assessment should be carried out.
- 6.7.6 The Council Public Protection Officer has looked at the application details and the comments from the DOI with regard to noise and commented that an objection on

noise grounds could not be sustained in that mitigation could be achieved. However, the Public Protection Officer has noted that the noise report submitted does not consider maximum noise levels or the number of these events. As such it is advised that the report is not suitable and that mitigation may be required for the whole of the site not just the road frontage properties. It is therefore recommended that a further noise assessment should be undertaken prior to the determination of the application so that the land owner and future developers fully understand the potential costs of developing the site in such close proximity to the RAF base.

6.7.7 Confirmation has been received from the agent and the RAF Commanding Officer that the additional noise survey is to be undertaken at the end of February. As such officers consider that a resolution to grant consent can be provided by members subject to the results of the additional noise survey, and subject to a S106 in relation to affordable housing. Should the noise survey conclude that development can not proceed the application could be refused on this basis. Should the survey establish that development can proceed and recommend conditions these can be added if delegated power is given to officers. It is considered that the principle of whether the site can be developed in planning terms can be established whilst waiting for the noise survey to be done.

6.8 **Highways, access, parking and rights of way**

6.8.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promotes sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced.

6.8.2 As noted above the access is submitted for consideration at this outline stage. The application proposes a single point of access to serve all 25 dwellings. The D&A notes that the access position is within the 30mph zone and that visibility splays can be provided at 2.4m by 90m. Concern has been raised by the Parish Council about the access position and by residents about the increase in traffic and the speed of traffic at this point.

6.8.3 The application has been considered by the Council Highway Officer who has not raised any objections. As such it is considered by officers that the access is acceptable and that the local highway network is capable of accepting the additional traffic.

6.8.4 Within the Design and Access Statement the agent notes the surfaced footpath inside the existing roadside hedge which will connect the proposed development site to the village and services.

6.9 **Ecology and trees**

6.9.1 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 and existing trees and landscaping. A protected species

survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.

6.9.2 The submitted ecology survey notes that the site is not close to any designated sites, that there are records of bats, water vole, otter and Great Crested Newts in the local area and details the survey work undertaken for the application. The local ponds were surveyed but no evidence of GCN was found. No evidence was present of water vole or badger either. The report acknowledges the potential for nesting birds and bats using the boundary hedges. It recommends removal of the hedge for access outside of the nesting season, lighting specifications and biodiversity enhancements in the form of nesting boxes, bat boxes and native planting.

6.9.3 The Council Ecologists has considered the application and submitted information and has advised that there will not be any adverse impact and recommended conditions and informatives to ensure habitat enhancements.

6.10 **Drainage**

6.10.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The D&A advises that the site is within flood zone 1 and as such is at low risk of flooding, that surface water is to be discharged to soakaways and that foul is to be discharged to mains.

6.10.2 The Council Drainage Engineer has not raised any concerns about flooding, foul or surface water and as such has recommended that the details of the proposed drainage can be dealt with by an appropriately worded condition. It is therefore considered that, in principle, the site can be developed without increasing the flood risk of the site or surrounding area in accordance with CS18.

7.0 **CONCLUSION**

7.1 The site is located outside the current development boundary for Shawbury and is therefore classed as a departure from the development plan, contrary to saved Local Plan policy H5 and Core Strategy policy CS5 in principle. Furthermore, within the emerging SAMDev the site has not been included within the development boundary or identified as a site for future residential development. As the site sits outside the current and emerging development boundary it is not considered the principle of development is established through the development plan. However, it is necessary to consider whether other material considerations warrant a departure from the development plan and in particular the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply. With this in mind it is accepted that the site is in a sustainable location, where it benefits from connectivity to the village centre, services and facilities and will provide additional housing supply to help sustain the settlement and in accord with national planning policy priorities relating housing provision. In this context it is considered that the NPPF's presumption in favour of sustainable development and need to significantly boost housing supply weigh in favour of the application in this instance such as to warrant a departure from the development plan.

- 7.2 The development will need to provide for affordable housing in accordance with Policy CS11 and infrastructure provision in accordance with policy CS9. Both affordable housing and infrastructure provision offer community, social and economic benefits that lend to the sustainability of development in accordance with the requirements of the NPPF.
- 7.3 Officers are satisfied that the development can be served by satisfactory access and drainage arrangements and will not be harmful to the natural environment, subject to the imposition of recommended conditional requirements at this outline stage. With the recommended conditions in place, the proposal is considered to satisfy Core Strategy policies CS6, CS17 and CS18 and the associated sustainable objectives of the NPPF.
- 7.4 Notwithstanding the need to submit a reserved matters application for further assessment in relation to matters of scale, appearance, landscaping and layout, in principle the site is considered capable of being developed in a manner that will not be unduly harmful to the physical characteristics of the locality or to residential amenity of existing residents. The amenities of the future residents of the development are to be confirmed through an additional noise survey and possible mitigation methods. Accordingly, the proposal satisfies policies CS6 and CS17 and the NPPF at this outline stage.
- 7.5 Overall, it is considered that the outline proposal meets with the housing policies and general requirements of the NPPF and otherwise complies with Shropshire Core Strategies CS1, CS3, CS6, CS9, CS11, CS17 and CS18 of the Shropshire Core Strategy. Therefore, approval is recommended subject to the conditions of approval listed in the appendix below and the prior completion of a Section 106 agreement to secure the affordable housing contributions.
- 7.6 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 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:
CS4 - Community Hubs and Community Clusters
CS5 - Countryside and Greenbelt
CS6 - Sustainable Design and Development Principles
CS9 - Infrastructure Contributions
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 Simon Jones

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 12 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
 - The means of enclosure of the site
 - The levels of the site
 - The drainage of the site
 - The finished floor levels

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors

- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

7. No development shall take place until full scheme engineering details of the means of access, visibility splays, internal road layout together with footpath linkage to Millbrook Drive have been submitted to and approved in writing by the Local Planning Authority; the development hereby permitted shall not be first occupied until the scheme has been implemented fully in accordance with the approved details.

Reason: To ensure a satisfactory means of access to the development site and in the interests of highway safety.

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

8. Prior to the first occupation of the dwellings details of five woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

9. Prior to the first occupation of the dwellings details of two woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to the occupation of the dwelling/ building.

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

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

10. 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.