



Committee and date  
South Planning Committee  
10 March 2015

## Development Management Report

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### Summary of Application

<b>Application Number:</b> 14/02129/OUT	<b>Parish:</b> Highley
<b>Proposal:</b> Outline application for residential development to include access, layout and scale	
<b>Site Address:</b> Development Land East Of Bridgnorth Road Highley Shropshire	
<b>Applicant:</b> F H Maiden & Sons	
<b>Case Officer:</b> Heather Bradley	<b>email:</b> <a href="mailto:planningdmsw@shropshire.gov.uk">planningdmsw@shropshire.gov.uk</a>

**Grid Ref:** 373923 - 284093



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**Recommendation:- Refuse for the following reasons.**

1. Insufficient information has been provided to enable the Local Planning Authority able to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010), the scheme as such is contrary to National Planning Policy Framework and Shropshire Council Local Development Framework Core Strategy CS17.
2. In the absence of the agreement to make a contribution towards affordable housing provision, the proposed dwellings would be contrary to Policy CS11 of the Shropshire Council Local Development Framework Core Strategy and to the Council's Supplementary Planning Document on the Type and Affordability of Housing.

**REPORT****1.0 THE PROPOSAL**

- 1.1 This application seeks outline planning consent for 9 bungalows to include access, layout and scale. The appearance and landscaping are reserved for consideration at the reserved matters stage in the event of outline planning permission being granted.

**2.0 PURPOSE OF REPORT AND REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 2.1 An appeal has been lodged against non-determination of this application and the decision now rests with the Planning Inspectorate. However the Council is required in the appeal process to indicate what its decision would have been if it still had authority to determine the application.
- 2.2 The application is presented to committee as the Parish Council has submitted a view contrary to officers and the application has been requested to be referred by the Local Member.

**3.0 SITE LOCATION/DESCRIPTION**

- 3.1 The application site is a parcel of land roughly 0.79 hectares located on the east of B4555 (Bridgnorth Road) on the edge of Highley. The site is currently pasture land accessed off the B4555 via a single width track, which is part tarmacked at the junction with the road, before dissipating into a rough gravelled surface. The land slopes gently down towards the south and east towards the Severn Valley.
- 3.2 The existing access is also a bridleway and a right of way runs along the boundary with the east of the application site. To the south lies the residential properties of Vicarage Lane, north is further pasture land and to the west the rear gardens of the dwellings fronting Bridgnorth road.

**4.0 Community Representations**

#### 4.1 - Consultee Comments

- 4.1.1 Highley Parish Council – The Parish Council object to this application on the grounds that it is outside the building line and in an area of high landscape value within the Severn Valley.

The Parish Council are also concerned about the access to this development. The application is contrary to Shropshire Councils local plan with no new developments to be built to the east of the village, which was approved by Shropshire Council. The Parish Plan for Highley stated that there was sufficient housing commitment for current and future requirements.

- 4.1.2 Affordable Housing Enabling Team - Core Strategy Policy CS11 requires all open market residential development to contribute to the provision of affordable housing. If this development is considered to be acceptable then in accordance with the adopted Policy any consent would need to be subject to a Section 106 Agreement requiring an affordable housing contribution. The contribution will need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing percentage target rate at the date of a full application or the Reserved Matters application.

- 4.1.3 Drainage – No Objections subject to conditions and informatives requiring: -

Surface water drainage details, plan and calculations;

Details of soakways and percolation tests;

Drainage plan if non permeable surfacing used on hard surfaced areas;

Contoured plan of finished road levels;

The southern boundary is at risk of surface water flooding, details on how the surface water runoff will be managed and how the flow of the flood water could be routed away from the property and will not cause flooding of any property either within the proposed development or any other in the vicinity and to ensure that the finished floor levels are set above any known flood level and must not be lower than the floor level of the existing building.

Informative - Consent is required from the service provider to connect into the foul main sewer.

- 4.1.4 Rights of Way – Part of Bridleway 13 Highley runs along part of the proposed access to the proposed development although there is no reference to this public right of way on the block plan or within any of the background papers. The bridleway should be taken into consideration when processing this application.

The applicants will need to clarify their intentions in respect of the bridleway and whether it is proposed to be diverted away from the access to avoid conflict between walkers, horse riders and cyclists with vehicular traffic or whether measures will be taken to address the safety of users of the right of way, if it is not diverted. If it is intended to adopt the access as a public road, the Bridleway will require stopping up. The applicants may need to apply to the Mapping and Enforcement Team for a temporary closure of the Bridleway during the period of development if it cannot be safely kept open and available to users.

- 4.1.5 Highways Development Control – No objections subject to conditions regarding visibility splays and requiring precise details of access layout detail; Informative recommended regarding need to obtain highway licence before any works commence on highway land;
- 4.1.6 Ecology – Object - Additional information is required relating to Ecology in the form of an Ecological Assessment. In the absence of this additional information refusal is recommended since it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).
- 4.1.7 Public Protection - No objection to the development in principle however this service is likely to place conditions to ensure that electric charging facilities are provided in all residential dwellings with off road parking at reserved matters stage;
- 4.1.8 Coal Authority – The application site does not fall with the defined Development High Risk Area and is located instead within the defined Development Low Risk Area.

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

- 4.1.9 Ramblers Association – No response received;

## **4.2 - Public Comments**

- 4.2.1 Local Member – Cllr Tremellen - Objects

1) Is outside the development boundary.

2) Does not come within the SAMDev Plan Preferred Options.

3) Ian Kilby's opinion whilst at BDC? "The view of the Bridgnorth Office is that we would prefer not to see more development on the eastern side of the village - i.e to not add to existing development on the western ridge of the Severn Valley or the upper slopes to the western side of the village. We consider therefore that any allocations should be on land to the south/southwest on the basis of landscape impact." (Nothing has altered in the interim.)

4) Balance of housing supply required of Highley (ref SAMDev)? 30 houses.  
Number of houses currently awaiting development with OPP? 177, with 10 (Rhea Hall garage site) due to be built towards the end of 2014.

- 4.2.2 5 objections received: -

- Adverse impact on scenic beauty of Severn Valley;
- Access is on a bend and dangerous;
- The access is also a bridle path and used by walkers;

- Loss of Privacy;
- Noise disturbance from use, layout and density;
- Street lighting – out of character with area;
- Loss of rural view;
- De-valuation of house;
- The village is already too big for the amenities it has, the Doctors surgery is overcrowded and people have to use the Cleobury Mortimer Surgery;
- The additional housing will put extra pressure on the Doctors Surgery;
- The existing road network is already in a poor state of repair;
- This proposed development will encroach onto the green fields;
- Electric supply - cut off's or blackouts - average five or six times a year.
- Water supply, despite thousands spent on it, continues to be regularly disrupted in the village. Water pressure is regularly poor.
- Drainage and flooding is a growing problem;
- Job opportunities are few and far between and any newcomers to the Village would have to be looking to travel (more cars) for work or to “major shop.”
- Highley Parish Plan - The village view was for no further development around the perimeters of the village but to concentrate on “infill” sites.

## 5.0 THE MAIN ISSUES

Principle of development  
Affordable Housing Contribution  
Access and Highway Safety  
Right of way  
Layout, scale and design  
Visual impact and landscaping  
Drainage  
Biodiversity  
Residential and neighbour amenity  
Open Space

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 **National Planning Policy Framework:** The National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development, and notes that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise

6.1.2 The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications. The NPPF specifically aims to ‘boost significantly the supply of housing’ therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration to which considerable weight must be attached. These considerations have to be weighed alongside the provisions of the Development Plan, including those relating to housing supply.

- 6.1.3 **Shropshire Core Strategy and Saved Bridgnorth District Local Plan Policy:** Core Strategy Policies CS1, CS3, CS4, CS5 and CS11 seek to locate new housing on sites within and adjoining market towns, 'key centres' and other settlements ('Community Hubs and Clusters') as identified in the emerging Site Allocations and Management of Development (SAMDev) plan. Isolated or sporadic development in open countryside is unacceptable without special justification.
- 6.1.4 Highley is identified as a key centre and is seen as the focus for the development of services and facilities for the wider hinterland with balanced housing and employment growth.
- 6.1.5 The application site is outside the town's development boundary as identified in Policy S1 of the saved Bridgnorth Local Plan and thus is classed as a countryside location. CS5 of the Core Strategy strictly controls new development in the countryside requiring development to maintain and enhance the countryside's character and vitality, and improve the sustainability of rural areas.
- 6.1.6 **SAMDev - Emerging Policy:** Shropshire Council submitted the SAMDev Plan for Examination on 1<sup>st</sup> August 2014. Although the programmed hearing sessions closed on 18<sup>th</sup> December 2014 there are some outstanding matters that may require additional limited hearing time. The Examination does not formally close until the Council has received the Inspector's Report.
- 6.1.7 Of particular relevance are policies S9: Highley area and MD3: Managing housing development. Policy S9 sets out the emerging approach to the future development in the town supplementing adopted Policy CS3. The residential growth requirement for Highley is for around 200 dwellings from 2006 to 2026. Since 2006 around 167 dwellings have been completed or have planning permission (at 2014) leaving a residual requirement from now up to 2026 of around 33 dwellings. The Submission version of the Plan includes draft allocation proposals at Rhea Hall (around 30 dwellings). MD3 sets out the overarching approach to consideration of housing development proposals. It should be noted that there are outstanding objections to the housing requirement and development boundary (although not in this location), and to elements of MD3, that will be resolved through the Examination.
- 6.1.8 As set out in paragraph 216 of the NPPF, the 'weight' that can be attached to relevant policies in emerging plans such as the SAMDev depends on the stage of preparation, extent of unresolved objections, and degree of consistency with the NPPF. The Plan is clearly at an advanced stage in the terms of para 216, but there are unresolved objections to some aspects of it, so the SAMDev Plan policies can be given some weight, but limited weight (depending on the policies being referred to) pending the outcome of the Examination.
- 6.1.9 **Housing Land Supply:** At November 2014, using data up to 31st March 2014, Shropshire Council considers that it can demonstrate a 5 year supply of housing land. The Five Year Housing Land Supply Statement prepared for the SAMDev Plan Examination shows 5.43 years' supply for Shropshire, which includes the 20% buffer for 'persistent under delivery' and catching up for past delivery shortfall within five years (around 2000 houses). It is already clear from the SAMDev Plan Examination Inspector's Interim Note

(<http://shropshire.gov.uk/media/1283086/Inspectors-Interim-Note-1-Strategy.pdf> dated 2 December 2014) that the Core Strategy housing requirements are considered to apply to the SAMDev Plan and to the calculation of the 5 years supply i.e. the question of the 'objectively assessed need' for housing does not need to be reconsidered at this time.

- 6.1.10 Residential development in this location is not in accordance with the Development Plan (Core Strategy and Bridgnorth Local Plan) or the emerging SAMDev Plan. As the Council can currently demonstrate a five year supply of deliverable housing sites the Local Plan policies on housing supply should not be considered out-of-date in relation to NPPF paragraph 49. Notwithstanding this, it is still considered appropriate to give appropriate consideration to the NPPF's presumption in favour of sustainable development and the aim of boosting significantly housing supply. This is particularly relevant given the age of the Bridgnorth Local Plan and that the outcome of the Inspector's consideration of the SAMDev Plan, with regards to proposals for Highley, has yet to be received.
- 6.1.11 The Core Strategy states that "balanced housing and employment development" within development boundaries and on allocated sites will help key centres "maintain and enhance their roles in providing facilities and services to their rural hinterlands, and [in] providing a foci for economic development and regeneration". CS3 identifies that Highley will have development that balances environmental constraints with meeting local needs and includes an indicative level of residential development of up to 500 houses over the Plan period (2006-26) (table 2).
- 6.1.12 Submitted SAMDev policy S9 provides greater detail to the strategy for Highley and proposes a housing guideline of around 200 dwellings in the Plan period and allocates a site at Rhea Hall for development of around 30 dwellings. It should be noted that the outline approval at Jubilee Drive is not included in the housing requirement and is noted as being additional (submitted SAMDev Plan para 5.95). The proposed development has the scope to boost housing supply in Highley but, in doing so, would also mean development slightly in excess of the town's emerging SAMDev Plan housing guideline figure (using March 2014 data). The development would narrowly take the completions (86) and commitments (81), and allocations, beyond 200. However, the housing requirement is for 'around' 200 and this requirement is not considered a 'cap' on development, having regard to the presumption in favour and further considerations in Policy MD3 (when appropriate weight can be given to the policy).
- 6.1.13 As noted earlier, the housing requirement itself forms part of the emerging SAMDev Plan and has to be treated with caution pending the outcome of the Examination. Submitted SAMDev Policy MD3 indicates that the cumulative impacts of development can be a relevant policy consideration. However, in this context it is considered that limited weight can be attached to this policy pending the outcome of the Examination. In this context, the benefits arising from the development, and the impacts of the development, must be considered within the context of the presumption in favour of sustainable development (these considerations are also part of emerging MD3).
- 6.1.14 **Sustainability:** Highley is identified as one of the key centres in Policy CS3 of the

Core Strategy. This establishes the principle of Highley as a sustainable location for new development. The application site in particular is located within walking distance of town centre services and facilities (the town centre around 500m from the site boundary) and is within close proximity to the Severn Centre. It is considered that in these respects there are clear sustainability credentials to the site which must be weighed up when determining the application.

6.1.15 Sustainable development' isn't solely about accessibility and proximity to essential services. The NPPF states that it is 'about positive growth – making economic, environmental and social progress for this and future generations'. In paragraph 7 of the NPPF it states that these three dimensions give rise to the need for the planning system to perform a number of roles:

- *an economic role - contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy*

6.1.16 Economic Role: - The proposal will help boost the supply of housing in Shropshire and may provide opportunity for local employment during the construction phase of the development supporting local builders, building suppliers and other service providers. It would also be assumed that future occupiers of the dwellings will use services within Highley, contributing to the long term economic growth of the settlement.

The proposal will make a contribution to the supply of affordable housing in addition to a CIL payment which will provide a financial contribution towards infrastructure within Highley in line with the aspirations of the Place Plan.

6.1.17 Social Role: - The social dimension seeks to support strong, vibrant and healthy communities. The provision of additional housing will help support and maintain existing facilities and services in Highley and will benefit both the existing and future residents and help meet the needs of present and future generations.

6.1.18 Environmental Role: - The environmental dimension of sustainability is concerned with protecting and enhancing the natural, built and historic environment and adapting to climate change. The site is previously undeveloped agricultural land with no specific heritage, cultural or ecological designation. A full assessment of the



impact on the environment is set out below at sections 6.2 and 6.4 of this report.

- 6.1.19 In assessing the site's general sustainability it is considered appropriate to take into account the site's relatively small scale, its location on the edge of the town development boundary, and its proximity to services and facilities. In view of the factors discussed above it is considered that the proposed development is sustainable subject to a satisfactory scale, layout, appearance, landscaping and access and that the proposal does not give any adverse impacts. The NPPF indicates that a proposal of this nature should be supported provided there are no adverse impacts that would outweigh the benefits in the context of the presumption in favour of sustainable development and the aim of significantly boosting housing supply (following the NPPF).
- 6.1.20 **Affordable Housing Contribution:** Core Strategy Policy CS11 requires all new open market housing developments to make appropriate contributions to the provision of local need affordable housing having regard to the current prevailing target rate, set using the Shropshire Viability Index. For sites of 5 dwellings and above the provision of affordable housing is expected on site. As the application is outline and council policy requires the number of affordable dwellings be set at the reserved matters stage the number of on site affordable dwellings cannot yet be set in stone. The required S106 as such will refer to the formula figure rather than provide a specific number.
- 6.1.21 Officers note the recent Ministerial statement of 28 November 2014 and amendments to the National Planning Practice Guidance which included the introduction of a threshold beneath which affordable housing contributions should not be sought. The statement and the NPPG is a material consideration in determining a planning application.
- 6.1.22 Shropshire Council was particularly concerned by how these changes would affect the Council's ability to deliver much needed rural affordable housing directly on site or indirectly through financial support for Registered Providers (RP's) and as a consequence it would undermine its housing and community sustainability aspirations enshrined within its adopted Core Strategy.
- 6.1.23 The Council placed a report before the Council's Cabinet on 21 January 2015. The Council's Cabinet met and considered a report outlining the consequences of applying the Ministerial Statement and the Council's current Type and Affordability of Housing SPD which sets out the Council's policy on the provision of affordable housing on open market developments in Shropshire. In terms of the decision it was agreed that the Council will continue to give full weight to Policy CS11 of the adopted Core Strategy and Type and Affordability of Housing SPD and thus will continue to seek provision of on-site affordable housing and/or affordable housing contributions for all residential developments of 10 dwellings or less within the Shropshire area and will continue to require developers to enter into S.106 agreements for this purpose.
- 6.1.24 As part of the application process the applicant/agent should complete and submit an Affordable Housing Contribution Proforma. The proforma acts as an agreement to make the final contribution, albeit to be secured via a S106. In this case no

proforma has been received and as such in the absence of an agreement to make a financial contribution towards affordable housing provision off-site, the proposed dwellings would be contrary to Policy CS11 of the Shropshire Council Local Development Framework Core Strategy and to the Council's Supplementary Planning Document on the Type and Affordability of Housing. No material considerations have been put forward to suggest that there should be a departure from this policy requirement.

## **6.2 Access and Highway Safety**

6.2.1 The NPPF, at section 4, seeks to promote sustainable transport. At paragraph 32 it states that decisions should take account of whether safe and suitable access to the site can be achieved for all people and that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

6.2.2 Core Strategy policy CS6 seeks to ensure that proposals likely to generate significant levels of traffic 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 reduced. Saved Policy D6 of the Bridgnorth District Local Plan requires the local road network and access to the site to be capable of safely accommodating the type and scale of traffic likely to be generated.

6.2.3 Although a traffic assessment was submitted with this application the Councils Highways officer considers it to be incorrect in parts, in particular the required visibility splays and the lack of information on the predicted vehicle movements.

6.2.4 To comply with the 'Manual for Streets' documents the splays would need to be 2.4m by 43m. The Councils Highways Officer considers that on the basis that a typical domestic dwelling generates on average 6 vehicle movements per day the 9 dwellings proposed would generate possibly 54 movements, plus any associated with the farm access, although it is noted that the dwellings are bungalows and are likely to be occupied by older people who may not make as many journeys each day.

6.2.5 The scheme proposes to utilise the existing access onto the B4555. This section of the highway is within a 30mph zone and in the vicinity of a number of domestic dwellings, each with their own access onto the road. As such drivers passing through Highley at this point would be expecting regular vehicle movements on and off the carriageway at all times due to the nature of the area.

6.2.6 Taking into consideration the above factors the Councils Highways Officer considers that whilst the proposal would have some effect on traffic flow through Highley the impact would not be of a level to cause detriment to highway safety.

## **6.3 Right of way**

6.3.1 It is noted that part of Bridleway 13 Highley runs along the first section of the access to the proposed development. Should permission be granted the developers would need to either apply to divert the Bridleway or seek to incorporate solutions to secure the safety of users of the right and way. It is considered that there is ample space either side of the proposed access to enable the development of either solutions.

#### **6.4 Layout, and scale**

6.4.1 Core Strategy policy CS6 seeks to ensure that all development is appropriate in scale, density, pattern and design taking into account the local context and character. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural, built and historic environment.

6.4.2 Although the appearance of the properties is indicated through the provision of a front and side elevation drawing this is indicative only as the appearance is reserved for later approval. The current submission however does allow for consideration as to whether the layout, density and scale are appropriate or not in relation to the context in which it is proposed.

6.4.3 The proposed site plan (drawing number Highley Pr-01-Rev B) shows a cul de sac of nine detached bungalows to sit around the turning head and the section of the new access road to the rear of the properties facing the Bridgnorth Road. Each bungalow is proposed to have its own parking, and gardens. Four of the bungalows are proposed to have their own accesses off the turning head, with the remaining five sharing two separate drives before splitting into separate parking spaces next to their bungalows. The elevation drawings show a ridge height of approximately 5.3m and an eaves height of around 2.3m.

6.4.4 The existing residential dwellings in the area vary in type and size and the majority have spacious gardens. The application site is considered to be of relatively low density which results in the proposed plots being spacious, this and the single storey nature of the dwellings would be fitting for an edge of settlement location such as this and compliments the character of the surrounding estates.

#### **6.5 Visual impact**

6.5.1 Planning Policy Officers note that the site forms part of a 'broad location' considered to have medium capacity for housing in the Landscape Sensitivity study (part of the evidence base that informed consideration of sites within the SAMDev Plan preparation) and is considered 'moderate' in the generalised landscape character assessment. The site is much smaller than the broad location in the landscape sensitivity study but clearly the impact on the setting of Highley, recognising the prominent ridge upon which the village stands, and its potential impact on the visual amenity of the area and the Severn Valley needs careful consideration when determining the application.

6.5.2 The site adjoins the current development boundary that runs along the eastern edge of Highley. The proposed layout shows that the built part of the proposal would not project past the existing built development at Vicarage Lane as such it is

considered that the scheme would relate well with existing built development and would not encroach significantly into the open countryside.

- 6.5.3 It is acknowledged that due to the location of Highley on the ridge the built development at the edge of Highley is visible from public view points in the wider landscape and it is inevitable that the proposed development would like the adjacent dwellings be visible.
- 6.5.4 The scale and density of the development is considered appropriate for the size of the application site and its edge of settlement location. The single storey nature of the dwellings would create a low level development which would go some way towards reducing the potential visual impact. Landscaping and appearance of the dwellings are matters to be dealt with at reserved matters stage should outline planning permission be granted, however it is considered that there is sufficient space to enable the integration of design solutions and landscaping which takes into account the sloping nature of the site to further help mitigate potential impacts on the visual character and appearance of the area. Given these factors it is considered on balance that the impact on visual amenity and the Severn Valley would not be significantly detrimental to justify refusal.

## **6.6 Drainage**

- 6.6.1 Core Strategy policy CS18 relates to sustainable water management and seeks to ensure that surface water will be managed in a sustainable and coordinated way, with the aim to achieve a reduction in existing runoff rate and not to result in an increase in runoff. The Councils drainage officer satisfied that subject to conditions securing details of the drainage method, the development can be adequately drained without causing or exacerbating flooding in the site or vicinity.

## **6.7 Biodiversity**

- 6.7.1 National guidance gives a duty to public bodies (including Local Planning Authorities) to ensure development does not harm protected species or its habitat. The National Planning Policy Framework (NPPF) emphasises that Local Planning Authorities should ensure development contributes to and enhances the natural and local environment including minimising impacts on biodiversity and providing net gains where possible.
- 6.7.2 The Councils Ecologist recommends that an Ecological Assessment, to include a Phase 1 habitat survey should be provided. At present no such report has been submitted and as such there is insufficient information to be able to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010).

## **6.8 Residential and neighbour amenity**

- 6.8.1 Core Strategy Policy CS6 requires all development to safeguard the amenities of neighbouring residents. In this case the layout of the site has been submitted for approval, it is possible, in part, to consider the potential impact on the existing residents around the site, although without elevations and appearance of the

dwelling it is not considered possible to fully establish the impact.

- 6.8.2 There are residential dwellings to the south and west of the application site, there is no right to a view across private land. In terms of the risk of overlooking, loss of light and overbearing impacts as a result of the development the layout plan submitted indicates that there would be minimum separation distance between the existing and proposed dwellings of approximately 14m with the dwellings to the south and around 27m with the dwellings to the west. Such distances are normally accepted as being sufficient so as not to result in undue impacts on light, privacy or overbearing development.
- 6.8.3 The single storey nature of the dwellings further limits the potential for the development to be overbearing and the risk of overlooking is generally less as appropriate boundary treatments can be sought that can act as effective screening between properties and protect privacy. Such boundary treatment can be sought through the landscaping proposal for the site, which would be considered during any reserved matters application.
- 6.8.4 It is almost inevitable that building works anywhere will cause some disturbance to adjoining residents. The SC Public Protection recommend hours of working (07.30 to 18.00 hours Monday to Friday; 08.00 to 13.00 hours Saturdays and not on Sundays, Public and Bank Holidays) to mitigate the temporary impact could be conditioned on any approval issued, along with a condition requiring a construction method statement. The potential impact on the value of a dwelling is not a material planning consideration.

## **6.9 Open Space**

- 6.9.1 The precise form of open space areas within a development would be a matter for consideration at the reserved matters stage, should outline planning permission be given. Regard would be paid to the Council's Open Space Interim Planning Guidance adopted in January 2012. The equipping of any open spaces with formal play equipment would have to be through the use of Community Infrastructure (CIL) receipts.

## **6.10 Impact on Local Services**

- 6.10.1 Concerns have been raised about the capacity of local infrastructure and services to cope with the additional demand arising from a further 9 houses being built. It is the duty of the individual service providers to respond to increased demand in line with Government requirements. Many of the services, including the Education and Health Authorities, are involved at a strategic level in local planning and develop their services in accordance with projected increases in population.

## **7.0 CONCLUSION**

- 7.1 The application is for residential development east of the town but adjacent to the existing (and emerging) development boundary. The site is considered to be in a sustainable location and its layout and scale are appropriate for the area. The development would relate to existing built development being bounded by housing

to the south and west does not represent significant encroachment into the surrounding countryside. It is considered on balance the scheme would not be detrimental to visual amenity or the character and appearance of the Severn Valley. The scheme can be implemented without compromising highway safety or exacerbating flooding, further the scheme can be development in a manner so as not to result in undue harm on residential amenity.

7.2 However the Council is unable to determine whether the development could be undertaken without harm to the biodiversity of the area or any protected species. The Council is therefore unable to discharge its duty to ensure development does not harm protected species or its habitat. Further the scheme is contrary to Policy CS11 as no commitment has been received from the applicants agent to demonstrate the applicants willingness to enter into a S106 agreement to provide an affordable housing contribution.

7.3 As such it is recommended that planning permission is refused for the following reasons: -

Insufficient information has been provided to enable the Local Planning Authority able to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations (2010), the scheme as such is contrary to National Planning Policy Framework and Shropshire Council Local Development Framework Core Strategy CS17.

In the absence of an agreement to make a contribution towards affordable housing provision, the proposed dwellings would be contrary to Policy CS11 of the Shropshire Council Local Development Framework Core Strategy and to the Council's Supplementary Planning Document on the Type and Affordability of Housing.

## **8.0 Risk Assessment and Opportunities Appraisal**

### **8.1 Risk Management**

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

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.

The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice.

However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

## 8.2 Human Rights

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

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

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

## 8.3 Equalities

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

## 9.0 Financial Implications

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

## 10. Background

### Relevant Planning Policies

#### Central Government Guidance:

National Planning Policy Framework;  
National Planning Practice Guidance;

#### Core Strategy and Saved Policies:

CS1 Strategic Approach  
CS3 Market Towns and other Key Centres  
CS5 Countryside and Green Belt  
CS6 Sustainable Design and Development Principles  
CS9 Infrastructure Contributions

CS11 Type and Affordability of Housing  
 CS17 Environmental Networks  
 CS18 Sustainable Water Management

Saved BDC Policies:-

S1 Development Boundaries  
 H3 Residential Development in Main Settlements  
 D6 Access and Car Parking

SPD on the Type and Affordability of Housing  
 Open Space Interim Planning Guidance adopted in January 2012

**Emerging SAMDev Policies:-**

MD3: Managing housing development  
 S9: Highley area

**RELEVANT PLANNING HISTORY:**

None.

**11. Additional Information**

View details online:

<http://planningpa.shropshire.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

List of Background Papers 14/02129/OUT Design and Access Statement Transport Assessment
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Dave Tremellen
Appendices None.