

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 14/02964/OUT	<u>Parish:</u>	Montford
<u>Proposal:</u> Erection of 8 no. dwellings and formation of new vehicular access off Montford Bridge Road; Provision of car parking to serve the existing fishing rights of the site		
<u>Site Address:</u> Proposed Development Land NW Of Montford Bridge Montford Shrewsbury Shropshire		
<u>Applicant:</u> Mr James Wilcock		
<u>Case Officer:</u> Andrew Gittins		<u>email:</u> planningdmc@shropshire.gov.uk

Grid Ref: 343096 - 315361



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Recommendation:- Grant Permission subject to a Section 106 Legal Agreement to secure the requisite affordable housing and to the conditions set out in Appendix 1.

REPORT

1.0 THE PROPOSAL

- 1.1** The application seeks Outline approval, with all matters reserved for later approval for the erection of 8 dwellings. The indicative site layout indicates that vehicular access would be gained from the highway leading to Montford a short distance from the B4380 (old A5) that runs through Montford Bridge village. The proposed development includes the widening of this road and providing a footway link along it to joint with the footways running through the village.

2.0 SITE LOCATION/DESCRIPTION

- 2.1** The application site is a 0.66 hectare piece of Grade 3 agricultural land situated to the south-west of Montford Bridge. The site is bound on all sides by well established trees and dense hedgerow punctuated with a single field access. The site is located 160m from The River Severn at Montford SSSI and the River Severn (Montford Bridge to Shrewsbury) and 20m from the County Wildlife Site. Background to Recommendation: Across the highway from the site is the Grade II listed former Toll House built in the late 18th Century to an octagonal plan.

3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION

- 3.1** Montford Parish Council have submitted a view contrary to officers recommendation for approval based on material planning reasons which cannot reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the committee chairman and vice chairman agrees that the Parish Council has raised material planning issues and that the application should be determined by committee.

4.0 Community Representations

4.1 Consultee Comments

- 4.1.1 Montford Bridge Parish Council: OBJECTS to this plan as it far exceeds the number of houses allocated in MPC's Housing Strategy.**

- 4.1.2 SC Trees: No objection subject to conditions.**

There are a number of trees on this site, predominantly around the boundaries. An Arboricultural Impact Assessment has been submitted with the application to demonstrate the impact of the development on existing trees, hedges and shrubs and to justify and mitigate any losses that may occur.

The AIA has identified 168 individual trees and 5 groups of trees and 1 hedgerow which have been assessed in accordance with BS 5837 (2012) and includes a

categorisation of the trees based on their current and potential public amenity value. This categorisation forms the basis for how much weight should be put on the loss of a particular tree and helps to inform the site layout and design process. I have reviewed the categories allocated to the trees and would agree that these are appropriate.

The application is for outline planning permission and the AIA is based on the indicative layout of the site. This indicates that the hedgerow H1 and the majority of groups 1 & 2 will be lost. These features are categorised as C – low value – and their loss will not significantly impact on the amenity of the area.

The indicative layout demonstrates that adequate separation can be maintained between the proposed dwellings and the trees top the north and east boundaries, allowing them to be retained and protected to the required standard. These are prominent trees and their retention as part of this scheme is desirable.

No objection is raised to the application at this stage. The final layout must take account of the tree constraints identified in the AIA and make provision to accommodate all retained trees within the site design. The final site layout submitted as Reserved Matters, must be supported with an updated version of the AIA, assessing any impacts that arise.

4.1.3 SC Public Protection: No objection subject to conditions.

The maps provided with the Phase 1 desk study note quarry to the north west which has been in-filled. No mention of this has been made and therefore I cannot agree that there are no likely risks to the proposed site. I would therefore advice that conditions are placed should this application be granted approval.

4.1.4 SC Highways: The highway authority raises no objections to the granting of outline consent.

Conditions:-

Condition: Prior to the commencement of the development full engineering details of the highway widening and footway link across the site frontage and to the B4380 shall be submitted to and approved in writing by the Local Planning Authority; these works shall be fully implemented in accordance with the approved details prior to the dwellings hereby permitted being first occupied.

Reason: In the interests of highway safety.

Informatives:-

The alterations to the highway required to form the new access points and undertake the works on the highway ,shall not commence until the applicant has obtained a Highways Act, Section 184 licence issued by the Highway Authority to undertake the works. Details of how to obtain this licence, the fee charged and the specification for the works are available on the Council's web site.

Key Issues:-

Highway comments:

The application site is a short distance from the B4380 (old A5) that runs through Montford Bridge village. The carriageway from the B4380 junction to the site access narrows quickly, making it virtually single track beyond the junction. The proposed development includes the widening of this road and providing a footway link along it to joint with the footways running through the village. These improvements to the highway infrastructure are in my opinion necessary to make this development viable in terms of highway safety. The land on which the carriageway widening and footway are to be constructed adjacent to the public highway should be dedicated to the Highway Authority by means of a 'Deed of Dedication' but the loop road within the site would remain in private ownership.

4.1.5 SC Ecology: No objection subject to conditions / informative(s).

Star Ecology (2014) have now provided precautionary Risk Avoidance Measures for reptiles, which will also reduce the risk of harm to other wildlife during construction. A condition is recommended.

The remaining recommendations from my 30th September memo will also still apply.

30th September 2014:

I have read the above application and the supporting documents, including the Ecological Assessment by Star Ecology dated April 2014.

Recommendation:

Reptile survey results and mitigation for impact on reptiles should be submitted. The need for an Arboricultural Assessment is reiterated.

The following conditions and informative(s) are recommended:

Protected sites

The River Severn at Montford SSSI is 160m and the River Severn (Montford Bridge to Shrewsbury) County Wildlife Site is 20m from the site. Suitable conditions should be imposed so that no polluted drainage or increased sediment from the application site can enter the river.

Reptiles

Star Ecology (2014) consider the site contain potential habitat for reptiles in particular viviparous lizard. They recommend a reptile survey is carried out, which can be conducted between mid March and mid September. I am not aware that any survey results have been submitted.

In the absence of reptile survey results, Star Ecology should be asked to provide appropriate mitigation measures and further advice on the need for a translocation exercise.

Hedgehog

The site contains suitable hedgehog nesting and foraging habitat. Star Ecology recommends mitigation measures which should be undertaken. A condition is recommended.

Otters

Otters may occasionally traverse or forage on the site and therefore Star Ecology recommend mitigation measures, which should be conditioned as above.

Badgers

Although no signs of badgers were noted, it is possible that they cross the site. Star Ecology includes mitigation to avoid harm to any badgers crossing the site and this should be conditioned as above.

Bats

The site, being close to the River Severn, is likely to be used by bats for foraging and therefore lighting should be controlled. Star Ecology (2014) considered that none of the trees offer bat roosting opportunities and recommend installation of bat boxes.

Nesting birds

The proposal to remove a number of trees is noted on the submitted Block Plan. As requested by the tree officer, an Arboricultural Assessment, prepared in accordance with BS 5837: 2012 must be provided with the application. Star Ecology recommends installation of bird boxes.

If there are queries on this memo please contact me using the details below in the first instance. In my absence Nicola Stone (01743 252556) may be able to help.

4.1.6 SC Drainage: No objection subject to conditions / informative(s).

Drainage details, plan and calculations could be conditioned and submitted for approval at the reserved matters stage if outline planning permission were to be granted.

4.1.7 SC Affordable Housing: No objection subject to s106.

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 1 Affordable house on site and the fraction of a unit will be satisfied with a financial contribution. The assumed tenure of the affordable homes would be for affordable rent and these would be transferred to a housing association for allocation from the housing waiting list in accordance with the Council's 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.

4.1.8 SC Conservation:

Background to Recommendation:

This application affects lands at the south-west corner of a rural road junction with the main route through Montford Bridge. Montford Bridge is not designated as a Conservation Area and existing development nearby is generally of a contemporary nature but traditionally designed. Across the highway from the site is the Grade II listed former Toll House built in the late 18th Century to an octagonal plan.

Principles of Scheme:

The current application proposes to develop these lands for 8 single detached dwellings all fronting a crescent around an access lane. The new dwellings should be of a high quality of design that reflects local vernacular buildings in terms of scale, details and materials and which will not negatively impact on the setting of designated and non-designated heritage assets nearby. Building elevations within public views from the highway should be of a high quality along with the front elevations facing inwards towards the crescent.

Detail:

The submission and approval of external details should be conditioned. Roadside trees and hedges should be retained as much as possible.

RECOMMENDATION:

No major concerns raised in terms of historic environment matters. Relevant conditions should be included covering external materials (C1, C2 and C3).

4.2 Public Comments

4.2.1 Three letters received objecting to the proposal on the following grounds:

- Foul water drainage
- Additional traffic and associated vehicular noise
- Inaccuracies in Planning Statement in respect of community facilities
- Capacity of local school
- Previous use of site and potential contamination

5.0 THE MAIN ISSUES

Principle of development

Design, scale and external appearance / Impact on local and residential amenities

Other Material Consideration

- Contaminated Land
- Trees
- Highways
- Ecology
- Drainage
- Affordable Housing
- Impact on designated heritage assets

6.0 OFFICER APPRAISAL

6.1 Principle of development

6.1.1 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicated otherwise. The development plan includes the Core Strategy and saved policies of the Shrewsbury and Atcham Local Plan. In terms of emerging policy, the SAMDev Plan was submitted to the Secretary of State in August 2014 and is currently being examined. Given the stage of advancement of this Plan, it is considered that some weight can be given to the proposed policies within it.

6.1.2 Development Plan and emerging planning policy: In relation to the current application, the site is not located within a Development Boundary as defined by saved Policy HS3 of the Shrewsbury and Atcham Borough Local Plan where new open market residential development would be acceptable. The site is therefore within an area classed as 'countryside' for the purposes of planning policy. Core Strategy Policy CS5 is therefore applicable. Policy CS5 controls new development in the countryside, and seeks to restrict open market dwellings from such areas.

6.1.3 The application site in this case is located on the edge of Montford Bridge, in open countryside in terms of planning policy, with Policy CS5 of the Core Strategy applying. Core Strategy Policy CS4 is also relevant as Montford Bridge West is a Community Cluster Settlement in Montford Parish where development by infilling, conversions of buildings and groups of dwellings may be acceptable on suitable sites within the village, with a housing guideline of approximately 10 additional dwellings over the period to 2026. Outline planning permission has been granted (2013) for 5 dwellings on land south-west of the Holyhead Road. Applications on further sites within or adjacent to the village will be considered on an individual basis, but with a maximum of 1-2 dwellings per site sought in the Parish Council's Montford Housing Strategy.

6.1.4 Outline planning permission reference 13/00464/OUT was granted in 2013 for 5 dwellings adjacent to Oaklands, Holyhead Road, with Parish Council support. A subsequent application (14/00518/OUT) for 35 dwellings was dismissed at appeal on the 19th December 2014 with the Inspector finding that due to the lack of a mechanism to secure the provision of affordable housing, the proposal would not

make adequate provision for local needs affordable housing in line with policy CS11 of the Council's CS. However the Inspector found that the proposal would not have an adverse effect upon the economic viability of the local area by taking high grade agricultural land out of production and that the proposal would also be acceptable with regard to the principle of sustainable development. A subsequent application (14/05742/OUT) was submitted on the 23rd December 2014 with the 13 week determination expiring on the 24rd March 2015. Applications (14/01728/OUT and 13/04429/OUT) for 5 and 2 dwellings respectively are also pending decision subject to a s106 legal agreement; which together with an approval for one dwelling was permitted under permission 13/01193/OUT takes the total to 13. It is therefore acknowledged that any further approvals will further exceed the housing guideline of approximately 10 additional dwellings.

6.1.5 Whilst emerging Policy MD3 recognises that settlement housing guidelines are a significant policy consideration, it outlines that where development would result in the number of completions plus outstanding permissions exceeding the guideline, decisions on whether to exceed the guideline will have regard to:

- i. The increase in number of dwellings relative to the guideline; and
- ii. The likelihood of delivery of the outstanding permissions; and
- iii. The benefits arising from the development; and
- iv. The impacts of the development, including the cumulative impacts of a number of developments in a settlement; and
- v. The presumption in favour of sustainable development.

6.1.6

- i. Montford's Housing Guideline is for approximately 10 and granting of this consent would represent a 110% increase;
- ii. All of the extant permissions or those pending decision have a minimum of 12 months before the submission of reserved matters are required so there is a reasonable likelihood that these will be delivered.
- iii. The benefits, cumulative impact and presumption in favour of sustainable development will be assessed in the following sections of this report.

6.1.7 National Planning Policy Framework: The National Planning Policy Framework (NPPF) constitutes guidance for local planning authorities which is a material consideration to be given significant weight in the decision making process. The NPPF imposes a presumption in favour of sustainable development. It states that proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. With regards to housing development paragraph 49 of the NPPF states that "housing applications should be considered in the context of the presumption in favour of sustainable development", and that "relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".

6.1.8 Following the submission of the SAMDev Final Plan to the Planning Inspectorate in August 2014, 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.

- 6.1.9** In this case the application site is located within countryside for planning policy purposes and as such would not accord with Core Strategy Policy CS5. However, notwithstanding the above, weight must be given to the requirements of the NPPF and the presumption in favour of sustainable development. In terms of the sustainability of the development, the village of Montford Bridge benefits from a range of facilities and services. These include: a public house; two camping and caravanning sites and a regular bus service to nearby Shrewsbury and Oswestry; a church and village hall are located approximately a mile away at Montford. In this respect it is considered that Montford Bridge is a reasonably sustainable location in respect of accessibility and proximity to essential day to day services without over reliance or long journeys by private motor car.
- 6.1.10** It is acknowledged that Montford Bridge is proposed to be a Community Cluster, but that any further approvals could lead to the delivery of more homes than the approximate guidelines. Nevertheless, given the sustainable location of the settlement, and the degree to which the housing guidelines would be exceeded it is considered that the proposal can be supported in principle, as a departure from Policy CS5 in view of the increased emphasis on the NPPF and the presumption in favour of sustainable development.
- 6.1.11** However 'sustainable development' isn't solely about accessibility and proximity to essential services but 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.

- 6.1.12** Economic role – This proposal for 8 dwellings will help boost the supply of housing in Shropshire and will provide opportunity for local employment for the construction phase of the development supporting local builders and building suppliers. The provision of the proposed dwellings would be expected to support local businesses as future occupiers will access and use local services and facilities. The provision of more homes will create a stimulus to the economy and address the housing shortage. The proposal will also make a financial contribution to the supply of affordable housing in addition to a CIL payment which will provide financial contributions towards infrastructure and opportunities identified in the Place Plan. The provision of a dedicated parking area for the fishing rights may also boost local tourism in line with CS16.
- 6.1.13** Social role – Settlements need to expand in a controlled manner in order to provide support for and maintain the level of services and facilities available in the settlement such as the pub, bus service and in the surrounding area the church and village hall. The NPPF positively encourages the siting of housing in smaller settlements where it will support facilities within the settlement and those nearby, thereby helping to retain services and enhancing the vitality of rural communities. Providing housing will support and maintain existing facilities, will benefit both the existing and future residents and help meet the needs of present and future generations. To this effect, the development proposes includes the widening of the road leading from the main junction and provision of a footway link along it to joint with the footways running through the village. This is considered to be of wider social benefits to the whole community and all users of this highway which would not be deliverable without this scheme.
- 6.1.10** Environmental role – The site forms part of an agricultural field, which whilst located within close proximity to the SSSI and County Wildlife Site has been examined in detail by Shropshire Council Planning Ecologist, Tree and Drainage Officers and conditions have been recommended to ensure that the development will not have any negative impact on the adjoining ecologically designated area. Whilst sections of hedgerow would be lost in order to form vehicle access, additional landscape planting could be proposed within the development site which would compensate for this. In terms of assessing the proposal in relation to the three dimensions of sustainable development it is therefore considered that in principle the proposed site represents a sustainable location for open market dwellings.
- 6.1.11** It is recognised that the site lies outside of the development boundary and would not comply with Development Plan policies which seek to restrict open market dwellings from such locations. Nevertheless it is considered that the proposal is consistent with the aims and objectives of the NPPF in respect of the presumption in favour of sustainable development and the need to boost significantly the supply of housing. It is considered that these are material considerations which can be given significant weight. On balance therefore it is considered that this location can be supported in principle.

6.2 Siting, scale and design of structure / Impact on residential amenity

- 6.2.1** The application has been submitted as an Outline with all matters reserved for later application. However the indicative layout illustrates that up to 8 dwellings could be accommodated at an appropriate density with adequate private, domestic curtilage, parking and turning areas, including those for the fishing rights, without resulting in a cramped or contrived appearance with further details assessed at the reserved matters stage of development. The proposed development will not have any adverse impact on residential amenities.

6.3 Contaminated Land

- 6.3.1** The application has been submitted with a Phase 1 desk study with the accompanying maps noting a quarry to the north west which has been infilled. However no mention of this has been made and the Council's Public Protection (Specialist) Officer's cannot agree that there are no likely risks to the proposed site. As such they have advised that conditions are placed should this application be granted approval.

6.4 Trees

- 6.4.1** The application was originally commented upon by Shropshire Council's Tree Team in July 2014, and an Arboricultural Assessment was subsequently submitted as there are a number of significant trees present on or adjacent to this site. The development of this land has the potential to impact upon these trees, including the possibility of damaging them to a point that they cannot be safely retained and/or create a situation whereby the trees affect or exert an influence over the proposed development in the longer term.

- 6.4.2** However the submission of the AA has allowed an assessment of these impacts and implications and the consequences for the landscape and public amenity of the area and the wider environment. The Council's Tree Officer is now satisfied that the proposed development makes provision to retain trees identified as significant or potentially significant in the terms of public amenity and provides justification and mitigation where their removal is proposed. Indeed the indicates that only hedgerow H1 and the majority of groups 1 & 2 will be lost. These features are categorised as C – low value – and their loss will not significantly impact on the amenity of the area. As this is an outline application the information demonstrates that there is adequate space to allow for the proposed numbers of structures and associated infrastructure and to provide the required protection / separation zones around retained trees. The Tree Officer is therefore satisfied that the proposed development will not have a substantial negative impact on the adjacent trees and the wider amenity and has no objection to the scheme subject to the attachment of conditions as the scheme accords with the principals of the Shropshire Local Development Framework; adopted core strategy policies CS6 & CS17.

6.5 Highways

- 6.5.1** The application has been assessed by Shropshire Council's Highways Development Control Team who have noted that site is a short distance from the B4380 (old A5) that runs through Montford Bridge village. The carriageway from the B4380 junction to the site access narrows quickly, making it virtually single track beyond the junction. The proposed development includes the widening of this road and providing a footway link along it to joint with the footways running through the village. These

improvements to the highway infrastructure are in my opinion necessary to make this development viable in terms of highway safety. The land on which the carriageway widening and footway are to be constructed adjacent to the public highway should be dedicated to the Highway Authority by means of a 'Deed of Dedication' but the loop road within the site would remain in private ownership. Accordingly there is no objection subject to the attachment of a condition requiring the submission of full engineering details prior to the commencement of development.

6.6 Ecology

6.6.1 The River Severn at Montford SSSI is 160m and the River Severn (Montford Bridge to Shrewsbury) County Wildlife Site is 20m from the site and the application has been submitted with an ecology survey, Risk Avoidance Measures for reptiles and Arboricultural Assessment. The application has been assessed by Shropshire Council's Planning Ecologist who has no objection subject to the attachment of conditions and informative(s) in respect of hedgehogs, otters, badgers, bats and nesting birds and a conditions to prevent polluted drainage or increased sediment from the application site can entering the river.

6.7 Drainage

6.7.1 The application has been assessed by Shropshire Council's Flood and Water Management Team who have acknowledged that part of the site on the south east corner slightly encroach onto Flood Zones 3 and 2. A Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted for approval concurrently with the first submission of reserved matters to ensure that it complies with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework. The drainage details will also cover areas of concern raised by local residents in respect of foul and surface water drainage and Ecology in respect of the impact on the SSSI.

6.8 Affordable Housing

6.8.1 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').

6.8.2 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.

6.8.3 Based on the current prevailing rate of 15%, a scheme of 8 dwellings would require the on-site provision of one on-site affordable unit should this remain the rate at the time of submission of Reserved Matters.

6.9 Community Infrastructure Levy

6.9.1 Core Strategy Policy CS9 (Infrastructure Contributions) and the related Charging Schedule indicates that development that provides additional dwellings, or residential extensions over 100 square metres, should help deliver more sustainable communities by making contributions to the local infrastructure. The proposed development would be liable to this Community Infrastructure Levy (CIL).

6.10 Impact on designated heritage assets

6.10.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting.

6.10.2 The site is located across the highway from the site is the Grade II listed former Toll House built in the late 18th Century to an octagonal plan. The application has been assessed by the Council's Historic Environment (Conservation) who considers that the development would result in less than substantial harm. The appraisal undertaken above considers that the development is located in a sustainable location and the benefits will outweigh any harm including that to the setting of the listed building. Accordingly it is considered that the development complies with the cited policies.

7.0 CONCLUSION

7.1 The application site would not accord with Policy CS5 of the Core Strategy regarding the provision of open market dwellings within the countryside, or with emerging Development Plan policy as whilst Montford Bridge is proposed to be a Community Cluster, permissions have already been granted which would result in exceedance of the housing guidelines. Nevertheless the proposed development falls within a sustainable location, and significant weight should be given to the NPPF which aims to significantly boost housing supply and provides a presumption in favour of sustainable development. Whilst it is acknowledged that the site lies in proximity of Listed Buildings, it is considered that the site has the potential to be designed, as part of the reserved matters, to ensure that it does not have a significant impact on heritage assets, or residential amenity. In addition, matters relating to landscaping and drainage can be dealt with as part of the detailed design of the proposed at the reserved matters stage. Overall it is considered that the benefits of the proposal in providing limited additional residential development in a sustainable location are sufficient to outweigh issues in relation to conflicts with Core Strategy Policy CS5 and emerging planning policy. As such it is considered that outline planning permission can be granted subject to the conditions as set out in Appendix 1.

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

6 : Delivering a Wide Choice of High Quality Homes

7 : Requiring Good Design

8 : Promoting Healthy Communities

10 : Meeting the Challenge of Climate Change, Flooding and Coastal Change

11 : Conserving and Enhancing the Natural Environment

12 : Conserving and Enhancing the Historic Environment

Core Strategy and Saved Policies:

SAMDev Plan

Shropshire Council Core Strategy (February 2011)

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

RELEVANT PLANNING HISTORY:

N/A

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)
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Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 - Conditions

APPENDIX 1

Conditions

STANDARD CONDITION(S)

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

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

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of 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. Details of a scheme of foul drainage, and surface water drainage has been submitted to, and approved by the Local Planning Authority concurrently with the submission of the first reserved matter. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

5. As part of the reserved matters details of the location and design of bat boxes or bat bricks 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. 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.

6. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Ecological Assessment by Star Ecology dated April 2014.

Reason: To ensure the protection of badgers, hedgehogs and otters

7. All development, demolition or site clearance procedures on the site to which this consent applies shall be undertaken in line with the Risk Avoidance Measures for Reptiles by Star Ecology dated November 2014

Reason: To ensure the protection of reptiles and other wildlife.

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

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

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

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

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

10. Prior to construction and/or demolition activities occurring on site a dust management statement detailing how the developer will reduce dust from spreading off the site shall be submitted to the local planning authority for approval in writing. Any methods contained within any approved statement shall be implemented on site.

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

11. a) No development shall take place until a Site Investigation Report has been undertaken to assess the nature and extent of any contamination on the site. The Site Investigation Report shall be undertaken by a competent person and conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The Report is to be submitted to and approved in writing by the Local Planning Authority.
- b) In the event of the Site Investigation Report finding the site to be contaminated a further report detailing a Remediation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- c) The works detailed as being necessary to make safe the contamination shall be carried out in accordance with the approved Remediation Strategy.
- d) In the event that further contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of (b) above, which is subject to the approval in writing by the Local Planning Authority.

e) Following completion of measures identified in the approved remediation scheme a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to human health and offsite receptors.

Note: In order to address the potential for gassing from the infilled material it is suggested that monitoring is carried out at the north west boundary of the site in order to establish if there is any gas migrating from the former quarried area to the proposed site. Alternatively information should be provided which states that gassing is not likely due to the type of infill material used e.g. inert material, this would be acceptable.

12. Prior to the commencement of the development full engineering details of the highway widening and footway link across the site frontage and to the B4380 shall be submitted to and approved in writing by the Local Planning Authority; these works shall be fully implemented in accordance with the approved details prior to the dwellings hereby permitted being first occupied.

Reason: In the interests of highway safety.

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

13. Prior to the first occupation of the dwellings six artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site.

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

14. 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.

Informative(s)

1. The land and premises referred to in this planning permission are the subject of an Agreement under Section 106 of the Town and Country Planning Act 1990.

2. In order to make the properties ready for electric vehicles, the applicant should consider the installation of charging point isolation switches should be connected so that a vehicle may be charged where off road parking is provided. This should involve the provision of an independent 32 amp radial circuit isolation switch at each property for the purpose of future proofing the installation. The charging point must comply with BS7671. A standard 3 pin, 13 amp external socket will be required. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building.
3. The alterations to the highway required to form the new access points and undertake the works on the highway, shall not commence until the applicant has obtained a Highways Act, Section 184 licence issued by the Highway Authority to undertake the works. Details of how to obtain this licence, the fee charged and the specification for the works are available on the Council's web site.

4. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992.

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

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

5. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent.

All clearance work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

6. Part of the site on the south east corner slightly encroach onto Flood Zones 3 and 2. A Flood Risk Assessment in accordance with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework should be completed and submitted for approval.

A FRA should include, as a minimum:

' Assessment of the Fluvial flooding (from watercourses)

' Surface water flooding (from overland flows originating from both inside and outside the development site)

- ' Groundwater flooding
- ' Flooding from artificial drainage systems (from a public sewerage system, for example)
- ' Flooding due to infrastructure failure (from a blocked culvert, for example)
- ' Flood compensation storage, finished floor levels and evacuation plan should be detailed.

Reason: To ensure that it complies with the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

2. SuDS Applicability for the site is Infiltration. The use of soakaways should be investigated in the first instance for surface water disposal. Percolation tests and the sizing of the soakaways should be designed in accordance with BRE Digest 365 to cater for a 1 in 100 year return storm event plus an allowance of 30% for climate change. Alternatively, we accept soakaways to be designed for the 1 in 10 year storm event provided the applicant should submit details of flood routing to show what would happen in an 'exceedance event' above the 1 in 10 year storm event. Flood water should not be affecting other buildings or infrastructure. Full details, calculations, dimensions and location plan of the percolation tests and the proposed soakaways should be submitted for approval.

Surface water should pass through a silt trap or catchpit prior to entering the soakaway to reduce sediment build up within the soakaway

Reason: To ensure that soakaways, for the disposal of surface water drainage, are suitable for the development site and to ensure their design is to a robust standard to minimise the risk of surface water flooding.

3. If non permeable surfacing is used on the new access, driveway and parking area and/or the new access slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new access runs onto the highway.

4. A contoured plan of the finished road levels should be provided together with confirmation that the design has fulfilled the requirements of Shropshire Council's Surface Water Management: Interim Guidance for Developers paragraphs 7.10 to 7.12 where exceedance flows up to the 1 in 100 years plus climate change should not result in the surface water flooding of more vulnerable areas within the development site or contribute to surface water flooding of any area outside of the development site.

Reason: To ensure that any such flows are managed on site.

5. As part of the SuDS, the applicant should consider employing measures such as the following:

- ' Water Butts
- ' Rainwater harvesting system
- ' Permeable surfacing on any new access, driveway, parking area/ paved area
- ' Attenuation

- ' Greywater recycling system
- ' Green roofs

Details of the use of SuDS should be indicated on the drainage plan.

Reason: To ensure that, for the disposal of surface water drainage, the development is undertaken in a sustainable manner.

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

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