



Committee and date

Central Planning Committee

18 June 2015

## Development Management Report

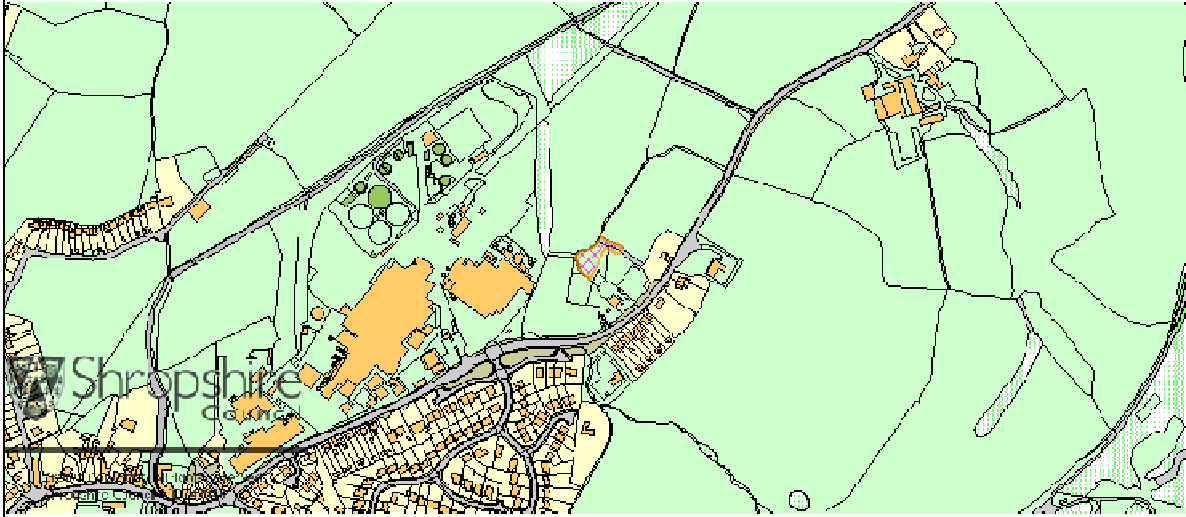
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 15/00808/FUL	<b>Parish:</b>	Minsterley
<b>Proposal:</b> Erection of 1no: detached bungalow and 1no: detached 2 storey dwelling; including 2 detached garages, car parking and associated landscaping		
<b>Site Address:</b> Proposed Development Land West Of 12 Little Minsterley, Minsterley Shrewsbury Shropshire.		
<b>Applicant:</b> Mr Steve Jennings		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 337961 - 305352



**Recommendation:- That delegated powers be granted to the Planning Manager to grant outline planning permission; subject to the conditions listed at appendix 1 and subject to the applicants entering into a S106 agreement to secure the provision of affordable housing.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application seeks full planning permission for the erection of one detached three bedroom bungalow and one detached two, storey two bedroom dwelling. The application also includes two detached garages with car parking and associated landscaping. Proposed materials include red multi bricks, grey tiled roof and cream render.
- 1.2 To the immediate south and south east of the application site lies a parcel of land that includes a former timber/builders yard that was granted outline planning permission for residential development last year (Ref: 14/01684/OUT). A reserved matters application for this site has now also been submitted to this Local Planning Authority for the erection of 16 dwellings including vehicular access off the A488 (Ref: 15/00809/REM). The proposed access for two dwellings contained in this application would be taken off the roadway that is proposed to form part of the adjacent development.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is situated at the north eastern end of Minsterley, set to the north of the A488 that runs through the village. The site comprises of a rough grassed area that lies to the rear of a former timber/builders yard and it is thought that this site was used for outside storage of materials for this former use. A small brook runs along the north western site boundary.
- 2.2 As set out above to the immediate south and south east of the application site lies a parcel of land that includes a former timber/builders yard that was granted outline planning permission for residential development last year (Ref: 14/01684/OUT). To the south of the site lies a detached building, Meadow Brook, used as an office with residential flat above, and to the south west is a currently vacant site that has been granted planning permission for development for 12 business units and 13 dwellings (SA/08/1506/O & 13/3197/OUT).
- 2.3 Residential properties are located opposite the site, on the south side of the A488.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Minsterley Parish Council have submitted a view contrary to officers recommendation for approval based on material planning reasons that cannot

reasonably be overcome by negotiation or the imposition of planning conditions; and the Area Manager in consultation with the Locally Elected Member and 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 SC Public Protection - Specialist - No objection**

There is a creamery to the west of the proposed development which has the potential to generate noise. A noise assessment in order to establish if any noise mitigation is required to any proposed property. Advise that this is submitted prior to a decision on this application however would be satisfied if this was conditioned appropriately.

###### **4.1.2 SC Highways – No objection**

Note: the foregoing highway comments/advice are based upon a desktop assessment

###### Comments

The proposal is for two further properties served by the combination of a private drive and new estate road off the A488. The private drive and estate road is the subject of an earlier planning application 14/01684/OUT and the reserved matters application 15/00809/REM which is yet to be determined.

The current application as submitted has not included the full length of the access route between the site and the principal road within the red line and is therefore divorced from the adopted highway. Whilst the proposed access route has been approved in principle the details of the layout and construction have yet to be approved and in this respect the current application may be considered premature? However, the principle of serving this site by the proposed 'new road' is acceptable and raises no highway concerns as the new access is considered satisfactory to serve two further properties.

The proposed parking for each of the two houses as shown on drawing PL103 are acceptable.

###### Informative

The formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.

## Background

Planning consent 14/01684/OUT and reserved matters application pending determination 15/00809/REM

### 4.1.3 **SC Trees – No objection**

There are a number of trees on this site. 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 been prepared broadly in accordance with BS 5837 (2012). The AIA has identified 4 trees and 6 groups of trees. In order to facilitate the development it is recommended that 1 tree and 3 groups of trees are removed. These specimens are of low public amenity value and it is agreed that their loss could be mitigated through replanting.

No objection is raised to the application. It is recommended that any grant of planning permission is subject to the following condition:

In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered nor any excavation be made, without the prior written consent

of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

#### 4.1.4 **SC Drainage - comments**

The drainage details, plan and calculations could be conditioned if planning permission were to be granted.

1. The application form states that the surface water drainage from the proposed development is to be disposed of via soakaways. However no details and sizing of the proposed soakaways have been supplied. 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 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.

If soakaways are not feasible, drainage calculations to limit the discharge rate from the site equivalent to a greenfield runoff rate should be submitted for approval. The attenuation drainage system should be designed so that storm events of up to 1 in 100 year + 30% for climate change will not cause flooding of any property either within the proposed development or any other in the vicinity.

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.

2. On the Pluvial Flood Map, the site is at risk of surface water flooding. The applicant should provide details on how the surface water runoff will be managed and to ensure that the finished floor level is set above any known flood level and must not be lower than the floor level of the existing building.

Reason: To minimise the risk of surface water flooding

3. Where no modelled flood outline exists for a watercourse, the surface water flood map should be used as an initial guide to the extent of the flood plain associated with that watercourse.

No flood modelling has been carried out on the watercourse which runs adjacent to the development site but is known to have flooding problems. Environment Agency surface water flood mapping should be used as a guide where it should be assumed that the low risk flooding equates to the Flood Zone 2 area, the medium risk flooding equates to Flood Zone 3a and the high risk flooding equates to Flood Zone 3b. To ensure climate change is accounted for, the current low risk flooding area can be considered as an estimate of the medium risk flooding within 100 years and the medium risk flooding can be considered as an estimate of the high risk flooding with 100 years. The developer may wish to produce a flood model to verify the flood extents.

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

4. The site is identified as being at risk of groundwater flooding. The applicant should provide details of how groundwater will be managed. The level of water table should be determined if the use of infiltration techniques are being proposed.

Reason: To minimise the risk of groundwater flooding.

5. Confirmation is required 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. The discharge of any such flows across the adjacent land would not be permitted and would mean that the surface water drainage system is not being used.

6. If non permeable surfacing is used on the driveways and/or the driveways slope towards 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 driveway runs onto the highway.

7. Meadow Brook is located on the north eastern site boundary. A 3m wide easement from the top of the watercourse bank, is required for maintenance purposes.

Please provide information on the proposed maintenance regime for the watercourse including details of who will take riparian responsibility.

Reason: To ensure future maintenance of the watercourse is maintained.

8. Ordinary Watercourse Consent is required from Shropshire Council for any works within the channel of the watercourse that will obstruct/ affect the flow of the watercourse including temporary works. Ordinary Watercourse Consent Application Form and Guidance Notes are on the Council's website: [www.shropshire.gov.uk/flooding](http://www.shropshire.gov.uk/flooding)

Reason: To ensure that it complies with the Land Drainage Act 1991

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

#### 4.1.5 **SC Ecologist – No objection**

Recommendation: The following informatives and conditions should be on the decision notice.

##### Nesting Birds

There are trees and hedgerows adjacent this site which may provide habitat for nesting birds. The following informative should be on the decision notice.

##### Informative

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, conversion and demolition 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.

#### Bats

There are trees adjacent this site which may contain features suitable for a bat roost. This site provides potential habitat for foraging and commuting bats. This site should be enhanced for the provision of bat species. The following conditions and informative should be on the decision notice.

1. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

2. 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

All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended).

Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts Bat Surveys Good Practice Guidelines prior to any tree surgery work being undertaken on these trees.

If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.

#### Informative

Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet Bats and Lighting in the UK.

**4.1.6 SC Affordable Housing – No objection**

The affordable housing contribution pro-forma accompanying the application indicates the correct level of contribution and/or on site affordable housing provision and therefore satisfies the provisions of the SPD Type and Affordability of Housing

**4.1.7 Minsterley Parish Council – Objection**

The development is outside the development boundary of the village that is published parish council policy, it is not one of the two sites identified by the parish council for development under SAMDev, it is not in the parish plan it is an area prone to flooding, and has access onto a busy trunk road

**4.2 - Public Comments**

None received

**5.0 THE MAIN ISSUES**

**Principle of development**  
**Affordable Housing**  
**Siting, scale and design of structure**  
**Drainage and Flooding**  
**Highway Safety/Site Access**  
**Ecology/Trees**

**6.0 OFFICER APPRAISAL**

**6.1 Principle of development**

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight. Paragraph 12 of the NPPF 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'

6.1.2 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.

Following the submission of the SAMDev Final Plan to the Planning Inspectorate at the end of July, the Council's position is that it has identified sufficient land that will address the NPPF 5 year housing land supply requirements. In the calculation of the 5 years' supply, the Council recognises that full weight cannot yet be attributed to the SAMDev Final Plan housing policies where there are significant unresolved objections. Full weight will be applicable on adoption of the Plan following examination but, even as that document proceeds closer to adoption, sustainable sites for housing where any adverse impacts do not significantly and demonstrably outweigh the benefits of the development will still have a strong presumption in favour of permission under the NPPF, as the 5 year housing supply is a minimum requirement and the NPPF aim of significantly boosting housing supply remains a material consideration. However, with a 5 years' supply including a 20% buffer and supply to meet the considerable under-delivery since 2006, existing planning policies for the supply of housing are not out-of-date by virtue of NPPF para 49 and these provide the starting point for considering planning applications.

- 6.1.3 The application site in this case is located on the edge of Minsterley, in open countryside in terms of planning policy, with policy CS5 of the Core Strategy applying. Core Strategy Policy CS3 is also relevant as Minsterley is proposed to be a joint key centre with Pontesbury within the Pre-submission Draft SAMDev Plan published on 17th March 2014. A development boundary is proposed for Minsterley and Policy S12 of the Pre-submission Draft (Final Plan) SAMDev Plan proposes a guideline of a total of 260 additional dwellings for the two villages for the period 2011-2026 (of which 138 have already been identified as having been built or committed between 2006 and 2013). Policy S12 also identifies 2 preferred sites at Hall Farm, and Callow Drive that would potentially provide a total of 49 houses. New housing development will be delivered through a combination of allocated sites and windfall opportunities on existing brownfield and other infill sites.
- 6.1.4 The application site does form part of a much larger site that was considered as part of the SAMDev site allocation process for potential residential and employment uses. This larger site was rejected as the it was considered to have overall poor sustainability taking into account lack of access to some facilities, flooding constraints and close proximity to the nearby food manufacturing operation. The current application site is located towards the southern end of this wider site that does not fall within the EA identified flood zones and lies close to existing buildings/dwellings within the village.
- 6.1.5 Notwithstanding the above, proposals must be assessed with a presumption in favour of sustainable development as defined throughout the NPPF. As such the key factor in determining this application is the assessment of whether the proposal would represent sustainable development and whether the adverse impacts of granting permission would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- 6.1.6 Minsterley is a village with existing built development predominantly located either side of the A488 running through the centre of the village. There are a variety of services currently provided within the village in the form of a public house, a bus service providing links to Shrewsbury and Bishops Castle, a grocery store and petrol garage, a post office, takeaway, butchers, florist, vets, primary school, pre-school nursery, church and village hall.
- 6.1.7 Paragraph 55 of the NPPF advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Minsterley is located within close proximity with Pontesbury, linked by the A488 where further services are available. Whilst not necessarily within walking distance, both settlements are within close proximity and Pontesbury is also on the same bus route. It is therefore considered that the site is situated in a sustainable location with regard to accessibility and proximity to essential day to day services without over reliance on long journeys by private motor car.
- 6.1.8 '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.
- 6.1.9 Economic role – The proposal 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 2 additional houses will in a modest way also 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.

- 6.1.10 Social role - 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. The 2 dwellings proposed would add a very small amount to the identified figure in SAMDev of 260 dwellings required to be provided for Minsterley and Pontesbury by 2026. It is not considered that this level of increase could be considered to be detrimental to the existing community of the village and Parish.
- 6.1.11 Environmental role – The site forms a largely rough grassed area land with no official heritage, cultural or ecological designation. The land has little ecological value with the only feature of any ecological value being the hedges, trees and planting located at its periphery. The proposal would have no adverse impact on wildlife and the ecological value of the site could potentially be improved by conditions requiring the provision of artificial bird nests. In addition the proposal would help contribute to a low carbon economy as the site is reasonably accessible to local services and facilities on foot or by cycle and by public transport to the array of services, facilities and employment opportunities in Pontesbury and Shrewsbury.
- 6.1.12 Any adverse impacts of the proposed housing development that might significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole will be discussed in the following paragraphs below.

## **6.2 Affordable Housing**

- 6.2.1 Policy CS11 of the Core Strategy requires an appropriate contribution to made local needs affordable housing, in the form of a financial contribution towards off site provision. The level of contribution would need to accord with the requirements of the SPD Type and Affordability of Housing and will be set at the prevailing housing target rate at the time of Reserved Matters application. The applicants have agreed to make the necessary contribution in accordance with the requirements of the Type and Affordability of Housing SPD.
- 6.2.2 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').

6.2.3 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.

### **6.3 Siting, scale and design of structure**

6.3.1 The application site lies in effect to the rear of a larger site that has already received outline planning permission for residential development which stretches up to a frontage with the A488 at the entrance to the village. The two dwellings proposed, a detached house and detached bungalow, would be accessed via a roadway shown to run up to the A488 that will be shared with the 16 residential properties now also shown to be built as part of the submitted reserved matters application (15/0809/REM) for the adjacent site. It is considered that the addition of these two dwellings at the rear of what will be a residential cul-de-sac would appear to be an appropriate infilling of the end section of the cul-de-sac in visual terms, with the properties being viewed in context with the adjacent development. The proposed design of the house and bungalow proposed will reflect that of the adjacent proposed dwellings and the proposed materials are considered to be acceptable.

### **6.4 Drainage and Flooding**

6.4.1 Minsterley Parish Council has stated that the site is in an area prone to flooding as part of their objection to the application. The application site lies outside of any identified flood risk areas by the Environment Agency (Flood Zone 1) and as such a Flood Risk Assessment has not been requested. The Council's Drainage Engineers have not raised any objections to the application and have suggested that details of the proposed surface water drainage and ground water management for the dwellings be conditioned to minimise any flood risk, as well as a 3 metre wide easement be kept open alongside the adjacent brook.

### **6.5 Highway Safety/Site Access**

6.5.1 Access to the proposed development will be taken from the A488 and will be shared with the adjacent proposed development for 16 dwellings (Ref 15/00809/REM). The submitted details for the design of this access have been included in the reserved matters application.

6.5.2 The Council's Highways Officer has made no objections to the proposal and notes that the proposed design of the access onto the A488 that is shown on the current reserved matters application is acceptable for use by an additional two dwellings. , The Highways Officer is satisfied that the proposed visibility splays are adequate for the road conditions in this area and that off street parking arrangements for each dwelling, providing at least two parking spaces is acceptable.

## 6.6 Ecology/Trees

- 6.6.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the potential impact of a development on the natural environment. The Council's Planning Ecologist has assessed the application and is satisfied that the proposal can be provided without harm to any statutorily protected species or habitats.
- 6.6.2 The Council's Tree & Landscape Officer is satisfied that the submitted tree report is acceptable subject to conditions.

## 7.0 CONCLUSION

- 7.1 It is appreciated that approving this development would be contrary to the SAMDev allocation for the village of Minsterley. However a priority of the NPPF is to boost housing supply and to approve sustainable development in appropriate locations provided there are no adverse impacts of doing so. It is considered that the site is of a sufficient size to accommodate the proposed number of dwellings and would not result in an unacceptable form of development immediately adjacent to the village. The proposal would have no adverse drainage, flooding or environmental/ecological implications and would not impact on highway safety.
- 7.2 The existing infrastructure is sufficient to support the proposed development and the proposal will provide housing and will be liable for the required CIL payment. It is considered that Minsterley is a sustainable location for a limited number of new houses due to its range of essential services and facilities with good access to all essential services and facilities without over reliance or long journeys by private motor car. It is considered that the proposal represents sustainable development that will contribute to providing a balance of available housing and would help support facilities and services in this and neighbouring towns and villages and therefore promote '*strong, vibrant and healthy communities*'. It is therefore recommended this application be granted planning permission in line with clear guidance within the NPPF. Permission, if granted, should be subject to the completion of a S106 Agreement to secure payment towards the provision of affordable housing in accordance with the Councils adopted policy.

## 8.0 Risk Assessment and Opportunities Appraisal

### 8.1 Risk Management

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

- ② 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.
- ② 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 six weeks after the grounds to make the claim first arose.

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

## **8.2 Human Rights**

Article 8 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:  
NPPF

Core Strategy and Saved Policies:  
CS4, CS6, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

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## 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) See planning file 15/00808/FUL
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Tudor Bebb
Appendices APPENDIX 1 - Conditions

## APPENDIX 1

### Conditions

#### STANDARD CONDITION(S)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The external materials and their colour shall be as shown on the deposited plans.

Reason: To ensure that the proposed development shall harmonise with surrounding development.

#### CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

4. In this condition 'retained tree' means an existing tree, large shrub or hedge which is to be retained in accordance with the approved plans and particulars; or any tree, shrub or hedge plant planted as a replacement for any 'retained tree'. Paragraph a) shall have effect until expiration of 5 years from the date of occupation of the building for its permitted use.

a) No existing tree shall be wilfully damaged or destroyed, uprooted, felled, lopped, topped or cut back in any way other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved tree surgery works shall be carried out in accordance with British Standard BS 3998: 2010 - Tree Work, or its current equivalent.

b) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a Tree Protection Plan and Arboricultural Method Statement prepared in accordance with and meeting the minimum tree protection requirements recommended in BS5837: 2012 or its current equivalent have been submitted and approved in writing by the Local Planning Authority. All tree protection measures detailed in the approved Tree Protection Plan and Arboricultural Method Statement must be fully implemented as approved before any equipment, machinery or materials are brought onto the site for the purposes of the development. All approved tree protection measures must be maintained throughout the development until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground

levels within those areas shall not be altered nor any excavation be made, without the prior written consent of the Local Planning Authority.

c) All services will be routed outside the Root Protection Areas indication on the TPP or, where this is not possible, a detail method statement and task specific tree protection plan will be submitted and approved in writing by the Local Planning Authority prior to any work commencing.

d) No works associated with the development permitted will commence and no equipment, machinery or materials will be brought onto the site for the purposes of said development until a responsible person has been appointed for day to day supervision of the site and to ensure that the tree protection measures are fully complied with. The Local Planning Authority will be informed of the identity of said person.

Reason: To safeguard the amenities of the local area and to protect the natural features that contribute towards this and that are important to the appearance of the development.

5. No development shall take place until a scheme of surface water drainage has been submitted to, and approved by the Local Planning Authority. The approved scheme shall be completed before the development is occupied.

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

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

6. A total of 1 woodcrete bat box suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the building hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

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

7. No development shall take place within 3 metres of the brook which runs alongside the north western boundary of the site.

Reason: To ensure access to the brook is maintained for maintenance purposes and not to cause any obstructions of the flow of the brook.

8. 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.

9. 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.

### **Informatives**

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. Where there are pre commencement conditions that require the submission of information for approval prior to development commencing at least 21 days notice is required to enable proper consideration to be given.
3. Your attention is specifically drawn to the conditions above that require the Local Planning Authority's approval of materials, details, information, drawings etc. In accordance with Article 21 of the Town & Country Planning (Development Management Procedure) Order 2010 a fee is required to be paid to the Local Planning Authority for requests to discharge conditions. Requests are to be made on forms available from [www.planningportal.gov.uk](http://www.planningportal.gov.uk) or from the Local Planning Authority. The fee required is £97 per request, and £28 for existing residential properties.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission; any commencement may be unlawful and the Local Planning Authority may consequently take enforcement action.

4. THIS PERMISSION DOES NOT CONVEY A BUILDING REGULATIONS APPROVAL under the Building Regulations 2010. The works may also require Building Regulations approval. If you have not already done so, you should contact the Council's Building Control Section on 01743 252430 or 01743 252440.
5. The formation of or alteration of an access apron will require works to cross the highway verge, the applicant or their contractor will require a 'Licence to work on the highway' prior to commencing. Please advise the applicant that details of this, the fee charged and the specification for the works is available on the Council's website.
6. Ordinary Watercourse Consent is required from Shropshire Council for any works within the channel of the watercourse that will obstruct/ affect the flow of the watercourse including temporary works. Ordinary Watercourse Consent Application Form and Guidance Notes are on the Council's website: [www.shropshire.gov.uk/flooding](http://www.shropshire.gov.uk/flooding)  
Reason: To ensure that it complies with the Land Drainage Act 1991
7. Consent is required from the service provider to connect into the foul main sewer.
8. 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, conversion and demolition 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.

9. Any external lighting should be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet *Bats and Lighting in the UK* in order to minimise disturbance to bats, a European Protected Species. Special consideration should be made to minimise the impact lighting would have on any bats. Lighting should not shine on potential ecological corridors and should be in line with the advice available in the Bat Conservation Trust booklet *Bats and Lighting in the UK*.
10. All species of bats found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife & Countryside Act 1981 (as amended). Any trees within the hedgerows may have potential for roosting bats. If these trees are to be removed then an assessment and survey for roosting bats must be undertaken by an experienced, licensed bat ecologist in line with The Bat Conservation Trusts *Bat Surveys Good Practice Guidelines* prior to any tree surgery work being undertaken on these trees. If a bat should be discovered on site at any point during the development then work must halt and Natural England should be contacted for advice.
11. In order to make the properties ready for electric vehicles, charging point installation isolation switches must be connected so that a vehicle may be charged where off road parking is provided. The following condition is therefore proposed should this application be granted approval:  
An independent 32 amp radial circuit isolation switch must be supplied at each property for the purpose of future proofing the installation of an electric vehicle charging point. 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.  
Reason: Paragraph 35 of the NPPF states; "Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods and people. Therefore, developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra-low emission vehicles."