

## Development Management Report

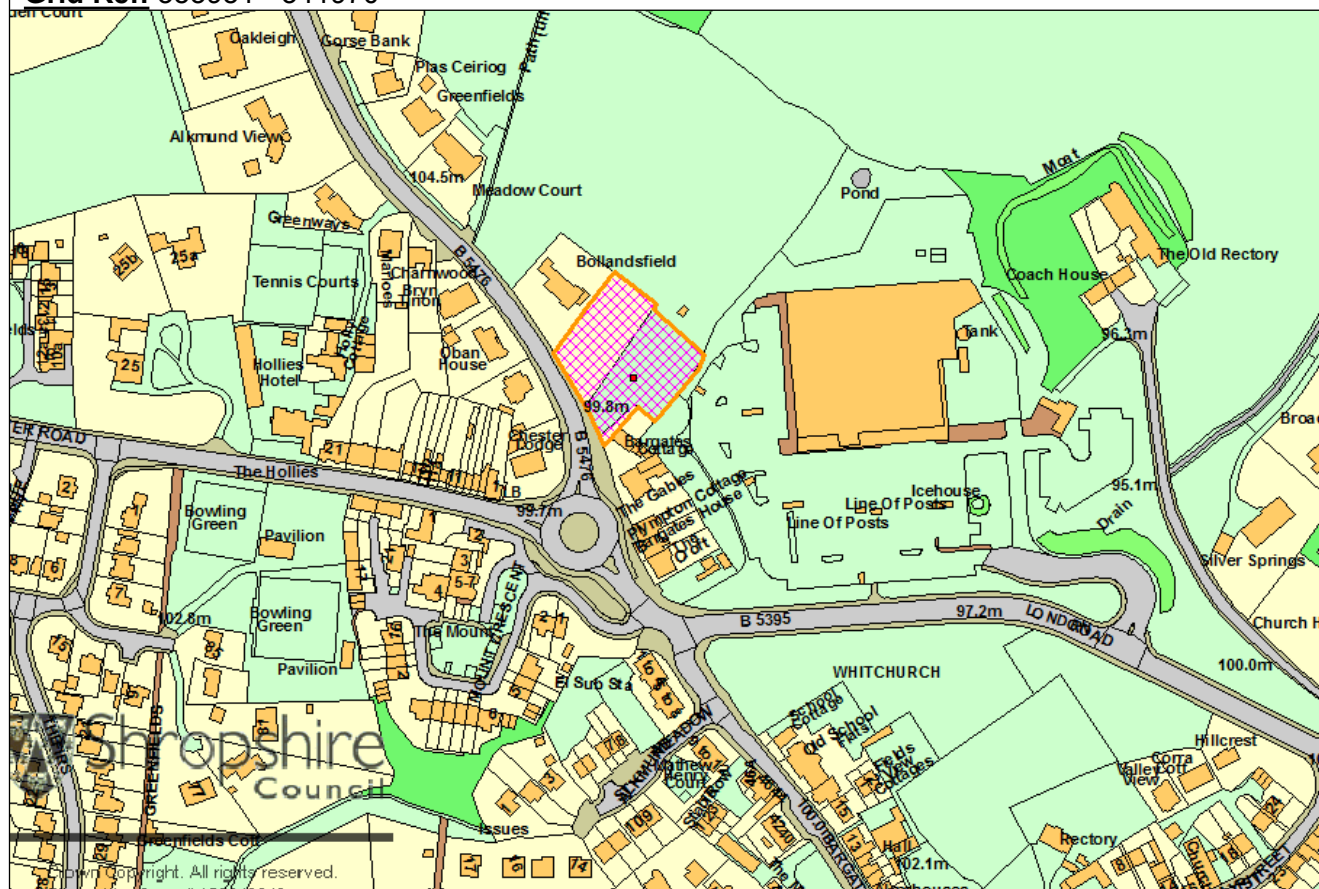
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 15/00433/OUT	<b>Parish:</b> Whitchurch Urban
<b>Proposal:</b> Outline application (access for approval) for residential development; formation of new vehicular access to include removal of trees	
<b>Site Address:</b> Land East Of Tarporley Road Whitchurch Shropshire	
<b>Applicant:</b> Muller Property Group	
<b>Case Officer:</b> Karen Townend	<b>email:</b> <a href="mailto:planningdmne@shropshire.gov.uk">planningdmne@shropshire.gov.uk</a>

**Grid Ref:** 353951 - 341970



**Recommendation: That, subject to satisfactory resolution of the outstanding archaeological issues, planning permission be granted, subject to a S106 legal agreement to secure affordable housing and subject to the conditions listed below.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This application seeks outline planning permission for residential development on the site. Access is detailed in this outline application with all other matters of layout, scale, appearance and landscaping reserved for later approval. Access is proposed on the site frontage onto Tarporley Road.
- 1.2 In support of the application a planning statement, tree survey and ecology report have been submitted. The application was also submitted with an indicative layout showing 6 dwellings (made up of 4 detached dwellings and a pair of semi detached properties). However, during the course of the application it was recommended that this indicative layout plan be withdrawn of officers raised concerns about the scale and layout of the development in the context of the surrounding area. The layout was subsequently amended and, although indicative, is considered to be more appropriate as discussed below.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site is an area of land which is currently partly the garden to the detached dwelling known as Bollandfield and partly a small paddock adjacent to the garden. It is an area of 0.3 hectares and lies between Bollandfield and Bargates Cottages. The garden is elevated above the level of Tarporley Road and above the level of the paddock. There are existing trees and hedges within the garden and also on the boundary of the site with the recently completed Sainsbury store.
- 2.2 The site is within Whitchurch, wholly within the development boundary as shown in the saved North Shropshire Local Plan and also within the proposed development boundary in the SAMDev. It is between existing housing which fronts Tarporley Road and close to the services and facilities of the market town.
- 2.3 A separate application has also been submitted for land to the north of Bollandfield (reference 15/00916/OUT), however as a separate application that site needs to be considered under its own merits, as does this application. The two are only connected through ownership and the applicant.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The views of Whitchurch Town Council are contrary to the recommendation of officers. As such the determination of the application can not be delegated without discussion with the local members and Chairman and Vice Chairman of the planning committee as detailed in the adopted scheme of delegation.

Applications where the Parish Council submit a view contrary to Officer's approval based on material planning reasons; the following tests need to be met:

- These contrary views cannot be reasonably overcome by negotiation or the imposition of planning conditions; and

- The Principal Planning Officer in consultation with the committee Chairman or Vice Chairman and the Local Member agrees that the Parish Council has raised material planning issues that the application should be determined by committee.

The issues raised by the Town Council were considered by the local members and Councillor Biggins agreed that the development should be considered by committee. Councillor Biggins considers that the proposal is overdevelopment which is not in keeping with the character of the area and the existing dwelling.

The matters were discussed with the Chair and Vice Chair and the Chairman has agreed that the local member concerns and the Town Council concerns are valid and should be debated at committee.

#### **4.0 COMMUNITY REPRESENTATIONS**

##### **4.1 Consultee Comments**

**4.1.1 Whitchurch Town Council** – object on poor visibility when exiting the site and the application is not in the SAMDev.

**4.1.2 Archaeology** – The proposed development site lies partially within and immediately adjacent to the historic core of Whitchurch as defined by the Central Marches Historic Towns Survey. In particular, it lies partially within the area of the Bargates Roman cemetery (HER PRN 05918), and adjacent to a site where seven inhumation burials said to be of Roman date were discovered in the earlier part of the 20th century (HER PRN 00914), and also adjacent to a group of post-medieval tenement plots (HER PRN 05956). On the basis of current evidence, the proposed development site is therefore deemed to have high archaeological potential.

The National Planning Policy Framework (NPPF) Paragraph 128 states that 'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed or has potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'.

In view of the above, it is advised that an archaeological desk based assessment and the results of a field evaluation, to comprise an archaeological trail trenching exercise, should be commissioned by the applicant, and the results submitted to the Local Planning Authority prior to the determination of this application. This in turn would enable an informed planning decision to be made regarding the archaeological implications of the proposed development in relation to Paragraphs 129 and 135 of the NPPF, and whether any further archaeological mitigation would be required as a condition of any planning consent in relation to Paragraph 141. There should be no determination of the application until the results of the desk based assessment and field evaluation has been submitted to the Local

Planning Authority.

The Historic Environment Team would be able to provide the applicant with further guidance on how to proceed with carrying out the archaeological field evaluation.

- 4.1.3 **Highways** – The Highway Authority raises no objection to the granting of outline consent.

The visibility splays provided are acceptable although in reality the splays will be in excess of those shown due to the alignment of the carriageway in either direction from the access point. The access junction has been shown with access splays, which are not satisfactory and should be designed with 7.5 metres access radii and recommends that this is dealt with by condition.

- 4.1.4 **Ecology** – Has read the application and the supporting documents, including the Extended Phase 1 Habitat Survey by Arbor Vitae dated January 2015, the Great Crested Newt Survey by Arbor Vitae dated May 2015 and also referred to the Ecological Assessment by TEP dated August 2013 submitted with application 13/03413/OUT.

Following receipt of the May 2015 GCN survey advised that Arbor Vitae carried out four presence/absence surveys on Ponds 1 and 3 in April and May 2015, which recorded no great crested newts. All ponds are over 100m from the development site and no mitigation measures are considered necessary. Informatives are recommended

#### Bats

None of the trees on site were assessed to have potential to contain bat roosts. An informative is recommended in relation to lighting and bats, which may use the tree lines for foraging.

#### Nesting birds

The hedgerows on site provide good habitat for breeding birds. There will be some tree and hedge removal to create access to the land. Bird boxes have been erected on the site boundaries as part of the adjacent Sainsbury's development. An informative is therefore recommended.

Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

- 4.1.5 **Trees** – No objection in principle - 5 "C" category trees are to be removed - two for a new access. A full application will need a Tree Protection Plan and mitigation planting
- 4.1.6 **Drainage** – The 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.

On the planning application, it states that the surface water from the proposed development is to be disposed of directly to a main sewer. Such a connection

must not be made, as it can result in increased flood risk elsewhere. As part of the development's surface water drainage system, the applicant must demonstrate how measures such as the following have been considered:

- Surface water soakaways
- Attenuation pond
- Infiltration basin
- Rainwater harvesting system
- Water Butts

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 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.

A plan should be submitted for approval showing exceedance flow routes to ensure 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.

If non permeable surfacing is used on the driveways and parking areas 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.

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.

Urban creep is the conversion of permeable surfaces to impermeable over time e.g. surfacing of front gardens to provide additional parking spaces, extensions to existing buildings, creation of large patio areas. The appropriate allowance for urban creep must be included in the design of the drainage system over the lifetime of the proposed development. The allowances set out below must be

applied to the impermeable area within the property curtilage:

Residential Dwellings per hectare Change allowance % of impermeable area  
 Less than 25 – 10%, 30 – 8%, 35 - 6%, 45 – 4%, More than 50 – 2% (Flats & apartments 0%). Note: where the inclusion of the appropriate allowance would increase the total impermeable area to greater than 100%, 100% should be used as the maximum.

## 4.2 Public Comments

4.2.1 6 letters of representation have been received raising the following concerns:

- 6 semi-detached houses would be overdevelopment and out of keeping with other development on Tarporley Road
- Is part of a larger scheme for nearer 60 dwellings
- Would result in loss of sunlight, privacy and increased noise
- Loss of view from existing properties and loss of property value
- Impact on security through new houses backing onto existing with gaps in boundary
- Poor visibility from access and increase in traffic
- Further ecology information is required as protected species have been observed in the area
- Ecological surveys have not been carried out at the right time of year
- Potential loss of tree and impact on boundary hedge

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Is the site sustainable?
- Impact on heritage
- Layout, scale and design
- Impact on residential amenity
- Highways, access, parking and rights of way
- Ecology and trees
- Drainage

## 6.0 OFFICER APPRAISAL

### 6.1 Policy & principle of development

6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

6.1.2 The development plan is the saved policies within the North Shropshire Local Plan (NSLP) and also the Shropshire Core Strategy (CS). Policy H5 of the NSLP is a saved policy and supports infilling and groups of houses in market towns such as

Whitchurch. As noted under the description of development above the site is within the development boundary in the NSLP and as such the development of the site for housing would be supported in accordance with policy H5. The CS policy CS3 sets Whitchurch as a market town which will have substantial development with a housing target of 1,200 dwellings over the plan period on allocated sites and windfall sites in the development boundary. The boundary will be set within the Site Allocations and Management of Development (SAMDev) plan.

- 6.1.3 The proposed development boundary for Whitchurch in the SAMDev includes the application site as within the development boundary and as such housing development on the site would also be in compliance with the SAMDev as submitted for examination. The comments of the Town Council that the site is not in SAMDev are presumed to mean that the site is not a proposed allocated site, however not all sites for housing need to be allocated, the housing target for the market town includes an percentage of houses to be provided on windfall sites. These are sites which are not allocated but are within the development boundary and are for all other reasons appropriate. It is the consideration of whether there are any other reasons, any material harm, which would outweigh the presumption in favour of development of the site within the development boundary that needs to be carried out.
- 6.1.4 It is noted that the SAMDev has yet to be adopted, although it has been submitted to the Planning Inspector for consideration and public enquiry and the main modifications have been received, published and consulted on it does not yet hold full weight. However, the Council consider that significant weight can be given to the policies within the SAMDev which are not proposed to be modified. The development boundary in relation to the planning application site is not proposed to be modified, there are no modifications proposed to housing numbers or development boundary for Whitchurch within the SAMDev and there are no outstanding objections against the SAMDev which relate to this specific site.
- 6.1.5 The NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking (para. 14), so it also applies, as a material planning consideration, in any event. The NPPF specifically aims to 'boost significantly the supply of housing', with the requirement for authorities to have a housing land supply of 5 years to achieve this. Therefore, the fact (and degree) that a proposed development helps to boost housing supply is a significant material consideration. These considerations have to be weighed alongside the provisions of the Development Plan.
- 6.1.6 Policy CS6, amongst a range of considerations, requires proposals likely to generate significant levels of traffic to be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel to be reduced. Policy CS7 states that a sustainable pattern of development requires the maintenance and improvement of integrated, attractive, safe and reliable communication and transport infrastructure and services. And policy CS9 states that development that provides additional dwellings or employment premises will help deliver more sustainable communities by making contributions to local infrastructure in proportion to its scale and the sustainability of its location.

## 6.2 Is the site sustainable?

- 6.2.1 As a site which is wholly within the development boundary of Whitchurch as shown in the NSLP and SAMDev there is less need for an assessment of sustainability. The site would be supported in principle, however the NPPF is a material consideration and sets a presumption in favour of sustainable development.
- 6.2.2 Within the submitted planning statement the agent has noted the proximity of the site to the town services and facilities, the recreation at Jubilee Park, schools and the closes bus stop and frequency of service. The agent therefore considers that the site is in a sustainable location.
- 6.2.3 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.*
- 6.2.4 There are economic benefits of new house building in providing housing within the settlement and, as is the case with this application, within a large settlement with a range of services and facilities and where potential employment opportunities exist. The site is within walking distance of some services and facilities, is close to a bus stop and the town also has a train station. The development of the site for housing will provide additional support for services and facilities and additional income into the town.
- 6.2.5 The development of the site will also have social benefits in providing an affordable housing contribution and a financial contribution towards infrastructure (CIL). Whitchurch is currently a 10% affordable housing area and the agent has confirmed that they are willing to provide affordable housing in accordance with policy CS11 and the SPD. This will be controlled through a S106 on the outline consent but would depend on the scale of development and the policy requirement at the time of the submission of reserved matters. CIL is dealt with separately to planning after consent but is used to help fund local and County



wide infrastructure as identified by the Council and by the local place plan.

6.2.6 The site is currently partly garden and also partly a paddock. It is grade 3 agricultural land, however it is considered that the loss of this piece of agricultural land for agricultural purposes would not be significant. The visual impact of building on this site will be a harm of the development, however this is not considered by officers to be a significant harm given the position of the site between existing housing and with current limited views of the site from public vantage points the development, subject to an appropriate layout could relate to the existing built form.

6.2.7 There are benefits to allowing this proposal that would outweigh the harm of developing this small greenfield site. Furthermore the site is within the development boundary and as such would be, in principle, acceptable. It is considered that the proposal would represent sustainable development and that there are no harms which would outweigh the benefits of the scheme.

### 6.3 **Impact on heritage**

6.3.1 The site is outside of the conservation area for Whitchurch but is close to a number of listed buildings and also partially within and immediately adjacent to the historic core of Whitchurch (as noted by the Council Archaeologist under section 4 above). The development is considered to have high archaeological potential and the Council Archaeologist has requested the submission of an archaeological desk based assessment and trial trenching field evaluation.

6.3.2 The applicant has submitted a heritage statement and this has been sent to the Council Archaeologist for comment. At the time of writing this report the response of the Archaeologist has not yet been received. As such the recommendation reflects this outstanding matter.

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

6.4.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.

6.4.2 In this instance the application is for outline planning permission where only the access is being approved at this stage. The matters of scale, layout and appearance are all matters that are to be dealt with at the later reserved matters stage. Therefore no details of the proposed dwellings have been provided with this application.

6.4.3 Within the submitted planning statement the agent suggests that the site will be seen in the context of the existing frontage development on Tarporley Road and that the retention of hedges and trees will reduce the visual impact. This will depend on the final layout of the site. As submitted the indicative layout was not considered to be appropriate by officers as it was not in keeping with the existing built form and may have resulted in a cramped appearance.

6.4.4 An amended indicative layout was therefore submitted which officers consider is more appropriate in that it provides one dwelling on the frontage adjacent to Bargates Cottages and the other four dwellings to the rear of the site, in line with Bollandfield all served off a single access road leading into the site and finishing at a turning head. The layout is indicative only and has not been submitted for approval at this stage. A separate application will need to be submitted for approval of reserved matters (or a full application) at a later date and at that time the layout, scale and appearance of the dwellings and the landscaping of the site will need to be considered.

## 6.5 **Impact on residential amenity**

6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity.

6.5.2 Concerns have been expressed by local residents that the proposed development would cause a loss of privacy, loss of sunlight and additional noise impact to neighbouring properties. Concern has also been raised about loss of security as there are currently gaps in the boundary with the adjacent property. This concern is noted, however any development of the site would need to provide appropriate boundary treatment to ensure the security of existing and future residents and as such it would be expected that the reserved matters application would detail boundary fences or hedges which would close any gaps.

6.5.3 The indicative layout initially submitted may have resulted in some loss of privacy as the proposed dwellings were shown to have rear elevations facing directly over the adjacent property which has windows in the facing elevation. However the amended indicative layout has overcome this issue by positioning the proposed dwellings gable end facing over the existing housing and furthermore the proposed layout and design of the dwellings is not to be determined as part of the outline planning application. The issue of the scale of the impact on the existing neighbouring properties and whether this impact would be unacceptable would need to be considered as part of the reserved matters application. Adequate separation to the existing properties and a layout which respects the existing built form will be sought and a development which does not protect amenity sufficiently would not be supported.

## 6.6 **Highways, access, parking and rights of way**

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

6.6.2 The submitted planning statement advises that the access, off Tarporley Road, can be provided with visibility splays of 2.4m by 56m in both directions within the site frontage and public footpath. The agent also considers that the level of traffic generated by the proposed development (of indicatively 6 dwellings) would not have a demonstrable impact on the safe movement of traffic on Tarporley Road or

the local highway network.

- 6.6.3 The indicative layout and access detail plan initially submitted showed the swept path of a refuse collection vehicle showing that the vehicle can enter and leave the site in a forward gear. This plan has been superseded by an amended indicative layout plan which does not show the same level of detail but does show an internal road which is considered to be of sufficient width and with a turning head to provide access for refuse and delivery vehicles. The indicative layout also shows parking for each property, however this plan is indicative only and the level of parking will need to be considered as part of the reserved matters application.
- 6.6.4 Whitchurch Town Council have objected to the application on two grounds, the issue of SAMDev has already been considered, the other issue raised by the Town Council was access. This has also been raised as a concern by local residents. These concerns are noted, however the technical advice provided by the Council Highway Officer is, as detailed in section 4 above, that more than sufficient visibility can be provided. The radii of the access needs to be increased, however this does not provide justification for refusal.
- 6.6.5 The concerns of residents regarding traffic increases and speeds of traffic are also noted, however the scale of the development proposed in this planning application is of a level which would not result in a severe increase in traffic on the local road network and the enforcement of speeds is not a matter which a planning application can control. Overall it is considered that the development can be provided with a safe means of access and that the size of the site will restrict the scale of development and therefore the traffic levels so that the impact is no severe.
- 6.7 **Ecology and trees**
- 6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. A protected species survey has been undertaken and submitted with the application and this has been considered by the Council Ecologist.
- 6.7.2 The submitted ecology report notes the recorded species in the area and also advises of the survey results of the site and surrounding area. The report notes the on-site plant species, trees and hedges. It advises that there are 3 ponds within 500m of the proposed site and notes their relationship to the site, features and HIS score. The report notes that there is no evidence of badgers and although the adjacent supermarket site had recorded evidence of badgers the sett has now been abandoned, no evidence was present of bats roosting on site although birds may use the hedgerows and trees for nesting.
- 6.7.3 Mitigation measures are recommended within the report which includes carrying out work outside of nesting season and appropriate lighting to not impact on bats commuting. The report initially advised that further survey work would be required on two of the ponds for GCN as they scored as “good” against HSI and the Council Ecologist questioned this recommendation given the recommendation and survey work undertaken on the adjacent land. A further GCN report was submitted which concluded that there was no evidence of GCN and the Council

Ecologist has agreed with this survey information and advised that there is no objection on protected species grounds.

6.7.4 Objectors have noted protected species and raised concerns about the loss of habitat, however the reports submitted with the application have advised that there is no evidence of species on the application site and although there may be species using the wider area (and the adjacent application site) the development, subject to appropriate conditions, is not considered to be likely to adversely affect habitat or protected species as advised by the Council Ecologist.

6.7.5 The submitted tree survey has recorded the presence, species, size and condition of all trees on the site and within influence distance on adjacent land. The report advises that three trees (T2, T3 and T4) are to be removed for reasons of arboricultural management, as they were noted to be suffering from Dutch Elm disease. A further two (T8 a Japanese Red Cedar and T9 a Cypress) are to be removed to provide the access. Trees T1 (Oak) and T6 (Beech) are shown as the most noteworthy and should be retained and protected during development, T6 is adjacent to the proposed access and as such the design of the access will need to take into account the requirement to retain this tree. T1 is in the garden of the adjacent property and as such the final layout of the site will need to take the tree canopy and root zone of this tree into account to ensure its retention and also ensure that the tree does not adversely affect the amenities of the future occupants of the site.

6.7.6 The Council Tree Officer has confirmed that the removal of 5 "C" category trees is acceptable in principle and has recommended a Tree Protection Plan and mitigation planting to be submitted with the reserved matters application. The Tree Protection Plan would therefore help to ensure the retention of existing trees including the tree within the neighbours garden.

## 6.8 **Drainage**

6.8.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. The submitted application form advises that foul drainage is to be connected to the existing mains drainage system and that surface water is also to be connected to mains. The connection of foul drainage to mains is the most appropriate means of dealing with foul drainage, however surface water should not be discharged to a mains drainage system and on-site means of disposal should be considered.

6.8.2 The Council Drainage Engineer has provided detailed advice and this is provided in section 4 above. The Drainage Engineer has not raised any objections in principle to the development but has raised concerns about the disposal of surface water and has recommended conditions which will require the details of the drainage systems to be submitted. As such there is no evidence to show that the site is not capable of being drained in an appropriate method which would comply with policy CS18 and ensure that there is no added flood risk.

## 6.9 **Other matters**

6.9.1 The loss of a private view and the loss of property value raised by objectors to the scheme are not material considerations. There is no right to a private view and the development of the site would not remove any public views of interest or importance or reduce views of the open countryside beyond the site as there are not currently any public views of the countryside available.

6.9.2 Concern has also been raised by objectors that this application is part of a larger site for around 60 dwellings. Although, as noted in section 2 above, there is a second planning application for land to the north of this site it is a separate planning application. Should consent be granted on the site to which this report relates this will not set a precedent for the site to the north. There are different considerations to be taken into account in that application including that the site is outside the development boundary for the town. The current application can be considered on its own merits separate to the other application.

## 7.0 **CONCLUSION**

7.1 The proposed development, as amended, is considered to be acceptable in principle and compliant with the aims of the Shropshire Core Strategy and the NPPF. The development will result in sustainable development in that there are economic, social and environmental gains. It is considered that an appropriate layout, scale and design could be accommodated on the site, subject to the submission of a reserved matters application, which will ensure that the development does not adversely affect the amenities of neighbouring properties.

7.2 The development of the site is proposed with an appropriate access for the scale of the development, can accommodate ecology mitigation and does not result in substantial loss of habitat, can be developed without detriment to trees which are worthy of retention and can be appropriately drained. As such the scheme is considered to be acceptable in principle. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## 8.0 **RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### 8.1 **Risk Management**

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

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

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly

and b) in any event not later than six weeks after the grounds to make the claim first arose first arose.

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

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9.0 **FINANCIAL IMPLICATIONS**

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

## 10. **BACKGROUND**

### Relevant Planning Policies

National Planning Policy Framework

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS9 - Infrastructure Contributions

CS11 - Type and Affordability of housing

CS18 - Sustainable Water Management

H5 - Infilling, Groups of Houses and Conversions in Market Towns and Main Service Villages

**11. ADDITIONAL INFORMATION**

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)  
Cllr M. Price

Local Member  
Cllr Thomas Biggins  
Cllr Peggy Mullock

Appendices  
APPENDIX 1 - Conditions

**APPENDIX 1****Conditions****STANDARD CONDITION(S)**

1. Details of the layout, scale, appearance and landscaping (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 1(2) of the Town and Country Planning General Development (Procedure) Order 1995 and no particulars have been submitted with respect to the matters reserved in this permission.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years 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 be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The following information shall be submitted to the local planning authority concurrently with the first submission of reserved matters:

- The number of units
- The means of enclosure of the site
- The levels of the site
- The drainage of the site in accordance with the advice of the Flood and Water Management Team
- The finished floor levels
- The means of protecting existing trees and a plan showing tree protection

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

5. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 07:30 – 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**

6. 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.

7. Prior to the commencement of the development, including any works of demolition, a Construction Method Statement shall have been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

Reason: This detail is required prior to commencement to avoid congestion in the surrounding area and to protect the amenities of the area.

8. Prior to the commencement of development full engineering details of the means of access, including access radii of 7.5 metres and the visibility splays indicatively shown on the approved plan SCP/14229/F02 shall be submitted to and approved in writing by the Local Planning Authority; the access, and visibility splays shall be fully implemented in accordance with the approved details before the development hereby permitted is first occupied.

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

9. No development shall take place until the details of the design and construction of any new roads, footways, accesses, parking and turning areas together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority. The agreed details shall be fully implemented prior to the dwellings are occupied.

Reason: To ensure an adequate standard of highway and access for the proposed development.

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

10. No above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs