

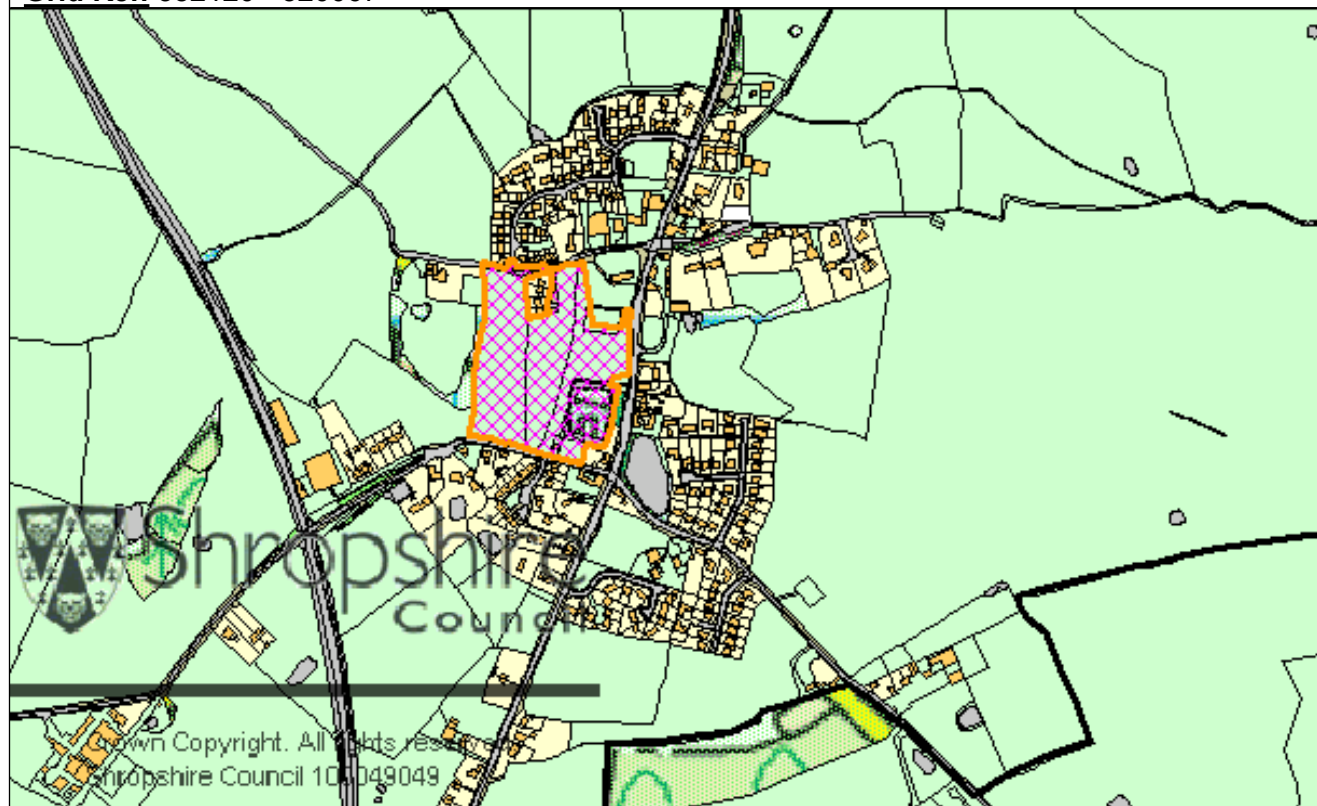
Development Management Report

Responsible Officer: Tim Rogers

Email: tim.rogers@shropshire.gov.uk Tel: 01743 258773 Fax: 01743 252619

Summary of Application

<u>Application Number:</u> 14/03995/OUT	<u>Parish:</u>	Hadnall
<u>Proposal:</u> Outline application (access for approval) for residential development of up to forty dwellings, the provision of public open space and car park and restoration of moated site (amended description)		
<u>Site Address:</u> Land Off A49 Hadnall Shropshire		
<u>Applicant:</u> Sansaw Estates And Galliers Homes		
<u>Case Officer:</u> Jane Raymond	<u>email:</u> planningdmc@shropshire.gov.uk	
<u>Grid Ref:</u> 352120 - 320067		



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a S106 agreement to secure the relevant affordable housing contribution at the time of the Reserved matters application and the restoration and future maintenance of the moated site.

REPORT

ADDENDUM TO PREVIOUS OFFICER REPORTS – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 17th February 2015 it was resolved by the Northern Planning Committee to grant outline planning permission (to include access) for residential development of up to forty dwellings to include the provision of public open space and car park and restoration of moated site, subject to conditions and to the signing and completion of a Section 106 Legal Agreement to secure the affordable housing financial contribution in line with Core Strategy policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing' and the restoration and future maintenance of the moated site..
- 1.2 Since that time the applicant has progressed the S106 agreement to a point where it is now ready to be signed and returned to the Council for sealing. There have also been further developments with the Site Allocations and Management of Development (SAMDev) Plan. Since September 2014 the SAMDev examination has been undertaken, main modifications have been published and consulted on and the Council is awaiting the Inspectors report. As such, in accordance with paragraph 216 of the NPPF, the Local planning Authority now considers that the weight which can be given to some policies within the SAMDev has altered.
- 1.3 The following is a review of the 'Principle of Development' previously presented to Committee for re-consideration in light of the publications of the SAMDev Plan main modifications.

2.0 Impact of SAMDev progress

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision taking is therefore the development plan. Proposals that accord with an up-to-date plan should be approved, whilst proposals that conflict with the plan should be refused, unless there are other material considerations that indicate otherwise (para 12 of the National Planning Policy Framework (NPPF) refers).
- 2.2 The NPPF constitutes guidance for local planning authorities and is a material consideration to be given significant weight in determining applications. At para 14 the NPPF sets out the presumption in favour of sustainable development as a golden thread running through plan-making and decision-taking. At para. 197 the NPPF reiterates that in assessing and determining development proposals, local

planning authorities should apply the presumption in favour of sustainable development. The NPPF is a material consideration but does not change the statutory status of the development plan for decision taking and the presumption in favour of sustainable development does not outweigh the development plan but it is one of the considerations that need to be weighed alongside it. The starting point for determining all applications is the local development plan as indicated by paragraph 12 of the NPPF and the relevant local plan policies relevant in assessing the acceptability of this housing application in principle are discussed below:

- 2.3 The Development Plan - The development plan presently comprises the adopted Shropshire Core Strategy 2011 and a range of Supplementary Planning Documents. The Policies in the North Shropshire Local Plan (NSLP) remain saved policies until the adoption of the SAMDev, however the policies in the NSLP could be argued to be out of date due to their age and as the SAMDev progresses the weight that can be given to NSLP policies reduces.
- 2.4 Adopted policy – Within the NSLP the site is outside the development boundary for Hadnall on the proposals map and is not an allocated site under saved policy H4 and is therefore classed as countryside. The relevant Core Strategy policy that relates to development in the countryside is CS5 which seeks to control development such that only limited types of development (accommodation for essential countryside workers and other affordable housing for example) is permitted. The proposal therefore conflicts with this policy being predominantly for open market housing. CS4 is also relevant and outlines that development, which amongst other things, provides housing for local needs and that is of a scale appropriate to the settlement will be allowed in villages in rural areas that are identified as Community Hubs and Clusters within the SAMDev DPD and not allowing development outside these settlements unless it meets policy CS5.
- 2.5 Emerging policy - The SAMDev plan is now considered to be at an advanced stage. The SAMDev Plan Inspector has recently confirmed the proposed main modifications to the plan following the examination sessions held in November & December 2014. The main modifications were published on 1st June 2015 for a 6 week consultation period. This means that any plan content not included in the schedule of proposed main modifications may be considered to be sound in principle in accordance with NPPF paragraph 216. Therefore significant weight can now be given to SAMDev policies in planning decisions where these are not subject to modifications.
- 2.6 Within the SAMDev process the Parish Council have not put the settlement of Hadnall forward for development and it has not been identified as a Community Hub or Cluster settlement. Development of the proposed site would therefore be contrary to the housing development policy in both adopted and emerging policy.
- 2.9 At para 10 the NPPF states that policies in local plans should follow the approach of the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally. In order for policies contained in the SAMDev Plan to proceed to adoption they will therefore need to comply with the sustainable guidance set out in the Framework. The policies relating to the location of housing within settlements in the countryside are not included in the schedule of proposed main modifications and therefore these

policies are considered to be sound and in accordance with the NPPF guidance. Therefore significant weight should now be given to the settlement policies in the SAMDev plan and as development of this site would be contrary to this plan the proposal should be refused unless there are material considerations that indicate otherwise and weigh in its favour.

3.0 Other material considerations

3.1 Officers consider that there are other material considerations which should be taken into account in considering the application and weighed against the conflict with the adopted and emerging policy relating to housing prior to the adoption of SAMDev:

3.2 Sustainable development: The February 2015 report outlined the sustainability credentials of the proposal and concluded that whilst the social and economic benefits of this proposal (including the provision of on-site affordable housing) would not be significant there would be no significant adverse impacts of allowing residential development of this site which is considered to be in a sustainable location within a village that has some local service provision including a primary school and a regular bus service to the larger settlements of Shrewsbury Whitchurch and Wem.

3.2 Environmental impact: The previous report identified that the proposal would represent development of greenfield land classed as countryside and that the development of it would change its character. However it was considered that the development would not extend the natural boundaries of the settlement or intrude into the countryside being enclosed by existing development and roads on three of its four sides and being within the centre rather than on the edge of the village.

3.3 Moated site: Part of the site is occupied by the Scheduled Monument of Moated site and associated ridge and furrow cultivation remains. The application includes the restoration and future management of the moated site and Historic England made the following comments:

English Heritage has undertaken pre-application discussions with the applicant regarding these designated heritage assets. The discussions have concerned the location and density of development, and the achieving of wider community benefits that will enhance the historic environment, especially the medieval moated site, as an accessible community asset.

A legally binding planning agreement, such as a Section 106 agreement, should be secured to provide a Management Plan for the scheduled ancient monument of Hadnall Moated site. The Management Plan should set out works to clear vegetation from the site and establish permanent grass cover, site interpretation, and a long term maintenance plan. The provision of this public open space and improvements to the historic environment should be fairly and reasonably related in scale and kind to any permitted development, and is in our view necessary to make the development compliant with the NPPF and sustainable in overall terms.

It is therefore considered that this is a material consideration in favour of this proposal.

- 3.4 Footpath links: The proposal also provides opportunity for pedestrian access to both the North and the South of the site and to the existing and proposed open space and village green to the East providing improved connectivity and alternative pedestrian routes for existing residents and the community.
- 3.5 Parking: The indicative layout also indicates a car park for use by the bowling club and the wider community and this is welcomed as the PC has identified a lack of parking within the village.
- 3.5 Boosting housing supply: Although the Council can currently demonstrate a 5 year land supply this proposal will contribute to the overall housing supply figure.
- 3.6 Deliverability: The applicant is a local house builder (Galliers Homes) and the Reserved Matters application is due to be submitted in the next few weeks with development planned to commence soon after a decision on the reserved matters application. The layout plan that has been prepared for the Reserved Matters application has been submitted to demonstrate the commitment of the applicant to progress the development of this site. It is therefore considered that the application is not speculative but that it is a highly deliverable sustainable housing site.
- 3.7 Furthermore, the outline consent proposed will require submission of the reserved matters application within 12 months of the date of the decision and the agent has confirmed that the S106 will be signed and returned to the Council before the September committee meeting. These matters of progress of the application to determination are also material planning considerations to be given weight in the decision and will influence deliverability.
- 4.0 **Conclusion**
- 4.1 Development of the proposed site would be contrary to the local development plan policies for the location of housing in both adopted and emerging policy. It is now considered that emerging policy not subject to modification is given more weight than when this application was previously determined by members in February. However weight must still be given to other material considerations and those relevant to the determination of this application have been outlined above. Prior to adoption of SAMDev it is considered that the benefits of the proposal outlined above still tip the balance in favour of supporting this application.
- 4.2 It is also considered that the indicative layout plans submitted show that the layout will be sympathetic to the scale and density of the existing development to the North providing a mix of dwellings of various footprints and plot sizes and with no adverse impact on local or residential amenity and that would also not result in significant or demonstrable harm to the character and appearance of the locality. The proposal would not result in the loss of any significant trees or hedgerow, and would have no adverse highway or ecological implications subject to the recommended conditions being imposed. Landscape details and open space provision will be fully considered and determined as part of the application for reserved matters. The on-site affordable housing provision and the restoration and future maintenance of the moated site will be secured by the S106 agreement. It is therefore considered that the proposal accords with Shropshire LDF policies CS6,

CS11, and CS17 and the aims and provisions of the NPPF.

4.3 Accordingly the recommendation remains one of approval, subject to the S106 and subject to the conditions set out in appendix 1.

5.0 Risk Assessment and Opportunities Appraisal

5.1 Risk Management

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

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

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

5.2 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.

5.3 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.

6.0 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.

7. Background

Relevant Planning Policies

Central Government Guidance: NPPF

Core Strategy and Saved Policies: CS4, CS5, CS6, CS11 and CS17

RELEVANT PLANNING HISTORY:

NS/96/00194/FUL Land part OS 1500 – Hadnall: erection of four low cost houses with parking and formation of new vehicular and pedestrian accesses. Approved 21st April 1997

8. Additional Information

View details online:

List of Background Papers: File14/03995/OUT including Report to 12 February North Planning Committee
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member Cllr Simon Jones
Appendices APPENDIX 1 - Conditions

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

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

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

2. Application for approval of reserved matters shall be made to the local planning authority before the expiration of one year from the date of this permission.

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

3. The development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

4. As part of the first application for reserved matters an updated FRA, and a surface water drainage strategy shall be submitted for approval and shall be implemented as approved prior to the first occupation of the dwellings.

Reason: To ensure that all potential flood risk to the development has been addressed and to minimise the risk of surface water flooding.

5. As part of the first application of reserved matters, in addition to a proposed landscaping scheme, a detailed design and programme of works for the restoration of Hadnall Manor (a scheduled ancient monument of national importance) to be used as an accessible and attractive public open space shall be submitted for approval. The approved programme of works shall be fully implemented prior to the occupation of more than 50% of the development.

Reason: To ensure the restoration and preservation of the scheduled monument

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

6. No development approved by this permission shall commence until the applicant, or their agents or successors in title, has secured the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation (WSI). This written scheme shall be approved in writing by the Planning Authority prior to the commencement of works.

Reason: The proposed development site has high archaeological potential

7. Prior to the commencement of development full engineering details of the access, visibility splays, footway provision along Station Road, internal road layout, parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority; the approved scheme shall be fully implemented prior to any dwelling being first occupied.

Reason: In the interests of highway safety.

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

8. Work shall be carried out strictly in accordance with the Further Information Regarding Great Crested Newt Mitigation by Turnstone Ecology dated 9th January 2015.

Reason: To ensure the protection of great crested newts a European Protected Species

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

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

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

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

11. Prior to occupation, a "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) Identify those area/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the

strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To minimise disturbance to bats, a European Protected Species.