



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

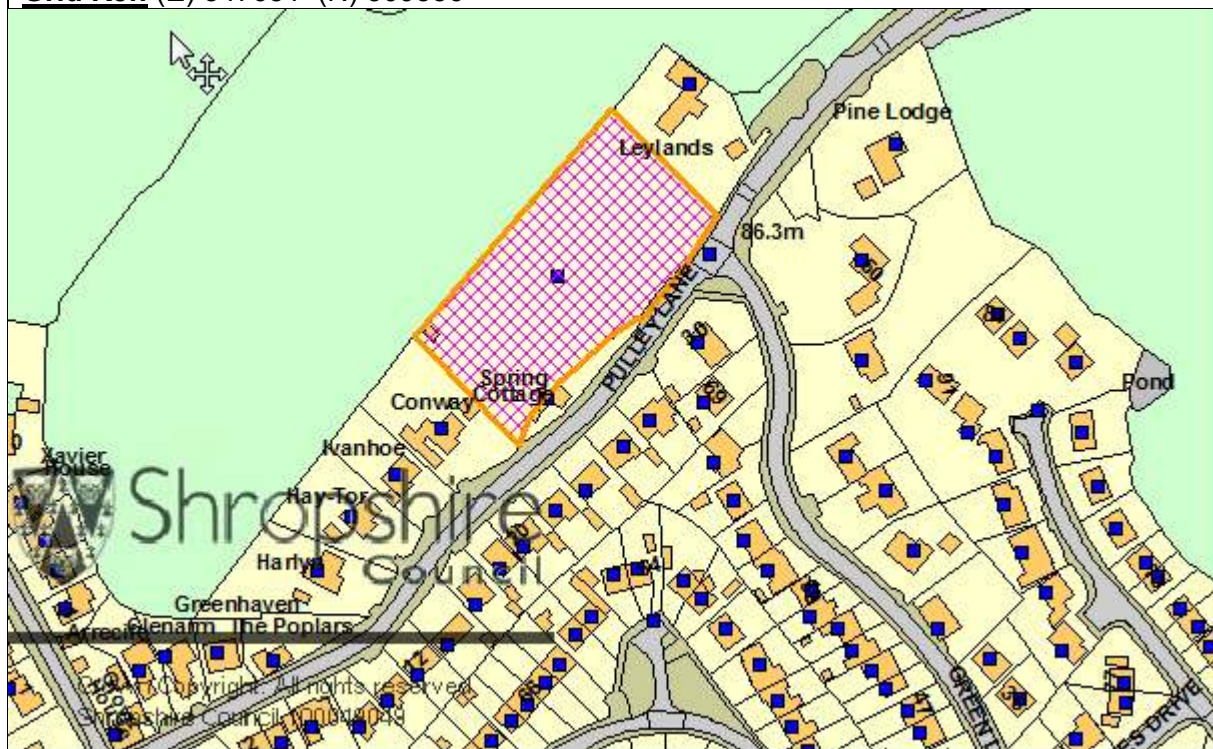
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/00254/FUL	Parish:	Bayston Hill
Proposal: Erection of nine dwellings and associated garages; formation of vehicular access.		
Site Address: Development Land Adj Leylands, Pulley Lane, Bayston Hill Shrewsbury, Shropshire.		
Applicant: Shropshire Homes Ltd		
Case Officer: Andy Gittins	email: planningdmc@shropshire.gov.uk	

Grid Ref: (E) 347651 (N) 309356



Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 following completion of Section 106 agreement to secure the relevant on-site affordable housing provision (two shared ownership dwellings).

REPORT

ADDENDUM TO PREVIOUS COMMITTEE REPORT – Re: The SAMDev Plan Main Modifications

1.0 Background

- 1.1 On the 18th September 2014 it was resolved by the Central Planning Committee to grant full planning permission for the erection of nine dwellings and associated garages; formation of vehicular access subject to conditions following completion of Section 106 agreement to secure the relevant on-site affordable housing provision (two shared ownership dwellings) in line with Core Strategy Policy CS11 and the Councils' adopted SPD on the 'Type and Affordability of Housing'.
- 1.2 Since that time the S106 agreement has been signed, sealed and engrossed and a decision could be released immediately.
- 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 and material considerations

- 2.1 Since the earlier consideration of this application the Council has also been progressing the Site Allocations and Management of Development Plan (SAMDev Plan) and that plan is now 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.
- 2.2 **SAMDev policy S16.2(ii)** identifies Bayston Hill as a Community Hub with a development boundary and this can now be given significant weight. The application must also be assessed against emerging Policy MD3. Whilst it may be premature to suggest that guideline figures for each settlement would be met prior to the end of the plan period, it is noted that only limited weight can be given to this policy prior to adoption.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Bayston and would therefore be contrary to the housing development policy in both the adopted or emerging plans. As part of the previous considerations by the Central Planning Committee the proposal was however

considered to constitute a sustainable form of development with the application site located within a suitable position, immediately adjacent to the development boundary and bounded on two sides by the development boundary and existing housing itself.

2.4 Officers consider that on balance there are other material considerations that should also be taken into account and weighed against the conflict with the adopted and emerging policy relating to housing:

- The proposal has been submitted as a Full Application which demonstrates a clear intent that the scheme will be delivered within the 5 year period. In addition the application has been made by Housing Developer who have an 'option' on the land, which further reinforces this intent. In addition, the developer has worked with the Council during the delay in signing the s106 due to legal probate in order to prepare a Discharge of Condition Application ready for submission (this was prior to the advice that the application would have to be represented to Members.
- The draft s106 has been signed and a decision could be released immediately;
- The scheme as resolved to approve by Members was for three 3-bed affordable and eight 4-bed open market dwellings. In order to achieve a better mix the Developer has agreed to Officers request to amend the scheme, which now provides two 3-bed shared ownership affordable dwellings (an overprovision of 0.4), two 3-bed and five 4-bed open market dwellings.
- Due to the topography of the site and its position bounded on three sides by development (including the road) it is contained within the built form of development for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;

3.0 Conclusion

3.1 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 November. 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.

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

4.0 Risk Assessment and Opportunities Appraisal

4.1 Risk Management

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

- ☒ As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- ☒ The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

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

4.2 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.

4.3 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.

5.0 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.

6. Background

Relevant Planning Policies

Central Government Guidance:

National Planning Policy Framework

Saved Policies:

HS3: Villages with Development Boundaries

Shropshire Council Core Strategy (February 2011)

CS4: Community Hubs and Community Clusters

CS5 : Countryside and Green Belt

CS6 : Sustainable Design and Development Principles

CS9 : Developer Contributions

CS11 : Type and Affordability of Housing

CS17 : Environmental Networks

CS18 : Sustainable Water Management

Supplementary Planning Document - Type and Affordability of Housing

Emerging SAMDev Plan

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development

RELEVANT PLANNING HISTORY: n/a

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information): Planning file 14/00254/FUL including report to 13th November 2014 Central Planning Committee</p>
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<p>Cabinet Member (Portfolio Holder)</p>

<p>Cllr M. Price</p>

<p>Local Member(s)</p>

<p>Cllr Ted Clarke</p>

<p>Cllr Jane Mackenzie</p>

<p>Cllr Jon Tandy</p>

<p>Appendices</p>

<p>APPENDIX 1 - Conditions</p>

APPENDIX 1

STANDARD CONDITIONS

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 deposited and amended 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.

CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

3. No built development shall commence until details of all external materials, including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

4. 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.

5. Details of the design and construction of any new roads, footways, accesses together with the disposal of surface water shall be submitted to, and approved in writing by the Local Planning Authority before the development begins. The agreed details shall be fully implemented before the dwellings hereby approved are first occupied.

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

CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

6. The access shall be constructed in accordance with the approved drawing prior to the dwellings hereby approved being first occupied.

Reason: To ensure the formation and construction of a satisfactory access in the interests of highway safety.

7. A total of 4 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site as shown on a site plan prior to first occupation of the buildings hereby permitted.

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

8. A total of 2 woodcrete bat boxes suitable for nursery or summer roosting for small crevice dwelling bat species shall be erected on the site prior to first use of the buildings hereby permitted as shown on a site plan. 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.

9. 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.

10. 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 buildings for their 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 all tree protection measures specified in the submitted Tree Protection Plan site layout plan LL-P-01 Rev. D with Tree Protection Details and the Arboricultural Method Statement forming part of the submitted Arboricultural Report dated 30.1.2013 & 20.2.14 have been fully implemented on site and the Local Planning Authority have been notified of this and given written confirmation that they are acceptable. 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. A responsible person will be 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.

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.

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.