



Committee and date

Central Planning Committee

10 September 2015

Development Management Report

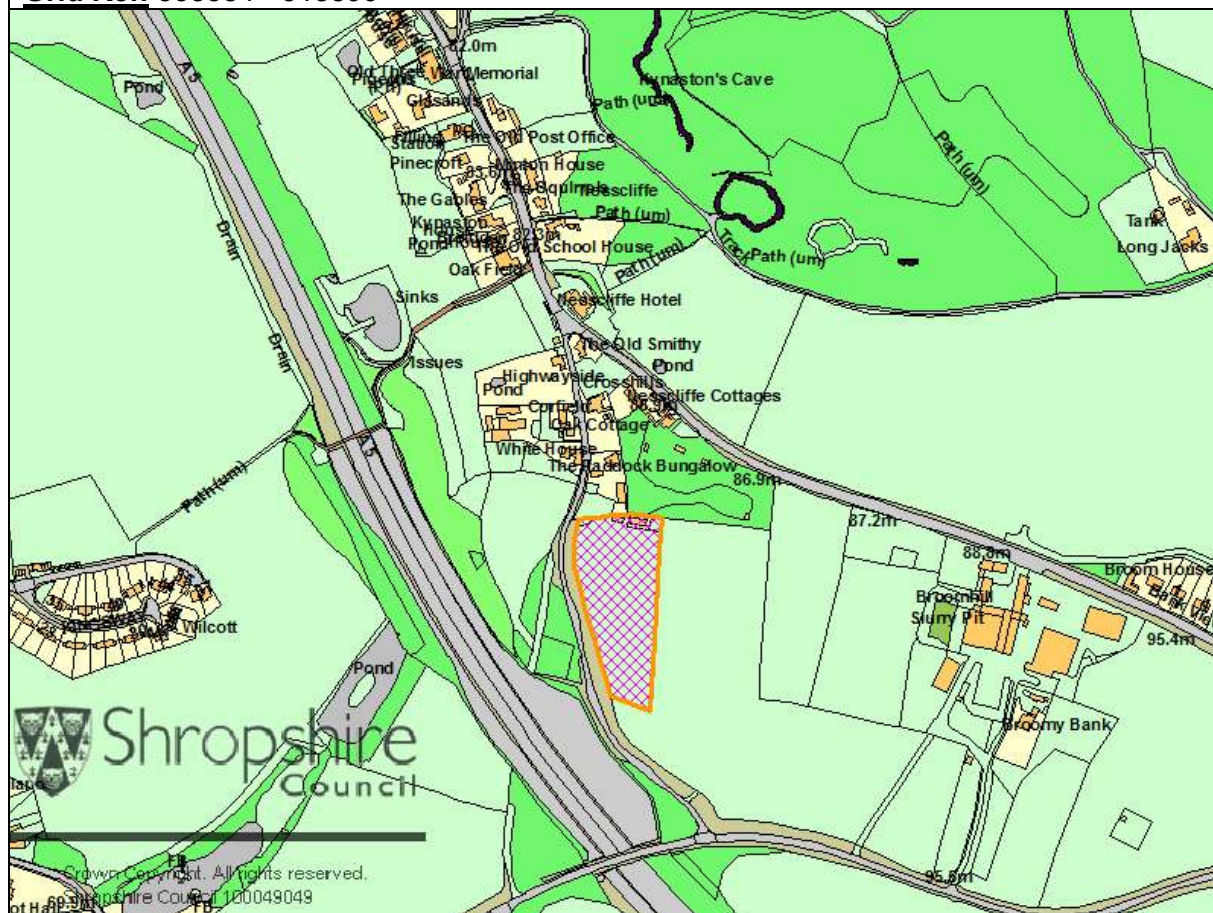
Responsible Officer: Tim Rogers

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Summary of Application

Application Number: 14/03259/OUT	Parish:	Great Ness
Proposal: Outline application for proposed housing development (all matters reserved)		
Site Address: Proposed Residential Development East Of Wilcot Lane Nesscliffe Shrewsbury Shropshire		
Applicant: Midland Groundworks Ltd		
Case Officer: Nanette Brown	email: planningdmc@shropshire.gov.uk	

Grid Ref: 338384 - 318890



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Recommendation:- Grant Permission subject to the conditions set out in Appendix 1 and a section 106 agreement to secure the relevant affordable housing contribution at the time of the Reserved Matters application.

REPORT

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

1.0 Background

- 1.1 On the 12th February 2015 it was resolved by the Central Planning Committee to grant outline planning permission (all matters reserved) for proposed housing development 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'. The illustrative layout plan submitted with the application indicated the provision of 9 dwellings.
- 1.2 Since that time the S106 agreement has been progressed to a point where the s106 has been signed and sealed. Following consideration of this application on this agenda then the planning permission could be issued 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 was made 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 (iv)** identifies Nesscliffe as a Community Hub and this can now be given significant weight. The application can 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 at the southern end of the village to the south of existing dwellings on Wilcot Lane. Nesscliffe does not have any defined development boundary and SAMDev identifies a housing guideline for the village of

Nesscliffe of around 30 new dwellings. This has already potentially been taken up and exceeded by the already identified/allocated site (whose final numbers of houses have not yet been determined and will not be until the reserved matters stage) and by those other smaller sites that have also been recently resolved/granted for approval in the village. As part of the previous considerations by the Central Planning Committee it considered that the development would constitute a sustainable development with the application site located within a suitable position, at the edge of the village, adjacent to existing dwellings.

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 application is an outline that will only have a 12 month period for submission of the reserved matters that will aid boosting housing supply in the immediate future;
- The s106 has been produced and has been signed and sealed already;
- The development would result in no visual harm or encroachment into the open countryside or wider landscape.
- The proposed conditions include a requirement for the provision of bungalows, providing a mixed development of house types.

3.0 Conclusion

3.1 Development of the proposed site would potentially 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 June. 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:
NPPF

Contact: Tim Rogers (01743) 258773

Core Strategy and Saved Policies:
CS4, CS5, CS9, CS11, CS17

RELEVANT PLANNING HISTORY:

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

Planning file 14/03259/OUT and committee report of 12th February 2015

Cabinet Member (Portfolio Holder)

Cllr M. Price

Local Member

Cllr David Roberts

Appendices

APPENDIX 1 – Conditions

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

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

Reason: The application is an outline application under the provisions of Article 4 of the Development Management Procedure Order 2015 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. The Reserved Matters submission shall include bungalows on the plots as shown on the illustrative site plan.

Reason: To ensure the provision of an appropriate mix and size of dwellings, and in the interests of the visual amenities of the area.

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

5. No development shall take place until details of the means of access, including the layout, construction and sightlines have been submitted to and approved by the Local Planning Authority. The agreed details shall be fully implemented before the use hereby approved is commenced or the building(s) occupied.

Reason: To ensure a satisfactory means of access to the highway.

6. 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.

7. No demolition and construction work shall be commenced unless evidence has been provided to the Local Planning Authority that no Barn Owls are nesting (at the development site to which this consent applies) immediately prior to work commencing. The site should be inspected within the 7 days prior to the commencement of works by an experienced ecologist and a report submitted to the Local Planning Authority.

Reason: To ensure the protection of nesting Barn Owls

8. Prior to the erection of any external street 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.

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

9. A minimum of 2 woodcrete bat boxes, such as Schwegler 1FR, 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 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.

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

10. Work shall be carried out strictly in accordance with the Extended Phase 1 Survey conducted by Pearce Environment Ltd (September 2014).

Reason: To ensure the protection of Badgers, protected under the Protection of Badgers Act (1992).

11. 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.

12. 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. You are obliged to contact the Street Naming and Numbering Team with a view to securing a satisfactory system of naming and numbering for the unit(s) hereby approved. At the earliest possible opportunity you are requested to submit two suggested street names and a layout plan, to a scale of 1:500, showing the proposed street names and location of street nameplates when required by Shropshire Council. Only this authority is empowered to give a name and number to streets and properties, and it is in your interest to make an application at the earliest possible opportunity. If you would like any further advice, please contact the Street Naming and Numbering Team at Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, or email: snn@shropshire.gov.uk. Further information can be found on the Council's website at: <http://new.shropshire.gov.uk/planning/property-and-land/name-a-new-street-or-development/>, including a link to the Council's Street Naming and Numbering Policy document that contains information regarding the necessary procedures to be undertaken and what types of names and numbers are considered acceptable to the authority.
3. 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.
4. 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 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.

5. Badgers, the setts and the access to the sett are expressly protected from killing, injury, taking, disturbance of the sett, obstruction of the sett etc by the Protection of Badgers Act 1992. No works should occur within 30m of a badger sett without a Badger Disturbance Licence from Natural England in order to ensure the protection of badgers which are legally protected under the Protection of Badgers Act (1992). All known Badger setts must be subject to an inspection by an experienced ecologist immediately prior to the commencement of works on the site.
6. Barn Owls are protected under the Wildlife & Countryside Act 1981 (as amended). It is an offence to disturb the active nests of Barn Owls, this includes when they are making a nest, occupying a nest or have chicks still dependent on the nest for survival. Barn

Owls can breed at any time of the year in the UK. Any offence under the Wildlife & Countryside Act 1981 (as amended) is punishable by up to a £5000 fine per individual animal impacted and up to 6 months in prison.

7. 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.
8. 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. 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."
9. Unless a s38 legal agreement is entered into with the Local Highway Authority (LHA) and the construction works are inspected, then the LHA will not consider the access road for adoption in future. If the access roads do remain private, the street name plates should state 'PRIVATE ROAD' or 'UNADOPTED ROAD' below the street name in order to ensure that the LHA aren't contacted regarding their upkeep in the future.
10. A licence will be required with the local highway authority for the proposed access before work can commence on site. Details of the process for obtaining a licence can be found on the following web page: [http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-\(dropped-kerb\)/](http://shropshire.gov.uk/street-works/street-works-application-forms/apply-for-vehicle-access-(dropped-kerb)/)