



Committee and date

Central Planning Committee

10 September 2015

## Development Management Report

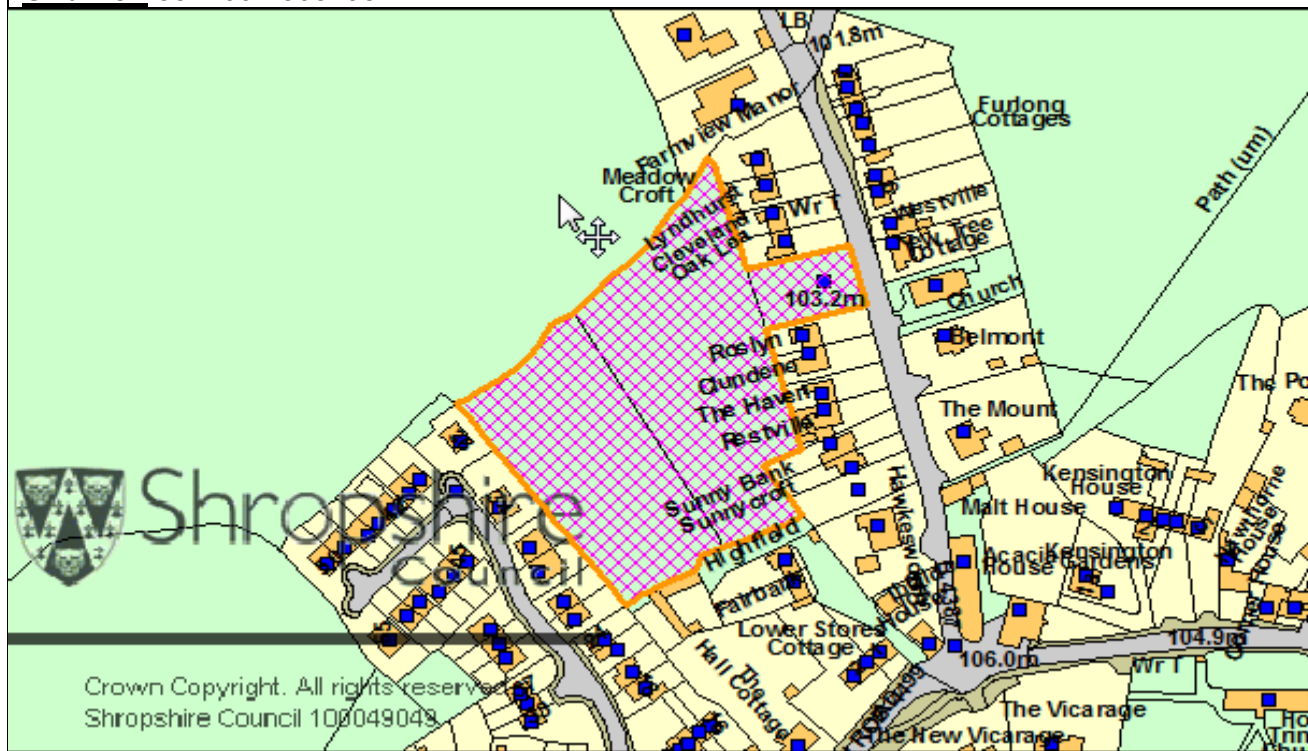
Responsible Officer: Tim Rogers

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### Summary of Application

<b>Application Number:</b> 14/03670/OUT	<b>Parish:</b>	Minsterley
<b>Proposal:</b> Outline application for residential development of 15 No dwellings (to include access)		
<b>Site Address:</b> Land Off Horsebridge Road Minsterley Shrewsbury Shropshire		
<b>Applicant:</b> Executors Of Mrs E. Griffiths (deceased)		
<b>Case Officer:</b> Nanette Brown	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 337260 - 305198



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

## REPORT

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

#### 1.0 Background

- 1.1 On the 21<sup>st</sup> May 2015 it was resolved by the Central Planning Committee to grant outline planning permission (to include access) for residential development of up to 15 dwellings to include access, 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'.
- 1.2 Since that time the S106 agreement has been progressed to a point where a draft s106 agreement has been produced and the agreement is now ready to be signed and returned to the Council for sealing.
- 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 S12** identifies Minsterley, along with the adjacent settlement of Pontesbury as forming a joint Key Centre 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, which is subject to modification, prior to adoption.
- 2.3 This application site is located just outside, but adjacent to, the identified development boundary for Minsterley 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 three 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 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 draft s106 has been produced and will be signed imminently;
- Due to the topography of the site and its position bounded on three sides by development contained within the development boundary for the village it would result in no visual harm or encroachment into the open countryside or wider landscape;
- The application includes the provision of a footpath link from the site into and towards the centre of the village for future occupants.

### **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 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.

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)**

CS3 : The Market Towns and Other Key Centres

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

7. Additional Information

View details online:

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

Planning file 14/03670/OUT including report to 21<sup>st</sup> May 2015 Central Planning Committee

**Cabinet Member (Portfolio Holder)**

Cllr M. Price

**Local Member**

Cllr Tudor Bebb

**Appendices**

APPENDIX 1 - Conditions

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

1. Approval of the details of the layout, scale, appearance and 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.

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

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

Reason: The development site is known to have archaeological interest

6. 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.

7. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- the parking of vehicles of site operatives and visitors;
  - loading and unloading of plant and materials;
  - storage of plant and materials used in constructing the development;
  - the erection and maintenance of security hoarding including decorative displays and - -
  - facilities for public viewing, where appropriate;
  - wheel washing facilities;
  - measures to control the emission of dust and dirt during construction;
  - a scheme for recycling/disposing of waste resulting from demolition and construction works;

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

8. Visibility Splays of a depth of 2.4 metres and a length of 43m metres from the centre point of the junction of the access road with the public highway shall be provided before the commencement of the development, and these splays shall thereafter be kept free of any obstacles or obstructions.

Reason: To ensure the provision of adequate visibility in the interests of highway safety.

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

9. 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 any of the dwellings hereby permitted. All boxes must be at an appropriate height above the ground with a clear flight path and thereafter be permanently retained.

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

10. 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.

11. A total of 2 woodcrete artificial nests suitable for small birds such as robin, blackbird, tit species, sparrow and swallow shall be erected on the site prior to first occupation of the buildings hereby permitted.

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

12. Prior to the first occupation of the residential development hereby approved, the proposed footway link between the development site and Leigh Road through the adjacent shared private driveway as shown on the approved plans shall be established and surfaced in a suitable bound material prior and shall thereafter permanently be retained as such.

Reason: To ensure the development site is served by a satisfactory and safe walking link to the village.