



Committee and date

South Planning Committee

1 December 2015

Development Management Report

Responsible Officer: Tim Rogers

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Summary of Application

<u>Application Number:</u> 15/00561/FUL	<u>Parish:</u>	Church Stretton
<u>Proposal:</u> Erection of dwelling and formation of vehicular access		
<u>Site Address:</u> Overdale Clive Avenue Church Stretton Shropshire SY6 7BL		
<u>Applicant:</u> Mr & Mrs M. Nicholas		
<u>Case Officer:</u> Trystan Williams	<u>email:</u> planningdmsw@shropshire.gov.uk	

Grid Ref: 345636 - 293094



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Recommendation: Grant permission subject to the conditions set out in Appendix 1, and to prior completion of a Section 106 agreement to secure the requisite affordable housing contribution.

REPORT

1.0 THE PROPOSAL

- 1.1 This application seeks full planning permission to erect a 1½-storey open-market house within the curtilage of the above existing dwelling.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 Overdale is a large detached house on the lower slopes of Ragleth Hill in Church Stretton's southeast suburbs, with spectacular views across the valley to the west. It dates from the Edwardian era when the town was a fashionable resort, and although unlisted was described by architectural historian Sir Nikolaus Pevsner as "the epitome of Church Stretton's red brick and half-timbered idiom at its most ebullient". Its symmetrical Arts and Crafts design was complimented by a formal Italianate terraced garden culminating in a level platform edged with a semi-circular pergola. This part, fenced off and in deteriorating condition, comprises the application site, and whilst the terraces above have recently been restored the wider gardens on either side have been developed with housing originally approved on appeal in 2007 (ref. SS/1/05/17466/O). At a lower level to the northwest are further relatively modern properties on 'backland' plots off Watling Street South/Jane Wood Drive, the closest of which is Brereton House. The whole area is within the town's recently enlarged conservation area and the wider Shropshire Hills Area of Outstanding Natural Beauty (AONB).

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

- 3.1 The Town Council's objection is contrary to officers' recommendation of approval, and Shropshire Council's local member/planning committee chair feels the application raises significant material considerations. Accordingly, and in line with the adopted Scheme of Delegation, the application is referred to the committee for determination.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee comments

- 4.1.1 Shropshire Council Flood and Water Management – comment:

Full details of the proposed surface water soakaways, to include percolation test results, sizing calculations and a layout plan, should be submitted for approval. A silt trap or catch pit should be installed upstream of the drainage field. If soakaways are unfeasible details of an appropriately designed attenuation system should be submitted instead, and in either case the incorporation of other sustainable drainage systems (SuDS) should be encouraged.

- 4.1.2 Regarding foul drainage, any new connection to mains sewerage would require consent from the utility provider.

- 4.1.3 All of these details could be secured by condition.

4.1.4 Shropshire Council Affordable Housing – no objection:

The affordable housing pro-forma accompanying the application indicates the correct level of contribution towards affordable housing provision off-site, thereby satisfying the Council's Supplementary Planning Document (SPD) on the Type and Affordability of Housing.

4.1.5 Shropshire Hills AONB Partnership – comment:

The local planning authority has a statutory duty to take into account the AONB designation, and National Planning Policy Framework (NPPF) policies give the highest level of protection to AONBs. The application also needs to conform to the Council's own Core Strategy policies and emerging Site Allocations and Management of Development (SAMDev) plan, whilst the Shropshire Hills AONB Management Plan is a further material consideration. The lack of detailed comments by the Partnership should not be interpreted as suggesting that the application raises no landscape issues.

4.1.6 Shropshire Council Historic Environment (Archaeology) – no objection:

No comments in respect of archaeological matters.

4.1.7 Church Stretton Town Council – objection:

Public consultation during preparation of the Church Stretton Town Design Statement identified Overdale as one of the most valued and important properties in the town. Built in 1903 it is a landmark building in a fine Italianate garden. Little of the garden now remains, with four large houses built during the past few years having altered the outlook from this iconic property and changed the street scene. These dwellings were approved on appeal despite substantial public opposition. Nevertheless the garden still retains some of its original symmetry and splendour.

4.1.8 Since the appeal decision the town conservation area has been extended to include Clive Avenue and its surrounds. It is therefore recognised as an area of special architectural or historic interest whose character or appearance it is desirable to protect or enhance. Future planning decisions should reflect this and further garden infill should be resisted, particularly in view of the fact that the conservation area also lies within the AONB.

4.1.9 Shropshire Council's Core Strategy Policy CS6 requires all development to protect, restore, conserve and enhance the natural, built and historic environment, and to be of an appropriate scale, density, pattern and design taking into account the local context and character. In the case of Overdale the immediate local character has now been set by the surrounding garden infill. This is totally incongruous with the original Edwardian layout of Clive Avenue, the new houses being ultra-modern and partially subterranean. The design of the additional dwelling now proposed would neither fit with these other modern houses nor complement Overdale itself.

4.1.10 Regarding garden infill the NPPF says "Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area". The Town Council believes further garden infill on the hillsides to the west and east of Church Stretton should be avoided, especially in the conservation area. This additional dwelling would have the potential to contribute to overdevelopment within

the curtilage of Overdale.

4.1.11 There are also concerns that:

- Altering the existing entrance by widening the driveway and moving the gates would encroach into the rooting area of protected trees.
- The steep new driveway would increase surface water run-off, affecting the development itself as well as Brereton House and other neighbouring dwellings. Already there is extensive hard surfacing at Overdale, and in the past run-off from the Clive Avenue area has affected properties along Watling Street South.
- Access for refuse collection and emergency vehicles would be difficult.
- The Edwardian pergola and its extraordinary wisteria could be damaged or destroyed.
- The new driveway would destroy the original symmetrical design of the garden, which adds greatly to appreciation of Overdale itself.

4.1.12 Severn Trent Water – comment:

No objection subject to a standard condition requiring prior approval of surface water and foul drainage systems.

4.1.13 Shropshire Council Conservation Officer – objection:

The large Edwardian villa of Overdale was once extremely prominent in the locality. It has lost some of its prestige as a result of the subdivision of its grounds and the encroachment of large dwellings on either side. However, it does lie within the recently extended conservation area, whose appraisal states:

- Overdale is one of the best Church Stretton mansions, with plenty of architectural bravura and extensive formal gardens.
- Clive Avenue is a wide road by Church Stretton standards with little contrast in its sense of enclosure. At the top of the street the architecture is quite ordinary but there is a sense of openness with striking views to the northwest. At the junction of Kenyon Road the feel is one of enclosure although the houses are actually more widely spaced here.
- Most of the rest of the conservation area is characterised by high status suburban developments of the early 20th Century, or at least evidence of planning for such development. Some properties are arranged along previously existing roads such as Watling Street and Hazler Road, whilst others were developed off new roads including Clive Avenue. In all cases the variety of the plot sizes, the imagination of the architects, the topography and the sheer practicality and economics of building on some of the plots resulted in an enormous variety of houses.

4.1.14 The 1937 Ordnance Survey map shows the house prior to any development within its immediate grounds, thus revealing the original extent of the formal gardens. Despite the site having now been carved up the property still retains a large formal garden which is considered equal in stature to the building itself, albeit diminished. Aerial views and GIS mapping clearly portray the prominence of the gardens and their importance within this historic landscape.

4.1.15 At the pre-application stage the Historic Environment Team expressed grave concerns regarding loss of the formal gardens and overdevelopment of the site.

Despite the principle having been established already by other 'backland' development it was argued that the site is extremely sensitive. It was suggested that further development would destroy a surviving physical reference to the building's identity, former glory and presence in the town, and that it would put too much pressure on the area's peaceful rural character.

- 4.1.16 The final proposals are similar in principle to those submitted at the pre-application stage. The new dwelling does sit far lower than 'Overdale' and would be contained within the bottom section of its garden, allowing the majority to be retained with Overdale itself. This positioning means that the impact on the conservation area as perceived from the road would be fairly minimal, although in the wider context it is felt that the pressure of development in this area would be detrimental to the character and appearance Church Stretton. It is suggested that further advice should be sought in relation to landscape impact.
- 4.1.17 Shropshire Council Tree and Woodland Amenity Protection – comment:
A number of public comments express reservations over possible impacts on the two protected trees (pine and Douglas fir) alongside the site entrance off Clive Avenue. Having visited the site and discussed this issue with the applicant the Tree Officer understands that the first set of gateposts would not be moved and that the driveway would not be widened at this point. Consequently there should be no disturbance to these trees, although this would require monitoring. Additionally any amendments to or variation of the plans should be subject to further assessment/ approval, to be secured by condition.
- 4.1.18 Concerns have also been raised in relation to a Monterrey cypress at one of the neighbouring properties, Caradoc. On paper these concerns were shared, but during the site visit it was noted that the proposed parking area for the new dwelling is at least a metre above Caradoc's garden and separated by a retaining wall. It is therefore unlikely that the roots of the cypress would be affected significantly by minor surface changes. That said, the root protection areas of this and other trees on the boundary with Brereton House may well extend into the northern section of the building plot, in which case a construction exclusion zone would need to be identified. A tree protection plan should therefore be required by condition, as should confirmation that the protective measures have been established.
- 4.1.19 A magnificent wisteria grows along the pergola defining the western boundary of the site. This adds maturity and character to the amenity of the conservation area, and would provide a significant screen for inward views from the wider town and hills. Since the wisteria is a vine and not a tree it cannot be protected with a preservation order, although it is suggested that its retention is included as part of an approved landscaping plan.
- 4.1.20 Whilst it is not necessarily the role of the Tree Service to comment on landscape character, the AONB management plan and Town Design Statement have identified the importance of sustainable landscaping in Church Stretton and the Tree Service has an interest in the perpetuation of tree cover. With this in mind it is pleasing to note that the agent's Design and Access Statement expounds the importance of protecting, conserving, restoring and enhancing the natural, built and historic environment.

4.1.21 Section 19 of the Statement refers directly to appropriate and heavy landscaping with careful selection of trees, whilst the conclusion states that the proposal fully reflects the aims and objectives of Core Strategy Policy CS6 in that the design and landscaping will enhance the conservation area's character and appearance. As yet this has not been substantiated with firm landscaping proposals, and the site has only limited space for effective long-term structural landscaping. In light of this landscape mitigation/improvement needs to be considered and designed by a competent person, although it is also noted that the developer owns adjoining land which could provide space for landscaping. Conditions should be used to secure details before development commences and to ensure implementation prior to occupation. From an arboricultural perspective the details of any proposed tree planting should reflect good practice as set out in BS 4585.

4.1.22 Shropshire Council Ecology – no objection:

The application includes an ecological assessment which describes ponds at and close to the site. These are considered unsuitable for great crested newt breeding and there are walled barriers to newt movement. However, since the site itself does have good potential terrestrial habitat an informative regarding the legal status of the species should be included as a precaution.

4.1.23 Because perimeter trees are likely to be used by bats for foraging and commuting external lighting should be controlled by condition. Additionally shrubs at the site could be used by nesting birds, and so artificial nests should be secured through a further condition.

4.2 **Public comments**

4.2.1 Objections from sixteen separate households raise the following concerns:

- The NPPF discourages garden infill where it would harm the local area.
- Given Overdale's significant local historic and architectural importance and the number of large properties constructed already in its grounds, the current proposal is a step too far in terms of housing density and overdevelopment.
- Recent building projects have already compromised the character of Clive Avenue.
- Overdale was one of the first properties to be constructed during the planned Edwardian expansion of Church Stretton. The historic and amenity value of both the house and its garden is referenced specifically in the town design statement, whose Policy A3G2 states "any further development proposals relating to Overdale should respect the character and its setting within an Italianate garden".
- Clive Avenue was laid out by the Church Stretton Land Company who it seems recommended the eminent Shropshire architect A. E. Lloyd Oswell to their clients. Overdale is very much a characteristic product of his office, and its symmetrical design anchors the formal garden. This was laid out at a turning point in English garden history when there was a revival of 'Old English' gardens of the type associated with Elizabethan and Jacobean houses. These combined naturalistic planting with geometric design and hard landscaping and complemented many Arts and Crafts style properties. Overdale is one such house, whose not irretrievably modified frontage still overlooks the substantial

remains of its formal garden. Shropshire has few other Arts and Crafts gardens still attached to their original house, and in view of this Overdale should be listed and its garden registered as being of special historic interest.

- The appeal decision relating to the previous development within the grounds of Overdale recognised that its formal front gardens were the most significant and assumed that these would be retained. Only the absence of a conservation area designation at the time made it difficult to object to that development on heritage grounds. This application now proposes to remove a considerable portion of the surviving garden, and the recent expansion of the conservation area should be sufficient grounds for refusal.
- Historic photos show the pond, rose garden and pergola forming the main focus of the lower gardens. Whilst the garden has been allowed to deteriorate during the course of the adjacent development this makes it all the more important to retain what survives. The development could damage the roots of the wisteria (which should be safeguarded with a tree preservation order) and there is no clear indication of the intention for the pergola itself.
- The scheme would affect several protected trees, including a Monterrey cypress in the neighbouring property Caradoc and a large oak alongside the site entrance. The former's roots are likely to spread under the site of the proposed house, whilst the latter's would be affected by the need to widen the access.
- Overdale and its garden provide a focal point to views across the town, including from the top of a small landscaped park above The Old Rectory which is attributed to 'Capability' Brown. The proposed house would detract from these views by reducing the area of garden closest to the town and obscuring other parts, whilst its driveway would spoil the symmetry of the area retained by Overdale itself by truncating its terraces and yew hedges.
- By disrupting these longer-range views, as well as outward views from Overdale itself, the development would detract from the Shropshire Hills AONB of which Church Stretton lies at the heart.
- The balcony of the proposed dwelling would directly overlook Brereton House's rear and side gardens, attic bedroom, rear rooms and lounge windows, although retention of the pergola and supplementary planting would go some way to address this.
- The additional plan submitted in July in an attempt to address overlooking concerns is inaccurate in that it shows the boundary fence higher in relation to the bay window of Brereton House than it actually is. This suggests the level of Brereton House itself is misrepresented, bringing into question the accuracy of the earlier plans as well. A topographical survey is necessary to establish the actual impact of the development and what level of screening would be needed.
- The development would restrict views from and overlook the new properties west and north of Overdale.
- The long access drive would pass close to four other properties, including the garden to be retained by Overdale. Vehicle noise, fumes and headlight glare would increase significantly, particularly since the driveway would be enclosed by stone walls.
- Contrary to the submitted plans, the bottom stretch of the boundary with neighbouring Caradoc is marked by a low wooden fence rather than a solid wall. This would worsen the impact of the parking area, rendering Caradoc's

garden unusable.

- Residential amenity in Overdale itself would be adversely affected, and this may not be tolerated by future owners/occupants.
- The proposed driveway may be too narrow and steep for access by the emergency services, contrary to Core Strategy Policy CS6.
- The narrow carriageway and lack of a footpath at the lower end of Clive Avenue make it unsuitable for any further traffic.
- Surface water from at least one of the houses built recently drains into a narrow pipe running down to Watling Street South. During heavy or prolonged rainfall the water overflows onto Jane Wood Drive. In this case similar problems should be avoided by securing appropriate details upfront or by condition, and ensuring that the system is installed correctly.
- Other neighbouring gardens are frequently waterlogged and further hard surfacing would worsen the situation.
- Foul drainage may be difficult as the site is well below the level of the mains sewer along Clive Avenue.
- The site is only four metres from ponds in the garden of neighbouring Caradoc. These contain great crested newts, which may use the application site as a feeding/semi-hibernation area.
- Unsympathetic development such as this will reduce the town's tourist appeal.
- Some of the support comments may have been canvassed by the applicant.

4.2.2 Two neutral responses, including one from the Clive Avenue Residents' Association, make the following comments:

- The proposed house would not be seen from Clive Avenue and so would have no visual impact on the street scene.
- Only a fragment of Overdale's original garden remains, and this generally has insufficient merit to warrant preservation. However, the stone pergola and wisteria around the perimeter should be retained as the principal feature of the new house's grounds, particularly since they would provide immediate maturity to views from some of the neighbouring properties.
- Construction should be managed to ensure all materials, contractors' vehicles and building equipment are stored inside the boundary of Overdale, ensure toilet facilities are provided for the workforce, avoid burning or burying of waste material on site, and control working hours and timing of deliveries.
- Adequate soakaways and other measures (e.g. permeable surfacing of the access drive, rainwater harvesting and grey water recycling) should be used to mitigate drainage problems for properties below.

4.2.3 Six separate households support the scheme for the following reasons:

- The scheme is well conceived. The house design would complement the surrounding architecture and the property would sit low down so that it would not be visible from Clive Avenue. The impact on the character and appearance of the conservation area would therefore be minimal.
- The comparatively low ground level also means the development would avoid encroaching significantly on views from across the valley.
- Overdale still stands in 1½ acres of land, an area in which two dwellings could hardly be classed as overdevelopment.
- The plot is of comparable size to those approved previously within the former

grounds of Overdale.

- The conservation area designation does not rule out sympathetic development, and imaginative infill schemes such as this are preferable to further “boxes in fields”.
- Whilst many people would wish to turn back the clock and recreate Overdale’s beautiful Italianate gardens set in thirty-plus acres, the fact is these gardens have not existed for many years, having fallen into disrepair long before the recent infill development began.
- Although Overdale is a lovely Edwardian house it does not have sufficient architectural merit to warrant listing, and according to the Planning Inspector who allowed the previous development English Heritage [now Historic England] had little interest in preserving the original Italianate garden even at that time.
- A 2012 planning permission for a large orangery and underground swimming pool directly in front of Overdale (ref. 11/05318/FUL) effectively supplanted any concerns over keeping what was left of the formal gardens.
- The development would allow the restoration of the surrounding gardens to be completed and effectively ensure no further development could take place within the curtilage of Overdale.
- It is understood that the wisteria tree would in fact be retained.
- The development would be almost hidden by its position and would not obstruct views from Overdale itself or other neighbouring houses.
- Clive Avenue actually has a very low volume of traffic.
- Drainage is not an issue unique to this particular development, as the site is roughly midway between Clive Avenue and Watling Street South with houses both above and below. If there are wider problems these should be addressed accordingly, but the impact of the current proposal would be marginal.
- The context of this application differs from that of the previous scheme for the new dwellings on either side of Overdale in that it is made by the homeowner rather than by an external developer.
- Further family homes are needed in this area.
- Given the planning history it is perhaps mention of the name ‘Overdale’ which clouds people’s judgement and prevents objective consideration of the proposals.
- Many of the objectors do not live in the vicinity of the site.

5.0 THE MAIN ISSUES

- Principle of development/affordable housing
- Layout, scale and design/impact on historic environment
- Impact on AONB
- Residential amenity
- Access and highway safety
- Drainage
- Ecology
- Other matters raised in representations

6.0 OFFICER APPRAISAL**6.1 Principle of development/affordable housing**

6.1.1 The site is located in an established suburb inside the development boundary of Church Stretton, which is one of south Shropshire's larger, 'sustainable' settlements. In principle, therefore, new open-market residential development is acceptable subject to the requisite affordable housing payment (see Paragraph 4.1.4).

6.1.2 Officers acknowledge the November 2014 Ministerial statement and national Planning Practice Guidance (PPG) which advised against the use of planning obligations to secure tariff-style contributions. These were afforded weight in a number of appeal cases, although the Council contended those decisions did not set a binding precedent since the evidence underpinning its adopted Core Strategy Policy CS11 had not been considered fully as part of the appeal process. In any event the Government has subsequently withdrawn the relevant PPG following a successful High Court challenge (as of 31st July 2015). The Council therefore maintains its position that an appropriate affordable housing contribution should continue to be sought in all cases in accordance with Policy CS11 and the Housing SPD.

6.1.3 Here the applicant has indicated a willingness to enter into a legal agreement to secure the contribution. Planning permission would only be granted once this agreement has been signed.

6.2 Layout, scale and design/impact on historic environment

6.2.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places on local planning authorities a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of conservation areas. This is reflected by Part 12 of the NPPF, which states that great weight should be given to conserving designated heritage assets. Paragraph 133 sets out the exceptional circumstances in which substantial harm to or total loss of a designated heritage asset might be acceptable, whilst Paragraph 134 explains that less than substantial harm should be weighed against the proposal's public benefits, including securing the site's optimum viable use. Paragraph 138 confirms that the loss of a building or other element which makes a positive contribution to a conservation area should be treated as either substantial harm under Paragraph 133 or less than substantial harm under Paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the area's significance as a whole. Similarly the Council's Core Strategy Policies CS6 and CS17 require development to protect, restore, conserve and enhance the historic environment, taking into account the local context and character and those features which contribute to it.

6.2.2 Overdale's history and significance are described in some detail in the Heritage Statement which accompanies the application, and also in an appraisal prepared by an architectural and garden historian on behalf of several of the objectors. Officers acknowledge that the property is an exemplar of Edwardian architecture, is of considerable local historic interest and is still fairly prominently sited within the wider townscape. It therefore contributes significantly to the character of Church Stretton as a whole. On the other hand the Department for Culture, Media and

Sport has in the past determined that the house lacks sufficient merit to justify designation as a listed building, and nor are its gardens included in Historic England's Register of Parks and Gardens of Special Historic Interest. In considering the previous appeal case the Planning Inspector did suggest that a conservation area designation might have allowed more weight to be given to retaining the former gardens under erstwhile South Shropshire Local Plan Policy E1, which referred specifically to protecting the district's historic parks and gardens and not just those which are registered. However, whilst Overdale is now included in the enlarged conservation area Policy E1 has been superseded, the extent of the garden is already much reduced and it is far less prominent than it once was, particularly from Clive Avenue.

- 6.2.3 Planning case law has established that in order to demonstrate a material effect on a conservation area's character and appearance there has to be some consideration of visibility, or lack of it. In this instance the level of the proposed house means that it would be barely visible, if at all, from Clive Avenue, and hence would have no significant impact on the street scene or on public perceptions of spaciousness and housing density in this part of the conservation area. Similarly it would not impinge to any significant degree on views from across the valley, being set well below the level of Overdale with its iconic half-timbering, and partially screened by the wisteria-cloaked pergola around the site's northwest perimeter (additional plans now show this retained). There would be some further disruption to the layout and symmetry of the retained part of the garden, but this would be to a lesser extent than would have been caused by the orangery/swimming pool extension approved in 2012 and would not be readily apparent in the distant public views. Meanwhile the historic semi-circular boundary of the formal gardens would remain discernible in aerial photographs and mapping and is reflected in the design of the proposed house, and thus the Conservation Officer's objection is not considered to be particularly convincing.
- 6.2.4 With reference to the Church Stretton Town Design Statement, which was endorsed by South Shropshire District Council and is a material consideration, Design Guideline A3G2 does not rule out further development at Overdale but, as noted by objectors, requires it to respect the character and setting of the house. For the reasons explained above officers are reasonably satisfied that the proposed scheme would achieve this aspiration.
- 6.2.5 The design combines vernacular and contemporary elements reasonably successfully. It uses symmetrical projecting gables and contrasting materials to break up the bulk and massing and reflect Overdale itself whilst also appearing subservient. High quality finishes, joinery and other aspects of detail could be controlled by condition.
- 6.2.6 Potentially the conservation area could be harmed by the premature loss of significant trees as a result of development encroaching into their root protection areas. However, as summarised above the Tree and Woodland Amenity Protection Officer considers that the adjacent trees subject to preservation orders could be safeguarded satisfactorily through a tree protection plan. The wisteria is not a tree but the stated intention to retain it could be reinforced as part of a landscaping condition. It is, however, acknowledged that there would in fact be little space for

supplementary planting.

- 6.2.7 Clearly Overdale and its gardens are held in high public esteem, and officers concede that the case is finely balanced. However, given the difficulty in substantiating demonstrable harm to the character and appearance of the conservation area as perceived from public viewpoints, and the lack of any designation specific to Overdale itself, it is suggested that the impact on the historic environment would not be so severe as to outweigh the planning benefits in terms of increasing housing supply and focussing new development in sustainable locations.

6.3 **Impact on AONB**

- 6.3.1 The NPPF indicates that great weight should be given to conserving landscape and scenic beauty in AONBs which, along with National Parks and the Broads, have the highest status of protection in this regard.

- 6.3.2 In considering the previous appeal case the Planning Inspector noted that when travelling along Clive Avenue the impression of the area is one of a residential suburb. He also observed that, when seen from the town centre and other viewpoints across the valley, the wooded hillside is clearly interlaced with the urban fabric of the town and that this is a key aspect of the area's scenic beauty. Nevertheless he concluded that the new houses on either side of Overdale would in fact be seen against a backdrop of built development and would not result in any significant loss of tree cover. For the reasons discussed in Section 6.2, officers consider the same would be true of the current proposal. Meanwhile the outward vista framed by the pergola is a largely private view as opposed to one appreciable from public vantage points.

6.4 **Residential amenity**

- 6.4.1 In response to comments regarding overlooking of Brereton House, the closest of the neighbouring properties, the applicant's agent submitted further plans and sectional drawings. These indicated retention of the pergola and wisteria, sightlines from the proposed dwelling's balcony, and the presence of various trees and shrubs inside the neighbour's boundary. The neighbour remained concerned and questioned the accuracy of the levels shown, whilst officers felt that the vegetation might provide a less effective screen during the winter.

- 6.4.2 Subsequently the developer erected a scaffold representing the height of the balcony, from which officers were able to assess the relationship more accurately. It was confirmed that the angles of view would be largely as indicated on the agent's plans, with the wisteria providing a very effective screen when in leaf and also likely to filter winter views (when the balcony would also see less frequent use). However, in recognition of the fact that a quantity of the established vegetation would need to be removed to facilitate repairs to the pergola, it was suggested that lattice panels could be erected in the gap between it and the top of the boundary fence, as shown on the latest amended plans. It has also been confirmed by an arborist that wisteria responds well to pruning, which should in time thicken the vegetation at the top of the pergola. Thus, subject to a landscaping condition requiring a precise specification for the restoration and management of the pergola and wisteria, along with details of any supplementary planting, the

impact on Brereton House is, on balance, considered acceptable.

6.4.3 Rearwards and sideways views towards Overdale and the adjacent dwellings would be limited, with only a few high-level windows facing these directions. Additionally the new house would be 47 metres from Overdale, and any views of the adjacent properties would be oblique.

6.4.4 Neighbours would be able to hear cars travelling along the proposed driveway and may occasionally be aware of headlights. However, this is unlikely to amount to anything like a statutory nuisance or render adjacent gardens unusable, whilst fumes from low volumes of traffic would also be unlikely to have any significant impact. That said, in order to minimise noise and disruption during the construction phase it would be reasonable to require a construction management plan by condition.

6.4.5 In terms of amenity for prospective occupants, the plot would be smaller than those immediately adjacent but larger than many others along Watling Street and further afield. There would be sufficient space for on-site parking and refuse storage.

6.5 **Access and highway safety**

6.5.1 Since refuse would presumably be collected from the roadside there should be no requirement for direct access by collection vehicles. Access for the emergency services would be addressed under the Building Regulations.

6.5.2 With regard to highway safety along Clive Avenue, it is appreciated that traffic will have increased as a result of several other developments in the vicinity. However, officers' observations suggest the overall volume of traffic is still relatively low, and it is not considered that this proposal for one further dwelling would have any material effect.

6.6 **Drainage**

6.6.1 As noted above neither Severn Trent Water nor the Council's Flood and Water Management Team has any objection provided precise drainage details are secured by condition. The purpose of incorporating SuDS would be to mimic or improve current run-off rates to avoid exacerbating flooding elsewhere. However, this reasonably modest development cannot be held responsible for resolving existing problems in the wider area.

6.7 **Ecology**

6.7.1 The public comments regarding possible impacts on great crested newts have been reviewed by the Council's Ecologists, who maintain that the submitted ecological assessment is sufficiently comprehensive and that the existing boundary walls represent a barrier to any newt movement towards the site. The comments regarding bats and nesting birds are addressed by the suggested conditions 9 and 10.

6.8 **Other matters raised in representations**

6.8.1 Notwithstanding the location within the AONB, it is unlikely that this development would have any significant or demonstrable impact on tourism.

6.8.2 The Council has no means of verifying the origin or authenticity of the public representations, although it is noted that the application has attracted comments both for and against from within the local community and further afield. Ultimately it is the issues raised which are important.

6.8.3 Finally, the developer's motives are not a material planning consideration and should be given no weight.

7.0 CONCLUSION

7.1 The scheme is acceptable in principle since the site is in an established residential area within the development boundary of a sustainable settlement. With regard to the historic environment, Overdale is undoubtedly of local historic and architectural interest and the development would have some impact on its surviving formal gardens and therefore setting. However, the effect on the character and appearance of the conservation area and wider AONB as perceived from public vantage points would in fact be fairly minimal, and certainly "less than substantial". Meanwhile initial reservations regarding residential amenity have now been addressed to officers' satisfaction, and there are no undue or insurmountable concerns in respect of highway safety, drainage or ecology. On balance, therefore, the application is considered to accord with the principal determining criteria of the relevant development plan policies and approval is recommended, subject to a legal agreement to secure the requisite affordable housing contribution and to conditions to reinforce the other critical aspects.

8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL

8.1 Risk management

8.1.1 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.

8.2 Human rights

8.2.1 Article 8 of the First Protocol of the European Convention on Human Rights gives the right to respect for private and family life, whilst 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.

8.2.2 Article 1 also requires that the desires of landowners must be balanced against the impact of development upon nationally important features and on residents.

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

8.3 **Equalities**

8.3.1 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 if the decision and/or imposition of conditions are 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.

10.0 **BACKGROUND**

Relevant Planning Policies:

National Planning Policy Framework:

Part 6: Delivering a wide choice of high quality homes

Part 7: Requiring good design

Part 11: Conserving and enhancing the natural environment

Part 12: Conserving and enhancing the historic environment

Shropshire Local Development Framework:

Core Strategy Policies:

CS1: Strategic Approach

CS3: The Market Towns and Other Key Centres

CS6: Sustainable Design and Development Principles

CS11: Type and Affordability of Housing

CS17: Environmental Networks

CS18: Sustainable Water Management

Supplementary Planning Documents:

Type and Affordability of Housing

'Saved' South Shropshire Local Plan Policies:

SDS3: Settlement Strategy

S1: Housing Development

Emerging SAMDev Policies:

MD1: Scale and Distribution of Development

MD2: Sustainable Design

MD3: Managing Housing Development
MD12: Natural Environment
MD13: Historic Environment
S5: Church Stretton Area Settlement Policy

Relevant Planning History:

SS/1/05/17466/O – Erection of four dwellings and formation of two vehicular accesses (refused October 2005; appeal allowed January 2007)

SS/1/07/19441/RM – Erection of four dwellings and formation of two vehicular accesses (permitted May 2007)

SS/1/07/19961/F – Erection of four dwellings (amendments to previously approved scheme) (permitted October 2007)

10/00931/AMP Non-material amendments to planning permission SS/1/07/19961/F (part approved; part refused, June 2010)

10/04147/FUL – Erection of detached dwelling (amendment to house type approved previously (permitted November 2010)

10/04504/FUL – Conversion of existing coach house into separate dwelling; erection of extensions and alterations (permitted December 2010)

11/05318/FUL – Erection of two-storey rear extension following demolition of existing conservatory; erection of attached garage (permitted January 2012)

11/05467/FUL – Conversion of existing coach house into separate dwelling; erection of extensions and alterations (amended scheme) (permitted January 2012)

13/02305/FUL – Erection of detached garage; erection of single-storey extension to side elevation; alterations to existing conservatory; formation of outdoor swimming pool (permitted July 2013)

11.0 ADDITIONAL INFORMATION**View details online:**

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=NJBBLZTDIB100>

List of Background Papers: Application documents available on Council website
Cabinet Member (Portfolio Holder): Cllr M. Price
Local Members: Cllr Lee Chapman Cllr David Evans
Appendices: Appendix 1 – Conditions and Informatives

APPENDIX 1 – CONDITIONS AND INFORMATIVES

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 in strict accordance with the approved, amended plans and drawings listed below.

Reason: To define the consent and ensure a satisfactory development in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

CONDITIONS THAT REQUIRE APPROVAL BEFORE DEVELOPMENT COMMENCES

3. No development shall commence until samples/precise details of all external materials and finishes have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with approved details and thereafter maintained in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

4. No development shall commence until samples/details of the roofing materials and finishes, to include tiles, ridge tiles and detailing of eaves, valleys, verges and verge undercloaks as appropriate, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details and maintained thereafter in the absence of any further specific permission in writing from the local planning authority.

Reason: To ensure that the external appearance of the development is satisfactory and safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

5. No development shall commence until precise details/samples of all windows, doors, roof lights and other external joinery, to include details of window styles, glazing bars, mullions and sill mouldings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with approved

details and thereafter maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the external appearance of the development is satisfactory, and to safeguard the character and appearance of the Church Stretton Conservation Area, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

6. No development shall commence 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, and shall include provision for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials
 - iv. the erection and maintenance of security fencing/hoardings
 - v. wheel washing facilities
 - vi. control of dust, dirt and noise emissions during construction
 - vii. timing of construction works and associated activities
 - viii. recycling/disposal of waste resulting from demolition and construction works

Reason: To safeguard the residential amenities of the area, in accordance with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

7. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include:
 - Identification of existing trees, shrubs and hedgerows which are to be retained
 - A tree protection plan in accordance with BS 5837:2012, and which includes identification of an appropriate construction exclusion zone and tree protection fencing
 - Provision for notifying the local planning authority of the establishment of the agreed tree protection measures
 - A detailed specification for works to restore the existing pergola shown to be retained on the approved plans, and for the management/protection of the wisteria which grows along it.
 - Details/schedules of proposed planting
 - Details of the type/construction and positions of all walls, fences, trellises, retaining structures and other boundary treatments/means of enclosure
 - Details/samples of hard surfacing materials
 - Timetables for implementation

The landscaping works shall be completed in accordance with the approved details. Thereafter, all fences, trellises, walls, hardstandings and other hard landscaping features shall be maintained in accordance with the approved details in the absence of any further specific permission in writing from the local planning authority, whilst any

trees or plants which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the external appearance of the development is satisfactory, to preserve the character and appearance of the Church Stretton Conservation Area, and in the interests of residential amenity, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed, in order to ensure a sustainable development.

8. No development shall commence until precise details of drainage systems have been submitted to and approved in writing by the Local Planning Authority. These shall include:
- Percolation test results and sizing calculations for the proposed surface water soakaways, to accord with BRE Digest 365
 - Provision for installation of a silt trap or catch pit upstream of the drainage field
 - Details of other Sustainable Drainage Systems (SuDS) to be incorporated
 - Details of the means of foul drainage
 - A drainage layout plan

The approved scheme(s) shall be implemented in full prior to the first use/occupation of the development, and shall thereafter be maintained in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To ensure that the development is provided with satisfactory means of drainage and avoid causing or exacerbating flooding or pollution on the site or elsewhere, in accordance with Policies CS6, CS17 and CS18 of the Shropshire Local Development Framework Adopted Core Strategy. This information is required prior to commencement of the development since it relates to matters which need to be confirmed before subsequent phases proceed in order to ensure a sustainable development.

CONDITIONS RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

9. Prior to the first use/occupation of any part of the development hereby permitted, two Woodcrete (or direct equivalent) artificial nests suitable for use by small wild bird species shall be installed at the site in accordance with the manufacturer's instructions. These shall be maintained thereafter for the lifetime of the development, in the absence of any further specific permission in writing from the Local Planning Authority.

Reason: To compensate for the potential loss of nesting opportunities for wild birds as a result of the development, in accordance with Policy CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

10. No external lighting shall be installed or provided on the site other than in strict accordance with a detailed scheme which shall first be submitted to and approved in writing by the local planning authority. This shall be designed so as to take into account the guidance contained in the Bat Conservation Trust document 'Bats and Lighting in the UK'.

Reason: To minimise potential disturbance to commuting and foraging bats, in accordance with Policies CS6 and CS17 of the Shropshire Local Development Framework Adopted Core Strategy.

INFORMATIVES

1. Your attention is drawn specifically to the conditions above which require the Local Planning Authority's prior approval of further details. In accordance with Article 21 of the Town and Country Planning (Development Management Procedure) Order 2015 a fee (currently £97) is payable to the Local Planning Authority for each request to discharge pre-start conditions. Requests are to be made on forms available from www.planningportal.gov.uk or from the Local Planning Authority.

Failure to discharge pre-start conditions will result in a contravention of the terms of this permission. Any commencement of works may be unlawful and the Local Planning Authority may consequently take enforcement action.

2. This consent should be read in conjunction with the legal agreement under Section 106 of the Town and Country Planning Act 1990 which refers specifically to the development.
3. This development may be liable to a payment under the Community Infrastructure Levy (CIL) which was introduced by Shropshire Council with effect from 1st January 2012. For further information please contact the Council's CIL team (cil@shropshire.gov.uk).
4. Before any connection to the public foul sewer is made, consent from the service provider must be obtained.
5. Great Crested Newts are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a great crested newt be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
6. All species of bat found in the UK are European Protected Species under the Habitats Directive 1992, the Conservation of Species and Habitats Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended). Should a bat be discovered on site at any point during the course of development work must halt and Natural England should be contacted for advice.
7. The active nests of all wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks or on which fledged chicks are still dependent. If possible all demolition, clearance and/or conversion work associated with the approved scheme should be carried out outside the nesting season, which runs from March to September inclusive. If it is necessary for work to commence during the nesting season a pre-commencement inspection of buildings and vegetation for active nests should be carried out. If vegetation is not obviously clear of nests an experienced ecologist should be called in to carry out the check. Only if no active nests are present should work be allowed to commence.

8. 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.